

SENATE
COMMERCE & LABOR
COMMITTEE

Minutes of Meeting
Friday, April 22, 1977

The meeting of the Commerce and Labor Committee was held on April 22, 1977, in Room 213, at 1:45 P.M.

Senator Thomas Wilson was in the chair.

PRESENT: Senator Wilson
Senator Blakemore
Senator Bryan
Senator Close
Senator Hernstadt
Senator Young

ABSENT: Senator Ashworth

ALSO

PRESENT: See attached list.

The Committee considered the following:

A.B. 152 CHANGES VARIOUS PROVISIONS RELATING TO STATE DAIRY COMMISSION. (BDR 51-101)

S.B. 47 ABOLISHES DAIRY COMMISSION AND FORBIDS MILK PRICE FIXING. (BDR 51-501)

Chairman Wilson advised testimony would be heard on these bills at the same time.

The first witnesses to appear before the Committee were Assemblymen Hickey, Jacobsen and Price. Mr. Hickey stated at the last session of the Legislature there was introduced the abolishment of the Dairy Commission and two of the three Assemblymen present went through the study when on the Assembly side of the House. They felt that the addition of a consumer on the board would bring more balance to the Dairy Commission, which was subsequently done. Also, in a conference committee they agreed to have an interim study of the Dairy Commission because of the various problems that seemed to surround that commission. Out of that study, which was approved, Assemblyman Lawrence Jacobsen was selected as Chairman of the study.

Mr. Jacobsen spoke next. See Exhibit B for his remarks. He stated that this was not his choice. He felt he had an obligation to serve on this Committee and it was about fifth in his choice and Senator Gibson and the Legislative Commission appointed him to be the Chairman. He discussed report prepared by Dr. Stein and indicated they had talked to Dr. Stein about some possible input into this new area and he indicated his health would not permit it.

Next to speak was Mr. Hickey. See Exhibit A attached for his remarks. Mr. Hickey also submitted Exhibits C, D and E to the Committee.

Mr. Bob Price stated that the general provisions of 584.390 of the statutes (when originally set up the Dairy Commission) declared that the industry is in fact a business with a public interest and the Legislature has a duty to protect the health and welfare of the State. Read verbatim the policy-said you must decide if the dairy industry is important to Nevada and if Nevada would be damaged if we did not have a dairy producing industry in our state - before you get into the Dairy Commission. At that point in time the Legislature felt that it was.

Two years ago, he said, when they began to consider abolishment of the Dairy Commission, we initially determined that it was necessary to the state, and in the interim study again, that was one of the earliest things we determined. We all decided that we did need it. Dangers if we don't have the proper regulation were discussed (production, costs, blend prices). He advised the blend price is 57.9¢ on the dollar of what the price that the Dairy Commission sets. The research has indicated that states that do not have orders run from 73¢ per hundred up to \$1.05 per hundred or about 73¢ variation across the U.S. in states that do not have any controls. The ones that do have controls run from 72¢ up to \$0.92, only a 20¢ difference, which indicates that where the controls are, they have been able to keep a better, more level, stable price and also, Nevada is down at the bottom of the actual cost.

It was the opinion of the Agriculture Committee two years ago, and his, the Interim Committee, and the Agriculture Committee this year, you would destroy

the market in Nevada, we would destroy our own producers. The reason that the price and the blend price is so disastrous to the producer in Southern Nevada, the reason it is down so low, is because they set up a Federal Marketing Order and in conjunction at the same time they set up a co-op. The milk flows into Southern Nevada through the Lake Mead Co-op, pushing the prices down, only to be held up to some degree by either the Marketing Order or the Dairy Commission. If we wiped out the Dairy Commission and all three levels, we feel that Californians could take their Class 3 milk that they normally would be putting into cheese and bring it into Nevada as lost leaders. Sell it at below anything our people could do - drive our industry out of business and the results, as he sees it, is that we would be in the same situation in our milk industry as the U.S. might face with Arabia today in the oil situation.

The records show that our prices have been down even in the face of all the problems that we have had. The changes that were made last year at least have helped clear up some of those problems. We feel that by having a panel of experts onto this new 3-man commission that they should be able to further understand the economics of the entire industry and the problem and should be able, hopefully, to control it better, removed from the direct influence of people from the industry and with their expertise. This is some of the background as to why they felt it should be continued, and how we have come to this.

Mr. Hickey called Mr. John Crossley to the witness table. Mr. Crossley is Chief Deputy, Legislative Auditor, for the Legislative Counsel Bureau. He brought with him Mr. Lee Hansen, Deputy Legislative Auditor.

Mr. Crossley stated their audit was accomplished in conjunction with the Interim Study of the Legislative Commission. The results of their study are reflected in Bulletin 7712 entitled "Problems Confronting the Dairy Industry", and comments from the Audit Report are included in that report on page 12. He stated they presented the Audit Report on the Dairy Commission Fund to the Legislative Commission

on September 15, 1976. In that report they outlined the duties of the Dairy Commission staff on page 3713 and 3714. Their comments and recommendations in regard to the accomplishments were as follows:

The review of the technical staff duties indicated many were either being performed infrequently or not recently. Consequently, all of the administrative and statutory duties set forth for the staff are not being achieved. It followed that we recommended that the Dairy Commission review the administrative and statutory duties and develop priorities for the available staff to meet the requirements of the NRS and the needs of the commission.

The field review audits reflected the Dairy Commission Staff had not performed any Field Review Audits since 1971. Those types of audits would provide reliance that the producers receive the milk payments in accordance with the classes of fluid milk pricing orders. We recommended that they conduct those audits to make sure all assessments are received and that the milk payments to the producers are in accordance with the pricing orders.

Reviewed the cost surveys. The Dairy Commission staff at different times had visited distributors, processing plants within the state, and prepared produce cost surveys. Reviewed 3 of those studies. Found there were a lack of current standard survey procedures, a lack of uniformity in development of produced costs, a lack of documentation to follow up procedures on important problems discovered during the survey, and a lack of documentation of review procedures at the completion of the survey.

During the 1975 Session it became law that each distributor would have to file cost statements with the commission and they felt those statements should provide a great value in reducing the time required to perform cost surveys. Still had to recommend that the Dairy Commission consider how the staff can be best utilized in providing information for making stabilization and marketing plan decisions.

Mr. Hickey interjected that they asked for standards and goals to be set up.

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Mr. Crossley said they asked for 2 senior accountants and one field investigator in their budget. Audit reviewed this priority schedule with them and developed Exhibit A. Refer to Tape 2 for full testimony.

The Dairy Commission advised that if they did not get additional staff they would not be able to perform field review audits that had not been done since 1971. They have not had a clear system of time accounting.

Mr. Hickey stated that one of the problems we have is that most of the people are lay people working with a very complicated regulatory board, that in essence, almost becomes dominated by an executive secretary. Therefore, what we have done is bring in our Legislative Auditor and asked them to set up those standards and goals. If there are any changes with those standards and goals, we have asked them to notify the Governor and Legislative Commission and the Chairman of the Agriculture Committee.

SENATOR HERNSTADT asked if they were instructed only to consider how the Dairy Commission could function better, or to consider the possibility of the non-existence of the Dairy Commission.

Mr. Crossley indicated they were instructed to make an audit of the Dairy Commission to find out what they were doing in the financial compliance and whether the staff was competent, etc.

SENATOR HERNSTADT stated that with the amendment, 3 members will have no relations to the industry. He asked about prior relations.

Assemblyman Jacobsen stated that prior relations are possible - they could have lent a dairy some funds. He thinks a prior relationship would be if they are prior consumers, all three of them, if you want to look at it in that sense. Haven't pinpointed it down to a conflict of interest. They felt that it is the Governor's responsibility.

Assemblyman Jacobsen submitted report that shows all 50 states and he indicated the Committee would find it interesting. The report shows the price of milk in Nevada is cheaper on an overall basis.

SENATOR WILSON stated the questions were (1) whether to retain the Committee at all and (2) the matter of controls--whether the commission should have the option to adjust the flexibility to exercise discretion to either fix or free flow prices of one or more of the various 3 levels of the industry, or whether the commission should be mandated to automatically impose pricing at all 3 levels, etc.

Assemblyman Jacobsen stated he believed that the whole committee generally felt that by allowing the Governor to make these appointees, with him allowing the prerogative of naming the chairman, that the heat is going to be on the Governor as far as price setting. Allows these three independent members to function according to the facts.

SENATOR CLOSE expressed concern regarding the regulation of the wholesaler and the retailer.

SENATOR BRYAN stated producers and distributors were concerned and urged us to maintain some type of regulatory discretion to them.

Assemblyman Jacobsen said if we cast everything in cement there would be no need to have a board and a commission and even as legislators he doesn't think there is enough expertise sitting amongst us that we could determine what the price should be retail, wholesale, or whatever. Therefore, that is a necessity for this new commission to have that.

SENATOR CLOSE stated that the problem he sees is where you regulate one or two of the three entities and fail to regulate the other.

Assemblyman Jacobsen said we are faced with the Executive Director retiring in June so therefore we tried to mesh 152 into the present commission in order to give it an orderly change over status to allow the present executive director to help with selecting a new director and bring this on without any great upheaval in the center.

SENATOR HERNSTADT indicated he asked Mary Cooper why 4 or 5 neighboring states were not included.

Mrs. Cooper stated, in the smaller states you are referring to, they don't usually get included in these national wide surveys so the only data they can get from small states is those records kept by state dairies and regulating commissions.

Mr. Hickey stated it was \$118,000 worth of fines that went into the General Fund.

Assemblyman Jacobsen said the law presently allows schools and hospitals and a couple of other provisions for reduction of milk prices.

Larry Petty advised section in current statutes that provides for a discount.

Lee Walker appearing for the Dairy Industry Political Action Assn. comprised of almost all the dairy producers in Clark County, stated they favor the total abolishment of the commission. If that is not done they would favor a change in the law which would make commission authority applicable in those areas where there is no Federal order.

On page 5, subsection 5 of Section 11, the last word on line 5 is "necessary". If someone challenged an order it would be adequate to show that a change or an amendment or termination of a plan, it would be "advisable" rather than "necessary". Section 15, page 7, regarding the provisions on judicial review. He is not certain why this was being deleted. In line 50 it lists Western Dairy Cooperative, Inc. in regard to fines. He would prefer that now that the suit has been dismissed, they not be listed.

SENATOR HERNSTADT urged support of S.B. 47 which would abolish the Dairy Commission and opposed any further consideration of A.B. 152. Over the last few years the Dairy Commission, and by referral the Dairy Industry, have been tarred and feathered, there have been a million dollars in fines levied and exonerated and it appears that if A.B. 152 is passed there will be just a continuation of anti-competitive practices which will cost the housewife. He stated further that in the reportedly factual information we were supplied with on the prices

in all 50 states, four out of the 5 neighboring states prevailing retail prices were not included. It appears that some facts were produced in order to justify the continuation of the Dairy Commission although at the prior joint hearing Mr. Cassidy did indicate what the price structure in California was and I would contend that the price in Maine, Florida and New York bear little relation to the price of milk in Nevada.

SENATOR HERNSTADT continued saying the research people did not find out what the retail price structure is in the states that would have a market effect on Nevada residents (Vermont, California, Idaho and Oregon), only the state of Arizona was included. It is his belief that to continue to force upon milk consumers an artificially high price, based on inaccurate and fallacious economic theories is contrary to the residents of the State of Nevada, contrary to the public interest and quite frankly a downright fraud. He urged rejection of A.B. 152 and vote out S.B. 47.

Mr. Herb Witt, Dairy Producer, and Chairman of the Nevada Dairy Producers Council, stated he represents the majority of the producers in the western area of Nevada and thoroughly supports A.B. 152.

A.B. 229 MAKES TECHNICAL AMENDMENT TO SECTION PROVIDING FOR INVESTIGATION OF PRICES BY STATE DAIRY COMMISSION. (BDR 51-279)

Assemblyman Larry Jacobsen stated this bill was a technical change asked for by the Commission itself.

A.B. 406 PROVIDES FOR EXTENSION OF UNEMPLOYMENT COMPENSATION BENEFITS TO CERTAIN PUBLIC, AGRICULTURAL AND DOMESTIC EMPLOYEES. (BDR 53-692)

Mr. Larry McCracken, Director, Employment Security Department, submitted Exhibit G to the Committee which he indicated covered major points of this bill. He brought with him Mr. Jim Gibbs. Mr. McCracken stated the bill is a result of a public law passed in October of 1976, written to bring our state law into conformity with the Federal law. Only the

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minimum is being presented--the State could go further. The biggest provision calls for coverage of state and local government employees and necessitates a coverage of approximately 32,000 in Nevada that are not now covered under the regular state provisions. These are mandatory coverages, however, there are certain individuals that are now exempt that could have been included that were not. (Elected officials, major policy making positions, legislative members, national guard).

The Legislature has the option of including others beside those that are mandated. Recommendation in this legislation does not include those. Benefits must be denied between terms or school years based on educational system for those that are involved in instructional, research or principally administrative capacities.

There are options with non-professional employees in other than higher education (bus drivers, janitors, etc.). The council recommended the provision that benefits be denied non-professional workers between school terms if there is a reasonable assurance that that individual is going to return to work. About 4,000 persons involved. Stated the fiscal for 78-79 holds true.

SENATOR CLOSE questioned whether this was going to be enough. Mr. McCracken stated that it will reimburse the benefits that are paid that are subject to the employers in the state and local government. He stated further that there has been a slight modification in the balance of this because the average weekly wage will be raised and there will be an additional drain on the fund. The Federal Unemployment Tax was discussed.

Mr. McCracken stated the tax would be applied to agricultural workers, whether they are covered under state law or not. However, if they are covered under state law they have an offset credit of 2.7%. If the state elects not to be covered for agricultural workers then every agricultural worker that would otherwise be covered with employing 10 or more in 20 weeks, or paying cash in excess of \$20,000 in any quarter, would then have to pay 3.4% direct to the

Federal government. These employees would not be eligible for unemployment benefits. Refer to end of Tape 4 and first part of Tape 5 for full discussion. In the State of Nevada, in the agricultural area, 1,000 jobs will be affected. Believes in the domestic area we are talking about 500 jobs if the employer pays \$1,000 or more in any particular quarter.

Mr. Jim Hanna stated that some of the figures are basically guesswork.

Mr. McCracken stated that if this is not passed then there will be no unemployment system in the State of Nevada. That all employers will have to pay the Federal government plus in some cases; they would also have to pay the state tax and the federal. There would be no offset credit. There would be a tax rate in some cases of 7%.

Mr. Daryl Capurro, representing the Nevada Motor Transport Assn. and the Nevada Franchised Auto Dealers Assn., told the Committee that in the hearings on the Assembly side it was established that the provisions that are contained in AB 406 are in strict compliance with what is required under the Federal Act. He said a couple of things need to be pointed out with respect to the situation of how it would affect bringing in the public employees and how it would affect the fund. If the amendment that is on page 13 (lines 16-17) eliminates the public employees from the definition, where we are going into adding their wage base into the entire State's wage base, then fine, if that is what the language that was put in does. By bringing these people in, obviously because of the higher average wage base of state, local and other employees, on the overall, it has the effect of raising the average annual for the State of Nevada. This is why they objected to the idea in the first place. He testified on the Assembly side that they should be set up in a separate account of their own. The second reason is because of the effect upon the benefits which are tied to the average annual wage they are subject to reimburse amounts equal to the regular unemployment compensation benefits and all of the extended benefits paid. That takes nothing into account with respect to administrative expense

or anything else as far as the fund is concerned. At least part of the expenses in overhead and other expenses to make that department operate, should be charged on this reimbursement aspect. He feels that is a raid upon the fund that is hard for the private employer to swallow.

Mr. McCracken discussed the bill with the Committee. He stated the average annual wage influence has been negated by page 13, line 16. The average weekly wage will be effective. Refer to Tape 6 for full testimony.

A.B. 638 REVISES STANDARD VALUATION AND NONFORFEITURE PROVISIONS FOR LIFE INSURANCE AND ANNUITIES. (BDR 58-1867)

Mr. Frank Young, Asso. General Counsel, of the American Life Insurance Assn., stated he is in support of this bill. Said this is part of a national program adopted by the National Assn. of Insurance Commissioners last December to update and modernize the standard and the valuation and non-forfeiture laws in all of the states. Refer to Tape 6 for full testimony. The non-forfeiture law is the law which prescribes the benefits that must be made available to a policy holder who ceases paying premiums for his life insurance or annuities and sets a value for such benefits as of that point of time.

The evaluation law is the law which the insurance commissioners use in examining the companies each year to ascertain that their reserves are sufficient to back up the guarantees they are making for the future.

The three basic fundamental changes that this bill accomplishes are: (1) Increases the statutory interest rate assumptions used to define the minimum reserves and used to define non-forfeiture values to recognize the higher yields that insurers are earning on their investments today; (2) Introduces a standard non-forfeiture law for individual preferred annuities; and (3) Increases the permissible female age setback and mortality table used to determine the reserves and values from 3 years to 6 years.

He stated it will not change existing contracts. Applies basically only to new issues. Stated this had been reviewed with the Insurance Commissioner's Office and he concurs with the bill as submitted to the Committee.

Mr. Jim Wattam, Insurance Commissioner's Office stated the Commissioner fully supports the measure as it stands in the first reprint.

A.B. 457 PERMITS USE OF REAL PROPERTY AS COLLATERAL FOR
INSTALLMENT LOANS. (BDR 56-1141)

The first to testify was Mr. Bob Beach, representing the Nevada Consumer Finance Industry. Advised A.B. 457 according to the title says "permits use of real property as collateral for installment loans". He stated that was the original intent and on the Assembly side, while in hearing, they were not able to get it through because some people felt they should change this and go for the rate increase until they had a couple of years to study this. The rate increase is necessary because the finance industry in the State of Nevada from the last 4 years documented and possibly this year has lost large sums of money.

He continued, saying last rate increase was over 18 years ago. Stated this rate is being used across the country and seems to be fair and equitable. He stated Assemblyman Price had this bill checked by Earl Oliver, and had this bill been in effect at this time last year, there would not have been a rate increase to the customer. He stated there is a 36% interest on the amount of \$300, 21% from there to \$1,000, and 15% above that, ending up at an 18% increase. Tied to the consumer price index. Should there be an increase all it would amount to is the amount that is subject to interest would increase.

Discussed old and new rates and the Consumer Price Index. Refer to Tape 6 for full testimony.

Mr. George Angel, Household Finance Corporation, addressed the Committee from the floor and pointed out page 3, line 2, explaining that this is simple interest and APR.

Mr. Preston Tidvall, Supt. of Banks, who also has jurisdiction over finance companies in the State of Nevada, wanted to emphasize that the last increase in rates was in 1959. Wished to lend the support of the Banking Division in favor of this increase in rates for the small loan industries. He stated this would enable the companies to show a better profit than they are at the present time. He stated the companies on the whole, operating in this state, had a net of about 2 million dollars in 1975.

SENATOR WILSON summarized by saying that the justification for the bill is that because of the present interest rates, and the rate of the profit earned is insufficient, they are going to be going out of business and this represents to the public a loss of a source of finance. He asked Mr. Tidvall what kind of a rate of return the finance companies ought to earn.

Mr. Tidvall answered that it should be 3.26 according to the schedule that was presented to the Legislature as of the close of business 12/31/75. In the year 1974 it was 4.92. Further figures were offered to the Committee on the industry. Refer to the end of Tape 6 for this complete information.

Next was Mr. Mike Melner, State Commerce Director. He stated they support this legislation as in the form of the second reprint.

A.B. 599 AMENDS PROVISIONS REGULATING MARRIAGE AND FAMILY COUNSELORS. (BDR 54-1467)

The first witness was Mr. Dayle Rust, President, Board of Examiners for Marriage & Family Counselors, who stated most of the bill is involved in house-keeping recommended by the Attorney General's Office relative to the statute. He discussed privileged communication with the Committee. Refer to Tape 7 for full testimony. In response to a question by SENATOR YOUNG, Mr. Rust indicated they had never had to testify in court.

He discussed the limitation of advertising and stated that as the statute now exists the provision of limitation of advertising is in it. Psychologists

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and others are not able to advertise as marriage and family counselors.

SENATOR BRYAN advised that the Attorney General's Office has ruled that the psychologist may not do so.

Mr. Rust continued saying in 4 years time there have been 241 applicants to be certified in the state for family and marriage counselors. As of this date, there are 122 certified marriage and family counselors. See attached exhibit submitted by Mr. Rust. He discussed individuals holding themselves out in marriage and family counseling. He stated they did not want to restrict ministers, attorneys, doctors and psychologists from doing those things in their profession. Marriage and family counsellors seem to hold a more popular place with the public than do psychologists, he said.

A.B. 71 INCREASES MINIMUM WAGES FOR EMPLOYEES IN PRIVATE EMPLOYMENT. (BDR 53-146)

Mr. Jack Kenney, Southern Nevada Home Builders, stated that the power of the Labor Commissioner on page 1 hasn't been in the law before. He asked if this wouldn't give one person a lot of power without any checks and balances. Wondered if it creates any more bureaucracy or paperwork, and if it does, if there is a problem with a fiscal note. He suggested on line 7 that the figure of \$250,000 go up to \$550,000. Refer to Tape 7 for full testimony.

There being no further business the meeting was adjourned at 5:05 P.M.

Respectfully submitted,


Lyndi Lee Payne, Secretary

APPROVED BY:


Thomas R.C. Wilson, Chairman

SENATE

AGENDA FOR COMMITTEE ON COMMERCE & LABOR

Friday

Date April 22, 1977 Time 1:00 P.M. Room 213

Bills or Resolutions to be considered	REVISED	Subject	Counsel requested*
A. B. 152		Changes various provisions relating to state dairy commission (BDR 51-101)	
A. B. 229		Makes technical amendment to section providing for investigation of prices by state dairy commission (BDR 51-279)	
A. B. 406		Provides for extension of unemployment compensation benefits to certain public, agricultural & domestic employees (BDR 53-692)	
A. B. 638		Revises standard valuation and nonforfeiture provisions for life insurance and annuities (BDR 58-1867)	
A. B. 457		Permits use of real property as collateral for installment loans (BDR 56-1141)	
A. B. 599		Amends provisions regulating marriage and family counselors (BDR 54-1467)	
S. B. 47		Abolishes dairy commission and forbids milk price fixing (BDR 51-501)	
A. B. 71		Increases minimum wages for employees in private employment (BDR 53-146)	

GUEST REGISTER

SENATE COMMERCE & LABOR
COMMITTEE

DATE: 4-22-77

THOSE WISHING TO TESTIFY SHOULD
IDENTIFY THEMSELVES BEFORE GIVING
TESTIMONY.....

NAME (Please Print)	DO YOU WISH TO TESTIFY	BILL NO.	REPRESENTING	PHONE
John Crossley	Requested	AB 152	LCB - Audit	885-5620
Lee Harrison	REQUESTED	AB 162	LCB Audit	885-5620
Mary Love Cooper	—	AB 152	LCB - Research	885-5637
Jim Harris	—	AB 406-407	FSD	855-4550
Bob Butte	—	" "	ESD	" "
WALTER DREW	—	AB 406-407	ESD	
Jim Oliver	—	" "	ESD	885 4636
Shirley Shearer	—	" "	ESD	885-4520
Doyle K. Rust	yes	AB 599	St. Bd. of Marriage & Family	648-9445
Stan Jones	yes	A.B. 71	NeV. Labor Commission	4850
Bob Price	YES	AB 152	ASSEMBLYMAN	
Milos Terzich	yes	AB 638	ALIA	882-4790
Frank Young	yes	AB 638	ALIA (Wash. D.C.)	202-872-8750
Assemblyman Yickley		ab 152		
" Jacobsen		ab 152		
April Pitt				
Sen. Ernst				
Larry Petty			LCB	
Joe Walker				
Jim Sibbs			ESD	
Larry McChesney			ESD	2356

A.B. 152 AS CONSIDERED BY
THE ASSEMBLY COMMITTEE ON AGRICULTURE

Assemblyman Thomas J. Hickey

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I WOULD LIKE TO PRESENT TO YOU THE FINDINGS OF THE AGRICULTURE COMMITTEE ON A.B. 152. YOU WILL FIND IN FRONT OF YOU A RECORD OF THE AGRICULTURE COMMITTEE'S REVIEW OF A.B. 152. WE HELD MEETINGS IN CARSON CITY, LAS VEGAS AND IN RURAL COMMUNITIES. WE MET WITH THE LEGAL COUNSEL OF THE DAIRY COMMISSION AND WITH STAFF OF THE LEGISLATIVE COUNSEL BUREAU. THE COMMITTEE REQUESTED THAT THE LEGISLATIVE AUDITOR'S OFFICE WORK WITH THE STAFF OF THE DAIRY COMMISSION IN SETTING PRIORITIES FOR STAFF DUTIES AND ESTABLISHING ACCOUNTING PROCEDURES TO MAINTAIN RECORDS OF HOURS SPENT ON THESE DUTIES. THIS ACTION WAS IN RESPONSE TO FACTS PRESENTED IN THE LEGISLATIVE AUDIT OF THE STATE DAIRY COMMISSION.

THE AGRICULTURE COMMITTEE APPROVED OF A.B. 152 AS RECOMMENDED BY THE INTERIM SUBCOMMITTEE WITH THE ADDITION OF AMENDMENTS. THE COMMITTEE VOTE ON A.B. 152 WAS UNANIMOUS WITH THE EXCEPTION OF ONE ABSENT MEMBER.

SINCE ASSEMBLYMAN JACOBSEN HAS ALREADY REVIEWED THE BILL FOR YOU, I WILL CONCENTRATE ON DESCRIBING THE AMENDMENTS WHICH WERE ADOPTED BY THE ASSEMBLY.

ON PAGE 1 OF THE FIRST REPRINT, SUBSECTION 5 OF SECTION 2 STATES THAT THE DAIRY COMMISSION, BY REGULATION, SHALL CLASSIFY FLUID MILK INTO THREE SEPARATE CLASSES. UNDER CURRENT LAW, THE CLASSIFICATION PROVISIONS ARE SET FORTH IN NRS.

THE NEXT AMENDMENT TO THE ORIGINAL BILL IS FOUND ON PAGE 2, SECTION 4.5. THE IMPACT OF THIS SECTION AS AMENDED IS TO DEFINE RETAIL MILK SALES TO INCLUDE SALES IN RESTAURANTS, HOTELS AND SO FORTH. THE CURRENT NRS PROVISION EXEMPTS FROM DAIRY COMMISSION REGULATION MILK SALES FOR CONSUMPTION ON THE PREMISES OF SUCH ESTABLISHMENTS. THIS AMENDMENT WAS SUGGESTED BY THE LEGAL COUNSEL FOR THE DAIRY COMMISSION WHO POINTED OUT THAT HOTELS AND RESTAURANTS DO QUITE A VOLUME BUSINESS IN MILK.

ANOTHER AMENDMENT TO A.B. 152 IS ON PAGE 2 IN SUBSECTION 3. IN THE ORIGINAL BILL, ONE MEMBER OF THE NEW COMMISSION WAS

TO BE A CERTIFIED PUBLIC ACCOUNTANT. THE AGRICULTURE COMMITTEE FELT THIS LANGUAGE LIMITED THE FIELD OF POTENTIAL APPOINTEES. AS AMENDED, ONE OF THE THREE MEMBERS MAY BE A CPA OR SIMPLY A PUBLIC ACCOUNTANT.

WE FURTHER AMENDED SECTION 6 OF A.B. 152 TO REQUIRE THAT THE GOVERNOR APPOINT THE CHAIRMAN OF THE PROPOSED THREE-MAN COMMISSION. IN THE VIEW OF THE AGRICULTURE COMMITTEE, THIS CHANGE WOULD ELIMINATE DISSENSION AMONG COMMITTEE MEMBERS OVER THE SELECTION OF THE CHAIRMAN.

TURNING TO SUBSECTION 1 OF SECTION 7 OF A.B. 152 ON PAGE 2, THE COMMITTEE PROPOSED THAT INSTEAD OF REQUIRING THE COMMISSION TO MEET EVERY 3 MONTHS, THEY SHOULD MEET EVERY MONTH. THE REASON FOR THIS REQUIREMENT IS TO INSURE CONTINUITY ESPECIALLY WITH A NEW COMMISSION AND TIMELY CONSIDERATION OF PETITIONS FOR CHANGE. THE COMMISSION MAY MEET MORE OFTEN AT THE CALL OF THE CHAIRMAN OR THE MAJORITY OF THE COMMISSION.

THE NEXT AMENDMENT TO A.B. 152 WAS THE SUBJECT OF CONSIDERABLE DISCUSSION AND DEBATE. SUBSECTION 4 OF SECTION 7 ON PAGE 3 PERMITS THE DAIRY COMMISSION TO RETAIN PRIVATE LEGAL COUNSEL, EFFECTIVE JULY 1, 1977. IN THE ABSENCE OF THIS PROVISION, THE DAIRY COMMISSION MUST RELY ON USING THE ATTORNEY GENERAL'S OFFICE. WITH THIS SECTION, THE NEW DAIRY COMMISSION MAY CHOOSE TO RETAIN PRIVATE COUNSEL OR THE ATTORNEY GENERAL FOR LEGAL REPRESENTATION.

THE ASSEMBLY FURTHER AMENDED A.B. 152 IN SECTION 14, SUBSECTION 3 ON PAGE 7 OF THE BILL. THE EFFECT OF THIS AMENDMENT IS TO CLARIFY THE FACT THAT THE INCREASED PENALTY OF "UP TO \$1,000" APPLIES TO ANY VIOLATION OF NRS PERTAINING TO STABILIZATION AND MARKETING PLANS.

FINALLY, THE AGRICULTURE COMMITTEE AND THE ASSEMBLY CHANGED THE DATE OF THE SUNSET PROVISION FOR THE DAIRY COMMISSION FROM JULY 1, 1979, TO JULY 1, 1981.

IN CONCLUSION, I RECOMMEND TO YOU A.B. 152 AS THE PRODUCT OF SERIOUS STUDY AND COMPROMISE, FIRST BY AN INTERIM STUDY COMMITTEE AND THEN BY THE ASSEMBLY COMMITTEE ON AGRICULTURE.

IT IS THE PURPOSE OF THIS BILL TO PROVIDE STABILITY, EXPERTISE AND OBJECTIVITY TO THE DAIRY COMMISSION IN NEVADA. IF THE STATE DOES NOT REGULATE ITS OWN INDUSTRY, THE CHANCES ARE VERY GOOD THAT THE FEDERAL GOVERNMENT WILL DO IT THROUGH A FEDERAL ORDER.

AS FAR AS DAIRY PRODUCTS ARE CONCERNED, WE NO LONGER LIVE IN AN IDEAL MARKET WORLD. DAIRY SUPPORT PRICES ARE SET NATION-WIDE. WITH ONE OR TWO EXCEPTIONS, MILK PRICES ARE REGULATED AT SOME LEVEL IN EVERY STATE EITHER BY FEDERAL ORDERS, STATE ORDERS OR A COMBINATION OF THE TWO. A.B. 152, AS AMENDED, IS A STEP TO KEEP CONTROL OF THE DAIRY INDUSTRY IN NEVADA WHERE IT CAN BE RESPONSIVE TO OUR OWN PUBLIC.

THANK YOU.

Exhibit B

PROBLEMS CONFRONTING THE DAIRY INDUSTRY
A BRIEF HISTORY AND OVERVIEW OF A.B. 152

Assemblyman Lawrence E. Jacobsen

MR CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM HERE TODAY TO DISCUSS A.B. 152 WITH YOU. I SPOKE ON BEHALF OF THE BILL WHEN THE ASSEMBLY COMMITTEE ON AGRICULTURE HELD A JOINT HEARING WITH YOU EARLIER IN THE SESSION. FORGIVE ME IF I REPEAT SOME OF MY REMARKS FROM THAT EVENING, BUT THERE ARE A FEW THINGS ABOUT A.B. 152 WHICH I WOULD LIKE TO EMPHASIZE.

FIRST, I WOULD LIKE TO EXPLAIN THE FACT THAT WHILE MY NAME IS LISTED ON THE BILL AS ITS SPONSOR, A.B. 152 IS THE PRODUCT OF UNANIMOUS AGREEMENT OF THE INTERIM SUBCOMMITTEE APPOINTED TO CONSIDER THE PROBLEMS CONFRONTING THE DAIRY INDUSTRY. I SERVED AS CHAIRMAN OF THAT SUBCOMMITTEE AND OTHER COMMITTEE MEMBERS WERE SENATORS SCHOFIELD AND BRYAN AND ASSEMBLYMEN GETTO, MANN AND PRICE.

THE INTERIM SUBCOMMITTEE SPENT MANY HOURS WRESTLING WITH THE NUMEROUS PROBLEMS SURROUNDING THE DAIRY INDUSTRY AT THAT TIME. THE SUBCOMMITTEE HELD PUBLIC MEETINGS IN CARSON CITY AND LAS

*how do you
HAD PETTY
Molly Torwick*

VEGAS AND HEARD TESTIMONY FROM MILK PRODUCERS, DISTRIBUTORS, RETAILERS AND CONSUMERS. QUESTIONNAIRES ON THE MAJOR ISSUES COMING OUT OF THE SUBCOMMITTEE HEARINGS WERE SENT TO MEMBERS OF THE DAIRY INDUSTRY. THE SUBCOMMITTEE ALSO MET IN JOINT SESSION WITH MEMBERS AND STAFF OF THE DAIRY COMMISSION. AT VARIOUS TIMES IN THE INTERIM PERIOD, THE STAFF OF THE SUBCOMMITTEE AND MYSELF AS CHAIRMAN ATTENDED HEARINGS HELD BY THE DAIRY COMMISSION.

OF MAJOR IMPORTANCE TO THE SUBCOMMITTEE'S DELIBERATIONS WERE THE ATTORNEY GENERAL'S 1975 "REPORT ON THE DAIRY COMMISSION" AND THE LEGISLATIVE AUDITOR'S REPORT ON THE DAIRY COMMISSION FOR THE FISCAL YEAR ENDING JUNE 20, 1975.

AFTER REVIEWING INFORMATION FROM PUBLIC HEARINGS, QUESTIONNAIRES AND REPORTS, THE SUBCOMMITTEE CONCLUDED THAT THE EXISTENCE OF THE STATE DAIRY COMMISSION IS JUSTIFIED TO PROTECT THE NEVADA DAIRY INDUSTRY AND PUBLIC INTEREST. ONE OF THE MAJOR FACTORS INFLUENCING THE SUBCOMMITTEE'S DECISION WAS THE DESIRE TO RETAIN STATE CONTROL OVER MILK MARKETING IN NEVADA.

I WOULD LIKE TO POINT OUT THAT AT THE MEETINGS WHERE THE SUB-COMMITTEE MADE ITS FINAL RECOMMENDATIONS, AUDIENCE PARTICIPANTS FROM THE DAIRY COMMISSION AND FROM THE DAIRY INDUSTRY VOICED THEIR APPROVAL OF THE PROPOSED LEGISLATION. ON PASSAGE OF A.B. 152 IN THE ASSEMBLY, THE VOTE WAS 39 TO 1.

LET ME BRIEFLY OUTLINE FOR YOU THE MAJOR PROVISIONS OF A.B. 152. PROBABLY THE MOST IMPORTANT FEATURE OF THE BILL IS THAT IT RESTRUCTURES THE DAIRY COMMISSION. CURRENTLY, THERE ARE EIGHT COMMISSION MEMBERS; FOUR REPRESENT THE DAIRY INDUSTRY AND FOUR REPRESENT CONSUMERS. A.B. 152 PROPOSES A PANEL OF THREE MEMBERS WITH EXPERTISE IN AGRICULTURAL ECONOMICS, ACCOUNTING AND FINANCE. MEMBERS OF THE PROPOSED BOARD WOULD HAVE NO PRESENT CONNECTION WITH THE DAIRY INDUSTRY.

IN THE JUDGMENT OF THE SUBCOMMITTEE, MANY OF THE CURRENT PROBLEMS FACING THE NEVADA DAIRY INDUSTRY WOULD BE RESOLVED IF THE DAIRY COMMISSION WERE AN OBJECTIVE BOARD, NOT CONNECTED TO THE INDUSTRY, BUT KNOWLEDGEABLE ENOUGH TO DEAL QUICKLY AND FAIRLY WITH COMPLICATED DATA.

QUESTIONS WERE RAISED IN THE JOINT COMMITTEE HEARING ABOUT THE WISDOM OF REMOVING DAIRY INDUSTRY MEMBERS FROM THE COMMISSION REGULATING THEIR BUSINESS. FIRST OF ALL, AT THIS POINT IN TIME, YOU WILL NEVER BE ABLE TO HAVE INDUSTRY MEMBERS WITHOUT AN EQUAL NUMBER OF CONSUMER REPRESENTATIVES. SECONDLY, DAIRY INDUSTRY MEMBERS INDICATED TO THE INTERIM SUBCOMMITTEE THAT THEY WERE WILLING TO ACCEPT THE THREE-MEMBER PROPOSAL AND THAT THE COMMISSION AS PRESENTLY OPERATING SHOULD BE CHANGED.

I HAVE ALSO BEEN QUESTIONED AS TO WHETHER OR NOT WE CAN FIND PEOPLE TO SERVE, IF WE RESTRUCTURE THE DAIRY COMMISSION AS PROPOSED IN A.B. 152. I TOOK THE OPPORTUNITY WHILE SITTING IN ON AN ASSEMBLY GOVERNMENT AFFAIRS MEETING OF ASKING THIS QUESTION TO REPRESENTATIVES OF THE BANKING COMMUNITY AND TO THE PRESIDENT OF NEVADA CPA'S. BOTH OF THESE GROUPS INDICATED THAT THEY WOULD HAVE NO DIFFICULTY IN RECOMMENDING PEOPLE FOR THE GOVERNOR TO CHOOSE FROM. I EXPECT TO HEAR FROM DEAN DALE BEAUMONT AT THE UNIVERSITY OF RENO ABOUT POSSIBLE AGRICULTURAL ECONOMIST CANDIDATES.

- Is this the correct committee?

I BELIEVE THE RESTRUCTURING OF A.B. 152 STRIKES A PRACTICAL COMPROMISE BETWEEN LAY CONSUMERS AND MEMBERS OF THE DAIRY INDUSTRY. RIGHT NOW, EVEN THOUGH THE COMMISSION IS NUMERICALLY BALANCED BETWEEN INDUSTRY AND THE PUBLIC, IT IS NOT A TRUE BALANCE SINCE DAIRY MEMBERS HAVE THE ADVANTAGE OF KNOWING THE ECONOMICS OF THE INDUSTRY.

A FINAL ASSURANCE THAT THE NEW COMMISSION WILL BE HELD ACCOUNTABLE FOR ITS PERFORMANCE IS THAT THE GOVERNOR WILL APPOINT THE MEMBERS AND THE CHAIRMAN AND HE MAY REMOVE THEM FOR MALFEASANCE IN OFFICE OR NEGLIGENCE OF DUTY.

THE SECOND MAJOR PROVISION OF A.B. 152 GIVES THE NEW COMMISSION OF EXPERTS THE OPTION OF SETTING MINIMUM MILK PRICES AT ANY OR ALL LEVELS--PRODUCER, WHOLESALE, RETAIL--OR NOT AT ALL. CURRENT LAW REQUIRES MINIMUM PRICES ON MILK TO BE SET AT THE PRODUCER, WHOLESALE AND RETAIL LEVELS. THE INTERIM SUBCOMMITTEE BELIEVED THAT THE NEW COMMISSION SHOULD BE GIVEN THE FLEXIBILITY TO RESPOND TO MARKET CONDITIONS. WE FELT THAT THE LAW SHOULD NOT TIE THEIR HANDS AND REQUIRE THEM TO

SET MINIMUM PRICES WHERE THEY ARE NOT WARRANTED. AT THE SAME TIME, THE LEGAL TOOLS ARE THERE IF MARKET CONDITIONS SHOULD NECESSITATE CONTROLS AT ALL LEVELS TO STABILIZE THE MILK MARKET.

RECENT KICKBACKS BY THE WHOLESALERS TO RETAILERS WOULD NOT HAVE BEEN NECESSARY IF THE COMMISSION HAD NOT BEEN BOUND TO A WHOLESALE PRICE STRUCTURE WHICH DID NOT CONSIDER VOLUME TRADE IN MILK.

IN ADDITION TO RESTRUCTURING THE DAIRY COMMISSION AND MAKING MINIMUM MILK PRICES OPTIONAL, A.B. 152 ALSO DOES THE FOLLOWING:

1. INCREASES FUNDING OF THE DAIRY COMMISSION BY ADDITIONAL ASSESSMENTS ON THE INDUSTRY;
2. INCREASES THE MAXIMUM PENALTY FOR VIOLATIONS BY THE DAIRY INDUSTRY FROM \$500 TO UP TO \$1,000;
3. ALLOWS THE DAIRY COMMISSION TO CHOOSE BETWEEN THE ATTORNEY GENERAL'S OFFICE AND PRIVATE COUNSEL FOR LEGAL ASSISTANCE;

4. GIVES THE COMMISSION A SUNSET NOTICE THAT IT WILL BE TERMINATED IN 1981 IF IT CANNOT JUSTIFY ITS PERFORMANCE AT THAT TIME; AND
5. REQUIRES WRITTEN NOTICE OF DAIRY COMMISSION HEARINGS TO BE SENT TO THE CONSUMER AFFAIRS DIVISION.

IN SUMMARY I WOULD LIKE TO SAY THAT IT IS MY BELIEF THAT A.B. 152 IS A VEHICLE TO MAKE THE DAIRY COMMISSION IN THIS STATE WORKABLE AND RESPONSIVE TO THE NEEDS OF CONSUMERS, PRODUCERS AND SUPPLIERS OF MILK. A.B. 152 WILL NOT SOLVE ALL THE PROBLEMS RELATING TO MILK SUPPLY AND PRICING IN NEVADA. NO LEGISLATION CAN CREATE PERFECT CONDITIONS OR PEOPLE. WHAT A.B. 152 CAN DO IS PROVIDE A MECHANISM AND SET A POLICY TO IMPROVE THE REGULATION OF THE DAIRY INDUSTRY IN NEVADA.

I WILL DEFER REMARKS ON ASSEMBLY AMENDMENTS TO A.B. 152 TO THE CHAIRMAN OF THE ASSEMBLY COMMITTEE ON AGRICULTURE, ASSEMBLYMAN HICKEY.

THANK YOU.

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Exhibit C

MINUTES AND EXHIBITS
FROM THE
ASSEMBLY COMMITTEE ON AGRICULTURE

A.B. 152

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ASSEMBLY AGRICULTURE COMMITTEE MINUTES

MARCH 1, 1977

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Virgil Getto stated that he was in favor of the bill and one of the things that he felt was very important is the fact that we would be able to market our own product more. He sited the situation of a farmer fattening beef and because of the grading situation having to ship it out for grading. This shipping cost from \$10-12/head. Then those cattle come back here with additional shipping costs. He added that the cattle that are located and being raised here are just as qualified for grading as those that are raised in the Midwest. This would be a real boon to the small counties and would revive the meat marketing business in the State and be well worth the expense involved.

Mr. Hickey then called upon Richard Young and R. Larry Petty to discuss the Dairy Commission. Mr. Young is the legal counsel for the Dairy Commission and Mr. Petty is with the Legislative Counsel Bureau.

Mr. Hickey asked Mr. Young to go through the amendments that the Dairy Commission would like to see incorporated into the statutes. A copy of the amendments and Mr. Young's statement regarding each are herewith attached as Exhibits C and D and herewith made a part of this record.

To Mr. Young's comments regarding Section 1, Mr. Petty stated that he would agree that this would broaden the definitions of a retail store which are not presently licensed and are exempt.

To Mr. Young's statements regarding Section 2, Mr. Petty stated that he would agree that the classes may be better defined but questioned whether they should listed so extensive and then at the end give the Commission the power to determine new products that should be classified. He wondered whether the commission could not determine all classes and just give them the power to do so.

Mr. Cassady stated that this was same type of alignment that the State Health Department has and they have recently changed their classifications. He added that they agree with this.

Mr. Petty then questioned whether there was a real need for classifications. Mr. Cassady stated that they definitely needed these as this is how they determine the payment to the dairyman.

To Mr. Young's comments regarding Section 4, Mr. Petty stated that he would agree with this further amplification of the statutes.

Mr. Young stated that the amendment proposed as Section 5 is a critical change and strongly recommended its adoption.

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ASSEMBLY AGRICULTURE COMMITTEE MINUTES

MARCH 1, 1977

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This had much to do with the litigations that were dropped in the South.

Mr. Petty stated that he thought that he would agree with this however, he stated that he did not have that much personal knowledge of what has gone on in the past.

Mr. Getto stated that these suggested amendments were not actually amendments to AB 152 but rather amendments to the existing statutes. Mr. Petty informed the committee that the repealer in AB 152 which would repeal these statutes would not be effective until 1979 should AB 152 be adopted

Mr. Price then asked Mr. Southern to explain what happened in Southern Nevada. Mr. Young stated that the alleged violations were examined by the Commission and at Mr. Young's advice were not pursued because of the lack of substantial evidence. The amount of violations that have been cited by the newspapers are the amounts that might have been collected if the case had been perfect and all the conditions surrounding a legal case had been perfect.

A discussion was held regarding this violations and part that the Attorney General played in the case. Mr. Young explained that at the time much of this happened the Attorney General was acting as the agent for the Dairy Commission at their request.

In Northern Nevada the situation was somewhat different in that there were settlements made. Mr. Young explained the difference between the two situations. Mr. Young stated that in the north there had been great lengths gone to to camouflage the activities. The problem involved the difficulty in determining the number of violations. In the giving and receiving of rebates the law as presently existing says that the number of times money is exchanged is what matters not the amount of money that is exchanged.

Mr. Hickey inquired whether this problem should be addressed by this committee. Mr. Young stated that it would be helpful to have this spelled out.

A discussion was held explaining how the whole situation came about and the various meetings and press releases that came up during it.

AB 183

Mr. Serpa moved the committee "do pass and re-refer to Ways and Means" and Mr. Price seconded the motion. The motion carried unanimously.

Chairman Hickey adjourned the meeting.

Respectfully submitted,

Sandra Gagnier
Sandra Gagnier,
Assembly Attache

Also attached to these minutes are lists of complaints and settlements presented by the Nevada State Dairy Commission. These are attached as Exhibits E and F and herewith made a part of this record

SUGGESTED AMENDMENTS TO STATUTES RELATING TO STATE DAIRY COMMISSION

Explanation - Matter in *italics* is new, matter in brackets [] is material to be omitted.

Section 1. NRS 584.380 is hereby amended to read as follows:

584.380 "Retail store" defined. "Retail store" means any person owning or operating a retail grocery store, restauraunt, confectionery, or other similar business, where fluid milk or fluid cream is sold to the general public. [for consumption off the premises.]

Section 2. NRS 584.480 is hereby amended to read as follows:

584.480 Classification of fluid milk: Class 1. Class 1 comprises any fluid milk or the cream therefrom that [is supplied to consumers as market milk or market cream or concentrated milk or any combination of market milk and market cream, or any market milk which is not packaged in hermetically sealed containers, or any other dairy product in which the use of market milk is required by the provisions of the laws of the State of Nevada, or any fluid milk or cream therefrom which is used in standardizing market milk.] *meets the definitions and standards of identity promulgated by the state board of health, division of health, bureau of consumer health protection services for grade A pasteurized milk or market milk, extra-rich or premium milk, breed milk, low fat milk, skim milk or non fat milk, table cream, light cream or coffee cream, half and half, concentrated milk, concentrated milk products, flavored milk, flavored milk products, acidophilus milk, and any new product which the commission after hearing, determines should be classified in Class 1. Class 1 shall also include all milk products used to standardize any Class 1 product.*

Section 3. NRS 584.490 is hereby amended to read as follows:

584.590 Classification of fluid milk: Class 3. Class 3 comprises such milk or the cream derived therefrom [as cream is defined in NRS 584.325 to 584.690, inclusive, as is used by distributors in the manufacture of butter and cheese other than cottage cheese.] *as is used in the manufacture or processing of butter, cheese other than cottage cheese, any milk product in dry form, evaporated or condensed*

milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk in a consumer-type package, and any new product which the Commission, after hearing, determines should be classified in Class 3.

Section 4. NRS 584.584 is hereby amended to read as follows:

584.584 Distributors may meet competitive prices in sales of butter, fresh dairy byproducts [;], and fluid milk products; information to be filed with commission.

1. Nothing in NRS 584.583 shall be construed as permitting or authorizing the development of conditions of monopoly in production or distribution of butter or fresh dairy byproducts, or fluid milk products, and a distributor who meets in good faith a lawful competitive price shall not be subject to any penalty provided in NRS 584.325 to 584.690, inclusive, if he files with the commission information detailing the circumstances surrounding the lawful competitive price within 5 days of such occurrence. Such information shall include the name and address of the distributor, the name and address of the customer involved, the competitive price met, the effective date of such price or condition, and the name and address of the competing distributor.

2. If such information is accompanied by a written statement, signed by the customer before a notary public or two competent witnesses, that such competitive price has been offered or made available to him, such statement shall constitute prima facie evidence that a distributor is meeting such competitive price or condition in good faith.

Section 5. NRS 584.670 is hereby amended to read as follows:

584.670 Misdemeanors; revocation, suspension of license; civil penalties.

1. The violation of any provision of NRS 584.325 to 584.690, inclusive, or of any stabilization and marketing plan, including the price requirements of such plan, or of any of the unfair practice provisions set forth in such sections, is a misdemeanor, and also is ground for revocation or suspension of license in the manner set forth in NRS 584.325 to 584.690, inclusive.

2. Every distributor must pay for fluid milk or fluid cream delivered to him or it at the time and in the manner specified in the contract with the producer. Failure to make such payment is hereby declared to be ground for refusal, suspension or revocation of license in the manner set forth in NRS 584.325 to 584.690, inclusive.

3. In addition to, or in lieu of, any other penalty provided by NRS 584.325 to 584.690, inclusive, the commission may impose [, upon any person subject to any penalty under subsection 1 of this section,] a penalty of \$500 for each violation, to be recovered by the commission in a civil action in a court of competent jurisdiction. All sums recovered under this subsection shall be paid into the state treasury to the credit of the dairy commission fund and shall be expended solely for the enforcement of NRS 584.325 to 584.690, inclusive. .

REASONS FOR PROPOSING AMENDMENTS TO STATUTES RELATING TO STATE DAIRY
COMMISSION

Section 1. Amendment to definition of "Retail Store."

584.380

In 1955 when the definition of retail store was adopted, everyone wished to avoid establishing minimum retail prices for milk by the glassful. By incorporating provisions for off premises consumption as a condition for qualification as a retail store, this problem was effectly overcome. Over the years, the retail price of milk as charged by restaurants has had no effect on milk marketing in general, and we can think of no instance where below cost sales has entered the on-premises milk consumption picture. In light of the proposed legislation making the commission's price setting powers discretionary on the commission's part, it is not conceivable that the problem of establishing minimum "restaurant" milk prices will occur. At the same time, the phrase "for consumption off the premises" has removed all restaurant operations from regulation according to legal opinions received from several sources. Some of the largest purchasers of milk and dairy products in this state are restaurant operations and these users should not be exempt from penalty should they be guilty of receiving unearned or illegal discounts or rebates. This proposed Amendment should correct this situation.

Section 2. Amendment to 584.480; Classification of fluid milk. Class 1.

NRS 584.480 as it now reads contains several defects. First, the Statutes contain no definition for market milk but this paragraph defines class 1 as market milk. Second, Class 1 currently does not include fluid milk packaged in "hermetically sealed containers", a term for which no adequate definition exists. In addition, no provision is made for new products or processes without legislative intervention. The proposed amendment, if adopted, would remedy these defects by removing the description of "market milk" and "hermitcically sealed" by substituting the actual products that constitute class 1 as such products are defined by the Bureau of Consumers Health Protection Services.

In addition, this amendment would enable the commission to classify new products by regulation.

Section 3. Amendment to NRS 584.490; classification of fluid milk.
class 3.

NRS 584.490 as it now reads includes only butter and cheese other than cottage cheese. This forces some products such as powdered milk to take a class 2 usage. Manufactured products such as powdered milk and canned condensed milk should be classified in class 3 if such products are to be competitive. This amendment, if adopted, would correct an oversight in definition and allow the commission to classify new products without awaiting the next legislative session.

Section 4. Amendment to NRS 584.584; meeting competitive price.

NRS 584.584 is a section designed to allow distributors to meet competitive prices in the sale of fresh dairy byproducts. At the time this section was added, the commission was charged with setting minimum wholesale prices and it was not contemplated that distributors would ever be allowed to sell below such minimum prices in order to meet a competitive situation. With wholesale price minimums currently under suspension and the probability that minimum wholesale prices will not again be set by the commission, this amendment is required to allow distributors to meet lawful competition.

Section 5. Amendment to NRS 584.670; Misdemeanor; revocation, suspension of license; civil penalties.

NRS 584.670, subparagraph 3, contains the phrase "upon any person subject to any penalty under subsection 1 of this section." This phrase has been used for two purposes not contemplated by the drafters of this section. It has been contended that the reference to subsection 1 contained in the phrase eliminates any unlicensed individual from penalty. Retailers, under this phrase have argued that because they are not licensed by the commission, the commission cannot impose a penalty for violations of NRS 584.325 through 584.690 on retailers.

The same reference to subsection 1 has been the basis for argument that the commission is in all cases limited to a one year statute of limitations because of the reference to misdemeanor in subsection 1.

This phrase, if eliminated should correct these deficiencies.

It should be noted that AB 152 also calls for the amendment of NRS 584.670. The amendment in Assemblyman Jacobsen's bill is separate and apart from the amendment asked for here. We concur with the amendment for this section offered by Assemblyman Jacobsen and ask that our amendment be considered in addition to that of Assemblyman Jacobsen. To our knowledge, none of the other suggested amendments offered here are the subject of any other Assembly or Senate Bill.

STATE DAIRY COMMISSION
ANALYSIS OF WESTERN NEVADA MARKETING AREA
COMPLAINTS AND SETTLEMENTS

As of October 12, 1976

<u>RESPONDENT</u>	<u>CASE NO.</u>	<u>NUMBER OF VIOLATIONS ALLEGED</u>	<u>AMOUNT OF MONEY RECEIVED OR PAID</u>	<u>MAXIMUM FINE COL. 1 x \$500.00</u>	<u>SETTLEMENT NEGOTIATED</u>
MODEL DIARY	139	272	\$462,112.28	\$136,000.00	\$15,000.00
CRESCENT DAIRY, INC.	140	163	147,878.53	81,500.00	16,000.00
MEADOW GOLD	141	195	461,952.63	97,500.00	25,000.00
ALBERTSON'S, INC.	142	10	124,765.42	5,000.00	5,000.00
RALEY'S OF NEV.	143	25	300,558.09	12,500.00	10,000.00
ARDEN-MAYFAIR	144	32	172,146.52	16,000.00	10,000.00
SOUTHLAND	145	17	45,314.36	8,500.00	4,000.00
V & T MARKETS	146	23	12,722.11	11,500.00	250.00
B & J CORP. (Clarkson's)	147	40	3,591.03	20,000.00	2,000.00
SAGEBRUSH MKT.	148	20	4,523.37	10,000.00	500.00
MINI MART #6	149	20	3,794.04	10,000.00	1,000.00
MINI MART #5	150	20	3,001.11	10,000.00	1,000.00
RANCH MARKET	151	2	454.08	1,000.00	100.00
J & M CORP.	152	23	13,117.44 (B)	11,500.00	—
BONANZA HILLS, INC.	153	42	12,219.29	21,000.00	500.00
SAV-TIME, INC.	154	2	420.58	1,000.00	500.00
BIG K & BIG D	155	19	15,561.31 (A)	9,500.00	7,500.00
GIANT FOODS, INC.	156	7	1,002.07	3,500.00	500.00
VERN LEE GIANT FOODS	157	9	377.05	4,500.00	100.00
VALU MART	158	30	52,504.80	15,000.00	5,000.00
WAREHOUSE MKTS.	159	152	245,234.43	76,000.00	15,000.00
FOOD KING, INC.	160	23	7,392.53 (B)	11,500.00	—
GADDA, McMULLIN & HARDIN	161	41	17,578.56 (A)	20,500.00	—
		1,187		\$593,500.00	\$118,950.00

(A) Case Nos. 155 and 161 jointly settled for a total of \$7,500.00.

(B) Firms in Bankruptcy - Cases Dismissed.

STATE OF NEVADA
DAIRY COMMISSION

ANALYSIS OF SOUTHERN NEVADA MARKETING AREA COMPLAINTS

<u>RESPONDENT</u>	<u>NUMBER OF VIOLATIONS ALLEGED</u>	<u>AMOUNT OF MONEY PAID OR RECEIVED</u>	<u>POTENTIAL MAXIMUM FINE</u>
<u>DAIRIES:</u>			
Anderson Dairy	451	\$417,627.06	\$225,500.00
Arden-Mayfair	92	36,245.00	46,000.00
Western Dairymen Co-op, Inc.	19	16,789.00	9,500.00
Total Distributors	<u>562</u>	<u>\$470,661.06</u>	<u>\$281,000.00</u>
<u>GROCERY STORES:</u>			
Southland Corp.	18	\$ 85,783.88	\$ 9,000.00
Smith Food Kings	135	86,149.48	67,500.00
Vegas Village	53	83,864.00	26,500.00
Boulevard Mkt.	42	20,325.00	21,000.00
Thriftmart	48	77,523.24	24,000.00
Skaggs Family Store	14	11,664.00	7,000.00
Somerset Mkt.	33	3,105.00	16,500.00
Handi Mart	9	795.00	4,500.00
Market Basket	31	4,650.00	13,500.00
Rancho Market	17	4,058.21	8,500.00
Panorama Mkt.	20	7,748.00	10,00.00
Pet Char, Inc.	34	7,450.00	17,000.00
Total Grocery Stores	<u>454</u>	<u>\$393,115.81</u>	<u>\$227,000.00</u>
Total Complaint Counts	<u>1,016</u>		<u>\$508,000.00</u>
Total paid to hotels, on which no complaints were issued		<u>\$ 77,545.25</u>	

NOTE: Counsel for the Commission recommended that the Dairy Commission unilaterally dismiss these cases. The Commission so ordered.