S T A T E O F N E W Y O R K

6140

2009-2010 Regular Sessions

I N S E N A T E

August 28, 2009

Introduced by Sens. YOUNG, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

ARTICLE 21-D

DAIRY ASSISTANCE PROGRAM

SECTION 258-OO. LEGISLATIVE INTENT.

258-PP. DAIRY ASSISTANCE PROGRAM.

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

S 258-PP. DAIRY ASSISTANCE PROGRAM. 1. A DAIRY ASSISTANCE PROGRAM IS HEREBY ESTABLISHED WITHIN THE DEPARTMENT FOR THE PURPOSES OF PROVIDING PAYMENT TO PRODUCERS FOR MILK PRODUCED DURING THE PERIOD COMMENCING ON JULY FIRST, TWO THOUSAND EIGHT AND ENDING ON JUNE THIRTIETH, TWO THOUSAND NINE. THE DAIRY ASSISTANCE PROGRAM SHALL PAY ELIGIBLE PRODUCERS THE 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.

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

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

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

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

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

4. ALL PRODUCERS SHALL BE REIMBURSED FOR UP TO FIVE MILLION NINE HUNDRED SEVENTY THOUSAND POUNDS OF MILK PRODUCED DURING THE PERIOD COMMENCING ON JULY FIRST, TWO THOUSAND EIGHT AND ENDING ON JUNE THIRTIETH, TWO THOUSAND NINE OR UNTIL SUCH TIME AS SIXTY MILLION DOLLARS IS EXPENDED. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE ANY ADDITIONAL RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

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

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