Goodlatte/D. Scott Dairy Amendment, Title 1

The Amendment would remove Subtitle D PART I—"DAIRY PRODUCER MARGIN PROTECTION AND DAIRY MARKET STABILIZATION PROGRAMS" and replaces it with a new "Dairy Producer Margin Insurance Program". The amendment provides dairy producers with the option to annually enroll in a new margin insurance program at levels of $4.00 and up to $8.00 in increments of fifty cents. Based on the highest annual of three previous calendar years of their milk marketings, dairy producers are allowed to elect their coverage level and the percentage of coverage up to 80% at the start of the program and annually thereafter. Dairy producers are also allowed to update their production history annually. The Secretary is required to make payments to dairy producers enrolled in the program whenever the actual dairy producer margin drops below $4.00 (or below a higher level of coverage up to $8.00). The amendment leaves the rest of the underlying dairy title intact, including the removal of the Dairy Product Price Support Program, the MILC Program, and the Dairy Export Assistance Program and the reauthorization of the 1996 FMMO additional order provision.

AMENDMENT TO H.R. ____

OFFERED BY MR. GOODLATTE OF VIRGINIA

(Farm Bill Amendment)

Strike part I of subtitle D (Dairy) of title I and insert the following new part:

1 **PART I—DAIRY PRODUCER MARGIN INSURANCE**
2 **PROGRAM**

3 **SEC. 1401. DAIRY PRODUCER MARGIN INSURANCE PRO-**
4 **GRAM.**

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

8 **"SEC. 1511. DAIRY PRODUCER MARGIN INSURANCE PRO-**
9 **GRAM.**

10 "(a) DEFINITIONS.—In this section:

11 "(1) ACTUAL DAIRY PRODUCER MARGIN.—The
12 term 'actual dairy producer margin ' means the dif-
13 ference between the all-milk price and the average
14 feed cost, as calculated under subsection (b)(2).

15 "(2) ALL-MILK PRICE.—The term 'all-milk
16 price' means the average price received, per hun-
17 dredweight of milk, by dairy producers for all milk
18 sold to plants and dealers in the United States, as

reported by the National Agricultural Statistics Service.

"(3) AVERAGE FEED COST.—The term 'average feed cost' means the average cost of feed used by a dairy operation to produce a hundredweight of milk, determined under subsection (b)(1) using the sum of the following:

"(A) The product determined by multiplying—

"(i) 1.0728; by

"(ii) the price of corn per bushel.

"(B) The product determined by multiplying—

"(i) 0.00735; by

"(ii) the price of soybean meal per ton.

"(C) The product determined by multiplying—

"(i) 0.0137; by

"(ii) the price of alfalfa hay per ton.

"(4) CONSECUTIVE 2-MONTH PERIOD.—The term 'consecutive 2-month period' refers to the 2-month period consisting of the months of January and February, March and April, May and June,

1 July and August, September and October, or No-
2 vember and December, respectively.
3 "(5) DAIRY PRODUCER.—The term 'dairy pro-
4 ducer' means an individual or entity that directly or
5 indirectly (as determined by the Secretary)—
6 "(A) shares in the risk of producing milk;
7 and
8 "(B) makes contributions (including land,
9 labor, management, equipment, or capital) to
10 the dairy operation of the individual or entity
11 that are at least commensurate with the share
12 of the individual or entity of the proceeds of the
13 operation.
14 "(6) MARGIN INSURANCE PROGRAM.—The term
15 'margin insurance program' means the dairy pro-
16 ducer margin insurance program required by this
17 section.
18 "(7) PARTICIPATING DAIRY PRODUCER.—The
19 term 'participating dairy producer' means a dairy
20 producer that registers under subsection (d)(2) to
21 participate in the margin insurance program.
22 "(8) PRODUCTION HISTORY.—The term 'pro-
23 duction history' means the quantity of annual milk
24 marketings determined for a dairy producer under
25 subsection (e)(1).

1 "(9) UNITED STATES.—The term 'United
2 States', in a geographical sense, means the 50
3 States.
4 "(b) CALCULATION OF AVERAGE FEED COST AND
5 ACTUAL DAIRY PRODUCER MARGINS.—
6 "(1) CALCULATION OF AVERAGE FEED COST.—
7 The Secretary shall calculate the national average
8 feed cost for each month using the following data:
9 "(A) The price of corn for a month shall
10 be the price received during that month by agri-
11 cultural producers in the United States for
12 corn, as reported in the monthly Agriculture
13 Prices report by the Secretary.
14 "(B) The price of soybean meal for a
15 month shall be the central Illinois price for soy-
16 bean meal, as reported in the Market News –
17 Monthly Soybean Meal Price Report by the Sec-
18 retary.
19 "(C) The price of alfalfa hay for a month
20 shall be the price received during that month by
21 agricultural producers in the United States for
22 alfalfa hay, as reported in the monthly Agri-
23 culture Prices report by the Secretary.
24 "(2) CALCULATION OF ACTUAL DAIRY PRO-
25 DUCER MARGINS.—The Secretary shall calculate the

1 actual dairy producer margin for each consecutive 2-
2 month period by subtracting—
3 "(A) the average feed cost for that con-
4 secutive 2-month period, determined in accord-
5 ance with paragraph (1); from
6 "(B) the all-milk price for that consecutive
7 2-month period.
8 "(c) ESTABLISHMENT OF DAIRY PRODUCER MARGIN
9 INSURANCE PROGRAM.—The Secretary shall establish and
10 administer a dairy producer margin insurance program for
11 the purpose of protecting dairy producer income by paying
12 participating dairy producers margin insurance payments
13 when actual dairy producer margins are less than the
14 threshold levels for the payments.
15 "(d) ELIGIBILITY AND REGISTRATION OF DAIRY
16 PRODUCERS FOR MARGIN INSURANCE PROGRAM.—
17 "(1) ELIGIBILITY.—All dairy producers in the
18 United States shall be eligible to participate in the
19 margin insurance program.
20 "(2) REGISTRATION PROCESS.—
21 "(A) REGISTRATION.—
22 "(i) ANNUAL REGISTRATION.—On an
23 annual basis, the Secretary shall register
24 all interested dairy producers in the mar-
25 gin insurance program.

1 "(ii) MANNER AND FORM.—The Sec-
2 retary shall specify the manner and form
3 by which a dairy producer shall register for
4 the margin insurance program.
5 "(B) TREATMENT OF MULTI-PRODUCER
6 OPERATIONS.—If a dairy operation consists of
7 more than 1 dairy producer, all of the dairy
8 producers of the operation shall be treated as a
9 single dairy producer for purposes of—
10 "(i) purchasing margin insurance; and
11 "(ii) payment of producer premiums
12 under subsection (f)(4).
13 "(C) TREATMENT OF PRODUCERS WITH
14 MULTIPLE DAIRY OPERATIONS.—If a dairy pro-
15 ducer operates 2 or more dairy operations, each
16 dairy operation of the producer shall require a
17 separate registration to participate and pur-
18 chase margin insurance.
19 "(3) TIME FOR REGISTRATION.—
20 "(A) EXISTING DAIRY PRODUCERS.—Dur-
21 ing the 1-year period beginning on the date of
22 enactment of this section, and annually there-
23 after, a dairy producer that is actively engaged
24 in a dairy operation as of that date may reg-

1 ister with the Secretary to participate in the
2 margin insurance program.
3 "(B) NEW ENTRANTS.—A dairy producer
4 that has no existing interest in a dairy oper-
5 ation as of the date of enactment of this sec-
6 tion, but that, after that date, establishes a new
7 dairy operation, may register with the Secretary
8 during the 180-day period beginning on the
9 date on which the dairy operation first markets
10 milk commercially to participate in the margin
11 insurance program.
12 "(4) RETROACTIVITY.—
13 "(A) NOTICE OF AVAILABILITY OF RETRO-
14 ACTIVE PROTECTION.—Not later than 30 days
15 after the effective date of this section, the Sec-
16 retary shall publish a notice in the Federal Reg-
17 ister to inform dairy producers of the avail-
18 ability of retroactive margin insurance, subject
19 to the condition that interested producers must
20 file a notice of intent (in such form and manner
21 as the Secretary specifies in the Federal Reg-
22 ister notice) to participate in the margin insur-
23 ance program.
24 "(B) RETROACTIVE MARGIN INSURANCE.—

"(i) AVAILABILITY.—If a dairy producer files a notice of intent under subparagraph (A) to participate in the margin insurance program before the initiation of the sign-up period for the margin insurance program and subsequently signs up for the margin insurance program, the producer shall receive margin insurance retroactive to the effective date of this section.

"(ii) DURATION.—Retroactive margin insurance under this paragraph for a dairy producer shall apply from the effective date of this section until the date on which the producer signs up for the margin insurance program.

"(C) NOTICE OF INTENT AND OBLIGATION TO PARTICIPATE.—In no way does filing a notice of intent under this paragraph obligate a dairy producer to sign up for the margin insurance program once the program rules are final, but if a producer does file a notice of intent and subsequently signs up for the margin insurance program, that dairy producer is obligated to pay premiums for any retroactive margin insurance selected in the notice of intent.

1 "(5) RECONSTITUTION.—The Secretary shall
2 ensure that a dairy producer does not reconstitute a
3 dairy operation for the sole purpose of purchasing
4 margin insurance.
5 "(e) PRODUCTION HISTORY OF PARTICIPATING
6 DAIRY PRODUCERS.—
7 "(1) DETERMINATION OF PRODUCTION HIS-
8 TORY.—
9 "(A) IN GENERAL.—The Secretary shall
10 determine the production history of the dairy
11 operation of each participating dairy producer
12 in the margin insurance program.
13 "(B) CALCULATION.—Except as provided
14 in subparagraphs (C) and (D), the production
15 history of a participating dairy producer shall
16 be equal to the highest annual milk marketings
17 of the dairy producer during any 1 of the 3 cal-
18 endar years immediately preceding the registra-
19 tion of the dairy producer for participation in
20 the margin insurance program.
21 "(C) UPDATING PRODUCTION HISTORY.—
22 So long as participating producer remains reg-
23 istered, the production history of the partici-
24 pating producer shall be annually updated
25 based on the highest annual milk marketings of

1 the dairy producer during any one of the 3 im-
2 mediately preceding calendar years.
3 "(D) NEW PRODUCERS.—If a dairy pro-
4 ducer has been in operation for less than 1
5 year, the Secretary shall determine the initial
6 production history of the dairy producer under
7 subparagraph (B) by extrapolating the actual
8 milk marketings for the months that the dairy
9 producer has been in operation to a yearly
10 amount.
11 "(2) REQUIRED INFORMATION.—A partici-
12 pating dairy producer shall provide all information
13 that the Secretary may require in order to establish
14 the production history of the dairy operation of the
15 dairy producer.
16 "(3) TRANSFER OF PRODUCTION HISTORY.—
17 "(A) TRANSFER BY SALE.—
18 "(i) REQUEST FOR TRANSFER.—If an
19 existing dairy producer sells an entire
20 dairy operation to another party, the seller
21 and purchaser may jointly request that the
22 Secretary transfer to the purchaser the in-
23 terest of the seller in the production his-
24 tory of the dairy operation.

1 "(ii) TRANSFER.—If the Secretary de-
2 termines that the seller has sold the entire
3 dairy operation to the purchaser, the Sec-
4 retary shall approve the transfer and,
5 thereafter, the seller shall have no interest
6 in the production history of the sold dairy
7 operation.
8 "(B) TRANSFER BY LEASE.—
9 "(i) REQUEST FOR TRANSFER.—If an
10 existing dairy producer leases an entire
11 dairy operation to another party, the lessor
12 and lessee may jointly request that the
13 Secretary transfer to the lessee for the du-
14 ration of the term of the lease the interest
15 of the lessor in the production history of
16 the dairy operation.
17 "(ii) TRANSFER.—If the Secretary de-
18 termines that the lessor has leased the en-
19 tire dairy operation to the lessee, the Sec-
20 retary shall approve the transfer and,
21 thereafter, the lessor shall have no interest
22 for the duration of the term of the lease in
23 the production history of the leased dairy
24 operation.

1 "(C) COVERAGE LEVEL.—A purchaser or
2 lessee to whom the Secretary transfers a pro-
3 duction history under this paragraph may not
4 obtain a different level of margin insurance cov-
5 erage held by the seller or lessor from whom the
6 transfer was obtained.
7 "(D) NEW ENTRANTS.—The Secretary
8 may not transfer the production history deter-
9 mined for a dairy producer described in sub-
10 section (d)(3)(B) to another person.
11 "(4) MOVEMENT AND TRANSFER OF PRODUC-
12 TION HISTORY.—
13 "(A) MOVEMENT AND TRANSFER AUTHOR-
14 IZED.—Subject to subparagraph (B), if a dairy
15 producer moves from 1 location to another loca-
16 tion, the dairy producer may maintain the pro-
17 duction history associated with the operation.
18 "(B) NOTIFICATION REQUIREMENT.—A
19 dairy producer shall notify the Secretary of any
20 move of a dairy operation under subparagraph
21 (A).
22 "(C) SUBSEQUENT OCCUPATION OF VA-
23 CATED LOCATION.—A party subsequently occu-
24 pying a dairy operation location vacated as de-
25 scribed in subparagraph (A) shall have no inter-

1 est in the production history previously associ-
2 ated with the operation at that location.
3 "(f) MARGIN INSURANCE.—
4 "(1) IN GENERAL.—At the time of the registra-
5 tion of a dairy producer in the margin insurance
6 program under subsection (d) and annually there-
7 after during the duration of the margin insurance
8 program, an eligible dairy producer may purchase
9 margin insurance.
10 "(2) SELECTION OF PAYMENT THRESHOLD.—A
11 participating dairy producer purchasing margin in-
12 surance shall elect a coverage level in any increment
13 of $0.50, with a minimum of $4.00 and a maximum
14 of $8.00.
15 "(3) SELECTION OF COVERAGE PERCENTAGE.—
16 A participating dairy producer purchasing margin
17 insurance shall elect a percentage of coverage, equal
18 to not more than 80 percent nor less than 25 per-
19 cent, of the production history of the dairy operation
20 of the participating dairy producer.
21 "(4) PRODUCER PREMIUMS.—
22 "(A) PREMIUMS REQUIRED.—A partici-
23 pating dairy producer that purchases margin
24 insurance shall pay an annual premium equal to
25 the product obtained by multiplying—

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

"(ii) the production history applicable to the dairy producer; and

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

"(B) PREMIUM PER HUNDREDWEIGHT FOR FIRST 4 MILLION POUNDS OF PRODUCTION.—For the first 4,000,000 pounds of milk marketings included in the annual production history of a participating dairy operation, the premium per hundredweight corresponding to each coverage level specified in the following table is 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

"(C) PREMIUM PER HUNDREDWEIGHT FOR PRODUCTION IN EXCESS OF 4 MILLION POUNDS.—For milk marketings in excess of 4,000,000 pounds included in the annual pro-

1 duction history of a participating dairy oper-
2 ation, the premium per hundredweight cor-
3 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

4 "(D) TIME FOR PAYMENT.—
5 "(i) FIRST YEAR.—As soon as prac-
6 ticable after a dairy producer registers to
7 participate in the margin insurance pro-
8 gram and purchases margin insurance, the
9 dairy producer shall pay the premium de-
10 termined under subparagraph (A) for the
11 dairy producer for the first calendar year
12 of the margin insurance.
13 "(ii) SUBSEQUENT YEARS.—
14 "(I) IN GENERAL.—When the
15 dairy producer first purchases margin
16 insurance, the dairy producer shall
17 also elect the method by which the
18 dairy producer will pay premiums
19 under this subsection for subsequent

1 years in accordance with 1 of the
2 schedules described in subclauses (II)
3 and (III).
4 "(II) SINGLE ANNUAL PAY-
5 MENT.—The participating dairy pro-
6 ducer may elect to pay 100 percent of
7 the annual premium determined under
8 subparagraph (A) for the dairy pro-
9 ducer for a calendar year by not later
10 than January 15 of the calendar year.
11 "(III) SEMI-ANNUAL PAY-
12 MENTS.—The participating dairy pro-
13 ducer may elect to pay—
14 "(aa) 50 percent of the an-
15 nual premium determined under
16 subparagraph (A) for the dairy
17 producer for a calendar year by
18 not later than January 15 of the
19 calendar year; and
20 "(bb) the remaining 50 per-
21 cent of the premium by not later
22 than June 15 of the calendar
23 year.
24 "(5) PRODUCER PREMIUM OBLIGATIONS.—

1 "(A) PRO-RATION OF FIRST YEAR PRE-
2 MIUM.—A participating dairy producer that
3 purchases margin insurance after initial reg-
4 istration in the margin insurance program shall
5 pay a pro-rated premium for the first calendar
6 year based on the date on which the producer
7 purchases the coverage.
8 "(B) SUBSEQUENT PREMIUMS.—Except as
9 provided in subparagraph (A), the annual pre-
10 mium for a participating dairy producer shall
11 be determined under paragraph (4) for each
12 year in which the margin insurance program is
13 in effect.
14 "(C) LEGAL OBLIGATION.—
15 "(i) IN GENERAL.—Except as pro-
16 vided in clauses (ii) and (iii), a partici-
17 pating dairy producer that purchases mar-
18 gin insurance shall be legally obligated to
19 pay the applicable premiums for the entire
20 period of the margin insurance program
21 (as provided in the payment schedule elect-
22 ed under paragraph (4)(B)), and may not
23 opt out of the margin insurance program.
24 "(ii) DEATH.—If the dairy producer
25 dies, the estate of the deceased may cancel

1 the margin insurance and shall not be re-
2 sponsible for any further premium pay-
3 ments.
4 "(iii) RETIREMENT.—If the dairy pro-
5 ducer retires, the producer may request
6 that Secretary cancel the margin insurance
7 if the producer has terminated the dairy
8 operation entirely and certifies under oath
9 that the producer will not be actively en-
10 gaged in any dairy operation for at least
11 the next 7 years.
12 "(6) PAYMENT THRESHOLD.—A participating
13 dairy producer with margin insurance shall receive a
14 margin insurance payment whenever the average ac-
15 tual dairy producer margin for a consecutive 2-
16 month period is less than the coverage level thresh-
17 old selected by the dairy producer under paragraph
18 (2).
19 "(7) MARGIN INSURANCE PAYMENTS.—
20 "(A) IN GENERAL.—The Secretary shall
21 make a margin insurance protection payment to
22 each participating dairy producer whenever the
23 average actual dairy producer margin for a con-
24 secutive 2-month period is less than the cov-

1 erage level threshold selected by the dairy pro-
2 ducer under paragraph (2).
3 "(B) AMOUNT OF PAYMENT.—The margin
4 insurance payment for the dairy operation of a
5 participating dairy producer shall be determined
6 as follows:
7 "(i) The Secretary shall calculate the
8 difference between—
9 "(I) the coverage level threshold
10 selected by the dairy producer under
11 paragraph (2); and
12 "(II) the average actual dairy
13 producer margin for the consecutive
14 2-month period.
15 "(ii) The amount determined under
16 clause (i) shall be multiplied by—
17 "(I) the percentage selected by
18 the dairy producer under paragraph
19 (3); and
20 "(II) the lesser of—
21 "(aa) the quotient obtained
22 by dividing—
23 "(AA) the production
24 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) USE OF COMMODITY CREDIT CORPORATION.—
21 The Secretary shall use the funds, facilities, and the au-
22 thorities of the Commodity Credit Corporation to carry
23 out this section.

1 "(i) DURATION.—The Secretary shall conduct the
2 margin insurance program during the period beginning on
3 October 1, 2013, and ending on September 30, 2018.".

4 **SEC. 1402. RULEMAKING.**

5 (a) PROCEDURE.—The promulgation of regulations
6 for the initiation of the dairy producer margin insurance
7 program and for administration of the program shall be
8 made without regard to—

9 (1) chapter 35 of title 44, United States Code
10 (commonly known as the Paperwork Reduction Act);

11 (2) the Statement of Policy of the Secretary of
12 Agriculture effective July 24, 1971 (36 Fed. Reg.
13 13804), relating to notices of proposed rulemaking
14 and public participation in rulemaking; and

15 (3) the notice and comment provisions of sec-
16 tion 553 of title 5, United States Code.

17 (b) CONGRESSIONAL REVIEW OF AGENCY RULE-
18 MAKING.—In carrying out subsection (a), the Secretary
19 shall use the authority provided under section 808 of title
20 5, United States Code.

21 (c) INCLUSION OF ADDITIONAL ORDER.—Section
22 143(a)(2) of the Federal Agriculture Improvement and
23 Reform Act of 1996 (7 U.S.C. 7253(a)(2)) is amended
24 by adding at the end the following new sentence: "Sub-

1 section (b)(2) does not apply to the authority of the Sec-
2 retary under this subsection.".

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