

9226

2009-2010 Regular Sessions

I N A S S E M B L Y

November 4, 2009

Introduced by M. of A. MAGEE -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to establishing a dairy assistance program; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The agriculture and markets law is amended by adding a new  
2 article 21-D to read as follows:

3 ARTICLE 21-D

4 DAIRY ASSISTANCE PROGRAM

5 SECTION 258-00. LEGISLATIVE INTENT.

6 258-PP. DAIRY ASSISTANCE PROGRAM.

7 S 258-00. LEGISLATIVE INTENT. THE LEGISLATURE HEREBY FINDS THAT THIS  
8 STATE'S DAIRY FARMERS CONTINUE TO LABOR UNDER A COMBINATION OF EXTREMELY  
9 LOW MILK PRICES WELL BELOW THOSE OF TWENTY-FIVE YEARS AGO, ALONG WITH  
10 VERY HIGH FUEL, FEED, ENERGY, FERTILIZER AND OTHER OPERATING COSTS.  
11 THESE CONDITIONS HAVE RESULTED IN UNPRECEDENTED LOSSES FOR DAIRY FARMS.  
12 THE PRICE OF MILK CONTINUES TO BE WELL BELOW THE COST OF PRODUCTION.  
13 MANY OF THE VENDORS AND SERVICE INDUSTRIES SERVING DAIRY FARMERS HAVE  
14 HAD TO PROVIDE AN INCREASING AMOUNT OF CREDIT TO SUCH FARMERS. THIS  
15 ARTICLE IS ENACTED TO ASSIST THE DAIRY FARMERS OF THIS STATE AND THEIR  
16 INDUSTRY IN A TIME OF GREAT NEED AND TO PREVENT FURTHER LOSS IN THE  
17 DAIRY INDUSTRY AND ITS INFRASTRUCTURE WHICH ARE CRITICAL TO THE STATE'S  
18 AGRICULTURAL ECONOMY.

19 S 258-PP. DAIRY ASSISTANCE PROGRAM. 1. A DAIRY ASSISTANCE PROGRAM IS  
20 HEREBY ESTABLISHED WITHIN THE DEPARTMENT FOR THE PURPOSES OF PROVIDING  
21 PAYMENT TO PRODUCERS FOR MILK PRODUCED DURING THE PERIOD COMMENCING ON  
22 JULY FIRST, TWO THOUSAND EIGHT AND ENDING ON JUNE THIRTIETH, TWO THOU-  
23 SAND NINE. THE DAIRY ASSISTANCE PROGRAM SHALL PAY ELIGIBLE PRODUCERS THE  
24 DIFFERENCE BETWEEN TARGET PRICES TO BE ESTABLISHED BY THE COMMISSIONER

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD14692-02-9

1 AND THE COMBINED ANNOUNCED NORTHEAST FEDERAL ORDER STATISTICAL UNIFORM  
2 PRICE PLUS THE AMOUNT OF THE MILK INCOME LOSS CONTRACT PAYMENT RATE ON A  
3 PER-HUNDREDWEIGHT BASIS. FURTHER, OTHER FACTORS MAY BE USED BY THE  
4 COMMISSIONER IN DETERMINING PAYMENT TO PRODUCERS FOR MILK. DAIRY PRODUC-  
5 ERS SHALL RECEIVE PAYMENT FROM FUNDS MADE AVAILABLE THROUGH THE AMERICAN  
6 RECOVERY AND REINVESTMENT ACT OF 2009, AFTER CONSULTATION WITH THE  
7 COMMISSIONER, IN THE FORM OF A SEPARATE CHECK BASED ON POUNDS OF MILK  
8 PRODUCED DURING THE PERIOD COMMENCING ON JULY FIRST, TWO THOUSAND EIGHT  
9 AND ENDING ON JUNE THIRTIETH, TWO THOUSAND NINE. SUCH PAYMENT SHALL BE  
10 MADE NO LATER THAN THIRTY DAYS FOLLOWING THE EFFECTIVE DATE OF THIS  
11 ARTICLE.

12 2. THE COMMISSIONER SHALL REQUEST THE UNITED STATES DEPARTMENT OF  
13 AGRICULTURE'S FARM SERVICE AGENCY TO PROVIDE PRODUCTION DATA FOR PRODUC-  
14 ERS AND ASSIST THE DEPARTMENT IN ADMINISTERING THE PROGRAM. PRODUCTION  
15 DATA SHALL ONLY BE OBTAINED FROM PRODUCERS IN THIS MANNER PROVIDED SUCH  
16 PRODUCER SUBMIT A FORM, PRESCRIBED BY THE COMMISSIONER, AUTHORIZING THE  
17 RELEASE OF SUCH DATA. PRODUCERS WHO DO NOT PARTICIPATE IN THE MILK  
18 INCOME LOSS CONTRACT PROGRAM SHALL SUBMIT TO THE DEPARTMENT ALTERNATIVE  
19 MEANS OF VERIFYING PRODUCTION DATA AS PRESCRIBED BY THE COMMISSIONER,  
20 INCLUDING BUT NOT LIMITED TO MILK MARKETING PAYMENT STUBS, BULK TANK  
21 RECORDS, MILK HANDLER RECORDS AND DAILY MILK MARKETING RECORDS.

22 3. THE FOLLOWING SHALL NOT BE CONSIDERED COMMERCIALY MARKETED MILK  
23 AND SHALL BE INELIGIBLE FOR THE DAIRY ASSISTANCE PROGRAM:

24 (A) DUMPED MILK THAT CAUSES BULK LOAD CONTAMINATION FOR WHICH A  
25 PRODUCER RECEIVES AN INSURANCE INDEMNITY; AND

26 (B) MILK DUMPED ON THE FARM BY ORDER OF ANY STATE OFFICER OR EMPLOYEE.

27 4. ALL PRODUCERS SHALL BE REIMBURSED FOR UP TO FIVE MILLION NINE  
28 HUNDRED SEVENTY THOUSAND POUNDS OF MILK PRODUCED DURING THE PERIOD  
29 COMMENCING ON JULY FIRST, TWO THOUSAND EIGHT AND ENDING ON JUNE THIRTI-  
30 ETH, TWO THOUSAND NINE OR UNTIL SUCH TIME AS SIXTY MILLION DOLLARS IS  
31 EXPENDED. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE ANY ADDI-  
32 TIONAL RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF  
33 THIS ARTICLE.

34 5. STATE FUNDS IN THE AMOUNT OF SIXTY MILLION DOLLARS SHALL BE MADE  
35 AVAILABLE FOR THE DAIRY ASSISTANCE PROGRAM TO BE SUPPORTED THROUGH FUNDS  
36 MADE AVAILABLE THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF  
37 2009 INCLUDING BUT NOT LIMITED TO SAVINGS RESULTING FROM THE INCREASED  
38 FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) PROVIDED PURSUANT TO THE  
39 AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

40 S 2. This act shall take effect immediately and shall expire and be  
41 deemed repealed December 31, 2010.