

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1758

H.P. 1252

House of Representatives, January 28, 2010

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

(EMERGENCY)

Reported by Representative PIEH of Bremen for the Joint Standing Committee on
Agriculture, Conservation and Forestry pursuant to Public Law 2009, chapter 213, Part TTT,
section 9.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

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

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

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

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

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

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

15 A. Not less than once every 3 years, conduct independent studies of the economics
16 and practices of the milk industry in order to assist the commission in establishing
17 minimum prices. The studies must include the compilation of cost data for farms at 3
18 4 different levels of production; and

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

21 D. "Target price" means the short-run break-even point for each of 3 4 categories of
22 annual production. Target prices are determined in accordance with subsection 3.

23 **Sec. 3.** 7 MRSA §3153-B, sub-§3, as amended by PL 2007, c. 240, Pt. 000, §1
24 and c. 262, §1, is further amended to read:

25 **3. Determination of target prices.** The Maine Milk Commission shall establish 3 4
26 tiers of production, each representing a range of annual production. The commission
27 shall use the most recent studies conducted in accordance with section 2952-A,
28 subsection 3, paragraph A to estimate the short-run break-even point within each tier.

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

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

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

1 **§3153-D. Transfer of revenues**

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

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

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

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

10 **Sec. TTT-2. Cap on transfers for the dairy stabilization program in fiscal**
11 **years 2009-10 and 2010-11.** Notwithstanding the Maine Revised Statutes, Title 7,
12 section 3153-D, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk
13 Pool may not certify any amount to be transferred from the General Fund for distributions
14 under Title 7, section 3153-B that would bring the total amount transferred in fiscal years
15 2009-10 and 2010-11 above ~~\$13,349,600~~ \$17,361,291.

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

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

24 1. For the first 16,790 hundredweight produced per year by each producer, the target
25 price is \$20.70 per hundredweight;

26 2. For production from 16,791 hundredweight to 49,079 hundredweight per year, the
27 target price is \$18.07 per hundredweight;

28 3. For production from 49,080 hundredweight to 76,803 hundredweight per year, the
29 target price is \$17.29 per hundredweight; and

30 4. For production in excess of 76,803 hundredweight per year, the target price is
31 \$16.51 per hundredweight.

32 **Sec. 10. Administrator authorized to make monthly adjustments during**
33 **the period from July 1, 2010 to June 30, 2011.** During the period from July 1,
34 2010 to June 30, 2011, the administrator of the Maine Milk Pool shall monitor milk price
35 projections and each month calculate the amounts to be paid out under the dairy
36 stabilization program for fiscal year 2010-11 based on these projections. The
37 administrator may adjust the amount requested and the amount distributed in any month
38 during this period based on the most recent projections and calculations. The

1 administrator may reduce payments only if projections indicate that the total distributions
2 under the stabilization program will exceed \$17,361,291 in the biennium consisting of
3 fiscal years 2009-10 and 2010-11.

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

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

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

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

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

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

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

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

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

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

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

34 **Sec. 13. Calculation and distribution of dairy stabilization payments**
35 **beginning July 1, 2011.** Beginning July 1, 2011 and until further legislative action is
36 taken, the administrator of the Maine Milk Pool shall calculate and distribute payments in
37 accordance with the Maine Revised Statutes, Title 7, section 3153-B using the production

1 levels and target prices established in section 9. The administrator may not use authority
2 under section 10 or 11 to reduce payments after June 30, 2011.

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

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

16 **Sec. 16. Legislation authorized.** The joint standing committee of the
17 Legislature having jurisdiction over agriculture matters may submit legislation to the
18 125th Legislature to revise the tiers and target prices used to calculate dairy stabilization
19 payments to Maine milk producers under the Maine Revised Statutes, Title 7, section
20 3153-B.

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

23 **AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**
24 **Milk Commission 0188**

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

27

28	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
29	All Other	\$0	\$4,011,691
30			
31	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$4,011,691

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

34 **SUMMARY**

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

1 It repeals provisions related to the federal Milk Income Loss Contract. Public Law
2 2009, chapter 213, Part TTT, section 6 suspends payments under the Maine milk income
3 loss contract in fiscal years 2009-10 and 2010-11.

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

6 It raises the cap on transfers from the dairy stabilization program in fiscal years 2009-
7 10 and 2010-11 to \$17,361,291.

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

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

13 It establishes the method for calculating payments for milk produced from June 1,
14 2010 to August 31, 2010.

15 It specifies that reductions in payments received in July, August and September of
16 2010 on milk produced in June, July and August of 2010 are to be established at a 1:2
17 ratio between adjacent tiers.

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

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

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

27 **FISCAL NOTE REQUIRED**

(See attached)



124th MAINE LEGISLATURE

LD 1758

LR 2522(01)

An Act To Implement the Recommendations of the Task Force on the Sustainability of the Dairy Industry

Fiscal Note for Original Bill

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	\$0	\$4,011,691	\$0	\$0
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$4,011,691	\$0	\$0
Revenue				
General Fund	\$0	(\$4,011,691)	\$0	\$0
Other Special Revenue Funds	\$0	\$4,011,691	\$0	\$0

Fiscal Detail and Notes

This legislation increases the cap on distributions made through the Dairy Stabilization Program and the Maine Milk Income Loss Contract in fiscal year 2010-11 to \$17,361,291. This increase would result in a reduction in General Fund revenue in fiscal year 2010-11 of \$4,011,691 and a corresponding increase in Other Special Revenue Funds revenue. The bill also includes an Other-Special Revenue Funds allocation in fiscal year 2010-11 of \$4,011,691 to the Department of Agriculture, Food and Rural Resources, Milk Commission.

The legislation also directs the Maine Milk Commission to revise the tiers of production and target prices and report back to the Joint Standing Committee on Agriculture, Conservation and Forestry by January 15, 2011. It is expected that these revisions will result in revised estimates of distributions for fiscal year 2011-12 and beyond.