

ASSEMBLY AGRICULTURE COMMITTEE MINUTES

MARCH 8, 1977

4:00 p.m.

MEMBERS PRESENT: Chairman Hickey
Mr. Price
Mr. Jeffrey
Mr. Polish
Mr. Serpa
Mr. Jacobsen
Mr. Rhoads

MEMBERS ABSENT: None

GUESTS: Phyllis Berkson, Chairman, Nevada State Dairy Commission
Clarence Cassidy, Nevada State Dairy Commission
Mary Love Cooper, Nevada Legislative Counsel Bureau
Tom Baham, Anderson Dairy
Virgil Getto, Western Dairymen

Chairman Hickey called the meeting to order for the purpose of hearing a report from Legislative Counsel Bureau on the interim study* that resulted in the introduction of AB 152.

Mary Love Cooper, Legislative Counsel Bureau, presented a copy of a statement from California Department of Food and Agriculture regarding the setting of minimum prices for fluid milk in that State. This is attached as Exhibit A and herewith made a part of this record.

Mrs. Cooper then went over her memo to Mr. Hickey regarding the comparative prices of unregulated dairy products. She stated that this was not a scientific study but merely a telephone poll in attempt to get some price comparisons. The only real conclusion that can be drawn from this survey was that there is great variation in prices on unregulated products at the retail and wholesale levels. However, it is almost uniformly true that fluid milk is more in Nevada. She finished by saying that milk at the fluid level is regulated almost all over the country that there really doesn't exist the possibility for a "pure free market" at this level. This memo is attached as Exhibit B and herewith made a part of this record.

The memo on the Western Dairy Conference which Mrs. Cooper attended was then discussed. She stated that it might be very helpful to ask Dr. James W. Gruebele from the University of California at Davis, to testify before a joint hearing on milk control programs. She added that he had all the latest information from all the states and was very conversant on state and federal orders.

* Bulletin 77-12: Problems Confronting the Dairy Industry

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Mr. Hickey then presented a copy of letter from Dale W. Bohmont stating that Dr. Gordon Myer of their Agricultural and Resource Economics Division would be available to the Committee. Mr. Hickey stated that he would see about making arrangements to have both of these men speak before a joint hearing. A copy of Mrs. Cooper's memo and the letter from Dean Bohmont are attached to these minutes as Exhibits C and D and herewith made a part of this record.

At this point, Mary Love Cooper presented a "Guide to AB 152" which is herewith attached as Exhibit E and made a part of this record.

Mrs. Cooper then went over the bill with the guide, section by section.

There were no questions or comments regarding Section 1.

Section 2. Mrs. Cooper stated that in the past there seemed to be a lack of uniformity and this would make the Commission come up with some rules and regulations.

Mr. Hickey inquired why the Commission had not adopted any regulations. Mr. Cassady stated that the Commission does have rules and regulations regarding costs but nothing regarding format.

Section 3. No questions or comments.

Section 4. No comments or questions.

Section 5. This section changes the composition of the Commission. Mr. Price stated that from the hearings held by the subcommittee it was concluded there has been some unhappiness with the lack of ability of the consumer or public member to understand the hard data and problems that were presented. It was decided to try to get a more professional type of board, with a technical ability to understand figures and facts. These members would not be involved in any way with the industry.

Mr. Cassady stated that he would hate to see the trade input taken out of the Commission and that he believes that it is easier to work with the larger Commission because of the input you would not have with a 3 member board. He stated that the 8 member commission has worked well and that there has only been one time when they have not been able to work out a tie vote.

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Phyllis Berkson stated that she felt it was necessary to have industry as well as public input on the Commission.

Mr. Baham, Anderson Dairies stated that he would agree with a 3 man Commission made up of people who really understand costs and then make the industry get the necessary information to them.

Mr. Rhoads inquired about the merits of having an advisory board under these people. Mr. Baham stated that he felt that this was part of the function of the staff and that it would be confusing what the various relationships between the staff and the advisory board and the commission would be. Mr. Rhoads then stated that perhaps an advisory board of producers would be good. Mr. Hickey stated then you would have to have an advisory board of consumers, of distributors etc.

Mr. Price stated that there has been the problem of time lapse especially on the producer level, between the time the petition is presented and the producer actually gets the increase. This was an attempt to streamline the process and a 2 level board would mean more lapse of time.

Mr. Serpa stated that he felt that because of the past problems it would behoove the committee to revamp the Commission and if it doesn't work out come back next session and fix it. Mr. Hickey stated that a lot of study has gone into this problem and the committee should come with the best legislation possible. It should look at the total picture.

Phyllis Berkson stated that she still did not feel that it was right to remove the general public representation from the Dairy Commission. She stated that even with Consumer Affairs involved you would have little input from the general consumer.

Mr. Cassady stated that the industry is facing a very hectic year because of the drought and that the Commission would have to move very fast to be effective.

Section 6. No comments or questions.

Section 7. Mr. Price stated that in the past the Executive Director has conducted the hearings and would "get the heat" from the hearings. This would make it proper and procedurally correct to have the commission do what they really should be doing all along.

Mrs. Berkson stated that the commission is now conducting its own hearings and that in the past the Executive Director

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was designated the hearing officer by administrative procedures.

Mr. Cassady stated that he has no problems and that it has worked well for the last two years. He added that when he did run the meetings he was not able to testify. He stated that he felt that this was perhaps something that would be alright to leave to the discretion of the Commission. However, a 3 man commission should be able to run their own meeting.

Phyllis Berkson stated that it was very difficult at the present time to run a meeting and still know what was really going on.

Section 8. Would give the commission the power to appoint or fire the Executive Director without the approval of the Governor. It would require 2 members of the commission to remove the Executive Director.

Mr. Price stated that it was the thinking of the subcommittee that with a more professional group the character of the commission as well as that of the Executive Director would change.

Mr. Jeffrey stated that he questioned whether a commission that only meets every 3 months would really have that much idea of how well the Executive Director was performing. He added that he felt the Governor would be closer to the Executive Director and would know more about him.

Mr. Jacobsen stated that the subcommittee had not been in complete agreement with this point and that there had been major discussion on this. He added that they finally decided that a completely unpolitical group with these experts having no pressures from industry could act on the facts only. There were several members that felt that the commission should be full time similar to the Public Service Commission; however it was doubtful that this could be provided for with current revenues. Mr. Jacobsen went on to say that he felt that in the beginning it would be necessary for this board to meet more than once a quarter and the Executive Director was really going to have to produce.

Mr. Cassady stated that he did feel that the Governor should have a say in the appointment of the Executive Director.

Section 9. No questions or comments.

Sections 10 and 11. At the present time the petition procedure is set up so that there are three ways that the commission can have a hearing on it. It can hold one itself, receive a petition from 55% of the producers, or it can have a petition presented by anybody and it simply holds a hearing on the merits of that petition and then holds a hearing on the proposed petition itself. These sections attempt to facilitate those procedures.

Mr. Hickey inquired about provisions for notification to the general public regarding these petitions. Mrs. Cooper stated that there was provision in law for notification to newspapers and such and this bill provides for additional notification to the Consumer Affairs Division.

She went to say that page 24 of the interim study gives an example of what has to be gone through now in order to get hearing. This bill basically eliminates 20 days from the procedure. It also deletes requirement of 55% of the producers to sign the petition. It was thought by the subcommittee that everyone deserves to be heard.

Phyllis Berkson inquired whether the bill would still allow the provision to grant a petition for a hearing optional to the commission. She stated that they had a request from one person for a hearing. The merits of petition should be considered.

Mary Lou Cooper stated that this was deleted but it does require a proper petition be filed and this is set forth in law as to what a proper petition is.

Mr. Jacobsen stated that it would have to be based on some facts and not just a person who has an axe to grind. This determination would be made by the Executive Director first and then by the commission.

Mr. Cassidy stated that he felt that a person who wanted to be heard should be heard. What a proper petition is well defined and is proper and good.

Mr. Price explained briefly why the 20 days had been put into the statute. He stated that in previous years the commission members would come into a hearing with no background on what was going to be heard. He stated that the Executive Director would look over the petition and make a recommendation as to what should be done and send copies of his recommendation as well as the petition to the commission members. This would allow the petition to move as quickly as possible.

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Mrs. Cooper stated that as the bill was written the commission really did not have the option, if the petition met all the requirements of a proper petition. The commission would still have the authority in as far as time, they could presumably let several accumulate if they wanted to.

Mr. Hickey inquired about using the term may instead of shall in this section.

Mr. Price stressed that the subcommittee felt that everyone should have the right to be heard with a proper petition. Mr. Cassady stated that there really had been no frivolous requests for hearings.

Mrs. Berkson stated that in order to determine if a petition is proper you must first determine if the facts presented in it are correct. Mrs. Cooper stated that this bill is removing that step of hearing the merits of the petition before hearing the petition itself. This petition would have to meet the criterion set forth in 584.522.

Mr. Hickey stated that they would go into the use of the word "may" as opposed to "shall" in this section. He stated that this would give the statutes much more flexibility.

Section 12. No comments or questions.

Section 13. Mr. Hickey inquired what the rationale behind the increase of assessments was. Mrs. Cooper stated that the Dairy Commission presented these proposals. It was based on the information obtained from the Legislative Auditor's report on the Dairy Commission. This report shows that a great many of the technical staff duties are not being done frequently as required.

Mr. Cassady stated that they chose these particular items because they did not want to touch the fluid milk. 50%-100% of these items come from out of state and there has been no increase in 20 years.

Mr. Hickey asked how much money was being discussed. Mr. Cassady stated that this should generate about in the neighborhood of \$115,000 more and in manpower it would mean about 3 men. The rest of the money would stay in the fund and gradually get eaten up as inflation goes up. This does not revert to the general fund.

Mrs. Berkson stated that the consumer is the one that is going to pay for these assessments in the long run.

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Mr. Baham inquired if the bill passed as is would the Dairy Commission need all this personnel. Mr. Cassady stated that the staff would still have to perform audits on the distributors and would still be expected to go out of state and audit for remittances the will need the new manpower.

Mr. Hickey stated that this would be set up by statute and was there any thought of doing this by regulations. Mr. Jacobsen stated that they did not look at this. The auditor pointed out to the subcommittee that many of these audits and other functions that the staff was suppose to be doing were only being done at random so they were not meeting the statutory requirements already in law. So felt that in order to be completely above aboard that they had to implement the staff to do these functions as required.

Mr. Cassady stated that under the present statute the Commission does not have to assess the full amount on fluid milk. Sometimes in the past when their slush fund was adequate they did not collect the full amount of assessment allowed.

Mr. Jacobsen stated that the subcommittee was concerned that this not be underfunded and they wanted to make sure that the funding was available. He added that nobody objected to the increase from either the producers or distributors.

Mr. Baham stated that if milk were to go up the people would start looking around to other areas. He added that he hated to see it tacked onto cottage cheese and that he would rather see the assessment put on fruit drinks or something like that.

Section 14. No comments or questions.

Section 15. Mr. Hickey inquired why this particular section was being repealed. He asked that further explanation of this be supplied.

Phyllis Berkson stated that she did not feel that it was a good idea for the Dairy Commission not to be able to hire their own attorney.

Section 16. Mr. Price stated that he felt that it had not been the intention of the subcommittee to have this particular section worded this way. He stated that it was felt that there should be a provision for hearings and for legislative subcommittee to listen to these hearings and come back to the next legislature with recommendations of whether it should be continued. There is no provision here for who is going to determine whether it will continue or whatever.

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Mr. Price also stated that there had been some discussion as to the timing of the bill. Whether this should be in 2 years or 4 years.

At this point Mr. Hickey appointed Mr. Price and Mr. Jacobsen to work as a subcommittee to develop the various suggestions and points put forth at this meeting and to report the same back to this committee. He added that he felt there should be something included in the bill that would set forth some goals or standards by which judgements would be made on the actions of the commission.

Mary Lou Cooper stated that a starting point for this could easily be the Legislative Auditor's report. A letter outlining this report from Earl Oliver is attached to these minutes as Exhibit F and herewith made a part of this record.

Mr. Jacobsen stated that he agreed that some amendments were needed and that he felt perhaps the commission should be required to make some type of report periodically to the legislative commission.

Virgil Getto stated that he had just met with the Dairy Producer's Council and that the dairymen would support a producer price only. They also would support a dairy commission that would function in all the counties where there is not a federal marketing order. In this way if something should happen to the federal marketing order the Dairy Commission would be there and functioning. He added that this would also cut back in the amount of funding needed for the Commission.

Mr. Hickey inquired how this would affect the Commission as far as funding and workload. Mr. Cassady stated that it would cut it about half or more. He stated that it was a question of the producers might want to get out but yet a couple don't want out. The distributors would probably tell you that they don't want to get out.

Mr. Getto stated that they are advocating that they leave them out if they would like to stay in. But rather than see the whole thing die they would rather have a Dairy Commission that functions in the counties that do not have a federal market order and thus there would be no overlapping.

Mr. Cassady stated that in section 16, NRS 584.1759-584.179 should go to the Commissioner of Pure Foods and Drugs and it should not be wiped out. Mr. Cassady also suggested that the committee look at the qualifications for the board in particular those dealing with CPA. He stated that there were a good many accountants in the State that would be good for the Commission that would not qualify because of the requirement that they be certified.

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Mr. Jacobsen stated that this bill has his name on it only because the bill the was introduced which would abolish the Dairy Commission had come out sooner then anticipated and he had introduced this at that time so that so that everyone would have an independent status to persue this in any manner they see fit. He added that it would be his desire if this bill leaves this committee that it will have the committee's name on it.

Mr. Jacobsen also stated that he had some question on the frequency of required meetings. He stated that he would like to see it open ended but yet tied to a point when they have to meet. He added that they may be facing a real rough schedule. In the beginning they really need regular scheduled meetings so that they can begin to function.

Mr. Cassady stated that by law every three months is sufficient but it has been very seldom that they have gotten away with only 4 meetings a year. He added that this hasn't been a problem. The commission meets when it is necessary.

Mr. Jacobsen stated that he would like to see them be required to meet a least monthly for the first year. This would probably help make this accountable.

Mr. Cassady stated that the commission they have now is justing breaking into being a commission. The more often they meet the sooner they can be indoctrinated into what is being done by the commission.

As there was no further discussion, Chairman Hickey adjourned the meeting.

Respectfully submitted,

Sandra Gagnier
Sandra Gagnier,
Assembly Attache

DEPARTMENT OF FOOD AND AGRICULTURE

1220 N Street
Sacramento
95814



March 7, 1977

Ms. Mary Lou Cooper
Office of Research
Legislative Building
Carson City, Nevada 89710

Dear Ms. Cooper

The California Food and Agricultural Code, Division 21, Part 3, Chapters 1 and 2, pertaining to the Marketing of Milk and Dairy Products, is still in full force and effect with the following exception:

Section 62491, Chapter 2, has been exercised to suspend established minimum wholesale and minimum retail prices. Such suspension occurred after duly noticed and held public hearings.

The Director of the California Department of Food and Agriculture continues to designate and prescribe minimum prices to be paid by distributors to producers for fluid milk in the various classes.

Stabilization and Marketing Plans for the seven marketing areas are attached for your convenience.

Sincerely

A handwritten signature in cursive script that reads "Harry D. Davis".

Harry D. Davis, Regional Administrator
Bureau of Milk Marketing Enforcement

Attachments.

LEGISLATIVE COUNSEL BUREAU

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ANDREW P. GROSE, *Research Director* (702) 885-5637

March 7, 1977

M E M O R A N D U M

TO: Assemblyman Thomas J. Hickey

FROM: Mary Love Cooper, Deputy Researcher *MJC*

SUBJECT: Comparative Prices of Unregulated Dairy Products

You asked me to do a survey of the prices of unregulated dairy products in Nevada and California. I selected three products--ice cream, processed cheese and butter--because the Bureau of Labor Statistics (BLS) publishes monthly average prices on these products. Prices of these products for California cities are taken from BLS "Estimated Average Retail Food Prices" for January 1977. Nevada prices were obtained by a telephone poll of groceries in selected cities. Two major stores in each city were called and prices listed represent the range of prices from low to high. Top prices for ice cream usually are for gourmet brands and top prices for cheese may represent differences in packaging, such as individually wrapped slices. For comparative purposes, it is more accurate to compare the low prices in each category.

I do not believe any startling conclusions can be drawn from the data. In the first place, the California prices are average ones and Nevada cities represent a range of prices based on a telephone poll, not a scientific survey. We do not know, for example, if in computing average prices for 1/2 gallon of ice cream in California if the Bureau of Labor Statistics considered "top of the line" or gourmet ice creams.

What may be observed is that the lowest price which you can pay in Carson City for ice cream is lower than the average San Francisco price and higher than the average price in Los Angeles.

Comparative Prices

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It is also possible to purchase a half-gallon of ice cream in Las Vegas for considerably lower than the average price in either California city. Processed cheese is interesting because the high price of our Las Vegas sample is lower than the average price in either California city. High butter prices in Carson City are lower than the average in either California city but not by very much. The low Las Vegas price for butter is lower than the California average prices for butter, but it is likely that the average would be at least as high or higher.

You may conclude that it is possible to buy some unregulated dairy items more cheaply in some places in Nevada than in San Francisco or Los Angeles. You may not buy milk more cheaply in Nevada than in California. Before concluding that removing state pricing regulations from milk will equalize milk prices in Nevada with California milk, it should be remembered that there is little, if any, milk selling in a free market in the United States today. Whether or not the price of dairy products is regulated at the retail level, the price of raw milk is virtually always regulated. Even California sets producer prices and the trend is to go to federal milk market orders which set producer minimums. It is conceivable that if Nevada or the federal government set price controls only at the producer level, retail prices might fall more in line with California prices. On the other hand, while it is generally cheaper for large operations in California to produce milk than for Nevadans, California produced milk would still require shipping charges to Nevada. At best, predicting what will happen to Nevada milk prices with or without a state order is speculative.

MLC/jd
Encl.

COMPARATIVE PRICES ON UNREGULATED
DAIRY PRODUCTS

Selected California and Nevada Markets

	<u>Los Angeles</u>	<u>San Francisco</u>	<u>Carson City</u>	<u>Ely</u>	<u>Lake Tahoe</u>	<u>Las Vegas</u>	<u>Winnemucca</u>
Ice Cream 1/2 gallon	\$1.17	\$1.29	\$1.20-2.29	\$1.25-1.75	\$1.12-2.19	\$.99-1.99	\$.99-2.15
Cheese 8 oz. American Processed	\$.89	\$.92	\$.90-.99	\$.83-.94	\$.85-.99	\$.79-.85	\$.79-1.05
Butter 1 lb.	\$1.24	\$1.23	\$1.17-1.22	\$1.18-1.27	\$1.13-1.23	\$1.12-1.47	\$1.29-1.39

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March 6, 1977

M E M O R A N D U M

TO: Assemblyman Thomas J. Hickey
FROM: Mary Love Cooper, Deputy Researcher *MJC*
SUBJECT: Western Dairy Conference

I attended the Western Dairy Conference last week and acquired some information which I thought might be useful to you in your deliberations over the state dairy commission in Nevada. In particular, Dr. James W. Gruebele, from the University of California at Davis, presented an excellent paper entitled "Changes in State Milk Control Programs." I have requested a copy of that paper and in the meantime I will summarize the highlights for you.

Trends in State Regulation of Milk Prices

The current trend is away from state milk price setting to federal milk orders. In states which still control milk prices, the trend is away from setting them at all three levels--producer, wholesale and retail. Six states still set all three minimum milk prices. They are Montana, North Dakota, Maine, New Jersey, Pennsylvania and Vermont. California, Alabama and five other states set prices only at the producer level.

The Effect of Wholesale and Retail Milk Price Deregulations in Alabama and California

It was interesting to note that price deregulation can create different situations in different states. The obvious conclusion is that there are more variables involved than regulation. Such things as the proximity of other milk supplies and the nature of the businesses operating in the area have a lot to do with the impact of deregulation.

Western Dairy Conference
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In Alabama, deregulation of milk prices at the wholesale and retail levels has apparently resulted in chaos. Stores are offering "specials" on milk for as low as a penny a half-gallon. Out-of-state milk is coming into the state at a much greater rate than before deregulation. A federal order is considered to be a likely consequence.

California's milk market, on the other hand, has remained reasonably stable in the face of deregulation at the wholesale and retail levels. Milk prices to the consumer have dropped in some cities in the short run but are expected to rise in the long run. Spreads between prices to the farmer and prices to the consumer are among the lowest in the nation. It should be pointed out that in California, there is 58 percent integration of processers and retailers.

The question for Nevada is would milk price deregulation be likely to follow the California or Alabama example?

You may wish to consider inviting Dr. Gruebele to speak to your committee and possibly an agricultural economist from UNR as well. Let me know if you wish to pursue this idea and I would be happy to work on it. I do believe Dr. Gruebele is very knowledgeable and articulate on the subject of trends in state milk pricing.

In addition to state milk stabilization plans, the conference dealt with other aspects of law affecting the dairy industry. I will not detail these subjects for you since they do not relate directly to any of the bills before your committee. I do plan to pursue some of these ideas and will share them with you pending further investigation.

MLC/jd

MAX C. FLEISCHMANN COLLEGE OF AGRICULTURE

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DEAN AND DIRECTOR DALE W. BOHMONT

PHONE (702) 784-6611



SCHOOL OF AGRICULTURE

SCHOOL OF HOME ECONOMICS

COOPERATIVE EXTENSION SERVICE

AGRICULTURAL EXPERIMENT STATION

March 4, 1977

Assemblyman Tom Hickey
Legislative Building
Carson City NV 89710

Dear Tom:

It was good to talk with you briefly at the hearings on AB 183. In response to the Committee's request for a professional economist competent in the dairy field and marketing, I would suggest Dr. Gordon Myer of our Agricultural and Resource Economics Division. He can be reached on 784-6701.

Gordon is conversant and knowledgeable on this problem and has expressed a willingness to provide whatever assistance you require as the Committee deliberates the future of the Dairy Commission and the industry in Nevada.

I do hope the Committee and you have been able to adjust the travel schedule so that you all will be able to come to the Citizens' Advisory Committee and the Ag College banquet. Our preliminary information indicates that most of the members of the Advisory Committee will be in attendance during the day and evening. This includes about thirty agricultural leaders from throughout the State and others who will discuss items of key importance for the College to consider as the new work program is developed. I am sure the Chairman, Art Glaser, would be pleased to have you and your Committee in attendance.

Best personal regards,


Dale W. Bohmont

DWB:pm

cc: Gordon Myer, Ag & Res Ec.
A. Glaser, Chairman, CAC

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00027

SECTION GUIDE TO A.B. 152
RELATING TO THE STATE DAIRY COMMISSION*

1 SECTION 1. Chapter 584 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

Section 1 (page 1) - States that chapter 584 of NRS relating to the dairy industry is amended by adding two new sections.

3 SEC. 2. *The commission shall adopt regulations establishing proce-*
4 *dures for:*
5 1. *Its administration and government;*
6 2. *The formation and adoption of stabilization and marketing plans;*
7 3. *The conduct of its public hearings; and*
8 4. *The manner in which cost information required of producers, dis-*
9 *tributors, producer-distributors and retailers is determined and presented*
10 *to the commission.*

Section 2 (page 1) - Consolidates provisions relating to the regulatory power of the dairy commission. Subsection 4 adds a provision that the commission shall regulate the manner in which cost data from the dairy industry and from retailers is determined and presented to the commission. This subsection reflects the concern of the interim subcommittee that the manner in which the dairy commission assimilates evidence at times has been accomplished in an inconsistent fashion. Note pages 25 and 26 of the bulletin.

11 SEC. 3. 1. *Written notice of any hearing held by the commission shall*
12 *be mailed to the consumer affairs division of the department of commerce.*
13 2. *The division may file with the commission any statement concern-*
14 *ing the proposed action and may appear at the hearing to give evidence*
15 *concerning the proposed action.*

Section 3 (page 1) - Provides representation for consumers at hearings held by the commission by requiring written notice of hearings to the consumer affairs division of the department of commerce. Authorizes consumer affairs division to file statements or give evidence at hearings on proposed commission actions. Note page 25 of bulletin.

*References to bulletin are to Bulletin 77-22, Problems Confronting the Dairy Industry.

16 SEC. 4. NRS 584.390 is hereby amended to read as follows:
 17 584.390 The production and distribution of fluid milk and of fluid
 18 cream is hereby declared to be a business affected with a public interest.
 19 The provisions of NRS 584.325 to 584.690, inclusive, and sections 2 and
 1 3 of this act are enacted in the exercise of police powers of this state for
 2 the purpose of protecting the health and welfare of the people of this state.

Section 4 (pages 1 and 2) - Incorporates sections 2 and 3 above
 into laws enacted to regulate the dairy industry.

3 SEC. 5. NRS 584.420 is hereby amended to read as follows:
 4 584.420 [1. There is hereby created the state dairy commission of
 5 the State of Nevada in which shall be vested the administration of the pro-
 6 visions of NRS 584.325 to 584.690, inclusive.
 7 2. The commission shall consist of eight members appointed by the
 8 governor. The members shall select a chairman from among their num-
 9 ber.] *The state dairy commission, consisting of three members, is hereby*
 10 *created.*

Section 5 (page 2) - Changes composition of dairy commission
 from eight to three members.

11 SEC. 6. NRS 584.425 is hereby amended to read as follows:
 12 584.425 1. [Except as provided in subsection 2, each member of
 13 the commission shall serve for a term of 4 years.
 14 2. As soon as convenient after July 1, 1975, the governor shall
 15 appoint:
 16 (a) Two members whose terms expire June 30, 1976;
 17 (b) Two members whose terms expire June 30, 1977;
 18 (c) Two members whose terms expire June 30, 1978; and
 19 (d) Two members whose terms expire June 30, 1979.
 20 One consumer member shall be appointed into each of these classes, and
 21 the two producer members shall be appointed into different classes.
 22 3. Any vacancy shall be filled by appointment for the unexpired
 23 term.] *Members of the commission shall be appointed by the governor*
 24 *and shall have the following qualifications:*
 25 (a) *One member shall be a certified public accountant who has been*
 26 *issued a certificate pursuant to the laws of this state;*
 27 (b) *One member shall be an agricultural economist; and*
 28 (c) *One member shall be experienced in banking or finance.*
 29 2. *After the initial terms, members shall serve for terms of 3 years.*
 30 *A vacancy shall be filled for the unexpired term in the same manner as*
 31 *the original appointment.*
 32 3. *The members shall select a chairman from among their number.*
 33 4. *A member of the commission shall not have any connection with*
 34 *any segment of the dairy industry.*
 35 5. *The governor may remove a member of the commission for mal-*
 36 *feasance in office or neglect of duty.*

Section 6 (page 2) - (a) Provides for the appointment of dairy commission members by the governor. After initial terms, terms are for 3 years. Provides for election of the chairman of the dairy commission by the members.

(b) Requires that one commission member be a certified public accountant, that one member be an agricultural economist and that one member have banking or finance experience. Prohibits commission members from having any connection to the dairy industry. Restructuring of the dairy commission reflects the interim subcommittee's concern about the existing commission-- the potential for conflict of interest and the lack of technical expertise needed to evaluate market data.

(c) Permits the governor to remove a commissioner for malfeasance in office or neglect of duty. The rationale for this provision is that a mechanism is needed to remove a commissioner who is misusing his office without endangering the independence of commissioners.

Note pages 19-21 of the bulletin.

37 SEC. 7. NRS 584.440 is hereby amended to read as follows:
 38 584.440 1. The members of the commission shall meet [at such
 39 times and at such places as shall be specified by the call of the chairman
 40 or a majority of the commission; but a meeting of the commission shall
 41 be held] at least once every 3 months [.] and may meet at the call of
 42 the chairman or at the request of a majority of the members of the com-
 43 mission.
 44 2. [Five members of the commission shall constitute a quorum and
 45 such quorum may exercise all the power and authority conferred on the
 46 commission; but no rules or regulations shall be adopted, amended or
 47 rescinded except by a majority vote of the entire membership of the
 48 commission.
 49 3. The commission shall prescribe reasonable rules and regulations
 50 for its own management and government and for the conduct of public
 1 hearings required by NRS 584.325 to 584.690, inclusive, and it shall
 2 have only such powers and duties as authorized by law.] The commis-
 3 sion shall conduct all hearings authorized pursuant to NRS 584.325 to
 4 584.690, inclusive, and sections 2 and 3 of this act.
 5 3. A majority of the members constitutes a quorum and a majority
 6 vote of the commission is required on all action taken by the commission.

Section 7 (pages 2-3) - (a) Declares that the commission shall meet at least every 3 months and may meet at the call of the chairman or request of two commission members.

(b) Moves to section 2 of this act the provisions pertaining to the power of the commission to adopt regulations governing its own administration and the conduct of public hearings. Provides that the commission shall conduct its own hearings. This clause is placed in the act to prevent the executive director from acting as hearing officer.

(c) States that two commissioners constitute a quorum. Requires a majority vote of two commissioners to take action.

7 SEC. 8. NRS 584.455 is hereby amended to read as follows:
8 584.455 1. The commission [with the approval of the governor,]
9 shall appoint an executive director, who shall serve ex officio as its secre-
10 tary. [The commission may arrange and classify its work and]
11 2. *The executive director* may appoint such assistants, deputies,
12 agents, experts and other employees as are necessary for the administra-
13 tion of NRS 584.325 to 584.690, inclusive, and sections 2 and 3 of this
14 act, prescribe their duties and fix their salaries in accordance with classi-
15 fications made by the personnel division of the department of administra-
16 tion.
17 [2.] 3. The executive director shall be in the unclassified service of
18 the state. All assistants, deputies, agents, experts and other employees shall
19 be in the classified service pursuant to the provisions of chapter 284 of
20 NRS.
21 [3.] 4. The executive director may be removed by [a vote of six
22 members of the commission. The commission need not seek the approval
23 of the governor prior to removing the executive director.] *the commission.*

Section 8 (page 3) - (a) Deletes requirement that the governor must approve the appointment of the executive director by the commission.

(b) Gives the executive director the official authority to hire his staff, prescribe duties and fix salaries. Currently this power rests formally with the commission.

(c) Replaces provision requiring the vote of six members to remove the executive director and simply provides that the commission may remove the executive director.

Note pages 22 and 23 of bulletin.

24 SEC. 9. NRS 584.495 is hereby amended to read as follows:
25 584.495 The commission shall enforce the provisions of NRS 584.-
26 325 to 584.690, inclusive, and sections 2 and 3 of this act and any stabiliz-
27 ation and marketing plan initiated pursuant to the provisions of NRS
28 584.325 to 584.690, inclusive, [and for that purpose may make such
29 rules and regulations as it shall deem necessary.] and sections 2 and 3 of
30 this act.

Section 9 (page 3) - Makes statute revision changes. Moves regulatory powers of commission to section 2 of this act.

31 SEC. 10. NRS 584.520 is hereby amended to read as follows:
32 584.520 1. [The] In addition to procedures provided for in subsec-
33 tions 3 and 4, the commission may amend or terminate any stabilization
34 and marketing plan, after notice and public hearing as prescribed in NRS
35 584.550 to 584.565, inclusive, if it finds that such plan is no longer in
36 conformity with the standards prescribed in, or will not tend to effectuate
37 the purposes of, NRS 584.325 to 584.690, inclusive [.] , and sections 2
38 and 3 of this act.

39 2. Such hearing may be held upon the motion of the commission
40 and shall be held [upon receipt of a petition signed by producers repre-
41 senting not less than 55 percent of the total number of all of the producers
42 and not less than 55 percent of the total production of all producers who
43 are eligible to petition the commission for the formulation of such plan.]
44 if a proper petition is filed.

45 3. [Notwithstanding the provisions of subsections 1 and 2 of this
46 section, if the] If producers wish to abandon an existing stabilization
47 and marketing plan and establish a Federal Milk Marketing Order or
48 other similar type of milk marketing order, the commission may continue
49 a marketing and stabilization plan in effect for any given area, insofar as
50 wholesale and retail provisions are concerned, whenever it appears that

1 55 percent of the distributors in any given area, whose major interest
2 in the fluid milk and fluid cream business consists of at least 55 percent
3 of the fluid milk and fluid cream distributed within the area by volume,
4 desire that the wholesale and retail provisions, including price regulations,
5 be continued.

6 4. [Notwithstanding the provisions of subsections 1, 2 and 3 of this
7 section, areas] Areas which are nonproducing may terminate a stabiliza-
8 tion and marketing plan [insofar as it] which affects wholesale and retail
9 prices [providing that] if 55 percent of the licensed distributors delivering
10 55 percent of the products to such area wish to terminate such plan after
11 notice and public hearing as prescribed in NRS 584.550 to 584.565,
12 inclusive.

Section 10 (page 3-4) - Pertains to methods of amending stabilization and market plans.

Subsection 2 (lines 39-44) - Requires that a hearing be held on amending a market plan if a proper petition is filed or if the commission so files. Deletes provision mandating a hearing if 55 percent of producers file a petition. This subsection reflects the subcommittee's finding that current petition procedures to obtain a hearing on a market plan are cumbersome. Note pages 23-25 of the bulletin.

Subsection 3 (page 3, lines 45-50 and page 4, lines 1-5) - Makes statute revision changes.

Subsection 4 (page 4, lines 6-12) - Makes statute revision changes.

13 SEC. 11. NRS 584.522 is hereby amended to read as follows:
 14 584.522. 1. [Any petition requesting a hearing for the amendment
 15 of a stabilization and marketing plan shall be filed in ten copies and
 16 include:] *An amendment or termination of a stabilization and marketing*
 17 *plan may be initiated by filing a petition with the commission. The peti-*
 18 *tion, filed in ten copies, shall include:*
 19 (a) The name and address of every person joining in the petition. If
 20 the petitioner is a cooperative association of producers, a partnership or
 21 corporation the names of the duly authorized representative or representa-
 22 tives thereof shall be listed.
 23 (b) A concise statement of the specific relief requested.
 24 (c) A specific statement of the reasons why such relief is needed.
 25 (d) A statement of the substantiating evidence.
 26 2. The petition shall be signed by the petitioners and an affidavit
 27 shall accompany each such petition setting forth that the facts set forth
 28 therein are true and correct to the best of the petitioners' knowledge,
 29 information, and belief.
 30 3. There shall be attached as an exhibit to the original copy only
 31 of each petition filed substantiating evidence in support of such petition.
 32 Additional information shall be supplied to the commission upon request.
 33 4. Any person may, before the hearing, examine a copy of the peti-
 34 tion and accompanying statements, but not the exhibits attached thereto
 35 and file an answer, protest or any other statement concerning the peti-
 36 tion. [, and may appear at the hearing to give evidence in support of or
 37 in protest of the petition.
 38 5. Additional copies of the petition must be available for distribution
 39 at the scheduled hearing.
 40 6. At least 20 days before the date set for the hearing, the secretary
 41 shall mail a notice of the date and a copy of the petition to each member
 42 of the commission.]
 43 5. *At the hearing, the burden of proof is on the petitioners to show by*
 44 *clear and satisfactory evidence that the amendment or termination of a*
 45 *plan is necessary.*
 46 6. *After the petitioners have presented their evidence, the commission*
 47 *staff shall, and any other person may, present evidence in support of or in*
 48 *protest of the proposed action.*

Section 11 (page 4) - Revises procedures for obtaining a hearing for the amendment or termination of a marketing plan.

(a) (lines 16-18) - Changes statutory language.

(b) (lines 36-42) - Deletes provision requiring 20 days notice to the commission of the hearing on the petition. Reflects the subcommittee's opinion that procedures for obtaining a hearing on amending a market plan are too long and complicated. Essentially deletes the step whereby the commission reviews the merit of the petition. Together with subsection 2 of section 10, this section means that commissioners hear proposed amendments to a plan after a proper petition is filed, without the intermediate step of debating the merits of the petition.

(c) (lines 43-45) - Puts the burden of proof on persons petitioning for amendment or termination of a plan to present evidence that a change is necessary.

(d) (lines 46-48) - Requires the staff of the dairy commission to present data in support of or in protest of the proposed action. Permits any other person to present evidence.

The intent of section 11 is to facilitate the hearing procedures on proposed changes in market plans and to encourage independent and consumer comment on proposed changes. Note pages 23-25 of the bulletin.

49 SEC. 12. NRS 584.568 is hereby amended to read as follows:

1 584.568 1. Each stabilization and marketing plan [shall] may con-
2 tain provisions fixing the price at which fluid milk and fluid cream [may
3 be] is sold by producers, distributors and retailers and shall contain pro-
4 visions regulating all discounts allowed by producers, distributors and
5 retailers.

6 2. [In determining the] If the commission establishes minimum prices
7 to be paid by distributors to producers the commission shall consider, but
8 not be limited to, the following factors:

- 9 (a) Cost of production.
- 10 (b) Reasonable return upon capital investment.
- 11 (c) Producer transportation costs.
- 12 (d) Cost of compliance with health regulations.
- 13 (e) Current and prospective supplies of fluid milk and fluid cream in
14 relation to current and prospective demands for such fluid milk and fluid
15 cream.

16 3. [In determining the] If the commission establishes minimum
17 prices to be paid by retailers to wholesalers and by consumers to retailers
18 the commission shall consider, but not be limited to, the following factors:

- 19 (a) The quantities of fluid milk or fluid cream, or both, distributed
20 in the marketing area covered by the stabilization and marketing plan.
- 21 (b) The quantities of fluid milk or fluid cream, or both, normally
22 required by consumers in such marketing area.
- 23 (c) The cost of fluid milk or fluid cream, or both, to distributors and
24 retail stores, which in all cases shall be, respectively, the prices paid by
25 distributors to producers and the minimum wholesale prices, as estab-
26 lished pursuant to NRS 584.325 to 584.690, inclusive [.] , and sections
27 2 and 3 of this act.
- 28 (d) The reasonable cost of handling fluid milk or fluid cream, or both,
29 incurred by distributors and retail stores, respectively, including all costs
30 of hauling, processing, selling and delivering by the several methods used
31 in such marketing area in accomplishing such hauling, processing, selling
32 and delivering, as such costs are determined by impartial audits of the
33 books and records, or surveys, or both, of all or such portion of the dis-
34 tributors and retail stores, respectively, of each type or class in such
35 marketing area as are reasonably determined by the commission to be
36 sufficiently representative to indicate the costs of all distributors and retail
37 stores, respectively, in such marketing area.

Section 12 (pages 4-5) - (a) (lines 1-2) - Makes optional the setting of minimum milk prices. Gives the dairy commission the flexibility to establish minimums at any level (producer, wholesale and retail) or not at all.

(b) (lines 3-5) - Continues the requirement that the dairy commission regulate all discounts allowed by producers, distributors and retailers.

(c) (lines 6-15) - Makes statute revision to reflect optional nature of commission price setting. States that in the event the commission chooses to set prices at the producer level, the factors considered in setting prices remain the same as in current law.

(d) (lines 16-27) - Makes statute revision reflecting option of commission to set minimum wholesale and resale prices. Makes statute revision incorporating sections 2 and 3 into methods of price setting.

Note pages 27-29 of the bulletin.

38 SEC. 13. NRS 584.633 is hereby amended to read as follows:
 39 584.633 1. The commission shall assess each distributor of butter
 40 the sum of ~~one-half~~ 1 cent per pound on all butter distributed by such
 41 distributor.
 42 2. The commission shall assess all distributors of fresh dairy
 43 byproducts the sum of ~~2~~ 4 cents per gallon on all ice cream, sherbet,
 44 or ice cream or ice milk mixes, and the sum of ~~one-fourth~~ one-half
 45 cent per pound on all cottage cheese ~~,~~ and yogurt distributed by such
 46 distributors.
 47 3. Assessments under this section shall be paid to the commission
 48 on or before the 15th of the month following the month during which
 49 the butter or fresh dairy byproducts were distributed. Late payments
 1 ~~shall be~~ are subject to the same penalty as that provided by subsection
 2 4 of NRS 584.635.

Section 13 (pages 5-6) - Increases assessments on all dairy products except milk.

	<u>Present Schedule</u>	<u>Proposed Schedule</u>
Milk	1/2 cent per lb. milk fat	Same
Butter	1/2 cent per lb.	1 cents per lb.
Ice Cream sherbert, ice cream or ice milk mixes	2 cents per gal.	4 cents per gal.
Cottage Cheese	1/4 cent per lb.	1/2 cent per lb.
Yogurt	No assessment	1/2 cent per lb.

The dairy commission receives no general fund money and is supported entirely by assessments on the industry. The dairy producer and distributor split equally the assessment on fluid milk and all other assessments are paid by the distributor.

The proposed increase should increase funding of the dairy commission by about \$117,000, sufficient to augment the staff by four positions. The subcommittee recommended the proposed increase in response to a report by the legislative auditor that the staff was performing infrequently many of its tasks assigned by law. Based on the legislative auditor's finding that the staff is qualified and capable, the subcommittee concluded that additional staff is needed for the dairy commission to adequately perform its statutory duties.

Note pages 12-16 and 21-22 of the bulletin.

3 SEC. 14. NRS 584.670 is hereby amended to read as follows:
 4 584.670 1. The violation of any provision of NRS 584.325 to 584.-
 5 690, inclusive, and sections 2 and 3 of this act, or of any stabilization and
 6 marketing plan, including [the] any price requirements of such plan, or of
 7 any of the unfair practice provisions set forth in such sections, is a misde-
 8 meanor, and also is ground for revocation or suspension of license in the
 9 manner set forth in NRS 584.325 to 584.690, inclusive [.] , and sections
 10 2 and 3 of this act.
 11 2. Every distributor must pay for fluid milk or fluid cream delivered
 12 to him or it at the time and in the manner specified in the contract with the
 13 producer. Failure to make such payment is [hereby declared to be]
 14 ground for refusal, suspension or revocation of license in the manner set
 15 forth in NRS 584.325 to 584.690, inclusive [.] , and sections 2 and 3
 16 of this act.
 17 3. In addition to, or in lieu of, any other penalty provided by NRS
 18 584.325 to 584.690, inclusive, and sections 2 and 3 of this act, the com-
 19 mission may impose, upon any person subject to any penalty under sub-
 20 section 1 of this section, a penalty of [\\$500] not more than \$1,000 for
 21 each violation, to be recovered by the commission in a civil action in a
 22 court of competent jurisdiction. All sums recovered under this subsection
 23 shall be [paid into the state treasury] deposited with the state treasurer
 24 to the credit of the dairy commission fund and shall be expended solely
 25 for the enforcement of NRS 584.325 to 584.690, inclusive [.] , and
 26 sections 2 and 3 of this act.

Section 14 (page 6) - (a) (lines 3-18) Makes statute revisions.

(b) (lines 18-22) Increases the possible penalty for violation of stabilization and marketing plans as set forth in NRS 584.325 to 584.690 and sections 2 and 3 of this act or price requirements of such plans. Penalty for each violation is changed from \$500 to up to \$1,000 to give the commission greater flexibility in setting penalties for major and minor violations.

(c) (lines 22-26) Makes statute revision to include enforcement of sections 2 and 3 of this act in the enumeration of things for which penalty money may be used.

Note pages 30-32 of the bulletin.

27 SEC. 15. NRS 584.430, 584.530 and 584.685 are hereby repealed.

Section 15 (page 6) - (a) Repeals NRS 584.430 which establishes the composition of the dairy commission as four industry members and four consumer members.

(b) Repeals NRS 584.530 pertaining to the right of court review of commission actions. Repealed section duplicates provisions for judicial review as set forth in the Nevada Administrative Procedure Act (NRS 233B).

(c) Repeals NRS 584.685 providing for a judicial review of commission decisions. Statutory revision to eliminate duplication of the Administrative Procedure Act. Repeal of this section also eliminates the authority of the dairy commission to hire its own attorney. In the absence of NRS 584.685, the attorney general's office will serve as legal advisor to the commission pursuant to NRS 228.110.

28 SEC. 16. NRS 584.1759, 584.176, 584.177, 584.178, 584.179, 584.-
 29 325, 584.330, 584.335, 584.340, 584.345, 584.350, 584.355, 584.360,
 30 584.365, 584.370, 584.375, 584.380, 584.385, 584.390, 584.395, 584.-
 31 400, 584.405, 584.410, 584.415, 584.420, 584.425, 584.435, 584.440,
 32 584.445, 584.450, 584.455, 584.460, 584.465, 584.470, 584.475, 584.-
 33 480, 584.485, 584.490, 584.495, 584.500, 584.505, 584.510, 584.515,
 34 584.520, 584.522, 584.525, 584.535, 584.540, 584.543, 584.545, 584.-
 35 550, 584.555, 584.560, 584.565, 584.568, 584.570, 584.575, 584.580,
 36 584.582, 584.583, 584.584, 584.585, 584.590, 584.595, 584.600, 584.-
 37 605, 584.610, 584.615, 584.620, 584.625, 584.630, 584.633, 584.635,
 38 584.640, 584.645, 584.650, 584.655, 584.660, 584.665, 584.670, 584.-
 39 675, 584.680, 584.690, and sections 2 and 3 of this act are hereby
 40 repealed.

Section 16 (page 6) - This section repeals all statutes pertaining to the dairy commission. Together with subsection 2 of section 19, section 16 constitutes a sunset law for the dairy commission. The interim subcommittee favored the continued existence of the dairy commission only if the agency can justify its existence to the legislature. Otherwise, the commission will cease to exist as of July 1, 1979, according to sections 16 and 19 of this bill. The intent of sections 16 and 19 is to mandate a review of the state dairy commission. Note pages 18-19 of the bulletin.

41 SEC. 17. The term of each person holding office as a member of the
 42 state dairy commission on June 30, 1977, expires on that date. As soon as
 43 convenient after July 1, 1977, the governor shall, in accordance with NRS
 44 584.425, appoint:
 45 1. One member whose term expires June 30, 1978;
 46 2. One member whose term expires June 30, 1979; and
 47 3. One member whose term expires June 30, 1980.

Section 17 (page 6) - Provides for expiration of terms of current members of the dairy commission on June 30, 1977. Further provides for appointment and staggering of terms of the new three-member commission.

48 SEC. 18. There is hereby appropriated from the dairy commission
 1 fund to the state general fund all money received by the state dairy com-
 2 mission for settlement or other disposition of complaints filed pursuant
 3 to NRS 584.670, including but not limited to complaints filed against:
 4 1. Model Dairy, Inc.;
 5 2. Beatrice Foods, Inc. (DBA Meadow Gold Dairies of Nevada);
 6 3. Crescent Dairy, Inc. (DBA Anderson Dairy);
 7 4. Raley's of Nevada, Inc.;
 8 5. Donald W. Baldwin, Derrell Moore and Richard Williams, a part-
 9 nership (DBA Warehouse Market No. 4 and Donald W. Baldwin, an
 10 individual);
 11 6. Arden-Mayfair, Inc.;
 12 7. Albertson's, Inc.;
 13 8. Supermarkets Interstate, Inc. (DBA-Valu-Mart) (Formerly Reno
 14 Discount, Inc.);
 15 9. The Southland Corporation (DBA 7-11 Stores);
 16 10. V & T Markets, Inc.;
 17 11. B & J Corporation (DBA Clarkson's Market);
 18 12. Sagebrush Market, Inc.;
 19 13. Mini-Mart No. 5, Inc.;
 20 14. Mini-Mart No. 6, Inc.;
 21 15. Mercantile Brokers, Inc. (DBA Ranch Market);
 22 16. Vern Lee and Lu's Markets, Inc. (DBA Giant Foods);
 23 17. Vern Lee and Lu's Markets, Inc. (DBA Vern Lee Giant Foods);
 24 18. Sav-Time, Inc. (DBA Sav-Time Park No. 2);
 25 19. T & M Corporation (DBA Food King No. 14, DBA Sav-Time
 26 Wells No. 4);
 27 20. Bonanza Hills, Inc. (DBA Food King Superette, DBA Sav-Time
 28 Superette, DBA Park Grocery);
 29 21. Charles W. Gadda, Terrence McMullen and M. C. Hardin, a
 30 partnership (DBA Big K Foods, DBA Big D Foods);
 31 22. Charles W. Gadda, Terrence McMullen and M. C. Hardin, a
 32 partnership (DBA Food King No. 20, DBA Food King No. 21);
 33 23. Food King, Inc. (DBA Nevada Food King No. 11);
 34 24. Arden-Mayfair, Inc.;
 35 25. Western Dairymen Cooperative, Inc.;
 36 26. Anderson Dairy;
 37 27. The Southland Corporation (DBA 7-11 Stores);
 38 28. Smith's Management Corporation (DBA Smith's Food King);
 39 29. Vegas Village Shopping Corporation;
 40 30. Toshio Enamoto (DBA Mr. E's Somerset Market);
 41 31. Panorama Market;
 42 32. Boulevard Market;
 43 33. Dorothy Keith (DBA Market Basket);
 44 34. D & W, Inc. (DBA Rancho Market);
 45 35. Skaggs Drug Centers;
 46 36. Thriftimart, Inc.; and
 47 37. Pet-Char, Inc. (DBA Foodland Market, DBA Central Market).

Section 18 (pages 6-7) - Specifies that all money received by the dairy commission as settlement in the recent kickback cases be deposited in the general fund. The purpose of this section is to return settlement money to the general fund, instead of crediting that money to the dairy commission for the benefit of the industry. Specific cases are listed to avoid tying up any other money received by the dairy commission from fees or other fines. See page 32 of bulletin.

- 1 SEC. 19. 1. This section and section 18 of this act shall become effec-
- 2 tive upon passage and approval.
- 3 2. Section 16 of this act shall become effective July 1, 1979.
- 4 3. The remaining sections of this act shall become effective on July
- 5 1, 1977.

Section 19 (page 8) - Sets forth effective dates of the act. Provisions relating to the deposit of settlement money in the general fund take effect immediately upon passage and approval. The "sunset" provision takes effect on July 1, 1979, and the remainder of the act on July 1, 1977.

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February 18, 1977

The Honorable Thomas J. Hickey
Chairman
Agriculture
Legislative Building
Carson City, Nevada 89710

Dear Assemblyman Hickey:

We presented our audit report on the Dairy Commission Fund to the Legislative Commission on September 15, 1976. In that report we outline the duties of the Dairy Commission staff on pages 37.13 and 37.14. Those are as follows:

"The duties of the technical staff cover the areas of:

1. Producer - distributor economics
2. Cost research
3. Dairy and marketing services
4. N.R.S. enforcement
5. Assist the administrative and accounting personnel as required.

Producer-distributor economics pertains to the economic relationship between producer, distributor, retailer and consumer. In this area the technical staff duties are to:

1. Prepare detailed information for public hearings.
2. Analysis of State to develop and maintain marketing areas and zones.
3. Analysis of dairy conditions in neighboring states and its effect on Nevada production and pricing.
4. Develop and keep current a formula for payment to producers for milk produced and sold, for each marketing area.
5. Outline rules governing such payments giving consideration to product usage.
6. Develop and keep current a formula governing hauling rates charged producers.
7. Outline mandatory provisions governing producer-distributor contracts.

The staff duties are as follows in the area of cost research:

1. Producer cost studies to determine production costs.
2. Distributor cost studies to determine processing and delivery costs.
3. Retail store surveys to determine allowable minimum mark up allowances for stores.
4. Survey of hauling costs of bulk milk from dairy farm to distributor, etc.
5. Analysis of cost statements filed by distributors.

Dairy and marketing services are described below:

1. Regional dairy administration of the Eastern Nevada counties of White Pine, Elko, Eureka and Lander.
2. Contact wholesale accounts for information as well as compliance with Statutes and Regulations in regards to fair trade requirements.
3. Investigate all complaints emanating on wholesale level or above.
4. Promote and encourage use of dairy products.
5. Dissemination of trade information.
6. Encourage and assist in improvement in producing, transportation, processing, storage, distribution, and hauling of dairy products.

N.R.S. enforcement comprises of:

1. Office computations of distributor payments to producer based on ultimate usage of milk.
2. Selected physical audits of above.
3. Office computations of remittances from distributors for assessments due Commission.
4. Selected physical audits of above.
5. Audit distributor wholesale accounts receivable to prevent overextension of credit and insure prompt payment to producers for milk.
6. Analysis of producer-distributor milk contracts for conformance to Statutes and Regulations.
7. Determine that the bond posted by distributors continues to meet statutory requirements.
8. Registration of producers (current).
9. Licensing of distributors (annual).
10. Review bids of distributors to political sub-divisions and other authorized entities for conformance to Statutes and Regulations.
11. Review price filing of distributors for dairy products.
12. Preparation of statistical information for distribution."

Our comments and recommendations in regards to the accomplishment of these were as follows:

"Our review of the technical staff duties indicated many are either being performed infrequently or not recently. Consequently, all of the administrative and statutory duties set forth above for the staff are not being achieved.

RECOMMENDATION

We recommend that the Dairy Commission review the administrative and statutory duties and develop priorities for the available staff* to follow in order to meet the requirements of NRS and the needs of the Commission."

In addition, we had the following comments and recommendations regarding field revenue audits and cost surveys.

FIELD REVENUE AUDITS (page 37.19)

"According to information provided us, the Dairy Commission's staff has not performed any field revenue audits since 1971. These types of audits would provide reliance that the producer receives milk payments in accordance with the classes of fluid milk pricing orders.

RECOMMENDATION

We recommend frequent revenue assessment audits be performed

by the Dairy Commission to determine:

1. All assessments are received.
2. Milk payments to the producer are in accordance with the pricing order classes established by the Commission."

* Emphasis added

COST SURVEYS (page 37.24)

"The Dairy Commission's staff at different times has visited distributor's processing plants within the State and prepared product cost surveys. We reviewed three cost surveys and noted the following problems.

1. Lack of current standard survey procedures.
2. Lack of uniformity in the development of product costs. Specifically we noted return on investment ranged from five to ten percent.
3. Lack of documentation of follow up procedures on important problems discovered during the survey.
4. Lack of documentation of review procedures at the completion of the survey.

NRS 584.583(4) added during the 1975 legislative session requires:

4. Each distributor who processes or manufactures fluid milk, fluid cream, butter or fresh dairy byproducts shall file with the commission a statement of costs, listing separately the items set forth in subsection 2 of this section and any other applicable cost factors. Such statements shall be kept current by supplement under regulations promulgated by the commission. All such statements shall be kept confidential by the commission except when used in judicial proceedings or administrative proceedings under NRS 584.325 to 584.690, inclusive.

This additional information should be of great value in reducing the time required to perform cost surveys.

RECOMMENDATION

We recommend:

1. The Dairy Commission consider how their staff can be best utilized in providing information for making stabilization and marketing plan decisions.
2. The Dairy Commission staff develop standard survey procedures and uniform cost determination practices that will provide information necessary to the members of the Commission."

The Honorable Thomas J. Hickey
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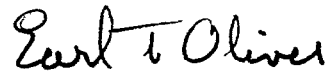
The Commission's response, on page 37.26, to the audit report was as follows:

"Thank you for the preliminary report of your audit of this agency and the opportunity afforded Chairlady Berkson and myself to discuss the report with you.

We offer no comment on the statement, except to point out that all suggested recommendations have been performed at some period of time in the past. Inflation and the fixed revenue established by statutes have combined to require a reduction in staff limiting our ability to adequately carry out all duties with a desired frequency. We have asked the Legislative Commission's Subcommittee for the Study of Problems Confronting the Dairy Industry to recommend that the Legislature increase our funding."

Enclosed is a complete copy of our audit report. We are available to discuss this with you at your convenience.

Sincerely yours,



Earl T. Oliver, C.P.A.
Legislative Auditor

ETO:mr
Enclosure