

113TH CONGRESS
1ST SESSION

H. R. 1741

To establish a dairy producer margin insurance program for the purpose of protecting dairy producer income by paying participating dairy producers margin insurance payments when actual dairy producer margins are less than a threshold level, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2013

Mr. GOODLATTE (for himself and Mr. DAVID SCOTT of Georgia) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To establish a dairy producer margin insurance program for the purpose of protecting dairy producer income by paying participating dairy producers margin insurance payments when actual dairy producer margins are less than a threshold level, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dairy Freedom Act”.

1 **SEC. 2. DAIRY PRODUCER MARGIN INSURANCE PROGRAM.**

2 Subtitle E of title I of the Food, Conservation, and
3 Energy Act of 2008 (7 U.S.C. 8771 et seq.) is amended
4 by adding at the end the following new section:

5 **“SEC. 1511. DAIRY PRODUCER MARGIN INSURANCE PRO-**
6 **GRAM.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) ACTUAL DAIRY PRODUCER MARGIN.—The
9 term ‘actual dairy producer margin’ means the dif-
10 ference between the all-milk price and the average
11 feed cost, as calculated under subsection (b)(2).

12 “(2) ALL-MILK PRICE.—The term ‘all-milk
13 price’ means the average price received, per hun-
14 dredweight of milk, by dairy producers for all milk
15 sold to plants and dealers in the United States, as
16 reported by the National Agricultural Statistics
17 Service.

18 “(3) AVERAGE FEED COST.—The term ‘average
19 feed cost’ means the average cost of feed used by a
20 dairy operation to produce a hundredweight of milk,
21 determined under subsection (b)(1) using the sum of
22 the following:

23 “(A) The product determined by multi-
24 plying—

25 “(i) 1.0728; by

26 “(ii) the price of corn per bushel.

1 “(B) The product determined by multi-
2 plying—

3 “(i) 0.00735; by

4 “(ii) the price of soybean meal per
5 ton.

6 “(C) The product determined by multi-
7 plying—

8 “(i) 0.0137; by

9 “(ii) the price of alfalfa hay per ton.

10 “(4) CONSECUTIVE 2-MONTH PERIOD.—The
11 term ‘consecutive 2-month period’ refers to the 2-
12 month period consisting of the months of January
13 and February, March and April, May and June,
14 July and August, September and October, or No-
15 vember and December, respectively.

16 “(5) DAIRY PRODUCER.—The term ‘dairy pro-
17 ducer’ means an individual or entity that directly or
18 indirectly (as determined by the Secretary)—

19 “(A) shares in the risk of producing milk;
20 and

21 “(B) makes contributions (including land,
22 labor, management, equipment, or capital) to
23 the dairy operation of the individual or entity
24 that are at least commensurate with the share

1 of the individual or entity of the proceeds of the
2 operation.

3 “(6) MARGIN INSURANCE PROGRAM.—The term
4 ‘margin insurance program’ means the dairy pro-
5 ducer margin insurance program required by this
6 section.

7 “(7) PARTICIPATING DAIRY PRODUCER.—The
8 term ‘participating dairy producer’ means a dairy
9 producer that registers under subsection (d)(2) to
10 participate in the margin insurance program.

11 “(8) PRODUCTION HISTORY.—The term ‘pro-
12 duction history’ means the quantity of annual milk
13 marketings determined for a dairy producer under
14 subsection (e)(1).

15 “(9) UNITED STATES.—The term ‘United
16 States’, in a geographical sense, means the 50
17 States.

18 “(b) CALCULATION OF AVERAGE FEED COST AND
19 ACTUAL DAIRY PRODUCER MARGINS.—

20 “(1) CALCULATION OF AVERAGE FEED COST.—

21 The Secretary shall calculate the national average
22 feed cost for each month using the following data:

23 “(A) The price of corn for a month shall
24 be the price received during that month by agri-
25 cultural producers in the United States for

1 corn, as reported in the monthly Agriculture
2 Prices report by the Secretary.

3 “(B) The price of soybean meal for a
4 month shall be the central Illinois price for soy-
5 bean meal, as reported in the Market News—
6 Monthly Soybean Meal Price Report by the Sec-
7 retary.

8 “(C) The price of alfalfa hay for a month
9 shall be the price received during that month by
10 agricultural producers in the United States for
11 alfalfa hay, as reported in the monthly Agri-
12 culture Prices report by the Secretary.

13 “(2) CALCULATION OF ACTUAL DAIRY PRO-
14 DUCER MARGINS.—The Secretary shall calculate the
15 actual dairy producer margin for each consecutive 2-
16 month period by subtracting—

17 “(A) the average feed cost for that con-
18 secutive 2-month period, determined in accord-
19 ance with paragraph (1); from

20 “(B) the all-milk price for that consecutive
21 2-month period.

22 “(c) ESTABLISHMENT OF DAIRY PRODUCER MARGIN
23 INSURANCE PROGRAM.—The Secretary shall establish and
24 administer a dairy producer margin insurance program for
25 the purpose of protecting dairy producer income by paying

1 participating dairy producers margin insurance payments
2 when actual dairy producer margins are less than the
3 threshold levels for the payments.

4 “(d) ELIGIBILITY AND REGISTRATION OF DAIRY
5 PRODUCERS FOR MARGIN INSURANCE PROGRAM.—

6 “(1) ELIGIBILITY.—All dairy producers in the
7 United States shall be eligible to participate in the
8 margin insurance program.

9 “(2) REGISTRATION PROCESS.—

10 “(A) REGISTRATION.—

11 “(i) IN GENERAL.—The Secretary
12 shall register all interested dairy producers
13 in the margin insurance program.

14 “(ii) MANNER AND FORM.—The Sec-
15 retary shall specify the manner and form
16 by which a dairy producer shall register for
17 the margin insurance program.

18 “(B) TREATMENT OF MULTI-PRODUCER
19 OPERATIONS.—If a dairy operation consists of
20 more than 1 dairy producer, all of the dairy
21 producers of the operation shall be treated as a
22 single dairy producer for purposes of—

23 “(i) purchasing margin insurance; and

24 “(ii) payment of producer premiums
25 under subsection (f)(4).

1 “(C) TREATMENT OF PRODUCERS WITH
2 MULTIPLE DAIRY OPERATIONS.—If a dairy pro-
3 ducer operates 2 or more dairy operations, each
4 dairy operation of the producer shall require a
5 separate registration to participate and pur-
6 chase margin insurance.

7 “(3) TIME FOR REGISTRATION.—

8 “(A) EXISTING DAIRY PRODUCERS.—Dur-
9 ing the 1-year period beginning on the date of
10 enactment of this section, a dairy producer that
11 is actively engaged in a dairy operation as of
12 that date may register with the Secretary to
13 participate in the margin insurance program.

14 “(B) NEW ENTRANTS.—A dairy producer
15 that has no existing interest in a dairy oper-
16 ation as of the date of enactment of this sec-
17 tion, but that, after that date, establishes a new
18 dairy operation, may register with the Secretary
19 during the 180-day period beginning on the
20 date on which the dairy operation first markets
21 milk commercially to participate in the margin
22 insurance program.

23 “(4) RETROACTIVITY.—

24 “(A) NOTICE OF AVAILABILITY OF RETRO-
25 ACTIVE PROTECTION.—Not later than 30 days

1 after the effective date of this section, the Sec-
2 retary shall publish a notice in the Federal Reg-
3 ister to inform dairy producers of the avail-
4 ability of retroactive margin insurance, subject
5 to the condition that interested producers must
6 file a notice of intent (in such form and manner
7 as the Secretary specifies in the Federal Reg-
8 ister notice) to participate in the margin insur-
9 ance program.

10 “(B) RETROACTIVE MARGIN INSURANCE.—

11 “(i) AVAILABILITY.—If a dairy pro-
12 ducer files a notice of intent under sub-
13 paragraph (A) to participate in the margin
14 insurance program before the initiation of
15 the sign-up period for the margin insur-
16 ance program and subsequently signs up
17 for the margin insurance program, the pro-
18 ducer shall receive margin insurance retro-
19 active to the effective date of this section.

20 “(ii) DURATION.—Retroactive margin
21 insurance under this paragraph for a dairy
22 producer shall apply from the effective
23 date of this section until the date on which
24 the producer signs up for the margin in-
25 surance program.

1 “(C) NOTICE OF INTENT AND OBLIGATION
2 TO PARTICIPATE.—In no way does filing a no-
3 tice of intent under this paragraph obligate a
4 dairy producer to sign up for the margin insur-
5 ance program once the program rules are final,
6 but if a producer does file a notice of intent and
7 subsequently signs up for the margin insurance
8 program, that dairy producer is obligated to
9 pay premiums for any retroactive margin insur-
10 ance selected in the notice of intent.

11 “(5) RECONSTITUTION.—The Secretary shall
12 ensure that a dairy producer does not reconstitute a
13 dairy operation for the sole purpose of purchasing
14 margin insurance.

15 “(e) PRODUCTION HISTORY OF PARTICIPATING
16 DAIRY PRODUCERS.—

17 “(1) DETERMINATION OF PRODUCTION HIS-
18 TORY.—

19 “(A) IN GENERAL.—The Secretary shall
20 determine the production history of the dairy
21 operation of each participating dairy producer
22 in the margin insurance program.

23 “(B) CALCULATION.—Except as provided
24 in subparagraph (C), the production history of
25 a participating dairy producer shall be equal to

1 the highest annual milk marketings of the dairy
2 producer during any 1 of the 3 calendar years
3 immediately preceding the registration of the
4 dairy producer for participation in the margin
5 insurance program.

6 “(C) NEW PRODUCERS.—If a dairy pro-
7 ducer has been in operation for less than 1
8 year, the Secretary shall determine the produc-
9 tion history of the dairy producer by extrap-
10 lating the actual milk marketings for the
11 months that the dairy producer has been in op-
12 eration to a yearly amount.

13 “(2) REQUIRED INFORMATION.—A partici-
14 pating dairy producer shall provide all information
15 that the Secretary may require in order to establish
16 the production history of the dairy operation of the
17 dairy producer.

18 “(3) TRANSFER OF PRODUCTION HISTORY.—

19 “(A) TRANSFER BY SALE.—

20 “(i) REQUEST FOR TRANSFER.—If an
21 existing dairy producer sells an entire
22 dairy operation to another party, the seller
23 and purchaser may jointly request that the
24 Secretary transfer to the purchaser the in-

1 terest of the seller in the production his-
2 tory of the dairy operation.

3 “(ii) TRANSFER.—If the Secretary de-
4 termines that the seller has sold the entire
5 dairy operation to the purchaser, the Sec-
6 retary shall approve the transfer and,
7 thereafter, the seller shall have no interest
8 in the production history of the sold dairy
9 operation.

10 “(B) TRANSFER BY LEASE.—

11 “(i) REQUEST FOR TRANSFER.—If an
12 existing dairy producer leases an entire
13 dairy operation to another party, the lessor
14 and lessee may jointly request that the
15 Secretary transfer to the lessee for the du-
16 ration of the term of the lease the interest
17 of the lessor in the production history of
18 the dairy operation.

19 “(ii) TRANSFER.—If the Secretary de-
20 termines that the lessor has leased the en-
21 tire dairy operation to the lessee, the Sec-
22 retary shall approve the transfer and,
23 thereafter, the lessor shall have no interest
24 for the duration of the term of the lease in

1 the production history of the leased dairy
2 operation.

3 “(C) COVERAGE LEVEL.—A purchaser or
4 lessee to whom the Secretary transfers a pro-
5 duction history under this paragraph may not
6 obtain a different level of margin insurance cov-
7 erage held by the seller or lessor from whom the
8 transfer was obtained.

9 “(D) NEW ENTRANTS.—The Secretary
10 may not transfer the production history deter-
11 mined for a dairy producer described in sub-
12 section (d)(3)(B) to another person.

13 “(4) MOVEMENT AND TRANSFER OF PRODUC-
14 TION HISTORY.—

15 “(A) MOVEMENT AND TRANSFER AUTHOR-
16 IZED.—Subject to subparagraph (B), if a dairy
17 producer moves from 1 location to another loca-
18 tion, the dairy producer may maintain the pro-
19 duction history associated with the operation.

20 “(B) NOTIFICATION REQUIREMENT.—A
21 dairy producer shall notify the Secretary of any
22 move of a dairy operation under subparagraph
23 (A).

24 “(C) SUBSEQUENT OCCUPATION OF VA-
25 CATED LOCATION.—A party subsequently occu-

1 pying a dairy operation location vacated as de-
2 scribed in subparagraph (A) shall have no inter-
3 est in the production history previously associ-
4 ated with the operation at that location.

5 “(f) MARGIN INSURANCE.—

6 “(1) IN GENERAL.—At the time of the registra-
7 tion of a dairy producer in the margin insurance
8 program under subsection (d) and annually there-
9 after during the duration of the margin insurance
10 program, an eligible dairy producer may purchase
11 margin insurance.

12 “(2) SELECTION OF PAYMENT THRESHOLD.—A
13 participating dairy producer purchasing margin in-
14 surance shall elect a coverage level in any increment
15 of \$0.50, with a minimum of \$4.00 and a maximum
16 of \$8.00.

17 “(3) SELECTION OF COVERAGE PERCENTAGE.—
18 A participating dairy producer purchasing margin
19 insurance shall elect a percentage of coverage, equal
20 to not more than 80 percent nor less than 25 per-
21 cent, of the production history of the dairy operation
22 of the participating dairy producer.

23 “(4) PRODUCER PREMIUMS.—

24 “(A) PREMIUMS REQUIRED.—A partici-
25 pating dairy producer that purchases margin

1 insurance shall pay an annual premium equal to
 2 the product obtained by multiplying—

3 “(i) the percentage selected by the
 4 dairy producer under paragraph (3);

5 “(ii) the production history applicable
 6 to the dairy producer; and

7 “(iii) the premium per hundredweight
 8 of milk, as specified in the applicable table
 9 under paragraph (B) or (C).

10 “(B) PREMIUM PER HUNDREDWEIGHT FOR
 11 FIRST 4 MILLION POUNDS OF PRODUCTION.—
 12 For the first 4,000,000 pounds of milk mar-
 13 ketings included in the annual production his-
 14 tory of a participating dairy operation, the pre-
 15 mium per hundredweight corresponding to each
 16 coverage level specified in the following table is
 17 as follows:

“Coverage Level	Premium per Cwt.
\$4.00	\$0.000
\$4.50	\$0.01
\$5.00	\$0.02
\$5.50	\$0.035
\$6.00	\$0.045
\$6.50	\$0.09
\$7.00	\$0.18
\$7.50	\$0.60
\$8.00	\$0.95.

18 “(C) PREMIUM PER HUNDREDWEIGHT FOR
 19 PRODUCTION IN EXCESS OF 4 MILLION

1 POUNDS.—For milk marketings in excess of
 2 4,000,000 pounds included in the annual pro-
 3 duction history of a participating dairy oper-
 4 ation, the premium per hundredweight cor-
 5 responding to each coverage level is as follows:

“Coverage Level	Premium per Cwt.
\$4.00	\$0.030
\$4.50	\$0.045
\$5.00	\$0.066
\$5.50	\$0.11
\$6.00	\$0.185
\$6.50	\$0.29
\$7.00	\$0.38
\$7.50	\$0.83
\$8.00	\$1.06.

6 “(D) TIME FOR PAYMENT.—

7 “(i) FIRST YEAR.—As soon as prac-
 8 ticable after a dairy producer registers to
 9 participate in the margin insurance pro-
 10 gram and purchases margin insurance, the
 11 dairy producer shall pay the premium de-
 12 termined under subparagraph (A) for the
 13 dairy producer for the first calendar year
 14 of the margin insurance.

15 “(ii) SUBSEQUENT YEARS.—

16 “(I) IN GENERAL.—When the
 17 dairy producer first purchases margin
 18 insurance, the dairy producer shall
 19 also elect the method by which the

1 dairy producer will pay premiums
2 under this subsection for subsequent
3 years in accordance with 1 of the
4 schedules described in subclauses (II)
5 and (III).

6 “(II) SINGLE ANNUAL PAY-
7 MENT.—The participating dairy pro-
8 ducer may elect to pay 100 percent of
9 the annual premium determined under
10 subparagraph (A) for the dairy pro-
11 ducer for a calendar year by not later
12 than January 15 of the calendar year.

13 “(III) SEMI-ANNUAL PAY-
14 MENTS.—The participating dairy pro-
15 ducer may elect to pay—

16 “(aa) 50 percent of the an-
17 nual premium determined under
18 subparagraph (A) for the dairy
19 producer for a calendar year by
20 not later than January 15 of the
21 calendar year; and

22 “(bb) the remaining 50 per-
23 cent of the premium by not later
24 than June 15 of the calendar
25 year.

1 “(5) PRODUCER PREMIUM OBLIGATIONS.—

2 “(A) PRO-RATION OF FIRST YEAR PRE-
3 MIUM.—A participating dairy producer that
4 purchases margin insurance after initial reg-
5 istration in the margin insurance program shall
6 pay a pro-rated premium for the first calendar
7 year based on the date on which the producer
8 purchases the coverage.

9 “(B) SUBSEQUENT PREMIUMS.—Except as
10 provided in subparagraph (A), the annual pre-
11 mium for a participating dairy producer shall
12 be determined under paragraph (4) for each
13 year in which the margin insurance program is
14 in effect.

15 “(C) LEGAL OBLIGATION.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clauses (ii) and (iii), a partici-
18 pating dairy producer that purchases mar-
19 gin insurance shall be legally obligated to
20 pay the applicable premiums for the entire
21 period of the margin insurance program
22 (as provided in the payment schedule elect-
23 ed under paragraph (4)(B)), and may not
24 opt out of the margin insurance program.

1 “(ii) DEATH.—If the dairy producer
2 dies, the estate of the deceased may cancel
3 the margin insurance and shall not be re-
4 sponsible for any further premium pay-
5 ments.

6 “(iii) RETIREMENT.—If the dairy pro-
7 ducer retires, the producer may request
8 that Secretary cancel the margin insurance
9 if the producer has terminated the dairy
10 operation entirely and certifies under oath
11 that the producer will not be actively en-
12 gaged in any dairy operation for at least
13 the next 7 years.

14 “(6) PAYMENT THRESHOLD.—A participating
15 dairy producer with margin insurance shall receive a
16 margin insurance payment whenever the average ac-
17 tual dairy producer margin for a consecutive 2-
18 month period is less than the coverage level thresh-
19 old selected by the dairy producer under paragraph
20 (2).

21 “(7) MARGIN INSURANCE PAYMENTS.—

22 “(A) IN GENERAL.—The Secretary shall
23 make a margin insurance protection payment to
24 each participating dairy producer whenever the
25 average actual dairy producer margin for a con-

1 consecutive 2-month period is less than the cov-
2 erage level threshold selected by the dairy pro-
3 ducer under paragraph (2).

4 “(B) AMOUNT OF PAYMENT.—The margin
5 insurance payment for the dairy operation of a
6 participating dairy producer shall be determined
7 as follows:

8 “(i) The Secretary shall calculate the
9 difference between—

10 “(I) the coverage level threshold
11 selected by the dairy producer under
12 paragraph (2); and

13 “(II) the average actual dairy
14 producer margin for the consecutive
15 2-month period.

16 “(ii) The amount determined under
17 clause (i) shall be multiplied by—

18 “(I) the percentage selected by
19 the dairy producer under paragraph
20 (3); and

21 “(II) the lesser of—

22 “(aa) the quotient obtained
23 by dividing—

24 “(AA) the production
25 history applicable to the pro-

1 ducer under subsection
2 (e)(1); by
3 “(BB) 6; and
4 “(bb) the actual quantity of
5 milk marketed by the dairy oper-
6 ation of the dairy producer dur-
7 ing the consecutive 2-month pe-
8 riod.

9 “(g) EFFECT OF FAILURE TO PAY PREMIUMS.—

10 “(1) LOSS OF BENEFITS.—A participating
11 dairy producer that is in arrears on premium pay-
12 ments for margin insurance—

13 “(A) remains legally obligated to pay the
14 premiums; and

15 “(B) may not receive margin insurance
16 until the premiums are fully paid.

17 “(2) ENFORCEMENT.—The Secretary may take
18 such action as is necessary to collect premium pay-
19 ments for margin insurance.

20 “(h) DURATION.—The Secretary shall conduct the
21 margin insurance program during the period beginning on
22 October 1, 2014, and ending on September 30, 2018.”.

1 **SEC. 3. REPEAL OR REAUTHORIZATION OF OTHER DAIRY-**
2 **RELATED PROVISIONS.**

3 (a) REPEAL OF DAIRY PRODUCT PRICE SUPPORT
4 PROGRAM.—Section 1501 of the Food, Conservation, and
5 Energy Act of 2008 (7 U.S.C. 8771) is repealed.

6 (b) REPEAL OF MILK INCOME LOSS CONTRACT PRO-
7 GRAM.—Section 1506 of the Food, Conservation, and En-
8 ergy Act of 2008 (7 U.S.C. 8773) is repealed.

9 (c) REPEAL DAIRY EXPORT INCENTIVE PROGRAM.—
10 Section 153 of the Food Security Act of 1985 (15 U.S.C.
11 713a–14) is repealed.

12 (d) CONFORMING AMENDMENTS.—Section 902(2) of
13 the Trade Sanctions Reform and Export Enhancement
14 Act of 2000 (22 U.S.C. 7201(2)) is amended—

15 (1) by striking subparagraph (D); and

16 (2) by redesignating subparagraphs (E) and
17 (F) as subparagraphs (D) and (E), respectively.

18 (e) EFFECTIVE DATE.—The repeals under sub-
19 sections (a), (b), and (c) and the amendments made by
20 subsection (d) shall take effect on October 1, 2013.

○