

**REPORT OF THE
COMMISSION TO STUDY THE VIRGINIA
MILK COMMISSION**

**To
THE GOVERNOR
And
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH OF VIRGINIA
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REPORT OF THE MILK COMMISSION
STUDY COMMISSION

I. INTRODUCTION

This report is a result of the study directive contained in Senate Joint Resolution No. 81 passed by the 1973 Session of the General Assembly as follows:

SENATE JOINT RESOLUTION NO. 81

Creating a commission to study the Milk Commission.

Whereas, the Virginia Milk Commission was created by the General Assembly to assure the inhabitants of the Commonwealth of Virginia of a constant supply of pure wholesome milk; and

Whereas, the Commission has been given broad powers to carry out its responsibility of regulating the production, processing, distribution, transportation and price of milk and milk products in Virginia; and

Whereas, at the present time there are many different economic regulatory agencies among the several states regulating the dairy industry; and

Whereas, the economic and competitive forces of the market place as they affect the production, processing and marketing of milk is markedly different than those which obtained when the Commission was created, and in nineteen hundred sixty-six when its composition and function were last changed by the General Assembly; and

Whereas, it is in the interest of the dairy industry, and especially the consumers of Virginia, that the need for, nature and function of any continued Virginia Milk Commission be studied and evaluated; and

Whereas, the federal government engages in economic regulation of the dairy industry in those states not exercising state economic control in the dairy industry; now, therefore, be it

Resolved by the Senate of Virginia, the House of Delegates concurring, That a study commission is hereby created to be called the Milk Commission Study Commission, to consist of seventeen members: three to be appointed from the membership of the Senate by the Privileges and Elections Committee thereof; seven to be appointed from the House of Delegates by the Speaker thereof; five to be appointed by the Governor, two of whom shall be representatives of the processing segment of the dairy industry, two of whom shall be milk producers licensed by the State Milk Commission, and one of whom shall have a background and training in agricultural economics; the Administrator of Consumer Affairs; and the Attorney General of Virginia or someone designated by him to represent his office. The members of the Study Commission shall elect from its membership a chairman and vice-chairman.

The Study Commission shall investigate the structure, duties, operations and procedures of the Milk Commission to determine whether they are in keeping with the present economic and agricultural conditions, and recommend any changes which should be made.

The Milk Commission and all other agencies of the State shall cooperate with and assist the Study Commission on request.

The members of the Study Commission shall receive a per diem allowance of thirty-five dollars for each day or any part thereof devoted to their duties as members of the Commission and in addition shall receive reimbursement for

their reasonable expenses in attending to the business of the Study Commission, for which and for such secretarial and other assistance as may be necessary, there is hereby appropriated from the contingent fund of the General Assembly the sum of five thousand dollars.

The Study Commission shall complete its work and make its report to the Governor and the General Assembly no later than December one, nineteen hundred seventy-three.

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Pursuant to the study directive the Senate Privileges and Elections Committee appointed Senators Howard P. Anderson, Halifax; Herbert H. Bateman, Newport News; and H. Selwyn Smith, Manassas; the Speaker of the House of Delegates appointed Delegates V. Earl Dickinson, Mineral; James Hardy Dillard, II, Springfield; Richard W. Elliott, Rustburg; Dorothy S. McDiarmid, Vienna; Nathan H. Miller, Bridgewater; Philip B. Morris, Richmond; and J. Warren White, Jr., Norfolk; the Governor appointed Dr. Steven G. Conerly, Johnson City, Tennessee; Dr. Harold M. Harris, Blacksburg; Ashby H. Henderson, Troutville; Millard B. Rice, Phenix; and Fred Scott, Winchester; Mr. Roy L. Farmer, Director of the Office of Consumer Affairs, Richmond was named a member in Senate Joint Resolution No. 81; and the Attorney General designated Mr. Douglas S. Wood, Esquire, Richmond, to represent his office.

The members of the Study Commission elected Senator Herbert H. Bateman, Chairman and Honorable J. Warren White, Jr., Vice-Chairman of the Study Commission.

The Division of Legislative Services made staff and facilities available to carry out the study, L. Willis Robertson, Jr. and Mrs. Janet C. Baker being assigned to assist the Study Commission.

II. SURVEY

The Study Commission, at its organizational meeting discussed how the directives in Senate Joint Resolution No. 81, might best be carried out. It was thought certain out-of-state guests might be able to contribute pertinent information. It was also decided that public hearings should be held in several areas of the State to ensure that the consumer would have every opportunity to express his feelings. Ultimately, public hearings were held in Lynchburg, Staunton, Fairfax, Abingdon and Norfolk. All the public hearings were given extensive advance publicity and for the most part were well attended.

Representatives from the State Milk Commission were invited to make a presentation at the initial hearing. Mr. R. Lindsey Gordon, Chairman and Mr. C. H. Coleman, Administrator were present to make the Milk Commission's presentation, and answer questions posed by members of the Study Commission. They noted that while milk production was down nationally up to August of 1973, it had increased one quarter of one percent in Virginia. After August Virginia did experience a decline in milk production for the remainder of the year, but this decline was not as rapid as the nation-wide trend. They attributed this relative stability to the Milk Commission's Class I Base assignment program (a feature unique in Virginia) which matches production to sales and guarantees the producer a market.

Two out-of-state guests were invited to testify before the Commission with respect to other states' experiences with milk controls. Mr. Clifford A. Ward, Assistant Commissioner, Consumer Protection Division, Department of Agriculture, Georgia, was a guest at the Lynchburg hearing. He related that when Georgia's Milk Commission was abolished in 1967, the majority of producers voted for a federal milk market order because of a need for stability in the industry. Under a federal milk market order only the minimum producer

price is regulated. In the following two years the producer price increased about six percent and the consumer price about seventeen percent. He also noted there had been more consumer complaints since the Commission was abolished. He expressed the opinion that if Virginia abolished its Milk Commission, the producer would vote for a federal milk market order to maintain stability in the Virginia market. Data made available to the Commission indicates the retail price of milk in the Atlanta, Georgia area is higher than any locality on the Eastern Seaboard, except possibly in the Miami, Florida area.

At the Norfolk public hearing, Mr. Woodson W. Moffett, Jr., Director, Division of Dairy Industry, New Jersey and formerly Executive Director, Mississippi Milk Commission, testified that New Jersey has had minimum price controls for many years except for two brief periods. New Jersey is now under federal order and only the minimum retail price is regulated by the State. Since it is related to the producer price, it moves as the federal order price moves. He also stressed that the minimum price is not necessarily intended to be the selling price.

With respect to his experience in Mississippi, Mr. Moffett stated that Mississippi had a Milk Commission from 1960 to 1970 and during this period experienced a thirty-three percent increase in fluid milk sales. When the Commission was terminated in 1970 there were price wars, followed by price stabilization and a gradual rising of prices.

Mr. Moffett also stressed the differences in philosophy of pricing under federal marketing orders and state regulation. Under federal order the price is related to the available supply of milk; the State regulation of prices is related to cost of production.

Our view is that this is substantially correct, however, availability of supply is also an important criteria in determining the prices set by the Virginia Milk Commission.

In view of the amount of publicity given the controversy surrounding the Milk Commission and the notice of the Statewide public hearings, the members of the Commission were surprised at the limited amount of consumer opposition to the Milk Commission which they encountered during the course of these hearings. There was little evidence of consumer opposition to the State Milk Commission at the hearings prior to the final public hearing in Norfolk where several candidates for public office spoke in favor of abolishing the Milk Commission. Mrs. Elizabeth D. Tate, Fair Milk Price Committee Chairman of the Virginia Citizens Consumer Council also appeared in support of abolition of the Milk Commission or changes in its authority to control minimum retail prices. One candidate expressed a preference for a federal milk market order, if necessary. When it was noted that for the past two years, prices have been higher under federal orders applicable to parts of Virginia than in those parts of Virginia under the Milk Commission, the belief was expressed that consumer resistance would force prices down in this situation. Some would find revisions in the present Commission acceptable. The primary target of those opposed to the Milk Commission is its authority to set minimum retail prices. It should be noted here that presently parts of Virginia are under federal milk market orders. See attached map in Appendix I. In these areas the higher of the State or federal price is the prevailing price.

The Virginia Class 1 base plan establishes an amount of base equal to pounds of Class 1 sales in a market. This program matches milk production to sales. During the course of the study, the Commission heard a number of complaints regarding the present base assignment program. One such complaint was aimed at the large number of producers on a waiting list for base assignment. The Commission received evidence that over 90% of the producers on the waiting list were in production at the present time. However,

the Milk Commission is proposing a change in the present system to allow annual application for and awarding of base rather than a continuous waiting list. The Milk Commission is also proposing rules to allow partial reduction in base with safeguards against speculation since presently to reduce base a producer must give up all his base. The Milk Commission is also proposing other changes in its base allotment system to make it easier for new producers to get a base assignment. We applaud the Commission for their action which we believe will serve the public interest.

Producers and processors were represented at all five hearings and all favored the retention of the Milk Commission. However, the consensus was that certain sections of the law are obsolete and should be amended and that some revision is needed in the rules and regulations to render the Milk Commission more responsive to today's market as it affects the consumer, processor and producer.

The majority of producer and processor spokesmen felt that "formula pricing" would be an improvement over the present method as it would be more responsive to the rapid fluctuations encountered today in the milk market. The present method, while it was effective in a more stable era, is not effective in today's changeable market.

§ 3.1-437 of the Code of Virginia presently provides that the Milk Commission has authority to fix prices only after public hearing and investigation. At the hearings evidence and exhibits are received and then evaluated. The Commission's attorney next drafts a proposed finding of fact for each type price being considered. The administrator makes a full study of the evidence and prepares recommended changes in prices. The whole Commission meets and discusses the findings and recommendations. The final step is the Commission vote on what amendments will be made to price regulations. Such a procedure results in a time lag between the date an increase or decrease is warranted and the time the Milk Commission becomes authorized to grant it.

Formula pricing is used for all federal market orders and by a number of state regulatory agencies. Formula pricing incorporates all economic factors relevant to the dairy industry and the production and distribution of milk and automatically adjusts producer prices as changes in these factors dictate. New prices can be set as soon as the latest changes in the economic factors are received without public hearings, findings of facts, recommended changes and Commission action on such recommendations.

The Study Commission, in compliance with the directives of Senate Joint Resolution No. 81, studied carefully the structure, duties, operations and procedures of the Milk Commission in view of present economic and agricultural conditions. It gave thoughtful consideration to the material before it; the views expressed at the public hearings by the consumer, industry and out-of-state guests; and the many unique factors involved in the milk industry. At the conclusion of the public hearings and after thorough study of all the information compiled for its use, it considered all the positions and recommendations presented during the course of its study. Of particular help to the Study Commission were the responses of the Milk Commission to comprehensive written inquiries submitted to it. The inquiries and the Milk Commission's response thereto is set out in Appendix V to this report. The position of the Study Commission as to each of the questions, to the extent it has found it necessary and is able to resolve them, is set out herein.

III. SUMMARY OF FACTS

Before proceeding with the Commission's findings and recommendations it may be well to present some facts concerning the milk industry nation-wide. In 1971 ninety-five percent of all fluid milk was priced under state control laws or

federal orders. In 1955 slightly over fifty percent of the fluid milk sales in the United States were regulated under federal orders. In 1971 this had increased to eighty-one percent. In 1971 eighteen states were establishing producer prices; sixteen states were authorized to set wholesale prices; and thirteen states were authorized to set retail prices. See appendix II attached.

Milk markets in which prices are federally controlled expanded from twenty milk orders in 1940 to eighty-three in 1962. By 1971 this regulated area had grown; however, with nine orders added, twenty-six orders consolidated and four orders terminated the total number of orders was reduced to sixty-two.

There were fewer producers in 1971 than in 1950, however, the amount of milk delivered daily per producer had increased fourfold over the 1950 daily average. Appendix I shows areas under federal milk orders January 1, 1972.

Thirty-seven states administer milk distribution in one or more of the following ways: establishment of minimum prices at the producer, wholesale or retail levels; regulation of trade practices; or promotional programs by the state financed by producers or handlers.

The United States Department of Agriculture predicts that this year's milk production nationwide will fall about three percent from the 1972 level. This would be the first decline in three years. The rate of decline had accelerated to 3.8 percent in August. Factors contributing to this decline in production are the phenomenal increases in feed prices, causing a reduction in output per cow; high slaughter cow prices, causing a decrease in milk cow numbers; and a decrease in the number of dairy farmers. The Commission received evidence that some states with feed prices higher than in Virginia had milk prices lower than Virginia; however, the Commission feels such figures may be misleading since they do not take into consideration the amount of feed the producer raises versus the amount he must purchase. These trends are expected to continue this winter, as farmers are reducing their herds at a rapid pace and many are leaving the industry. The increased use of farm land for non-dairy agricultural purposes and for housing and the resultant high prices available for such land is another reason many owners and farmers are leaving the dairy industry.

The trend in Virginia is consistent with that reported by the United States Department of Agriculture. Figures show a substantial and continuous decrease in the number of milk cows in Virginia (a loss of about a thousand a month) and an increase in the amount of milk being imported from other states each month. While there has been a decrease in production in Virginia since August it is not as rapid as the nationwide decrease. A reversal in this condition can be accomplished only if the dairy farmer has an incentive to invest in future markets for his production.

It became evident to the Commission that some controls are necessary because of the unique problems of the dairy industry. The dairy farmers would, therefore, most probably petition the federal government to go under a federal milk market order if State controls were removed. They strongly expressed their preference for State controls at the various hearings as they felt a state agency is more responsive to the needs of all segments of the industry than federal controls. Initiation of a federal milk market order is begun by producer petition. These petitions are generally granted upon a showing that regulation is needed to ensure an orderly market and an adequate supply of milk. The federal regulations must be supported by at least two-thirds of the producers in a market. Presently well over ninety percent of Virginia's producers are members of dairy cooperatives. Therefore, the members of these cooperatives acting through their Boards of Directors would ultimately decide whether their producers should go under the control of a federal milk marketing order.

IV. COMMISSION RECOMMENDATIONS AND REASONS FOR RECOMMENDATIONS

1. THAT THE VIRGINIA MILK COMMISSION BE RETAINED WITH A NUMBER OF CHANGES IN ITS PRESENT STRUCTURE AND DUTIES.

The Commission feels that the policy of the Legislature as set forth in the preamble to The Milk Commission Act of 1934 is still a valid reflection of legislative policy. We conclude that the recital of the original act that, ". . . . in order to protect the well-being of the people of the Commonwealth of Virginia, and to promote the public welfare, public health and public peace, the production, transportation, processing, storage, distribution, and sale of milk and cream in the Commonwealth of Virginia, is hereby declared a business affecting the public peace, health and welfare which should be supervised and controlled in the exercise of the police power of the Commonwealth.", is an accurate and sound pronouncement of public policy.

The courts of the Commonwealth have consistently found the Milk Commission Act to be a constitutional exercise of the police powers of the State.

The dairy industry in the Commonwealth is a unique industry requiring protection. The production and sale of milk is unique because its production must continue uninterrupted every day of the year; it is subject to heavy seasonal production, the raw and finished product is perishable and requires rapid marketing techniques; and it is considered a necessity vital to health by many consumers.

The Commission feels that regulation of the milk industry is necessary in Virginia if the supply of milk throughout the year is to be adequate to the demand. Unless the producer can be reasonably assured that his milk production will be purchased and processed at a price which will permit and justify his continued production many producers will divert their land, labor and other resources to other uses. If they continue to leave the dairy industry the supply of milk will not be adequate and the price for the reduced supply will soar. The Virginia base allocation system ensures producers a market for their milk and assures the consuming public that an adequate supply of Virginia produced milk will be available in the future since base assignments are directly related to milk sales. Virginia lending institutions presently and in the past have recognized a dairy farmer's base allotment as a valuable property by accepting it as collateral for loans. Therefore, if the base system were abolished, many dairy farmers could be forced to go out of business or provide an alternative collateral. Additionally, dairy farmers who wish to increase production would not be able to use their base as collateral if the Milk Commission's base program was terminated. Abolition of the Virginia Milk Commission or the base assignment plan would ipso facto wipe out an investment of more than \$18 million by Virginia dairymen. While this investment may not represent a vested property right in a constitutional sense, the public policy objectives to which the base assignment plan is directed and its effectiveness in seeking to match the supply and demand of fluid milk, abundantly justify the continued existence of the Virginia Milk Commission and of the base assignment plan.

It is essential that the Virginia milk producer be assured an income from the large investment necessary to go into and continue in the dairy industry so they can maintain the strength of their herds and continue to produce high quality milk. The high costs of feed, beef and land are temptation enough for farmers not to go into the dairy industry or to leave it and the Commission has received substantial evidence showing an increase in the amount of milk imported and a decrease in the number of dairy farms and cows in Virginia. (See Appendices III and IV attached to this report.)

If the industry is not afforded protection a large number of producers would be forced to go out of business and this would result in a substantial decrease in the supply of Virginia produced milk. This could result in shortages of milk in Virginia during seasons of low production, when milk from other states would be unavailable, except at exorbitant prices.

The Commission received some recommendations that the competition of the market place should be relied upon to control the industry without government intervention. Although the Commission believes in a competitive economy free from governmental controls, this is not possible in the case of the dairy industry because of the uniqueness of this commodity which vitally affects the public health and well being. The fact that more than ninety percent of Virginia milk producers are members of dairy cooperatives is an added reason in support of state regulation of the marketing of milk. The Boards of Directors of the two cooperatives, the home office of which are not even in Virginia dictate a delicate balance of state regulation to assure an economic climate which will stimulate production of an adequate supply of milk, while curbing any tendency to monopolistic abuses or excesses. The need for a Virginia Milk Commission as a protector of the consuming public may be greater now than before and even greater in the future. We do not make these observations out of a belief that producer cooperatives are evil or contrary to the public interest. We do recognize the fact producer cooperatives have stabilized dairy production and have served a beneficial function. We suggest that unbridled power to determine supply of a vital product and thereby its price, is an invitation to abuse of power, and justifies state regulation. The Commission received evidence that if State milk controls were abolished, the producers in Virginia would petition the federal government to provide a federal milk marketing order to provide stability for the industry in Virginia. Therefore, the industry will be regulated by either State or federal governmental controls. We prefer control by the state. It is felt that local control on the State level is better than federal control. The almost unanimous testimony before the Study Commission was that state control was preferable to federal control and would be more responsive to the needs of the dairy industry in Virginia, while fully protecting the interest of the Virginia consumer.

The Commission received considerable testimony at the various hearings to indicate that prices established by the Virginia Milk Commission compare favorably with the prevailing prices in surrounding markets, both state and federal, including Washington, North Carolina, and Bristol, Virginia which is under federal order (See Schedule "B" Appendix V) and with the cost of production in the Commonwealth. In addition the most recent publications of the United States Department of Agriculture and Department of Labor available to the Commission generally corroborate this testimony.

2. THAT THE VIRGINIA MILK COMMISSION NOT BE GIVEN THE AUTHORITY TO SET MINIMUM RETAIL PRICES UNTIL EVIDENCE PRESENTED AT A PUBLIC HEARING CLEARLY SHOWS THAT THE FAILURE OF THE COMMISSION TO SET A MINIMUM RETAIL PRICE HAS RESULTED OR WILL RESULT IN A DISRUPTION IN THE VIRGINIA MILK MARKET OF SUCH A NATURE THAT WILL ADVERSELY AFFECT THE PUBLIC INTEREST IN ASSURING A CONTINUOUS SUPPLY OF MILK BEING AVAILABLE TO VIRGINIA CONSUMERS.

While agreeing that the Virginia Milk Commission should be continued and that it should determine the price to be paid producers and to continue its base allocation plan, the Study Commission recommends the power of the Milk Commission to establish minimum retail prices be restricted. The uniqueness of milk and how it is produced coupled with its being a vital food require a producer price which stimulates adequate production. Beyond the producer level control of minimum retail prices as a norm of the market place

is not clearly justifiable. Processors, distributors and retailers while undoubtedly confronted with many problems do not at their levels experience problems or factors which are unique to them.

The rationale supporting the control of the price of milk is assurance of an adequate supply of milk being produced, not protection against price competition. A greater incidence of competition above the producer level should promote the public interest by encouraging greater economies and efficiency which will be reflected in lower prices without undue loss of profit.

We recognize that unbridled temporary competition aimed at destroying competition could ultimately prove ruinous when the public might become the victim of the survival of only the strongest few processors, distributors and retailers. Because we recognize the possibility that without any power to control minimum retail prices disruptive competition contrary to the public interest might arise; we do not recommend repeal of all authority to control minimum retail price. Instead, we recommend that the power to set minimum retail prices not be exercised except upon a showing that failure to set minimum retail prices has caused or is about to cause a disruption in the market contrary to the public interest. Authority of the Commission to deal with emergency situations involving retail competition detrimental to the public interest, under § 9-6.5 of the General Administrative Agencies Act, should be preserved. Such an emergency order under the terms of the act would be valid for no longer than sixty days; however, during that period a public hearing could be held and the emergency order confirmed or rescinded as appropriate. Periodic review of all minimum retail price orders should be undertaken by the Virginia Milk Commission. The Milk Commission should establish minimum retail prices in as limited an area or market as possible. For this reason the term "market area" for purposes of any minimum retail price should not be regarded as a "market area" for purposes of the producer price. Competition which would generate pressure for reduction of a proper producer price, thereby causing or threatening to cause production of a less than adequate, continuously available supply of milk would be contrary to the public interest and could justify imposition of a minimum retail price in selected areas for appropriate periods of time. Competition which threatened to reduce a healthy competition among processors, distributors or retailers of milk as a vital commodity affecting the public interest might also call for establishing minimum retail prices in selected areas from time to time.

A retail price less than the established wholesale price would be an indicia of price competition which would create disruption in the market contrary to the public interest.

Retention of a restricted power to impose minimum retail prices we regard as the best assurance against the need to do so. By retaining this power we would serve notice to any processor, distributor or retailer that unbridled competition designed to unduly depress the producer price or to create a dominance of the market would not be permitted to succeed in its objective.

Authority for the Virginia Milk Commission to establish maximum wholesale and retail prices should be retained. So long as there is a controlled producer price to encourage production of an adequate supply of milk it is fair that there be reasonable constraints as to how much consumers may be charged. This is especially true in view of the downward trend in the number of dairy farms and in milk production. All who consider the problems of the dairy industry and the regulation of the production and marketing of dairy products should be cognizant of the fact that huge surpluses of milk are no longer being produced. Even at the greatly increased price of milk in the past eighteen months the production of milk is declining while population and demand are rising. Since milk is a vital human need the State through the Milk Commission should retain the authority to control the maximum price to be

charged. This power is especially important in ghetto areas and in outlying rural areas where consumer access to and choice of alternatives may be restricted. In jurisdictions which do not control retail prices of milk experience indicates prices paid by consumers in such areas of restricted competition may be much higher than in areas of greater retail competition. It might be said that lack of maximum price controls may result in the poor subsidizing the competition which makes milk cheaper to the more affluent. (See proposed legislation contained in Appendix VI of this report.)

3. THAT THE VIRGINIA MILK COMMISSION BE GIVEN CLEAR AUTHORITY TO ADOPT AN ECONOMIC FORMULA FOR SETTING MILK PRICES FOR PRODUCERS.

Under the present law, (§ 3.1-437 of the Code of Virginia), the Commission must hold public hearings and make investigations prior to fixing the price to be paid producers. The Commission received evidence that the procedures required by § 3.1-437 often resulted in producers not receiving an adequate price for their milk because by the time the hearings and investigation had been concluded, economic conditions had changed to such a degree as to dictate a higher or lower price being established. Therefore, the Commission recommends that the Virginia Milk Commission adopt an economic formula for determining the producer price on a monthly basis. Under the Commission recommendation the formula incorporating those economic factors relevant to the production, processing and distribution of milk in Virginia could not be adopted or amended except after public hearing. However, once the formula was established the relevant factors could be put into the formula at any time and the price adjusted as soon as changes in the relevant factors are received. The recent rapid fluctuations in feed prices is an example of how the formula method could be used to establish new prices quickly in view of today's rapidly changing economic conditions. The formula method of setting producer prices would be more responsive to the rapidly changing economic factors of the dairy industry than the present hearing and investigation system. (See proposed legislation contained in Appendix VI of this report.)

4. THAT THE COMPOSITION OF THE VIRGINIA MILK COMMISSION BE ENLARGED TO A TOTAL OF SEVEN MEMBERS CONSISTING OF THREE CONSUMERS, TWO PRODUCERS, A PROCESSOR-DISTRIBUTOR AND AN ADMINISTRATOR WHO SHALL SERVE IN AN EX OFFICIO CAPACITY WITHOUT VOTE.

The Virginia Dairy Products Association has strongly urged the composition of the Virginia Milk Commission be changed to include milk processors and retailers. The Virginia Dairyman's Association, representing producers has voiced concern at a change in the composition of the Commission. All the views on this proposal have been fully considered by the Study Commission. Throughout we have been sensitive to the need not to diminish consumer representation on the Commission. Seeking to assure a knowledgeable commission familiar with all points of view, on which all elements of the dairy industry would be represented, yet insuring that no component of the regulated industry would dominate has been our objective.

Consistent with this objective we recommend a change in the composition of the Milk Commission; but not the change suggested by the Virginia Dairy Producers Association. We recommend that the Commission be made up of two producers (as presently), the addition of a processor-distributor and three consumer representatives with an administrator who like the other consumer representatives shall have no connection financially or otherwise with the production of milk or products derived therefrom. The administrator shall be an ex officio member and have no vote. The Commission feels that the administrator should be a professional employee and dedicate his full time to

service to the Commission by supplying an objective review of facts presented to the Commission. It is felt that an administrator performing these functions need not have voting power. The Commission as recommended would be a seven member commission rather than five. This is not an unwieldy number. Someone familiar with the distributing and marketing of milk beyond the producer level should participate in the deliberations of the Commission. As we recommend that the authority to establish minimum retail prices be restricted we believe it appropriate that the processor-distributor's concern and point of view be assured a voice. At the same time our recommendation permits the addition of a consumer member and assures consumer dominance in the decision making process. Our further recommendation is that all members of the Commission be residents of Virginia. (See proposed legislation contained in Appendix VI of this report.)

5. THAT THE AUTHORITY OF THE GOVERNOR TO ABOLISH THE MILK COMMISSION WHILE THE GENERAL ASSEMBLY IS NOT IN SESSION AND TO APPOINT THE CHAIRMAN OF THE COMMISSION BE REPEALED.

Section 3.1-462 of the Code of Virginia presently gives the Governor authority to abolish the Milk Commission by proclamation when the General Assembly is not in session. The Commission feels that since the Virginia Legislature created the Milk Commission, and has recognized it and the useful purpose it serves, it alone should have the authority to decide on the necessity for its termination. The authority given the Governor to abolish the Commission was clearly conferred in 1934 because of what was then believed to be an emergency situation when the dairy industry was near collapse. This was at a time when the General Assembly regularly met once every two years. State regulation of the dairy industry having been continued and reaffirmed there is no longer a reason to make its existence dependent upon executive fiat. The fact that the General Assembly of Virginia meets annually now, strengthens the Commission's view that the power of termination should be vested solely in the General Assembly.

Section 3.1-426 of the Code of Virginia presently authorizes the Governor to annually appoint a Chairman from the membership of the Commission. The Commission feels that the members of the Milk Commission should make this appointment as they are in a better position to judge who should serve as chairman of the Commission. Therefore, the Commission recommends that § 3.1-462 be repealed and that § 3.1-426 be amended and reenacted to provide for the above recommendations. (See proposed legislation contained in Appendix VI of this report.)

6. THAT THE PREAMBLE TO CHAPTER 357 OF THE 1934 ACTS OF ASSEMBLY BE AMENDED TO DELETE THOSE PORTIONS OF THE PREAMBLE REFERRING TO THE ECONOMIC EMERGENCY AND DESTRUCTIVE TRADE PRACTICES EXISTING AT THE TIME OF THE PASSAGE OF THE ORIGINAL ACT.

The preamble to Chapter 357 of the 1934 Acts of Assembly speaks in terms of an economic emergency brought about by unhealthful, unfair, unjust, destructive and demoralizing economic trade practices in the production, sale and distribution of milk and cream products in the Commonwealth.

The Commission found no evidence of such an emergency or such practices existing in the industry at the present time and therefore feels that these references should be deleted from the preamble to the act. The Supreme Court has held that the emergency stated in the preamble to the original act was not the ground upon which the constitutionality of the act has been upheld. The constitutionality of the act is based upon the police power of the State and therefore, the Commission feels that the preamble should be amended to reflect the change in the conditions existing in the milk industry of the

Commonwealth. However, the Commission feels that if regulation of the industry is not continued there is a strong possibility that destructive trade practices might again result in an economic emergency in the dairy industry of the Commonwealth. (See proposed amendment to preamble contained in Appendix VII of this report.)

7. THAT § 3.1-426 OF THE CODE OF VIRGINIA RELATING TO COMPOSITION OF THE COMMISSION BE AMENDED TO PROVIDE THAT THE ADMINISTRATOR SHALL NOT BE ELIGIBLE TO SERVE AS CHAIRMAN; THAT THE CHAIRMAN SHALL NOT SERVE SUCCESSIVE TERMS AND THAT NEW MEMBERS SHALL NOT BE REQUIRED BY ROTATION TO SERVE AS CHAIRMAN.

Section 3.1-426 of the Code of Virginia presently provides that the Governor shall annually appoint a chairman from the membership of the Commission. It also provides for the appointment by the Governor of an administrator and the rotation of the Chairmanship until each member has served as chairman.

The Commission feels that the administrator should not be eligible to serve as chairman as he should be devoting his full time to his job as administrator. It is also felt that the Chairman should not serve successive terms so that other members of the Commission are given an opportunity to serve as chairman. Under the present statute no member may serve as chairman more than once until all other members of the Commission have served as chairman. This has the effect of making the newest members eligible for the Chairmanship. The Commission feels that this rotation to the newer members may not always be in the best interest of the Commission and therefore recommends that this provision be deleted and a provision added that chairmen not serve successive terms. (See proposed legislation contained in Appendix VI of this report.)

8. THAT § 3.1-441 OF THE CODE OF VIRGINIA RELATING TO MARKET AREAS AND MILKSHEDS BE AMENDED AND REENACTED TO DELETE REFERENCES TO THE OBSOLETE TERM "MILKSHEDS" AND THAT LOCAL MILK BOARDS BE ABOLISHED AND ALL DUTIES AND FUNCTIONS OF SUCH BOARDS BE TRANSFERRED TO THE MILK COMMISSION.

Section 3.1-441 of the Code of Virginia relating to market areas and "milksheds" presently makes reference to the Commission's power to define and fix the limits of milksheds. The Commission received evidence that the term "milkshed" has become obsolete in the dairy industry in the Commonwealth and therefore recommends that the references to "milkshed" in § 3.1-441 be deleted. The Study Commission has been able to identify only one function being served by local milk boards. That function is the collection of assessments which provide the funds to operate the Virginia Milk Commission. Since the local boards are unnecessary and do result in some additional expense, we recommend they be abolished and their limited function be performed by personnel of the Virginia Milk Commission. (See proposed amendments contained in Appendix VI of this report.)

9. THAT IT IS THE SENSE OF THE COMMISSION STUDYING THE MILK COMMISSION THAT THE VIRGINIA MILK COMMISSION SHOULD TAKE STEPS TO BETTER INFORM THE CITIZENS OF VIRGINIA OF THE WORK OF THE COMMISSION THROUGH EXISTING MEDIA CHANNELS IN COOPERATION WITH THE OFFICE OF CONSUMER AFFAIRS AND WITHIN THE EXISTING RESOURCES OF THE COMMISSION.

The Commission feels that much of the controversy surrounding the Virginia Milk Commission is directly caused by the public's lack of knowledge of the powers, functions and duties of the Commission. It is felt that a better

understanding of the dairy industry and of the Commission's work will make their decisions more acceptable to the consuming public. Therefore, the Commission feels that the Virginia Milk Commission should take steps to inform the citizens of the Commonwealth of the nature of its work, the facts which underlie its decisions and the basis of its decisions, so the citizens of the Commonwealth can better make a judgment as to the validity of its actions. It is thought that this recommendation can be implemented through existing media channels and within the existing resources of the Virginia Milk Commission. We do not recommend that the name of the Commission be changed as some suggest.

10. THAT § 3.1-436 OF THE CODE OF VIRGINIA RELATING TO WITHDRAWAL OF EXERCISE OF POWERS OF COMMISSION FROM A MARKET UPON APPLICATION OF MAJORITY OF PRODUCERS AND DISTRIBUTORS BE REPEALED.

Section 3.1-436 of the Code of Virginia presently provides that the Milk Commission shall withdraw the exercise of its powers from any market upon written application of a majority of producers and distributors in such market acting jointly.

The Commission feels that the authority of the Virginia Milk Commission should not be dependent upon the desires of segments of the dairy industry alone but upon a proper determination of the public interest. This determination is best made based upon the interest of the regulated industry as expressed by all segments of the industry as it affects the interest of the general public. Therefore, the Commission recommends that § 3.1-436 of the Code of Virginia be repealed. (See proposed legislation contained in Appendix VI of this report.)

11. THAT THE LIFE OF THIS COMMISSION BE CONTINUED TO PROVIDE A LEGISLATIVE WATCH OVER THE PERFORMANCE OF THE VIRGINIA MILK COMMISSION IN ADMINISTERING THE AMENDED ACT.

The Commission believes that the recommendations it has made will substantially enhance the Virginia Milk Commission's ability to properly regulate the milk industry in the Commonwealth today, in the public interest. However, the Commission recognizes the difficulty of the issues involved in the regulation of this industry. We are mindful that the Commission could not commence its work until August 1973, when all its members were appointed. Our study has been intense, but necessarily has not been exhaustive. It is our recommendation that the life of the Commission should be continued to provide a forum for determining the effect of the changes recommended and the necessity for any additional changes. (See proposed legislation contained in Appendix VIII of this report.)

#

CONCLUSION

During the course of its deliberations, the Commission became aware of both the large number and complexity of issues involved in the regulation of the milk industry by the Virginia Milk Commission. The members of the Commission wish to express their appreciation to the members of the Virginia Milk Commission, the representatives of milk producers, dairy products associations and the citizens of the Commonwealth who testified and presented facts to the Commission which helped enlighten the members of the Commission on the problems involved in the regulation of the industry.

An overwhelming majority of the members of the Commission have agreed to this report and the recommendations it contains, any who dissent do so on the narrow grounds stated. This is not to say that each member of the Study Commission believes each thought expressed is the ultimate in wisdom or that other or additional thoughts and points of view would not have been desirable. The background of its membership and their various concerns leads some to have preferred a Virginia Milk Commission with little change in its powers while others would prefer more modest powers. Yet, all members of the Study Commission do without reservation endorse the report and all its recommendations as reflecting a common ground which will meet and protect the public interest in a strong, healthy Virginia dairy industry, with adequate safeguards for the Virginia consumer. This is what we have sought and we trust the General Assembly, His Excellency the Governor and the great majority of the citizens of Virginia will approve the product of our deliberations.

#

Respectfully submitted,

Herbert H. Bateman, *Chairman*

*J. Warren White, Jr., *Vice-Chairman*

Howard P. Anderson

Dr. Steven G. Conerly

V. Earl Dickinson

James Hardy Dillard, II

Richard W. Elliott

Roy L. Farmer

Dr. Harold M. Harris

Ashby H. Henderson

Mrs. Dorothy S. McDiarmid

Nathan H. Miller

*Philip B. Morris

Millard B. Rice

Fred Scott

H. Selwyn Smith

*Douglas S. Wood

* Dissenting reports.

DISSENTING REPORT OF J. WARREN WHITE, JR.

INTRODUCTION

I would preface this report with the statement that the work of the Commission under the able leadership of Senator Bateman has been intense and that the goal of producing recommendations that best reflect an awareness of growing consumer demands and still provide the stability of market conditions necessary for this unique product has been for the greatest part foremost in the minds of the Commission members.

While my ideas concerning the free market system run in some degree counter to the controls imposed by the Milk Commission, they have been subordinated for the most part to the realization that a totally uncontrolled system would be replaced by Federal controls at the producer level. While I continue to doubt the necessity for the Milk Commission, the likelihood that it would be supplanted by federal control leads me to give my support to ten of the eleven recommendations forwarded in the report of the Study Commission.

AREA OF DISSENT

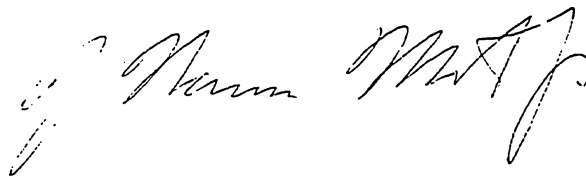
The single area of dissent lies in recommendation # 4 of the Study Commission's report that deals with the composition of the Milk Commission. The proposition that the Milk Commission be composed of six members leads to ramifications I feel were inadequately explored by the Study Commission in its efforts to finalize the report.

Most importantly, the dilution (perhaps destruction) of consumer controls of the Milk Commission runs counter to a growing sentiment of the electorate in this State. At best, there is little understanding and much contempt at the consumer level for the Milk Commission.

In addition, the composition of three industry members and three consumer members, hence the possibility of tie votes, may destroy the Commission's ability to act on even the least contested problems.

RECOMMENDATION

That the composition of the Virginia Milk Commission be enlarged to a total of seven members, consisting of four consumers, two producers and a distributor-processor. While guaranteeing input from both major industry sectors this provision would insure consumer control in the decision making process. In addition, the administrator would be an ex-officio member of the Milk Commission, having no vote. This ex-officio status of the administrator would insure his allegiance to the commission as a whole rather than to any faction on the commission. With this hopefully will come the objectivity necessary for the successful performance of the duties of this position.



JWWJr/vn
January 16, 1974

DISSENTING REPORT OF PHILIP B. MORRIS

I regret that I must dissent to that portion of the Milk Study Commission Report which establishes the number and composition of the Virginia Milk Commission. I believe the Commission should include one additional consumer representative for a total of seven voting members consisting of four consumers, two producers and one processor-distributor.

Industry representatives have repeatedly represented to the Commission that the retention of the Commission is necessary for the protection of the consuming public. There should therefore be no legitimate industry objection to a razor-thin consumer majority on the Commission.

The six voting member commission recommended by the majority is an open invitation to a stalemate on controversial issues of importance to the industry and the public. There is no machinery available to break a tie vote and this could be disastrous in many situations where time is of the essence.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip B. Morris". The signature is written in a cursive style with a prominent initial "P" and "M".

DISSENTING REPORT OF DOUGLAS S. WOOD

While I concur with this Study Commission's recommendations, I believe that relatively slight changes are required in two areas to accomplish the objectives set forth in those recommendations.

The first of these relates to the recommendation that the Milk Commission retain its present authority to set a maximum retail price but that it be authorized to set a minimum retail price only under certain emergency conditions. The objective of the setting of a maximum retail price is to protect the consumer against price-gouging. Under the present law, however, the Commission can set only one maximum price for the same grade of milk — regardless of the method of delivery. Therefore, the price set must be high enough to permit profitable operation of the most expensive method.

A maximum price which would permit a fair rate of return for the home delivery of milk would probably allow price-gouging by a chain supermarket. Therefore, I would recommend that § 3.1-437 be further amended to give the Commission the authority to set different maximum retail prices for the same grade of milk on the basis of the method of delivery employed.

My second concern relates to the setting of minimum retail prices only on an emergency basis. Under the proposed § 3.1-437.1, the Commission could set a minimum retail price only after making "a determination . . . that the absence of a minimum retail price has caused or is about to cause a disruption in the Virginia milk market or some segment thereof . . ." Furthermore, a price would be set only for that area to which the determination related. The validity of such a determination would, of course, be subject to judicial review.

Under the proposed wording of § 3.1-437.1, the court could find that the Commission could set a minimum retail price *only* in the area where disruptive practices were actually occurring. Such an interpretation could severely limit the Commission's ability to deal with a large retailer who could shift its disruptive activities from one area to another.

Therefore, I would recommend that the language of § 3.1-437.1 be modified so as to insure the Commission would be able to set a minimum retail price for whatever area were necessary to eliminate the emergency justifying that action.

With the exception of these two refinements, I believe this Study Commission has proposed a series of amendments that will greatly improve the State Milk Commission's capabilities to perform a needed regulatory function in a manner that will benefit both the dairy industry and the consuming public of the Commonwealth.

Douglas S. Wood, *Esquire*

MILK MARKETING AREAS UNDER FEDERAL ORDERS AS OF JANUARY 1, 1972

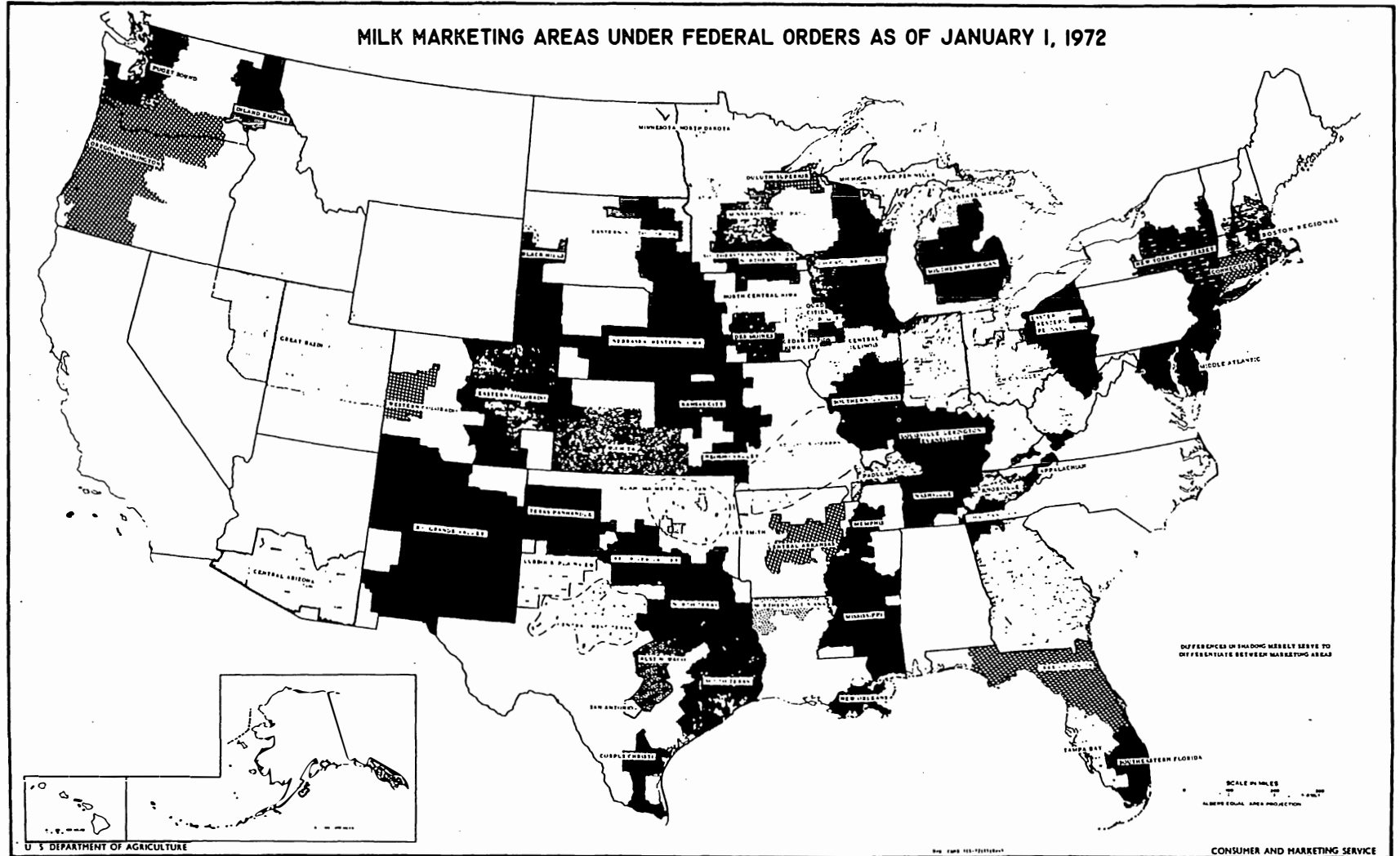


Figure 2

Table 8.—Resale pricing practices of State milk control agencies, January 1972

State	Set minimum resale prices		Maximum allowable wholesale discount (percent)	Price differentials		
	Wholesale	Retail		Home delivery over store	Paper and plastic over glass	Quantity discounts on home deliveries
Alabama	X	¹ X	8	X	—	—
California	X	X	25	X	—	X
Louisiana	X	X	7	X	X	—
Maine	X	X	None allowed	X	—	—
Massachusetts	(²)	(²)	None allowed	—	—	—
Montana	X	X	None allowed	—	—	—
Nevada	X	X	None allowed	X	—	—
New Jersey	X	X	None allowed	X	—	—
North Carolina	(²)	(²)	None allowed	—	—	—
North Dakota	X	¹ X	8	—	—	—
Pennsylvania	X	X	29	X	X	X
South Carolina	X	X	11	X	—	—
South Dakota	X	X	8	X	—	—
Vermont	X	X	None allowed	X	—	X
Virginia	¹ X	¹ X	³ 13	—	—	—
Wyoming	X	—	None allowed	—	—	—
Puerto Rico	¹ X	¹ X	None allowed	X	X	—

X = Yes; — = No.

¹ Also sets maximum prices.

² Authorized but not used.

³ Dock—21 percent.

APPENDIX II

Table 7.—States regulating milk prices and trade practices and authorizing milk promotion, January 1972

State	Minimum prices established at—			Trade practice regulations	Milk promotion
	Producer level	Wholesale level	Retail level		
Alabama	X	X	¹ X	X	—
Arkansas	—	—	—	X	—
California	X	X	X	X	X
Colorado	—	—	—	X	X
Connecticut	—	—	—	X	X
Georgia	—	—	—	—	X
Hawaii	X	—	—	—	² X
Idaho	—	—	—	X	X
Iowa	—	—	—	X	—
Kentucky	—	—	—	X	—
Louisiana	X	X	X	X	X
Maine	X	X	X	X	X
Massachusetts	X	(3)	(3)	X	⁴ X
Minnesota	—	—	—	X	³ X
Missouri	—	—	—	X	—
Montana	X	X	X	X	—
Nebraska	—	—	—	X	—
Nevada	X	X	X	X	—
New Hampshire	—	—	—	—	X
New Jersey	X	X	X	X	X
New York	X	—	—	X	³ X
North Carolina	X	(3)	(3)	X	—
North Dakota	X	X	¹ X	X	X
Oklahoma	—	—	—	X	—
Ohio	—	—	—	—	³ X
Oregon	(5)	—	—	—	X
Pennsylvania	X	X	X	—	³ X
South Carolina	X	X	X	X	—
South Dakota	—	X	X	X	X
Tennessee	—	—	—	X	—
Utah	—	—	—	—	X
Vermont	X	X	X	X	X
Virginia	X	¹ X	¹ X	X	—
Washington	—	—	—	—	X
West Virginia	—	—	—	—	X
Wisconsin	—	—	—	X	X
Wyoming	X	X	—	X	—
Puerto Rico	X	¹ X	¹ X	X	X

X = yes; — = No.

Also establishes maximum prices.

Industrywide agreement on Oahu, coordinated by State.

Authorized but not used.

The Milk Control Law states "... to promote programs designed to increase the consumption of milk."

The State's Class I base plan is used to repool Oregon-Washington Federal milk order producer payments if requested by individual Oregon producers.

APPENDIX III



The Virginia State Dairymen's Association

48 West Elizabeth Street :: Harrisonburg, Virginia 22801
Telephone: (Area Code 703) 434-2369

	MILK COWS ON FARMS		
	1971	1972	1973
January	192,000	182,000	172,000
February	191,000	181,000	171,000
March	190,000	180,000	170,000
April	189,000	180,000	169,000
May	189,000	179,000	168,000
June	188,000	178,000	167,000
July	187,000	177,000	166,000
August	186,000	176,000	165,000

APPENDIX IV



1625-790 Building • 701 East Main Street • Richmond, Virginia 23219 • Telephone (804) 648-8583

W. M. Gaunt, Jr., Executive Vice President

5500 Gallon Milk Tanker Permits Issued by VDAC Jan. '70 - Sept. '73

IMPORTATION MILK PERMITS ISSUED FOR JAN. 1970 THROUGH SEPT. 21, 1973

MONTH	1970	1971	1972	1973
January	55	44	85	186
February	35	16	56	172
March	29	11	58	199
April	35	16	75	134
May	0	1	18	136
June	0	1	6	93
July	23	6	50	105
August	22	1	63	76
September	27	66	110	74 (as of 9/21)
October	34	58	129	
November	27	70	97	
December	32	73	113	

Note: Each permit was for one 5,500 gallon tanker load weighing approximately 47,300 pounds each.

Source: Virginia Department of Agriculture and Commerce

APPENDIX V

THE FOLLOWING INFORMATION IS SUBMITTED IN RESPONSE TO INQUIRIES TO THE VIRGINIA MILK COMMISSION FROM THE CHAIRMAN OF THE MILK COMMISSION STUDY COMMISSION:

— INQUIRY NUMBER 1 —

In determining the producer price (a) what factors are considered, (b) how thoroughly is information from the producer level reviewed and evaluated, and (c) does the Commission seek to determine (as nearly as possible) the average producer costs and if so, what data is used?

— RESPONSE TO INQUIRY NUMBER 1 —

1 (a)

1/ The current cost of producing a hundredweight of Grade A milk in Virginia.

2/ The percentage change in production costs during the past twelve (12) months and the percentage change in production costs during the last three (3) months.

3/ The current costs in transporting, handling and storing Grade A milk and the percentage changes that have occurred in these costs during the past twelve (12) months and during the last three (3) months.

4/ The current total supply of Grade A milk that is available from Commission licensed producers, as well as the changes that have taken place in the total available supply.

5/ The number of licensed dairy farmers currently producing milk compared with the number of licensed dairy farmers producing milk twelve (12) months ago and three (3) months ago.

6/ The average amount of current production per cow compared with the production per cow twelve (12) months ago.

7/ The current number of dairy animals in Virginia compared to the number of dairy animals twelve (12) months ago and three (3) months ago.

8/ The availability of Grade A milk from other states and the price of this milk.

9/ The national trend in the supply and price of Grade A milk.

10/ The alternatives that are currently available to dairy farmers and the attractiveness of these alternatives.

1 (b)

Evidence and testimony is presented, under oath, from producers and/or their representatives at the public hearing. These witnesses are questioned by members of the Commission and the Commission's attorney concerning their testimony and their exhibits, which are submitted and made a part of the record. The exhibits, as well as written statements of most of the testimony that is presented at the public hearing, is compared with factual data compiled by the United States Department of Agriculture, the Virginia Department of Agriculture and Commerce, the U. S. Bureau of Labor Statistics and information compiled by the State Milk Commission. Two members of the Commission are licensed Grade A dairy farmers who have personal knowledge of production costs in Virginia and they are, therefore, capable of determining the reliability of the evidence and testimony presented by the witnesses at the public hearing.

1 (c)

The State Milk Commission does not determine the exact average cost of production for the approximately 1,400 intramarket licensed Grade A producers. With this large number of producers widely scattered across the State, it would be a very costly, time consuming project that would be extremely difficult, if not impossible, to accomplish. The time involved in determining the actual average costs of production for 1,400 dairy farmers would result in this information being outdated by the time it could be made available to the Commission. As we have experienced in recent months, a time lag of three months can mean drastic changes in certain cost factors, such as animal feed which represents approximately 50% of the total variable costs in milk production.

We do utilize cost data supplied from forty-nine (49) Grade A dairy farmers in Virginia who are considered to be among the most efficient dairy farmers in the State. This information is compiled jointly by the Departments of Dairy Science and Agricultural Economics at Virginia Polytechnic Institute and State University in Blacksburg, Virginia. This cost data is supplied directly to the University every month from the forty-nine (49) farmers included in the project. From this data an average cost of producing a hundredweight of Grade A milk on these farms is determined and supplied to the Commission. It should be pointed out, however, that these forty-nine (49) farms do not represent a scientific random sample of all Grade A dairy farms in Virginia, therefore, because these forty-nine (49) dairy farmers represent the more efficient Grade A dairy farmers in the State, rather than an average of all dairy farmers including some of the inefficient, the average price is lower than it would be if a scientific random sample had been used. In addition to this report on production costs from V.P.I. and S.U., the Commission also receives from individual dairy farmers information relating to their particular production costs, gross profit and net profit.

— INQUIRY NUMBER 2 —

Has the Commission ever reduced the producer price? If so, please give a review of the circumstances. If the Milk Commission has never reduced the producer price, what is the reason for this?

— RESPONSE TO INQUIRY NUMBER 2 —

Yes, the Commission has reduced the producer Class I prices on several occasions prior to 1959. Producer Class I prices were reduced in 1939, 1949, 1954, 1955, and 1958. Although the Commission Minutes do not record the reasons for the price reductions, it should be noted that the reduction always occurred during the Spring months, which would indicate that the price reductions were related to reduced cost of production which is normally lower during the Spring months. Class I prices have not been reduced since 1959, because production costs from 1959 through June 1972, increased at a consistent rate of between 5 and 6 percent annually. In the Fall of 1972, production costs began increasing at an alarming rate and by August of 1973, production costs were up more than 31 percent over 1972. There has been no economic justification for a reduction in producer prices since 1959. It should be noted, however, that from 1959 until 1964, no changes were made in the producer Class I price.

— INQUIRY NUMBER 3 —

How does the Milk Commission determine when and whether to hold hearings as to milk prices? Are hearings always or generally held at the request of producers and/or processors.

— RESPONSE TO INQUIRY NUMBER 3 —

Price hearings are generally scheduled and held when a majority of the producers and/or distributors in a market request that a hearing be held to receive evidence and testimony relative to amending the price regulation. The Commission can, and does, on its own motion schedule hearings relating to prices both at the producer level and at the retail and wholesale levels when adjustments in these prices appear to be justified. A recent example of this was the amendment the Commission adopted pertaining to Class II prices in all markets.

— INQUIRY NUMBER 4 —

Please provide a specific review of the mechanics involved in Milk Commission proceedings in determining both the producer price and wholesale and retail price.

— RESPONSE TO INQUIRY NUMBER 4 —

The first step in the proceedings is the scheduling of a hearing. Evidence and exhibits are received at this hearing and then evaluated in accordance with the answers in No. 1 above. The attorney for the Commission drafts a proposed Finding of Fact for each type of price being considered. The Administrator makes a full study of the evidence and prepares recommended prices for the Commission's consideration. The Commission then meets as a whole to consider the Findings of Fact and the Administrator's recommendation. After discussion the Commission votes on what amendments, if any, will be made to the regulations dealing with prices.

— INQUIRY NUMBER 5 —

Could you provide a detailed explanation of the "base system", its origins, mechanics, and how transfer of base is accomplished?

— RESPONSE TO INQUIRY NUMBER 5 —

The Virginia base system is a Class I base plan that has been in operation since 1934, when the State Milk Commission was created by the General Assembly. Many technical changes have been made in the Virginia base plan since its inception, but generally the basic program has remained unchanged since 1934. The Class I base plan in Virginia is designed to provide an adequate supply of milk for the Class I needs of the Virginia markets and to equitably apportion these market sales among the producers. The Class I base plan establishes an amount of base equal to the pounds of Class I sales in the market. Base is currently established at 108% of the previous year's Class I sales. This means that for every 100 pounds of Class I sales there is 108 pounds of base. The 8% of base over sales provides a buffer for plant shrinkage, daily variation in sales, changes in production, and variations in delivery schedules. All Class I base that is held by all dairy farmers operating under the Virginia Milk Commission program is assigned to licensed processing plants in accordance with their Class I needs and these base assignments to the plants are adjusted monthly to maintain an equitable assignment to all processing plants. Baseholding producers are required by regulation to deliver an amount of milk equal to their base, if produced, and likewise processors are required to accept an amount of milk equal to the base assigned. This delivery and acceptance requirement, both on the part of the producer and the processor, assures an adequate supply of milk to all licensed processing plants in the State of Virginia in accordance to their Class I needs in the marketplace, and assures the baseholding producers a continuous market for their milk. Base may be transferred between producers under the following conditions: (1) The entire base of the transferring producer, or his entire part thereof, must be transferred at the same time; (2) The producer license of the transferring producer must be cancelled at the time of the transfer; (3) The licensed

baseholder must submit a signed request to the Commission giving the exact pounds to be transferred to each transferee and the name or names of the transferees that are receiving the base and the effective date of the transfer; (4) The transferee must have a valid Grade A permit issued by the Department of Agriculture.

— INQUIRY NUMBER 6 —

Why is it in a time of decreasing milk production and with a loss of close to 1,000 dairy cows per month that a large number of potential dairy farmers are kept on a waiting list for base? Could not an increase in dairy farmers help both the dairy industry and the consumer? If not, explain why.

(a) If the waiting list for assignment of base contains names of persons who do not want it, should not the list be purged and up-dated?

(b) So long as milk is in short supply, should not all new base be assigned to new producers?

(c) How much milk is produced in Virginia in excess of the total assigned base and to whom is it sold and is the sale price controlled?

6 (a)

It must first be pointed out that there are not "a large number of potential dairy farmers" being kept on a waiting list and, therefore, out of production. The overwhelming majority of persons on the waiting list are dairy farmers already in production but selling their milk in a market other than that regulated by the Commission. If they were granted a base allotment, it would simply mean a shift in the marketing of a portion of their milk. In reality, virtually all allotments of new base are consigned to a co-operative and do not directly benefit any one member exclusively, although collectively all members would benefit by the improved utilization for the entire co-operative. Thus, while it is certainly true that the entry of a new dairy farmer into production would benefit both the industry and the consumer, it is not the waiting list which is preventing this entry.

This analysis does not mean, however, that the Commission believes the current waiting list situation should be maintained. The Commission's attorney is currently preparing an amendment to the regulations which, if adopted by the Commission, would eliminate the waiting list altogether and would insure that half of all increases in the amount of base would be made available to potential new dairy farmers.

6 (b)

It would not be desirable, however, to assign all new base to new producers for there would then be less incentive to an existing producer who had faithfully supplied the market to expand his production beyond his base. Currently he is motivated by the possibility of obtaining an increase in his base *without* having to purchase it. Base is adjusted on March 1 of each year to 108% of the previous year's sales. When sales increase, production must also increase, but it makes no difference whether this increase is effected by existing producers or new ones.

6 (c)

The total production of all intramarket baseholding producers is in excess of the total amount of deliveries to all intramarket licensed plants.

This means that there is a considerable volume of milk that is being produced that is available for delivery to plants other than those licensed by the Virginia Milk Commission. The excess production of intramarket producers is shown by the following schedule:

PRODUCTION AND DELIVERIES OF INTRAMARKET BASEHOLDERS

	<u>Total Production</u> —Pounds—	<u>Total Deliveries to Intramarket Plants</u> —Pounds—	<u>Production in Excess of Deliveries to Intramkt. Plants</u> —Pounds—
January-December 1971	1,094,465,780	753,320,377	341,145,403
January-December 1972	1,131,043,820	858,584,973	272,458,847
January-September 1973	843,710,350	675,695,850	168,014,500

— INQUIRY NUMBER 7 —

Over the last 2—5 years could you provide the prevailing price for purchasing base and your analysis of the reasons underlying any fluctuation in the price?

— RESPONSE TO INQUIRY NUMBER 7 —

The State Milk Commission does not maintain records on base prices, that is we are not directly concerned with the monetary value of base. However, we have been able to obtain some Class I base prices for the last 5 years. This information has been provided by various milk co-operatives in the State, auction companies that deal with the sale of dairy farms and Class I base, and from the individual producers themselves. These prices are indicated as follows: 1969 \$0.28 to \$0.35 per pound; 1970 \$0.30 to \$0.38 per pound; 1971 \$0.35 to \$0.42 per pound; 1972 \$0.34 to \$0.40 per pound; 1973 \$0.12 to \$0.32 per pound. Base prices are affected by the following factors:

- (1) the price differential existing between the base price and the excess price that is paid to the dairy farmer for his Grade A milk;
- (2) the amount of milk production in excess of base milk;
- (3) the amount of base that is available for sale at any particular time;
- (4) the degree of confidence that the producers have in the continued existence of the Virginia Milk Commission and the Class I base plan.

Base prices remained relatively stable until the Fall of 1973, when State Milk Commission base sold for as low as 12 cents per pound. This sharp reduction in the price of base in Virginia very probably was a result of a combination of all 4 of the above-listed factors.

— INQUIRY NUMBER 8 —

In Lynchburg, Mr. Oakes of Chatham, stated that base can be added to but cannot be adjusted downward and that a producer having an assigned base cannot sell a part of it, only all or none. If this statement is correct, could you provide the rationale?

— RESPONSE TO INQUIRY NUMBER 8 —

Yes, this statement is correct; by regulation a baseholding producer must dispose of all of his base or all of his share thereof, if he transfers any of his base to someone else, and it is also true that a producer may increase his base by any amount he chooses at any time. There are two basic reasons for this provision in the regulation. One is to prevent speculation on base. Base that is

acquired for speculative purposes normally does not supply milk to the market; that is, if base transfers were freely permitted a person could buy base regardless of his productive capacity simply to be able to hold it for a period of time, either days or weeks, in order to seek a higher price for this base without giving any concern to producing an amount of milk equal to the base that he was holding while waiting for the market price on base to increase. This problem with base speculation did exist prior to amending this regulation some years ago. Another reason, of course, is to prohibit a baseholding producer from circumventing the regulation (Paragraph 2 of Regulation No. 5) pertaining to the base-adjusting period. This is the period from September through November when the demand for milk is highest, that all baseholders are required to produce and deliver an amount of milk equal to their base. If they do not produce an amount of milk during this period equal to their base, then on March 1 of the following year, their base would then be reduced to their average deliveries during the base-adjusting months. If a producer were permitted to freely transfer a part of his base during the base-adjusting period, then anyone who was not producing an amount of milk equal to his base during the base-adjusting months, would simply sell that amount of base which exceeded his production.

— INQUIRY NUMBER 9 —

There are three or four counties in Virginia which are neither under the control of the State Milk Commission or Federal milk orders. Please identify them and advise why they are not? Please provide any available data on where they market their milk, how much they produce, what producer prices have been with relation to the producer price set by your Commission, and the prevailing retail price in those counties. Price data for the last 2—5 years should be adequate.

— RESPONSE TO INQUIRY NUMBER 9 —

There are currently four counties in Virginia that are neither regulated by the State Milk Commission nor are they included in the regulations of any Federal milk marketing order. The counties of Appomattox, Culpeper, Fauquier and Rappahannock, until recently, had never been requested by anyone in the dairy industry to be included in any of the Milk Commission marketing areas because the sales made in these areas had been reported in Class I either by a Federal order plant or by a State Milk Commission plant. However, that situation has now changed and the sales made in most of these areas are no longer being reported in Class I by those plants that are regulated by the Milk Commission, therefore, the producer milk that is being used in these sales is being paid for at a price less than the Class I price in either the Virginia Milk Commission regulated markets or the Federal order markets. It should be noted here that the Milk Commission has now scheduled a hearing for December 12th to consider including these four counties in the marketing areas under its jurisdiction. All of the producers in these counties that are licensed by the Milk Commission are members of marketing co-operatives, that is all of the producers there ship their milk through one of the marketing co-operatives, either Maryland and Virginia Milk Producers Association, or the Old Dominion Division of Dairymen, Inc. A large volume of this milk moves into the Washington Federal order market where certainly some of it would be processed and would come back into the areas indicated. That milk that moves through the Federal order plants in Washington, D. C., would be paid for at the Federal order Class I price, because under Federal regulation it makes no difference where the milk is sold if the plant is fully regulated under a Federal order. However, it is somewhat different for those plants that are regulated by the Virginia Milk Commission that have sales in the unregulated marketing areas. By Law and in accordance with our regulations, these plants do not report these sales as Class I because they are not classified as Class I but are reported as Class I-A sales which carries the Class II price under our pricing

regulations. This means that those plants that are fully regulated by the State Milk Commission which have sales in these unregulated marketing areas are paying for the milk at the Class II rate rather than the Class I rate, and consequently, the producers supplying this milk are not receiving a Class I price for milk that is going into fluid human consumption. To this extent then, even though the milk is handled by co-operatives it *does* affect the payment to producers that are supplying the milk when the processing plant does not pay the Class I price for the milk that they are utilizing in the unregulated marketing areas. For the month of September, 81 licensed producers located in Appomattox, Culpeper and Fauquier, shipped over 6,889,000 pounds of Grade A milk through their marketing co-operatives. We do not have any licensed producers that are located in Rappahannock County. It is also known that a group of independent producers located in the Western part of Virginia is also affected by sales made in this area. Milk that is produced and delivered to a particular plant in the Western part of Virginia is transferred to another plant in the Tidewater region; this plant then processes and distributes this milk in the uncontrolled areas of Culpeper and Warrenton and consequently, independent producers who are not members of marketing co-operatives are receiving less than the Class I price for their milk that is going into fluid human consumption in these unregulated areas. The out-of-store price in the Culpeper-Warrenton area has been from 5 to 10 cents per half-gallon less than the prevailing price existing in the rest of the State of Virginia, including that portion of Virginia that is regulated under Federal Order No. consisting of Arlington, Fairfax and Alexandria. We do not have the precise prices that have existed in this area for the last 2—5 years, however, it is known that out-of-store prices there have varied from 5 to 10 cents per half-gallon less than prices that have existed in the regulated markets under the Milk Commission, as well as those areas of Northern Virginia that are included under the Federal Milk Marketing Order No. 4, which does not establish resale pricing.

— INQUIRY NUMBER 10 —

Could you provide a breakdown on the percentage of the money paid by a consumer for milk which goes to the producer, the processor, distributor, and retailer? What is regarded as a realistic mark-up in the price of milk at retail? What formula do you use in determining the minimum retail price, once the producer price has been established?

— RESPONSE TO INQUIRY NUMBER 10 —

As shown by Schedule "A", the producers' share of the current minimum prices are as follows:

Single Gallon Container	57.5%
Single Half-Gallon Container	57.1%
Single Quart Container	55.0%

The retailers' share of the current minimum price of all container categories varies from 5 to 13 percent. The amount of discount is determined by the size of the delivery as follows:

<u>Average Value</u> <u>Per Delivery</u> —Dollars—	<u>Maximum Discount</u> —Percent—
0 - 12.49	0
12.50 - 24.99	5
25.00 - 49.99	7
50.00 - 99.99	10
100.00 - 224.99	12
225.00 - over	13

The processor-distributors' share of the current minimum prices is as follows:

Single Gallon Container	37.5 - 29.5%
Single Half-Gallon Container	37.9 - 29.9%
Single Quart Container	40.0 - 32.0%

We have not attempted to determine a breakdown of any prices other than the established minimum prices because those retailers who do not qualify for a discount normally sell milk at varying prices higher than the established minimum.

Consideration would have to be given to many factors in determining a realistic retail mark-up for milk, such as volume handled, rate of turnover, method of delivery and the amount of in-store service provided by the distributor. The pricing schedule established by the Milk Commission provides for a retail mark-up of 5—15% depending upon the discount bracket and assuming sales to be at the minimum price.

The Milk Commission does not use a formula in determining the minimum retail price but instead relies upon average cost data of the processing plants.

— INQUIRY NUMBER 11 —

At the Lynchburg public hearing, Delegate Towler, and at the Norfolk public hearing, Delegate Washington, stated available data indicated the cost of feed, labor, and milk cows are higher for the dairy farmer of Ohio, but that the consumer of Ohio pays less for his milk than a Virginia consumer. Could you verify or deny the accuracy of their statement and provide pertinent information on this comparison, including the reason for the higher retail price in Virginia, if this is the case?

— RESPONSE TO INQUIRY NUMBER 11 —

The testimony of both of these delegates was based on research conducted by Mr. Washington, who admitted before this Study Commission in Norfolk that his research had been extremely limited. Specifically he examined a limited number of U. S. Government publications to compare various costs involved in the production of milk. Mr. Washington's basic premise is that his evidence establishes it costs less to produce milk in Virginia than it does in Ohio, but that both the producer and retail prices are lower in Ohio.

The following is a comparison of the prevailing retail prices for the cities of Cincinnati and Cleveland of a half-gallon of whole milk with that in the Commission markets. The Cincinnati and Cleveland prices are taken from Estimated Retail Food Prices By Cities, a publication of the U. S. Department of Labor.

<u>1973</u>	<u>Cincinnati</u>	<u>Cleveland</u>	<u>Virginia</u>
April	\$ 0.629	\$ 0.053	\$ 0.64
May	Not Received	Not Received	0.64
June	0.647	0.524	0.64
July	0.647	0.558	0.64
August	0.669	0.585	0.68
September	0.692	0.601	0.69

* It must be remembered that on August 15, 1973, the Commission suspended its resale price regulations. This suspension remained in effect until November 1, 1973.

It is evident from this comparison that the retail price in the Cincinnati market and that of the Commission have been very similar during this period,

while the price in Cleveland has been considerably lower. The principal reason for the significantly lower price in Cleveland is its closeness to Michigan, which historically has had one of the lowest milk prices in the nation.

It should also be noted that the increase in price during this period was greater in both Cincinnati and Cleveland than in Virginia. In any event it can be seen that Mr. Washington is not completely correct in his statement that the consumer pays more for milk in Virginia than in Ohio — he pays less in some areas of Ohio but about the same in others.

The producer price for milk in Ohio is regulated by one of two Federal orders: Order 36 (Eastern Ohio-Western Pa.), or Order 33 (Ohio Valley). It must be remembered, however, that Federal order prices are a minimum price only, and that is no restriction on the amount of over-order premium which producers (usually through marketing cooperatives) may impose. In Virginia the price set by the Commission is *the* price: processors cannot pay less and producers cannot charge more.

The following is a comparison between the *minimum* Class I price under these orders, together with the prevailing price (in parentheses), and *the* producer price set by the Commission for its three markets (Eastern Western and Southwest):

1973	F.O. 33	F.O. 36	Va. E & W	Va. SW
April	\$7.15 (\$7.38)	\$7.30 (\$7.51)	\$ 8.15	\$ 7.80
May	7.25 (7.46)	7.40 (7.66)	8.15	7.80
June	7.33 (7.53)	7.48 (7.66)	8.15	7.80
July	7.36 (7.56)	7.51 (7.66)	8.15	7.80
August	7.43 (8.00)	7.58 (8.18)	9.03	8.68
September	7.92 (8.59)	8.07 (8.78)	9.03	8.68
October	8.08 (9.20)	8.23 (9.38)	9.03	8.68
November	8.61 (9.20)	8.76 (9.38)	10.23	10.01
December	9.19 (9.50)	9.34 (9.68)	10.23	10.01

Thus Mr. Washington is correct in his statement that the producer price for milk is higher in Virginia than it is in Ohio, but, as will be explained later, it should be. It should also be pointed out that the Southwest Market in Virginia is under dual regulation by the Commission and Federal Order No. 11. This fact means that processors must pay the higher of the two prices. \$10.01 is the current prevailing price under Order No. 11; therefore, the setting of a lower price by the Commission would have no effect.

Furthermore, the difference between the producer prices in Ohio and Virginia is not as great as Mr. Washington would have us believe, for he invariably quotes the minimum price set by the Federal orders rather than the prevailing price.

Mr. Washington's final argument in this context is that it cost the dairy farmer less to produce his milk in Virginia than it does in Ohio. At the hearing of this Study Commission in Norfolk, Mr. Washington stated that this argument was based solely on comparisons of the prices of feed, labor, and milk cows, which he had obtained from publications of the United States Departments of Agriculture and Labor. Therefore, by his own admission, Mr. Washington has not considered sufficient evidence to reach such a conclusion. In its continuing study of the cost of producing milk in Virginia, V.P.I. utilizes sixteen separate factors — not three.

Furthermore, there are many factors involved in determining the cost of production of milk other than prices. For example, it does not do any good to know the purchase price of feed without knowing what percentage of his feed a dairy farmer produces himself. If he produces it himself, he is not directly affected by changes in the purchase price.

Nevertheless, it is necessary to examine the validity of Mr. Washington's comparisons. All statistics are taken from *Agricultural Prices*, a publication of USDA, or from a publication of the same name issued by the Virginia Crop Reporting Service. Neither of these publications provides prices specifically for the sale of dairy cows. It can be assumed, however, that dairy cows would have to sell for more than beef cows — otherwise the dairy farmers would sell them for beef.

The USDA publications list the following prices for the average price per hundred pounds for beef cattle. (The term beef cattle includes cows, steers, and heifers, but not dairy cows for herd replacement).

<u>1973</u>	Virginia	Ohio
April	\$	\$
May		
June		
July	37.10	
August	43.10	52.00
September	40.40	45.80
October	39.20	

The average dairy cow weighs around 1400 pounds; thus for the month of September a dairy cow would have sold for at least \$565.60 in Virginia and \$641.20 in Ohio. These figures do support Mr. Washington's thesis that Virginia farmers pay less for dairy cows than their Ohio counterparts. This evidence is still inconclusive, however, without actual figures paid for dairy cows. The Commission could provide these prices for Virginia auctions but not for those of Ohio — or of any other state. It must also be remembered that the money spent for herd replacement constitutes a relatively small part of a dairy farmer's yearly operating budget.

The Commission has no comparative information on the wages paid to laborers on dairy farms in Virginia and Ohio. Furthermore it knows of no publication which provides this information for different types of farming operations. It must be assumed, therefore, that Mr. Washington is using figures for farm labor generally. Such figures are extremely misleading since laborers on dairy farms are not paid strictly in cash. Generally they and their families are provided with a house and a gallon of milk per day. V.P.I. economists estimate that an average dairy farmer pays his helper \$7,837 per year in salary and benefits. No comparable figures are available from Ohio. Furthermore the Commission has received sworn testimony at its last two public hearings that dairy farmers are finding it increasingly difficult to hire laborers at any salary. (As has often been pointed out, dairy cows have to be milked twice a day, 365 days per year).

Feed is the single most important element, however, in a dairy farmer's cost of production. It accounts for roughly one-half of the total. The following comparative figures of the average price per ton are taken from *Agricultural Prices* (in each column the Virginia figure is given first followed by the Ohio one):

<u>1973</u>	<u>14%</u>	<u>16%</u>	<u>18%</u>	<u>20%</u>
April	\$ 110/102	\$ 111/107	\$ 116/115	\$ 117/129
May	110/114	113/123	116/132	120/146
June	121/131	125/141	130/150	136/175
July	111/120	115/130	120/130	126/160
August	128/140	131/150	136/150	140/180
September	125/130	128/135	131/140	132/170
October		131/		134/

The Commission has no explanation for the higher price figures from Ohio. V.P.I. economists have testified that feed crops can be produced much more cheaply in the Midwest than in Virginia; therefore, it would seem that the feed prices in that region should be lower. Even accepting these figures as valid, however, does not establish that Virginia farmers' cost of feed is lower than that of those in Ohio. As was pointed out earlier, the methods of production must also be studied since Ohio dairy farmers grow a much higher percentage of their own feed.

— INQUIRY NUMBER 12 —

Please provide a comparison of Virginia with one or more other jurisdiction which are most nearly comparable to our situation as to the prevailing producer and retail price of milk over the past 5—10 years.

— RESPONSE TO INQUIRY NUMBER 12 —

This comparison is shown in Schedule "B", which gives the retail out-of-store prices and the home delivered prices for North Carolina, Washington, D. C., and the Bristol, Virginia-Tennessee areas, for the years 1966 through 1973.

— INQUIRY NUMBER 13 —

Section 3.1-436 allows a majority of producers and distributors in a locality the option of whether to remain under the authority of the State Milk Commission. Since the Commission exists to protect the general public interest, not the interest of the dairy industry alone, can this be justified?

— RESPONSE TO INQUIRY NUMBER 13 —

No, we do not believe that Section 3.1-436 can be justified. You will note that in our response to inquiry number 20 that we recommended that this section be deleted from the Act in its entirety.

— INQUIRY NUMBER 14 —

Please provide a survey comparison of the producer price and resale prices existing under the Milk Commission for the last ten years with those of Federal milk order numbers 4 and 11.

— RESPONSE TO INQUIRY NUMBER 14 —

Please refer to Schedule "B" for the comparison of the Milk Commission prices with those in Federal Order No. 4 and Federal Order No. 11.

— INQUIRY NUMBER 15 —

On August 15, 1973, the Milk Commission suspended its regulation of resale milk prices due to the confusion in the Virginia milk industry attendant to Federal price controls. On the third page, paragraph two, of the Milk Commission's statement concerning the suspension of resale price regulation, the Commission stated its belief that the "setting of resale price was no longer necessary to maintain stability in Virginia milk markets." The Commission went on to state that "this belief was based primarily on the stabilizing influence which the dairy cooperatives have begun to exert in the milk industry . . . which can prevent processors from engaging in disruptive selling practices which would drive the producer price down to a point where dairy farmers would begin leaving the industry in numbers . . .". First, with the minimum producer price set by the Milk Commission, how could the processors engage in such disruptive selling practices which would drive the producers from the industry? In any event, would not such practices be detrimental to the processors and, therefore, be unlikely to occur? What circumstances changed in Virginia between August 15, 1973, and October 1, 1973, which prompted the Milk Commission to reimpose their resale regulations in light of their August 15th statement?

— RESPONSE TO INQUIRY NUMBER 15 —

The quotes in this question were not taken from an official statement of the Commission but from an analysis of the suspension which was prepared for this Study Commission by the Commission's attorney. This analysis was not received by the Commission. Nevertheless it has validity when reviewed in its entirety. The *principal* reason the Commission suspended its setting of resale prices was the continuing conflict between State and federal regulations, and the resulting confusion in the market place. The Commission would not have taken this action, however, if it had felt serious market instability would have resulted. The quotes in the question were based on discussions concerning *possible* reasons why instability would not result at that time.

The Commission itself cannot prevent disruptive selling practices solely by controlling the producer price. There are two principal reasons for this situation. The first is that control of the producer price alone would not prevent processors and/or retailers from selling milk at a loss. The Study Commission has received evidence of this phenomenon having occurred in other states when resale price controls were removed. The second reason is that there is no constitutional means by which the Commission can prevent milk which is not under its producer price controls from being brought into Virginia. Thus, there may or may not be other factors which would tend to maintain market stability without resale price controls, but the Commission cannot guarantee such stability solely by controlling the producer price.

There were two developments occurring between August 15 and October 1, 1973, which the Commission took into account in reimposing resale price controls. The first was the Cost of Living Council's decision in its final regulations of Phase IV-Stage B to provide special rules for resale prices set by state milk regulatory agencies. These rules eliminated any possibility of future conflicts between state and federal regulations such as that which constituted the primary reason for the Commission's suspension of August 15. The second development was the emergence of a potentially disruptive market influence in the Western Market. This emergence resulted in the decision by a majority of the Commission that resale price controls were necessary to guarantee market stability.

— INQUIRY NUMBER 16 —

How many states have state milk commissions? Of this number, how many use a base assignment program? How many control producer prices only, producer and retail price, and only retail price? Are there states without a milk commission who control milk prices by some other agency such as a Department of Agriculture or Trade Commission? If so, what states? How many states formerly controlling milk prices have discontinued doing so (please name the states)?

Please provide a comparison of Virginia producer and retail prices with those other states which control the price of milk and a comparison of the producer and retail price in Virginia to those states which do not control producer and retail milk prices? (a 2-5 year period would be adequate).

— RESPONSE TO INQUIRY NUMBER 16 —

Thirteen (13) states currently have milk commissions although the official title in some states may be Dairy Commission or Milk Control Board, or a similar title. Listed below are the thirteen states:

Alabama	North Carolina
Colorado	North Dakota
Kentucky	Pennsylvania
Louisiana	South Carolina
Maine	Vermont
Massachusetts	Virginia
Nevada	

Many of the other state regulatory agencies maintain a Class I base program but Virginia is the only state that operates a base assignment program. Without market-wide pooling or a base assignment program equity cannot be maintained between producers when there is a shift in Class I sales between processing plants.

Four (4) states control producer prices only: Hawaii, Massachusetts, New York, and North Carolina.

Twelve (12) states regulate both producer prices and resale prices (either retail or wholesale or both): Alabama, California, Louisiana, Maine, Montana, Nevada, New Jersey, Pennsylvania, (producer prices set by Federal Orders in some areas), South Carolina, Vermont, Virginia, and Wyoming.

Two (2) states regulate only resale prices: South Dakota (Wholesale only) and Pennsylvania (wholesale and retail in Pittsburgh, Philadelphia and Erie).

Eight (8) states have laws that charge state agencies other than milk commissions with the responsibility for regulating the dairy industry: California, Hawaii (producer price only), Louisiana (Dept. of Agriculture—producer price), Montana, New Jersey, New York (producer price only), South Dakota (wholesale price only), and Wyoming.

Eight (8) states have terminated all price controls since 1959: Connecticut, Georgia, Florida, Mississippi, New Hampshire, Oregon, Rhode Island, Washington.

Thirteen (13) states have Fair Trade laws pertaining to the dairy industry:

Arizona	Missouri
Colorado	Oklahoma
Idaho	Tennessee
Iowa	Utah
Kentucky	Washington
Minnesota	Wisconsin
Mississippi	

Five (5) states have authority to set consumer prices but are not doing so: Alaska, Connecticut, Massachusetts, North Carolina, Rhode Island.

One (1) state has authority to set producer prices but is not doing so: Oregon.

Most of the above information was compiled from a publication titled, "Digest of Milk Laws and Regulations of Milk Agencies of the 50 States in the United States", prepared by Norman Malone Associates, Inc., Akron, Ohio, in March 1971. For your consideration we are enclosing a copy of this publication shown as Exhibit No. 1.

Schedule "C" provides a four (4) year comparison of Virginia's prices with the prices in the other states which regulate both producer and resale prices.

Schedule "D" provides a four (4) year comparison of Virginia's prices with the prices in all other states which do not regulate both producer and resale prices.

— INQUIRY NUMBER 17 —

It has been suggested that the Commission establish milk prices by use of a formula, rather than public hearing. Please furnish us with the view of the Commission on this proposal. Is this method in use elsewhere, and if so, where? What formula would you recommend, if formula pricing is to be used? Would a formula be used to determine the producer price or both producer and retail price?

— RESPONSE TO INQUIRY NUMBER 17 —

The Commission very strongly favors the use of a formula in the setting of a producer price. All federal orders utilize a formula for establishing their minimum producer price. Also, the state regulatory agencies in Maine and Montana employ a formula.

The Commission has not implemented formula pricing before this date because of legal advice that the language of §3.1-437 did not permit this procedure. That question is debatable, but it would be beneficial to amend this section to give the Commission clear authority to go to formula pricing.

The Commission does not have a specific formula to propose at this time but has asked V.P.I. economists for suggestions. No formula could be adopted until a public hearing was held. The Commission anticipates, however, that the formula would incorporate various economic factors relevant to the Virginia dairy industry and thereby adjust the producer price upward or downward on a monthly basis as these factors dictate. Future public hearings would be necessary only to amend the formula. The Commission feels this procedure would benefit both the dairy industry and the consuming public.

If the Commission is to continue setting resale prices, after adoption of a formula for the producer price, it would anticipate using a bracket pricing system such as that employed by New Jersey and Maine. Ranges of producer prices would be established with corresponding resale prices. Whichever bracket the monthly producer price fell into would determine the resale prices. Again public hearings would be required only for the adoption and amendment of the bracket.

— INQUIRY NUMBER 18 —

Is it correct that transportation costs differentials from farm to the consumer are spread among producer co-op members, rather than being absorbed entirely by specific, individual producers?

— RESPONSE TO INQUIRY NUMBER 18 —

Transportation costs vary widely among individual dairy farmers even among those who belong to the same marketing cooperative. One small marketing cooperative in the State with less than 150 members does have a uniform haul rate for all its members. Most of the variation in hauling rates among producers of the same cooperative is a result of historical differences that have continued down through the years. The hauling rates for non-members or independent producers are normally determined by the distance between farm and plant. Strong arguments could be made for a uniform hauling rate for all members of the same cooperative, however, this is not a simple matter to resolve because the members with current low hauling rates would oppose a uniform rate that would result in a higher hauling rate for their milk. Some producers own their own tank trucks and a uniform hauling rate would present problems for them.

— INQUIRY NUMBER 19 —

If minimum producer prices are established and must be paid, why is it necessary to impose minimum retail milk prices? Why would not assignment of base and a properly established, controlled producer price be adequate to assure producers of the necessary financial return which would stimulate production which would meet the need or market demand, without imposition of minimum retail prices being established?

(a) Why would use of milk as a loss leader or special be contrary to the public interest so long as producers are assured an adequate minimum producer price?

— RESPONSE TO INQUIRY NUMBER 19 —

Producer pricing alone cannot maintain the degree of market stability that is essential to orderly production and marketing of fluid Grade A milk. A large percentage of the Grade A milk consumed in Virginia is processed and packaged by fluid milk plants located outside the Commonwealth of Virginia. Without exception all of these plants have agreed to accept Virginia base assignments in amounts equal to their Virginia sales. These plants also have agreed to pay the Virginia Class I price for an amount of milk equal to their Virginia Class I sales. In many instances this is a price that is higher than they would pay for a local supply of milk. Legally we cannot enforce our regulations across the state boundary; the only reason these out-of-state plants are willing to accept Virginia base milk and pay the Virginia price is because of the stable market that exists in Virginia. Once this market stability is destroyed the Class I sales by out-of-state plants would be lost to Virginia producers, thus a lower blend price would be paid to all Virginia producers because of the lower market utilization.

Another example in which the financial return to producers cannot be maintained by establishing only the producer price: Producers who are members of an operating cooperative i.e. a milk cooperative that owns the processing and distribution facilities for its members milk. These members receive a monthly blend price determined not by the Class I and Class II prices established by the State Milk Commission, but by the monthly profit or loss of the processing and distribution facilities of the cooperative. Therefore, if the plant's profits suffers as a result of abnormally low resale prices the reduced profit is immediately reflected in the producer's pay check.

19(a)

Loss leaders could be detrimental to the supply of milk if they disrupted the market to the extent indicated above, i.e. they could affect the market utilization and thereby lower the blend price to all producers or for those members of an operating cooperative their payment would be directly related to the profit or loss of this plant. Therefore, if this resulted in a reduction in the supply of milk the consumer would be ultimately affected, either by milk shortages or higher prices.

— INQUIRY NUMBER 20 —

Please outline any recommendations the Commission may have as to any change in the law. Please include your comments as to whether the Commission should have the right to establish different minimum and maximum prices depending upon method of delivery or nature of container.

— RESPONSE TO INQUIRY NUMBER 20 —

The Commission recommends the following changes in the law:

A. The caption and preamble to H. B. 396 (Acts of Assembly 1934) be deleted.

B. §3.1-426 should be amended to provide that the Commission elect its own chairman annually, and to delete the requirement that no member shall serve as chairman twice until all other members have served once.

C. §3.1-427 should be amended to provide for compensation of fifty dollars per day to commission members other than the administrator.

D. §3.1-436 should be deleted in its entirety.

E. §3.1-437 should be amended to give the Commission clear authority to adopt an economic formula for the setting of its producer price and a bracket system for the setting of resale prices. It should also be amended to permit the Commission to set either a minimum or a maximum resale price, and either

wholesale or retail prices, instead of having to set one if it sets the other. See *Safeway Stores, Inc. V. Milk Commission*, 197 VA. 69, 87 S.E. 2d 769 (1955). The statute might then read: "The Commission, after public hearing and investigation, may fix the price to be paid producers or associations of producers by distributors in any market or markets, may fix minimum and maximum prices for the wholesale and retail prices to be charged for milk in any market, and may also fix different prices for different grades of milk. Nothing in this section shall prevent the Commission from fixing either a minimum or maximum resale price, or from fixing either the wholesale or retail prices to be charged for milk in any market. In determining the reasonableness of prices to be paid or charged in any market or markets for any grade, quantity, or class of milk, the Commission shall be guided by economic factors relevant to the production, processing, and distribution of milk, and the maintaining of an adequate supply of milk within Virginia. The Commission may adopt a formula incorporating these economic factors which will adjust automatically the prices to be paid producers or associations of producers by distributors in any market or markets, and then provide for the automatic adjustment of resale prices according to the result obtained by the use of this formula. Public hearings shall not be held for price adjustments obtained by use of a formula, but shall be held for adoption and amendment of the formula itself.

F. §3.1-462 should be amended to provide that only the General Assembly can terminate the effectiveness of the article providing for the Commission's existence.

G. §§3.1-452 and 3.1-456 should be amended so that the assessments provided for in §3.1-456 shall be levied directly by the Commission and then collected by the local boards for deposit in accordance with §3.1-453. The Commission will then provide for the operating expenses of the local boards out of this fund.

— INQUIRY NUMBER 21 —

Has the differential in the minimum retail price of milk and the Virginia-controlled producer price remained constant, gone up or gone down over the last 2—5 years? If the differential has varied, why?

— RESPONSE TO INQUIRY NUMBER 21 —

The differential in cents between the minimum retail price of milk and the established producer price has increased over the last five years as shown below:

— Gallon Container —

	Minimum Retail Price	Producer Price	Differential
	— cents —	— cents —	— cents —
Jan. 1, 1973	124.0	67.1	56.9
Jan. 1, 1969	<u>114.0</u>	<u>60.2</u>	<u>53.8</u>
5-year increase	10.0	6.9	3.1

— Half-Gallon Container —

Jan. 1, 1973	62.0	33.5	28.5
Jan. 1, 1969	<u>56.0</u>	<u>30.1</u>	<u>25.9</u>
5-year increase	6.0	3.4	2.6

— Quart Container —

	<u>Minimum Retail Price</u>	<u>Producer Price</u>	<u>Differential</u>
	— cents —	— cents —	— cents —
Jan. 1, 1973	33.0	16.8	16.2
Jan. 1, 1969	<u>29.0</u>	<u>15.1</u>	<u>13.9</u>
5-year increase	4.0	1.7	2.3

During this 5 year period the differential on gallons increased 3.1¢; the half-gallons increased 2.6¢; and the quart differential increased 2.3¢. The reason for the increase in the differential was the increase in processing and distribution costs that occurred during the five year period. To maintain the same differential you would have to ignore any increase other than a pass-through of the raw product increase. Because of the percentage discount program and the driver-salesman percentage commission on sales, even a pass-through on raw product increase would result in an additional automatic increase to the distributor beyond the raw product increase. The continuing cost studies conducted by the Commission of processing and distribution costs in Virginia justified the increase in the differentials shown above.

— INQUIRY NUMBER 22 —

Has the differential in the minimum retail price per quart, half-gallon and gallon changed in relation to each price and to the producer price? If so, why?

— RESPONSE TO INQUIRY NUMBER 22 —

The differentials between the container sizes have changed during the last five years as shown below:

	<u>Gallon Min. Price</u>	<u>Two Half-Gallon Min. Price</u>	<u>Differential</u>
	—cents—	—cents—	—cents—
Jan. 1, 1969	114.0	112.0	2.0
Jan. 1, 1973	124.0	124.0	—0—

	<u>Half-Gallon Min. Price</u>	<u>Two Quarts Min. Price</u>	<u>Differential</u>
	—cents—	—cents—	—cents—
Jan. 1, 1969	56.0	58.0	2.0
Jan. 1, 1973	62.0	66.0	4.0

The reason for the change in the differentials between the container sizes was the change that occurred in consumer preference for larger size milk containers. In 1969 only a very small percentage of milk was sold in single gallon containers, thus a higher per unit cost.

By 1973 the gallon container accounted for nearly 25% of total sales, therefore, the per unit cost on these containers had been reduced and the differential was eliminated. Just the opposite condition developed with the quart container; the sales volume in the quart container decreased enough to increase the per unit cost and thus the increase in the differential between two quarts and the half-gallon price.

— INQUIRY NUMBER 23 —

Please furnish comparative figures on the number and nature of personnel

of the Commission, and the costs of administering its programs and activities (over the last six years) and the assessments of the industry which defray the costs and the total sums collected in each of those years.

— RESPONSE TO INQUIRY NUMBER 23 —

Please refer to Exhibit No. 2 for comparative figures on the number and nature of personnel of the Commission and for revenues, expenses and cost balances for the last six (6) years.

— INQUIRY NUMBER 24 —

Please provide information concerning these “potentially disruptive pricing techniques . . . which could threaten the continued existence of the stable market which is essential to maintaining an adequate supply of fluid milk to all segments of the consumer market”, which the Milk Commission warned about in the statement released after the October 1st hearing.

— RESPONSE TO INQUIRY NUMBER 24 —

Please refer to the response given to Inquiry Number 19 for an explanation to Inquiry Number 24.

— INQUIRY NUMBER 25 —

Please explain the apparent conflict between the August 15th statement and the October 8th statement of the Milk Commission on whether resale price regulations are necessary to maintain a stable market.

— RESPONSE TO INQUIRY NUMBER 25 —

Please refer to the response given to Inquiry Number 15 for an explanation to Inquiry Number 25.

— INQUIRY NUMBER 26 —

The resale price regulations of August, which were suspended, would have set the following retail minimums and maximums on Class A milk: Quart — .36 to .38, Half-Gallon — .68 to .78, and Gallon — \$1.34 to \$1.54. What is the reasoning of the Milk Commission of not choosing the approach of setting the August maximums while not reimposing any retail minimums? This approach would allow the consumer the benefit of some competition in the markets while still allowing the maximum price that could be charged to be an adequate return for the dairy industry. The August maximums would be an adequate return since they are higher than the November 1st minimums, soon to be effective.

— RESPONSE TO INQUIRY NUMBER 26 —

As the law is presently written the Commission is prohibited from establishing only maximum prices. In *Safeway Stores, Inc. v. Milk Commission* (197 Va. 69, 87 S.E. 2d 769 (1955)) the court ruled: “The only power granted is to fix minimum and maximum prices.” The use of the word “and” connecting the words “minimum” and “maximum” points to the conclusion that it was the intention of the legislature that “and” should have its ordinary, literal conjunctive meaning.

— INQUIRY NUMBER 27 —

The October 8th statement of the Milk Commission states that a prevailing market price of \$0.71 per half-gallon when the producer is being paid \$9.03 per cwt provides a reasonable rate of return for the processors. With the \$0.06 retail increase on the half-gallon and the \$1.20 increase on the cwt of raw milk, will the processors receive the same reasonable rate of return as before or will their profit margins be increased?

— RESPONSE TO INQUIRY NUMBER 27 —

As shown by Schedule E, the processors' share of the consumer dollar decreased on all sales that qualified for discounts greater than 5% as a result of the price increase that became effective on November 1, 1973. In the 13% discount category the reduction was 36/100 of a cent; in the 12% discount category the reduction was 30/100 of a cent; in the 10% discount category the reduction was 19/100 of a cent; in the 7% discount category the reduction was 03/100 of a cent; in the 5% discount category the processor realized a gain of 09/100 of a cent; and in the -0-% discount category the gain amounted to 36/100 of a cent.

Wholesale sales now represent approximately 87% of all Class I sales in Virginia and the average wholesale discount is between 8 and 9%. Only 10-11% of all Class I sales by processors are made at retail where no discount would apply. I believe it is safe to assume that the processors total margin did not improve when the market price increased from 71¢ to 77¢ and the producer price increased \$1.20 per hundredweight on November 1, 1973.

— INQUIRY NUMBER 28 —

Please advise as to the number of producers in Virginia in 1942, 1952, 1962 and 1972 and the total amount produced in each year. If the data is available, please furnish the total dollar value of the milk produced.

— RESPONSE TO INQUIRY NUMBER 28 —

Milk Commission records are not available to provide the information requested for 1942 and 1952. The requested information for 1962 and 1972 is shown below:

	¹		²
	<u>No. of Producers</u>	<u>Production Pounds</u>	<u>Value of Production</u>
January-December 1962	1,311	597,445,552	\$ 32,427,615.63
January-December 1972	1,458	1,131,043,820	72,831,963.92

¹ Average number of producers for the calendar year.

² Dollar value is an amount computed from production and market utilization using annual average Class I and Class II prices.

— INQUIRY NUMBER 29 —

Please advise as to the number of processors of milk operating in Virginia in 1942, 1952, 1962 and 1972. If the number is not too large, furnish the name and address of each and the quantity and/or percentage of Virginia milk production processed by each. What percentage of Virginia milk production is processed by producer co-op? What percentage of Virginia milk production is processed by chain store processing plants?

— RESPONSE TO INQUIRY NUMBER 29 —

Please refer to Schedule F for the names and locations of processing plants licensed in Virginia by the Commission in 1952, 1962, and 1972. Commission records are not available for 1942. Schedule F also shows the percentage of Class I sales in Virginia of each of the plants.

In 1952 producer cooperatives processed 6.33% of the total sales in Virginia; in 1962 they processed 9.01% of Virginia Class I sales and in 1972 they processed 10.44% of total Virginia Class I sales.

In 1952 chain stores that owned their own processing facilities processed .34% of the total Class I sales in Virginia; in 1962 they processed 3.9% of the total Class I sales in Virginia; and in 1972 they processed 24.2% of the total Class I sales in Virginia.

SCHEDULE "A"
IN RESPONSE TO INQUIRY NO. 10

*PERCENTAGE OF CONSUMER DOLLAR SHARED BY PRODUCER,
DISTRIBUTOR AND RETAILER*

	<u>5% Discount</u>		<u>7% Disc</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Pe</u>
<i>SINGLE GALLON CONTAINER</i>				
Share to Retailer	\$ 0.077	5.0	\$ 0.107	
Share to Producer	0.880	57.5	0.880	
Share to Distributor	<u>0.573</u>	<u>37.5</u>	<u>0.543</u>	
Current minimum retail price	\$ 1.530	100.0	\$ 1.530	
<i>SINGLE HALF-GALLON CONTAINER</i>				
Share to Retailer	\$ 0.039	5.0	\$ 0.054	
Share to Producer	0.440	57.1	0.440	
Share to Distributor	<u>0.291</u>	<u>37.9</u>	<u>0.276</u>	
Current minimum retail price	\$ 0.770	100.0	\$ 0.770	
<i>SINGLE QUART CONTAINER</i>				
Share to Retailer	\$ 0.011	5.0	\$ 0.015	
Share to Producer	0.220	55.0	0.220	
Share to Distributor	<u>0.169</u>	<u>40.0</u>	<u>0.165</u>	
Current minimum retail price	\$ 0.400	100.0	\$ 0.400	

<u>ount</u> <u>centage</u>	<u>10% Discount</u>		<u>12% Discount</u>		<u>13% Discount</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>
7.0	\$ 0.153	10.0	\$ 0.184	12.0	\$ 0.199	13.0
57.5	0.880	57.5	0.880	57.5	0.880	57.5
<u>35.5</u>	<u>0.497</u>	<u>32.5</u>	<u>0.466</u>	<u>30.5</u>	<u>0.451</u>	<u>29.5</u>
100.0	\$ 1.530	100.0	\$ 1.530	100.0	\$ 1.530	100.0
7.0	\$ 0.077	10.0	\$ 0.092	12.0	\$ 0.100	13.0
57.1	0.440	57.1	0.440	57.1	0.440	57.1
<u>35.9</u>	<u>0.253</u>	<u> </u>	<u>0.238</u>	<u>30.9</u>	<u>0.230</u>	<u>29.9</u>
100.0	\$ 0.770	100.0	\$ 0.770	100.0	\$ 0.770	100.0
7.0	\$ 0.022	10.0	\$ 0.026	12.0	\$ 0.029	13.0
55.0	0.220	55.0	0.220	55.0	0.220	55.0
<u>38.0</u>	<u>0.158</u>	<u>35.0</u>	<u>0.154</u>	<u>33.0</u>	<u>0.151</u>	<u>32.0</u>
100.0	\$ 0.400	100.0	\$ 0.400	100.0	\$ 0.400	100.0

SCHEDULE "B"
 IN RESPONSE TO INQUIRIES NO. 12 AND 14

COMPARISON OF VIRGINIA; NORTH CAROLINA; WASHINGTON, D.C. AND BRISTOL
 PRODUCER AND RETAIL PRICES 1966—1973

	1966	1967
<i>EASTERN AND WESTERN VIRGINIA MARKETS</i>		
Average Prevailing Producer Price/Cwt.	\$ 6.480	
Average Cost-Raw Product/Half-Gallon	.279	.295
Average Out-of-Store Price/Half Gallon	.55-.57	.56-.58
Average Home Delivery Price/Half-Gallon	.56-.58	.58-.60
<i>STATE OF NORTH CAROLINA</i>		
Average Prevailing Producer Price/Cwt.	6.630	6.930
Average Cost-Raw Product/Half-Gallon	.285	.298
Average Out-of-Store Price/Half-Gallon	.55-.57	.58-.59
Average Home Delivery Price/Half-Gallon	.54-.57	.57-.59
<i>WASHINGTON, D. C. FEDERAL ORDER NO. 4</i>		
Average Prevailing Producer Price/Cwt.	6.070	6.540
Average Cost-Raw Product/Half-Gallon	.261	.281
Average Out-of-Store Price/Half-Gallon	.53	.51-.52
Average Cost-Raw Product/Half-Gallon	.60-.62	.64-.66
<i>BRISTOL, VIRGINIA, FEDERAL ORDER NO. 11</i>		
Average Prevailing Producer Price /Cwt.	5.950	6.590
Average Cost-Raw Product/Half-Gallon	.256	.283
Average Out-of-Store Price/Half-Gallon	.57-.58	.57-.58
Average Home Delivery Price/Half-Gallon	.58	.59

* Computed on 9 month period. Months of March, July and August 1968, not available

** Computed on 6 month period. Months available, January 1, 1973 through June 30, 1973

1968*	1969	1970	1971	1972	1973**
\$ 6.92	\$ 7.110	\$ 7.370	\$ 7.600	\$ 7.750	\$ 8.150
.298	.306	.317	.327	.333	.350
.55-.58	.57-.58	.59-.61	.61	.61-.64	.64-.71
.58-.59	.59-.61	.62-.64	.63-.66	.64-.67	.66-.69
6.890	7.360	7.420	7.680	7.700	8.330
.296	.316	.319	.330	.331	.358
.56-.60	.57-.65	.57-.65	.58-.67	.59-.66	.65-.70
.59-.60	.62-.65	.61-.65	.66-.67	.66-.67	.66-.72
6.890	7.210	7.480	7.660	7.860	8.340
.296	.310	.322	.329	.338	.359
.52-.53	.55-.56	.58-.62	.59-.63	.60-.65	.63-.72
.66-.68	.70-.71	.72-.74	.76-.79	.81	.83
6.750	6.880	7.120	7.250	7.380	7.870
.290	.296	.306	.312	.317	.338
	.60	.63	.63-.64	.63-.65	.65-.68
	.61	.65	.66	.67	.68

SCHEDULE "C"
 IN RESPONSE TO INQUIRY NO. 16

ANNUAL AVERAGE PRODUCER AND RETAIL PRICES FOR VIRGINIA VERS

	Annual Average Prevailing Producer Price		<u>January—June 1973</u>
	<u>\$ Per Cwt.</u>	<u>¢ Per 1/2Gal.</u>	
All Regulated States Except Virginia	7.85	.338	
Virginia (Eastern & Western Markets)	8.12	.349	
Virginia (Southwest Market)	7.87	.338	
All Regulated States Except Virginia	7.19	.309	
Virginia (Eastern & Western Markets)	7.75	.333	
Virginia (Southwest Market)	7.38	.317	
All Regulated States Except Virginia	7.07	.304	
Virginia (Eastern & Western Markets)	7.60	.327	
Virginia (Southwest Market)	7.25	.312	
All Regulated States Except Virginia	6.85	.295	
Virginia (Eastern & Western Markets)	7.37	.317	
Virginia (Southwest Market)	7.12	.306	

US THE AVERAGE PRICES FOR THE OTHER TWELVE CONTROLLED STATES

	Annual Out-of-Store Price per Half-Gallon		Annual Average Home-Delivered Price per Half-Gallon	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
	— Cents —	— Cents —	— Cents —	— Cents —
<hr/>	.644	.657	.684	.705
	.637	.664	.667	.667
	.648	.675	.680	.680
 <u>1972</u>				
	.608	.614	.644	.647
	.618	.628	.647	.649
	.630	.648	.667	.667
 <u>1971</u>				
	.603	.610	.636	.638
	.610	.610	.643	.643
	.630	.638	.660	.660
 <u>1970</u>				
	.588	.594	.620	.624
	.593	.599	.627	.627
	.625	.628	.645	.645

SCHEDULE "D"
 IN RESPONSE TO INQUIRY NO. 16

ANNUAL AVERAGE PRODUCER AND RETAIL PRICES FOR VIRGINIA

	Annual Average Prevailing Producer Price		<u>Janu</u>
	<u>\$ Per Cwt.</u>	<u>¢ Per 1/2Gal.</u>	
Average of Uncontrolled States	7.67	.330	
Virginia (Eastern & Western Markets)	8.15	.350	
Virginia (Southwest Market)	7.87	.338	
Average of Uncontrolled States	7.24	.311	
Virginia (Eastern & Western Markets)	7.75	.333	
Virginia (Southwest Market)	7.38	.317	
Average of Uncontrolled States	7.10	.305	
Virginia (Eastern & Western Markets)	7.60	.327	
Virginia (Southwest Market)	7.25	.312	
Average of Uncontrolled States	6.92	.298	
Virginia (Eastern & Western Markets)	7.37	.317	
Virginia (Southwest Market)	7.12	.306	

VERSUS THE AVERAGE PRICES FOR THE NON-CONTROLLED STATES

	Annual Out-of-Store Price per Half-Gallon		Annual Average Home-Delivered Price per Half-Gallon	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
	— Cents —		— Cents —	
<u>ary—June 1973</u>				
	.602	.633	.683	.697
	.637	.664	.667	.667
	.648	.675	.680	.680
 <u>1972</u>				
	.576	.605	.655	.669
	.616	.628	.649	.651
	.633	.648	.667	.667
 1971				
	.572	.598	.646	.659
	.610	.610	.643	.643
	.630	.638	.660	.660
 <u>1970</u>				
	.566	.590	.629	.640
	.593	.599	.627	.627
	.625	.628	.645	.645

SCHEDULE "E"

In Response To Inquiry No. 27

AMOUNT OF GROSS RETURN TO PROCESSORS AS THE RESULT OF THE PRI

	<u>Market Price</u> <u>Half-Gallon</u> —Cents—	<u>Amount of</u> <u>Discount</u> —Cents—	<u>Gross Amount</u> <u>To Processor</u> <u>After Discount</u> —Cents—
SALES AT 13% DISCOUNT			
Prevailing Price Before Nov. 1	71.0	9.23	61.77
Minimum Price Effective Nov. 1	77.0	10.01	66.99
Increase (Decrease) Return to Processor Following Nov. 1 Price Change			
SALES AT 12% DISCOUNT			
Prevailing Price Before Nov. 1	71.0	8.52	62.48
Minimum Price Effective Nov. 1	77.0	9.24	67.76
Increase (Decrease) Return to Processor Following Nov. 1 Price Change			
SALES AT 10% DISCOUNT			
Prevailing Price Before Nov. 1	71.0	7.10	63.90
Minimum Price Effective Nov. 1	77.0	7.70	69.30
Increase (Decrease) Return to Processor Following Nov. 1 Price Change			
SALES AT 7% DISCOUNT			
Prevailing Price Before Nov. 1	71.0	4.97	66.03
Minimum Price Effective Nov. 1	77.0	5.39	71.61
Increase (Decrease) Return to Processor Following Nov. 1 Price Change			
SALES AT 5% DISCOUNT			
Prevailing Price Before Nov. 1	71.0	3.55	67.45
Minimum Price Effective Nov. 1	77.0	3.85	73.15
Increase (Decrease) Return to Processor Following Nov. 1 Price Change			
SALES AT 0% DISCOUNT			
Prevailing Price Before Nov. 1	71.0	-0-	71.00
Minimum Price Effective Nov. 1	77.0	-0-	77.00
Increase (Decrease) Return to Processor Following Nov. 1 Price Change			

¹ Producer Price Under Old Prevailing Price — \$9.03

¹ Producer Price Under Current Minimum Price — \$10.23

² 8% Commission Paid to Driver-Salesmen on Net Sales i.e. List Price Less Discount

CE CHANGE ON NOVEMBER 1, 1973 ON THE HALF-GALLON, CONTAINERS

Less ¹ Raw Product Cost <u> </u> —Cents—	Gross Amount To Processor After Raw Product Cost and Discount <u> </u> —Cents—	Drivers Commission ² <u> </u> —Cents—	Gross Return To Processor After Discount, Raw Product Cost & Drivers Comm. <u> </u> —Cents—
38.83	22.94	4.94	18.00
43.99	23.00	5.36	17.64
			(.36)
38.83	23.65	5.00	18.65
43.99	23.77	5.42	18.35
			(.30)
38.83	25.07	5.11	19.96
43.99	25.31	5.54	19.77
			(.19)
38.83	27.20	5.28	21.92
43.99	27.62	5.73	21.89
			(.03)
38.83	28.62	5.40	23.22
43.99	29.16	5.85	23.31
			.09
38.83	32.17	5.68	26.49
43.99	33.01	6.16	26.85
			.36

SCHEDULE "F"
 IN RESPONSE TO INQUIRY NO. 29

VIRGINIA PROCESSING PLANTS AND PERCENTAGE SHARE OF MARKET SALES

Name and Location of Virginia Processing Plants Licensed by State Milk Commission	Percentage Share of Total Sales in Va.		
	Mkts.-Month of Jan.		
	1952	1962	1972
Augusta Dairy, Staunton, Va.	.99	1.36	1.00
Ashton Dairy, Petersburg, Va.	-0-	.02	-0-
Birtherd Dairy, Norfolk, Va.	5.45	7.70	1.29
Blue Ribbon Creamery, South Boston, Va.	.23	.72	.60
Beatrice Foods/Clover Creamery, Radford, Va.	-0-	-0-	4.83
Breakstone Foods/Sealtest, Norfolk, Va.	-0-	.11	-0-
Bunker Hill Dairy, Kilmarnock, Va.	.18	.37	-0-
Boaz Dairy Products, Martinsville, Va.	.63	-0-	-0-
Birdneck (Oakland), Newport News, Va.	.43	-0-	-0-
Beatrice Foods/Clover Creamery, Roanoke, Va.	7.01	8.74	-0-
Bennetts Creek, Portsmouth, Va.	.41	-0-	-0-
Coca-Cola Bottling Co., Clifton Forge, Va.	.93	.95	-0-
Colony Farms, Newport News, Va.	.92	1.36	-0-
Campbells Dairy, Norfolk, Va.	.47	-0-	-0-
Cumberland Farms, Chesapeake, Va.	.22	.09	-0-
Curles Neck Dairy, Richmond, Va.	3.35	5.10	2.56
Clover Leaf Dairy, Richmond, Va.	1.86	-0-	-0-
Clinch Haven, Big Stone Gap, Va.	.43	-0-	.84
Danville Dairy, Danville, Va.	1.53	1.44	-0-
Diamond Farms, Norfolk-Portsmouth, Va.	.30	-0-	-0-
Early Dawn Co-op., Waynesboro, Va.	1.41	1.75	-0-
Economy Stores, Norfolk, Va.	-0-	1.70	3.42
Fairmont Farms, Bluefield, Va.	-0-	-0-	.90
Faultless Dairy, Danville, Va.	.06	-0-	-0-
Farmville Creamery, Farmville, Va.	.56	-0-	-0-
Farmers Creamery, Fredericksburg, Va.	4.21	3.35	.70
French Bros., Woodstock, Va.	-0-	-0-	.02
Farris Bros., Dublin, Va.	.94	-0-	-0-
Farmbest, Inc., Bristol, Va.	-0-	-0-	3.64
Greenleaf Dairy, Colonial Heights, Va.	1.06	1.47	1.33
Garst Brothers Dairy/Pet, Roanoke, Va.	4.61	4.90	-0-
Greenfield Dairy, Suffolk, Va.	.47	-0-	-0-
Hottle Fisher, Front Royal, Va.	.27	-0-	-0-
Hampton Heights Dairy, Hampton, Va.	.38	.63	.87
Haldeman Creamery, Inc., Winchester, Va.	.57	-0-	-0-
Imperial, Southwest Va.	1.35	-0-	-0-
Laurel Spring, Marion, Va.	.26	.66	-0-
Lynchburg-Westover Dairy, Lynchburg, Va.	2.30	4.38	2.70
Lakeside, Chesapeake, Va.	.73	-0-	-0-
McClenny Dairy, Norfolk, Va.	.62	-0-	-0-
Monticello Dairy, Charlottesville, Va.	-0-	5.29	4.28
Moore's, Norfolk-Portsmouth, Va.	.04	-0-	-0-
Marva Maid Dairy, Newport News, Va.	-0-	-0-	4.49
Martinsville Creamery, Martinsville, Va.	.54	-0-	-0-
Mallory, Hampton, Va.	.27	-0-	-0-
Maars, Norfolk-Portsmouth, Va.	.12	-0-	-0-
Martons, Norfolk-Portsmouth, Va.	.28	-0-	-0-
Marshall, W. B., Chesapeake, Va.	-0-	.03	-0-
Millers Dairy, Norfolk, Va.	1.05	.81	.85
Nuckols, E. S., Lexington, Va.	.25	-0-	-0-
Norfolk Avenue Dairy, Lynchburg, Va.	.24	-0-	-0-

Name and Location of Virginia Processing Plants Licensed by State Milk Commission	Percentage Share of Total Sales in Va. Mkts.-Month of Jan.		
	1952	1962	1972
Ozmont's Dairy, Norfolk-Portsmouth, Va.	.13	-0-	-0-
Pet, Roanoke, Va.	-0-	-0-	8.01
Pet, Portsmouth, Va.	-0-	-0-	3.90
Pet, Big Stone Gap, Va.	3.79	-0-	3.03
Pleasant Walk Dairy, Williamsburg, Va.	.26	-0-	-0-
Pinemont, Bristol, Va.	1.28	-0-	-0-
Peninsula Dairy, Newport News, Va.	3.31	-0-	-0-
Pine Grove, Portsmouth, Va.	2.13	4.98	-0-
Pooles-Ellerslie, Petersburg, Va.	.66	-0-	-0-
Quality Dairy, Lynchburg, Va.	1.12	-0-	-0-
Quality Dairy, Colonial Heights, Va.	.35	.56	-0-
Riverside Dairy, Chesapeake, Va.	-0-	-0-	.05
Regis Milk Company, Norfolk, Va.	-0-	-0-	.08
Roundtree Dairy, Suffolk, Va.	.32	.51	-0-
Richmond Food Stores, Richmond, Va.	-0-	-0-	9.40
Roanoke Dairy & Ice Cream, Roanoke, Va.	.90	.30	-0-
Ringgold Dairy, Ringgold, Va.	.42	-0-	-0-
Royal Dairy, Inc., Front Royal, Va.	.59	.74	-0-
Richmoor Dairy, Galax, Va.	.49	-0-	-0-
Rockbridge Creamery, Lexington, Va.	.57	-0-	-0-
Rosedale, Norfolk, Va.	2.90	-0-	-0-
Richmond Dairy/Foremost Dairy, Richmond, Va.	10.99	6.07	-0-
Southside Dairy, Brunswick-Mecklenburg, Va.	.37	-0-	-0-
Southern Dairies, Inc., Richmond, Va.	1.04	5.11	-0-
Seldens Dairy, Hampton, Va.	.60	.52	-0-
Shumadine Dairy, Norfolk, Va.	.29	.72	1.52
Salem Creamery, Salem, Va.	.22	-0-	-0-
Shanklin Dairy, Smyth-Wythe, Va.	.24	-0-	-0-
Southern Maid, Bristol, Va.	2.72	-0-	-0-
Salyers Dairy, Southwest Va.	.05	-0-	-0-
Staunton Creamery, Staunton, Va.	.87	-0-	-0-
Sanitary Dairy, Winchester, Va.	.96	.94	-0-
Sealtest Foods, Norfolk, Va.	-0-	8.4	8.21
Sealtest Foods, Roanoke, Va.	-0-	-0-	8.42
Shenandoah's Pride, Winchester, Va.	-0-	-0-	1.51
Valley of Va. Co-op., Harrisonburg, Va.	2.29	3.35	2.04
Virginia Dairy, Richmond, Va.	7.20	7.13	2.34
Warwick Farms, Newport News, Va.	.76	1.43	-0-
Westmoreland Dairy, Chesapeake, Va.	.20	.30	-0-
Wood's, Hopewell, Va.	.59	-0-	-0-
Wood's, Petersburg, Va.	.96	1.11	-0-
Winchester Creamery, Winchester, Va.	-0-	.48	-0-
Yoder Dairy, Norfolk, Va.	<u>1.53</u>	<u>1.40</u>	<u>.77</u>
Total number of licensed Virginia processing plants	75	41	30

EXHIBIT NO. 1
IN RESPONSE TO INQUIRY NO. 16

DIGEST OF
MILK LAWS AND REGULATIONS
OF MILK AGENCIES

OF

THE 50 STATES
IN THE
UNITED STATES

Prepared By
NORMAN MALONE ASSOCIATES, INC.
Akron, Ohio

March, 1971

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FOREWORD

During the past quarter-century, important changes have occurred in the nation's milk industry. Several factors — mechanization of processing operations, new developments in refrigeration, improvements in milking and farm storage facilities, a modern highway system and trucks that speed transportation, dealer growth and consolidations that permit increased efficiencies, the evolution of the old neighborhood store into convenient centralized shopping areas, and almost universal use of the personal auto — have combined to bring this transformation.

Just as the milk industry itself has changed, so have the government regulations that affect it. During the 1930s, the emphasis was on state regulation with 26 states then enacting legislation to control milk prices. Authority was given to a milk control board or commission, or to a single official in some states, to place controls on milk prices all the way from the farm to the consumer's table. However, the trend away from state regulation in the post-1930s has been such that today state-wide controls over consumer milk prices are exercised by only 10 states.

While this decline in rigid price control has been taking place, the Federal government has continually widened the scope of national regulations since the passage of the Agricultural Adjustment Act of 1933. These Federal regulations are aimed primarily at protecting the dairy farmer by setting reasonable minimum prices which dealers must pay to producers for their milk. However, the producer minimums also have a price stabilizing effect on the entire dairy industry.

Within the past decade, the role of the national government in producer milk pricing, through its Federal Milk Marketing Orders, has been extended widely. There are now a total of 62 Federal Orders in effect. While this is 21 fewer than in 1960, the decrease has been due to consolidations and the coverage of the Federal Orders has significantly increased. For instance, in 1969, 78 percent of all fluid grade milk and 56 percent of all milk produced in the nation was marketed under the terms of these 62 Orders. About 144,210 farmers received over \$3.5-billion for over 61 billion pounds of milk. In 1960, only 64 percent of fluid grade milk and 43 percent of all milk was marketed under the then 83 Federal Orders. There were more farmers in 1960, about 189,576, but they earned less, approximately \$2-billion total, and marketed less milk, 44.8 billion pounds.¹

Over and above these Federal Market Pricing Orders, the government controls surplus dairy products. Approximately \$327.4-million was spent by the U. S. Department of Agriculture to remove surplus dairy products from the market during the fiscal year ending June 30, 1969.²

On the state level, since 1959 a total of nine states have terminated some measure of price-fixing powers, all nine of them eliminating controls over consumer milk prices. Five other states have enacted new milk control legislation since 1959. One sought to impose consumer and wholesale price-fixing, but that has not been implemented due to court litigation, and one re-enacted authority for controls at all levels after its courts rejected a previous law. Also since 1959, one state began exercising authority over consumer milk prices, which it had previously been granted but had not used.

If we look back prior to 1959, terminations of controls are even more numerous. Ten states then ended all controls — Delaware, Indiana, Maryland, Michigan, Ohio, South Dakota, Texas, Utah, Washington and Wisconsin. One state terminated consumer controls — New York. Washington later re-enacted and again terminated controls. South Dakota has now reimposed wholesale price controls only.

The termination of milk price controls has outnumbered their enactment, and this decline can be interpreted as a definite trend away from state milk price regulations.

There are 18 states still exercising milk price controls at various levels.

Four states fix only farmer prices — Hawaii, Massachusetts, New York and North Carolina.

Two states fix only wholesale prices — North Dakota and South Dakota.

One state sets both farmer and wholesale prices, but not consumer — Wyoming.

Three states exercise state-wide controls over both consumer and farmer prices — Alabama, California and Vermont.

Seven states exercise state-wide controls over consumer prices, as well as setting farmer and wholesale prices — Louisiana, Maine, Montana, Nevada, New Jersey, Pennsylvania and South Carolina.

One state — Virginia — also has consumer, wholesale and farmer price controls, but does not exercise its powers in four populous counties in the Washington, D.C. area.

Although Nebraska enacted a milk price control law in late 1969, it has not been implemented because of an injunction pending a decision on constitutionality by the Lancaster District Court.

From 1959-1970, nine states terminated all or part of their milk price controls. Eight of these states ended all price-fixing — Mississippi (1970), Florida (1969), Georgia (1967), New Hampshire (1967), Washington (1962), Oregon (1962), Rhode Island (1962), and Connecticut (1959). One state terminated consumer controls, but still controls farmer prices in areas not covered by Federal Milk Marketing Orders — Massachusetts (1960). A State Supreme Court ruling found milk controls unconstitutional in Georgia. The other eight states' terminations came as legislatures either abolished controls or refused to extend them, or as milk control agencies decided there was no need to continue fixing prices.

Three of these states — Connecticut, Massachusetts and Rhode Island — have retained the authority to impose retail price controls if unusual or chaotic conditions should arise in their milk industry, but they are not exercising this power. Oregon still has the authority to control producer prices, but has not done so due to the protection farmers enjoy under Federal Milk Marketing Orders in the state.

One state imposed new consumer price controls during the 1960s — Louisiana. It now fixes prices at all levels — consumer, wholesale and farmer. However, there was no new legislation in Louisiana to implement controls, as it began to use previously granted authority which it had chosen not to exercise earlier.

South Carolina passed new legislation in 1968 to control consumer, wholesale and farmer milk prices, but price-fixing was not new to the state, beginning in 1966. The law was enacted to permanently continue controls when temporary legislation expired. The temporary legislation was initiated in 1966 after the state courts rejected provisions of a 1955 law under which the South Carolina Dairy Commission had attempted to institute price controls. The courts said the 1955 law was illegal in giving the Commission the authority to declare an emergency in the state's milk industry. Legislation since 1966 has included a declaration by the legislature that an emergency exists in the state milk industry, and this approach has not been tested in the courts.

One other state has attempted to impose controls — Nebraska. Legislation passed in late 1969 called for both consumer and wholesale milk price controls

in Nebraska. The Nebraska Dairy Products Advisory Board did begin functioning to establish marketing areas and set minimum consumer and wholesale prices. However, constitutionality of the milk control law has been challenged, and implementation of controls enjoined, pending outcome of litigation in Lancaster District Court.

Three other states — South Dakota, Hawaii and North Dakota — have implemented a degree of price-fixing during the period. In 1966 South Dakota began fixing wholesale prices only. Hawaii imposed controls over producer prices only in 1967.

North Dakota established its Milk Stabilization Board in 1969. It sets the wholesale price but does not fix the minimum retail prices. Instead North Dakota protects against unfair market and trade practices by requiring at least a 10 percent retail markup over the set wholesale price.

Alaska has provided standby powers to fix prices if unfair competitive practices should develop in the state, but has never had to exercise this authority.

Noteworthy along with legislation to remove or impose controls are two instances where the public had the opportunity to vote on milk controls in their states.

In 1967 the Arkansas Legislature passed an Act to establish the Arkansas Dairy Commission. The Commission was to have had the power to fix milk prices at the producer, wholesale and retail levels. However, a referendum petition circulated by a group of businessmen and consumers was successful in getting the Act on the ballot in the November 5, 1968, election. Milk price controls were overwhelmingly rejected by the Arkansas voters, 330,898, to 118,481, and the Act was thereby repealed.

In Georgia, after the State Supreme Court had found milk price-fixing unconstitutional in 1967, proponents of price controls got a proposed constitutional amendment on the ballot in 1968. It would have legalized reinstating the Milk Control Board and its price control powers. However, Georgia voters rejected the amendment by over 20,000 votes.

Eighteen states that have no milk price control authority have enacted other measures that have a price stabilizing effect on the milk industry without unduly restricting free enterprise competition. They have done so by either passing laws against unfair trade practices in the dairy industry, or "Fair Trade" laws that apply to the dairy industry and others.

Thirteen states without milk price-fixing laws have adopted legislation prohibiting certain unfair trade practices in the dairy industry — Arizona, Colorado, Idaho, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Oklahoma, Tennessee, Utah, Washington and Wisconsin. The laws specifically prohibit below-cost sales in Kentucky, Mississippi, Oklahoma, Tennessee and Wisconsin. Price discrimination is specifically prohibited by the laws of Arizona, Idaho, Iowa, Minnesota, Mississippi, Missouri, Tennessee and Wisconsin. The laws of both Iowa and Washington specifically prohibit price-fixing agreements among dealers or retailers. All of these laws tend to keep milk prices at reasonable and realistic levels.

Five states, which have neither milk price-fixing controls nor laws against unfair dairy trade practices, do have "Fair Trade" laws which generally affect all industries and businesses in these states — Delaware, Illinois, Maryland, New Hampshire and Ohio. Legislation of this type normally controls the sale of products below cost, price discrimination, discounts or rebates, and other unfair trade practices.

This report summarizes the existing state milk laws and the price-fixing practices under those laws. It lists recent legislative proposals and other developments pertaining to milk industry regulations in states with and

without these laws. It provides information on how states without price-fixing powers are dealing with trade practices in the dairy industry. Much of the data is presented in chart form for quick and easy reference.

Footnotes:

¹ Figures on Federal Milk Marketing Orders obtained from FEDERAL MARKET ORDER STATISTICS, 1969 SUMMARY, published by the U. S. Department of Agriculture.

² Expenditure by U. S. Department of Agriculture for surplus dairy products obtained from DAIRY SITUATION, March 1970 issue, published by the USDA.

Table I. DIGEST OF STATE MILK CONTROL LAWS - STATES WHERE PRICES NOW FIXED AT ANY LEVEL

<u>State & Agency</u>	<u>Extent of Powers</u>	<u>Fair Trade Regulations</u>	<u>Source of Funds For Administration</u>
Alabama* Milk Control Board	Board sets farmer and consumer prices, establishes milksheds.	Act prohibits collusion to circumvent controls, giving of prizes or conducting lottery with milk sales.	License fees and fines
California* Director of Agriculture	Sets farmer and consumer prices, establishes marketing areas.	Act prohibits below-cost sales, secret rebates, unearned discounts, gifts, price discrimination.	Assessments on distributors, 2 to 4 mills per pound butter-fat, depending on milk class.
Hawaii* Division of Milk Control, Department of Agriculture	Division sets minimum price paid to farmers.	Act authorizes issuing of regulations to prevent unfair trade practices.	License fees
Louisiana* Milk Commission and Agriculture Department	Commission sets wholesale and consumer prices, establishes marketing areas. Department of Agriculture sets farmer prices.	Act prohibits unearned discounts, loans, gifts, price discrimination.	Assess 1¢ per hundredweight of producers' milk and distributors' milk sales

Maine* Milk Commission	Commission sets farmer, wholesale and consumer prices, establishes market areas.	Act prohibits secret discounts and rebates, gifts.	Annual \$1 license fees, and monthly assessments on dealers of 4½ cents per hundredweight
Massachusetts* Milk Control Commission	Sets farmers price and establishes market areas, has authority to set consumer price under emergency conditions, but not doing so.	Below-cost sales, price discrimination, secret rebates, unearned discounts, gifts prohibited.	License fees and assessments on dealers.
Montana* Milk Control Board	Board sets farmer, wholesale and consumer prices, establishes marketing areas.	Secret rebates, unearned discounts, gifts, price discrimination prohibited.	Total assessments of 7.5 cents per hundredweight of fluid milk.
Nevada* Dairy Commission	Sets farmer, wholesale and consumer prices, establishes marketing areas.	Extended credit terms, use of trading stamps, or premiums, gifts prohibited.	Assessments on a butterfat or gallonage basis on dairy products.

New Jersey* Division of Dairy Industry, Department of Agriculture	Sets farmer, wholesale and consumer prices, establishes marketing areas. In pending case, State Supreme Court to decide if Division's price- fixing powers should be ended	Act authorizes regulations by Division to prevent unfair trade practices; secret agreements to abrogate effect of controls prohibited.	License fees.
New York* State Division of Milk Control	Sets farmer prices, establishes marketing areas.	Below-cost sales, price-fixing agreements prohibited.	License fees paid by dealers
North Carolina* Milk Commission	Sets farmer prices, establishes marketing areas. Commission has power to control consumer prices if chaotic conditions, such as price wars, disrupt the market, but has never had to exercise this power.	Prohibited are below-cost sales, secret rebates and unearned discounts, gifts, extended credit terms, use of trading stamps.	Maximum assessment of 2 cents per hundredweight.
North Dakota* Milk Stabilization Board	Sets minimum prices at wholesale, establishes marketing areas.	Requires 10% retail markup, prohibits secret rebates, unearned discounts, gifts.	Assessment on processors of 5 cents per hundredweight
Pennsylvania* Milk Marketing Board	Sets farmer, wholesale and consumer prices, establishes marketing areas. Legislation now pending that would end retail and wholesale controls, substitute below-cost sales prohibition.	Prohibits secret rebates, Board authorized to issue orders that maintain reasonable trade practices.	License fees, fines and penalties, and general fund of Commonwealth Treasury

South Carolina* Dairy Commission	Sets prices at farmer, wholesale and consumer levels, establishes marketing areas.	Secret rebates, unearned discounts, gifts, retail price discrimination between brands prohibited.	Assessments on dealers of 1 cent per hundredweight of milk handled.
South Dakota* Dairy Products Marketing Commission	Sets price at wholesale level only, establishes marketing areas.	Prohibits below-cost sales, low margin sales to injure competitors, secret rebates, loans, gifts, extended credit terms, price discrimination.	Assessments of up to 2 cents per hundredweight on processors.
Vermont* Milk Control Board	Board sets farmer and consumer prices, establishes marketing areas.	Act prohibits secret rebates, unearned discounts, gifts.	License fees and 1½-cent per hundredweight assessment on both producer and dealer.
Virginia* Milk Commission	Sets farmer, wholesale and consumer prices, establishes marketing areas.	Prohibited are below-cost sales, extended credit terms, secret rebates, unearned discounts.	Assessments on producers and distributors totaling 5 cents per hundredweight on all milk, cream.
Wyoming* Milk Control Board	Regulates minimum farmer and wholesale prices, establishes marketing areas.	Act prohibits below-cost sales, secret refunds or discounts, price discrimination, gifts.	Charge of 2 mills per gross dollar to producers, dealers and distributors.

*-- (Copy of state law in Agency files)

Table II - PRICE-FIXING PRACTICES OF STATE MILK CONTROL AGENCIES

STATE	Fix		Set Mkt. Price Diff.	No. Use Classes	Observes	Fix		Fix		Set Resale Mkt. Price Diff.
	Farmer Min.	Prices Max.			Class I Price	Seasonal Variation	Consumer Min.	Prices Max.	Whsl. Min.	
Alabama	Yes	No	Yes	3	No	Yes	Yes	Yes	Yes	Yes
California	Yes	No	Yes	4	No	Yes	No	Yes	No	Yes
Hawaii	Yes	No	Yes	2	No	1/No	No	No	No	---
Louisiana	2/Yes	No	No	2	Yes	Yes	No	Yes	No	Yes
Maine	Yes	No	Yes	2	Yes	Yes	No	Yes	No	Yes
Mass.	Yes	No	Yes	2	Yes	3/No	No	No	No	---
Montana	Yes	No	Yes	3	No	Yes	No	Yes	No	Yes
Nevada	Yes	No	Yes	3	No	Yes	No	Yes	No	Yes
5/New Jersey	Yes	No	Yes	3	Yes	Yes	No	Yes	No	Yes
New York	Yes	No	Yes	5	No	1/No	No	No	No	---
N. Carolina	Yes	No	Yes	4	No	3/No	No	No	No	---
N. Dakota	4/No	No	---	-	---	No	No	Yes	No	Yes
Pa.	Yes	No	Yes	3 to 4	Yes	6/Yes	No	Yes	No	Yes
S. Carolina	Yes	No	Yes	4	No	Yes	No	Yes	No	Yes
S. Dakota	4/No	No	---	-	---	8/No	No	Yes	No	Yes
Vermont	Yes	No	Yes	2	Yes	Yes	No	Yes	No	Yes
7/Virginia	Yes	No	Yes	3	No	Yes	Yes	Yes	Yes	Yes
Wyoming	Yes	No	Yes	2	No	8/No	No	Yes	No	Yes

1/ State not authorized to fix consumer or wholesale prices.

2/ Farmer price fixed by State Department of Agriculture, others by Milk Commission.

3/ State authorized to fix consumer and wholesale prices if chaotic conditions should occur in milk industry.

4/ State not authorized to fix farmer price.

5/ New Jersey Supreme Court, in pending case, to decide if price-fixing still necessary in state.

6/ Authorized to fix both minimums and maximums, but only minimums in effect.

7/ Virginia price controls do not apply in Arlington, Alexandria, Fairfax and Prince William counties adjacent to Washington, D. C.

8/ State not authorized to fix specific consumer prices.

Table III DIGEST OF STATE MILK CONTROL LAWS - STATES NOT EXERCISING AUTHORIZED PRICE-FIXING POWERS

<u>State & Agency</u>	<u>Extent of Powers</u>	<u>Fair Trade Regulations</u>	<u>Source of Funds For Administration</u>
Alaska* Milk Control Advisory Board and Director of Division of Agriculture	On petition of at least 10% of farmers, the Director, on advice by the Board, may issue orders to eliminate unfair competitive practices in any area. This includes the power to fix prices at reasonable levels. Any such order must be approved by at least 67% of the farmers in the affected area.	Act authorizes issuing of orders to prevent unfair competitive practices.	Legislative appropriation
Connecticut* Commissioner of Agriculture	Commissioner has power to issue cease and desist orders to prohibit unfair trade practices. This includes power to restore prices to what had been the normal prevailing prices. Pricing orders are effective for only 90 days.	Prohibits secret rebates, unearned discounts, unfair methods of competition, price discrimination.	License fees, legislative appropriation
Oregon* Milk Stabilization Division, Department of Agriculture	Division has authority to set farmer prices, establish marketing areas. However, it has not exercised its powers, allowing farmer prices and areas to be set by Federal Orders.	Producers can make complaints about unfair practices; Act protects them from retaliation by dealers	Assessment on processors of up to 3/4-cent per hundredweight of Grade A milk handled

Rhode Island*
Emergency Milk Control
Board

If petitioned by 51% of either producers or dealers or 250 consumers, or if directed by Director of Agriculture or Director of Health, Board is to hold hearing to determine if emergency exists in the milk industry. If it decides an emergency does exist (this finding can be vetoed by the governor), Board can set minimum marketing margins to be charged by dealers at wholesale and retail levels. Price orders are in effect for one year, cannot be renewed until at least six months after termination.

If milk emergency is declared, Board can issue regulations needed to carry out its powers.

Assessments on
dealers, legislative
appropriation

*-- (Copy of state law in Agency files)

Table IV. LAWS AFFECTING MILK INDUSTRY IN STATES WITHOUT PRICE-FIXING POWERS

STATE	Prohibits Unfair Trade Practices	Specifically Prohibits Price Discrimination	Specifically Prohibits Below-Cost Sales	Specifically Prohibits Secret Discounts, Rebates, Etc.	Specifically Prohibits Giving Fixtures, Equipment	Specifically Prohibits Price-Fixing Agreements	Has Valid "Fair Trade" Law **
Arizona	x	x	-	-	-	-	x
Colorado	x	-	-	-	-	-	-
Delaware	-	-	-	-	-	-	x
Idaho	x	x	-	x	x	-	-
Illinois	-	-	-	-	-	-	x
Iowa	x	x	-	-	-	x	-
Kentucky	x	-	x	x	-	-	-
Maryland	-	-	-	-	-	-	x
Minnesota	x	x	-	-	-	-	-
Mississippi	x	x	x	x	-	-	-
Missouri	x	x	-	-	x	-	-
New Hampshire	-	-	-	-	-	-	x
Ohio	-	-	-	-	-	-	x
Oklahoma	x	-	x	x	x	-	-
Tennessee	x	x	x	x	x	-	x
Utah	x	-	-	-	x	-	x
Washington	x	-	-	-	-	x	-
Wisconsin	x	x	x	x	x	-	x

** -- (Information on "Fair Trade" laws obtained from DRUG TOPICS Magazine research staff, November 1970. Eight states with various authority under Milk Control laws pertaining to pricing-- California, Connecticut, Massachusetts, New Jersey, New York, North Carolina, South Dakota and Virginia--also have valid "Fair Trade" laws. All other data on chart derived from state laws affecting the dairy industry only.)

NOTE: Laws affecting the dairy industry in nine states--Arkansas, Florida, Georgia, Indiana, Kansas, Michigan, New Mexico, Texas and West Virginia--deal only with milk quality standards and sanitary regulations for the producing, processing and distributing of milk and milk products.

*LEGISLATIVE PROPOSALS AND OTHER ACTION IN
STATES WITH MILK CONTROL LAWS*

- Alabama — A Bill to abolish the Milk Control Board was introduced in the House during the 1970 session of the Legislature.
- The executive secretary of the Milk Control Board, James T. Walker, resigned in September 1970, saying that "milk has become a political football in Alabama."
- Late in 1969 several hundred independent grocers threatened to take the Milk Control Board to court over its rebate regulations. The grocers were complaining because allowed rebates were higher, percentage-wise, for grocery chains purchasing larger quantities of milk.
- Louisiana — State District Court ruled in 1969 that the Milk Commission must set a dock price as part of its wholesale price controls. While this ruling specifically involved the New Orleans area, it set a precedent for the rest of the state, too. The suit was brought by Sealtest Foods.
- Maine — Two Bills were introduced in the 1969 session of the Legislature to abolish retail price controls. Amendments were offered to both Bills which would have eliminated all price-fixing in the state.
- In the summer of 1969 the Milk Commission dropped its experiment of setting a separate retail price for vertically integrated dairy store operations. Price had been set four cents lower per half-gallon than the minimum in other retail stores. Grocery chains had complained and refused to obey the differential, and were actually selling at the same price set for the dairy stores.
- New Jersey — Legality of milk price controls is now before the State Supreme Court after appeals by two jug milk firms, Garden State Farms and Cumberland Farms, against a proposed 1969 pricing order of the State Division of Dairy Industry (DDI).
- Garden State Farms and Cumberland Farms charged that the pricing order would discriminate against the jug milk stores, and was aimed at putting them out of business by setting the same minimum price for store-bought and home-delivered milk. Previous Supreme Court decisions have stated that minimum prices must be based on actual costs, and the plaintiffs assert that home delivery has long been established as much more costly than sales through stores.
- The authority of the DDI is also being challenged on the basis that the emergency under which the powers were granted during the depression years has long since ended. Additionally, it is charged that state price-fixing has been pre-empted by Federal controls over milk prices.

In a per curiam memorandum the high court has said that it is "unable to identify the price evil which minimum price regulation is intended to prevent or how the regulation of prices achieves that end." The case was remanded to the DDI for further hearings on whether or not price controls are necessary. Evidence from these hearings will be considered by the Supreme Court in reaching its final verdict.

North Carolina — Late in 1969 the Milk Commission began considering whether it should withdraw its dairy trade practices order concerning transactions by milk processors. The Consumer Protection Division of the State Attorney General's office had complained that the order was "keeping the retail price of milk artificially high" even though the Commission does not fix retail prices.

In 1968 a three-judge Federal Court panel upheld the 1953 law establishing the Commission. Southeast Milk Sales, Inc., had argued that the law was a burden on interstate commerce.

Pennsylvania — Governor-elect Milton J. Shapp consistently rapped high consumer milk prices during the 1970 election campaign. Until the last two weeks, he was pledging to abolish the Milk Marketing Board. Then he modified his stand somewhat, saying that he wanted to revise the Board so that it would be more responsive to consumer interests.

Legislation was introduced in the House and Senate during the 1970 session of the Legislature which would have abolished the power of the Milk Marketing Board to fix prices at the retail and wholesale levels, substituting a prohibition against below-cost sales to prevent unfair trade practices. The Board's authority over producer prices would have been continued. Similar legislation is being introduced in the 1971 session.

South Carolina — State Senator Gordon Garrett and nine colleagues have introduced legislation in the 1971 session to end the South Carolina Dairy Commission's authority to fix minimum milk prices.

Virginia — Milk Commission in 1969 hired Case and Company, New York City, to make a study on the effect of current price-fixing policies in the state. Cost was not to exceed \$10,000.

Sources: Issues of DAIRY RECORD magazine, 1968-70, and miscellaneous newspaper clippings and other material in research files.

*LEGISLATIVE PROPOSALS AND OTHER ACTION IN STATES
WITHOUT MILK CONTROL LAWS*

- Georgia — Judiciary Committee of the State House of Representatives, working in 1970 on proposals for new state constitution, refused to include a provision authorizing establishment of milk price controls. The Committee vote against the provision was 11 to 3.
- Kentucky — In 1969 the State Court of Appeals, in a 5 to 1 decision, upheld the law which established the Kentucky Milk Marketing and Anti-Monopoly Commission. The Commission, which does not fix prices, is empowered to combat unfair trade practices in the state's dairy industry.
- Wisconsin — An Act passed by the 1970 Legislature now makes violations of regulations pertaining to unfair trade practices in the dairy industry a civil instead of a criminal offense. Penalties for violations were unchanged.

Sources: Issues of DAIRY RECORD Magazine, 1968-70.

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EXHIBIT NO. 2
IN RESPONSE TO INQUIRY NO. 23

SCHEDULES OF REVENUES AND EXPENSES 1968—1973
AND
SCHEDULE OF CLASSIFIED POSITIONS 1968—1973

JOB CLASSIFICATION AND NUMBER OF EMPLOYEES AS OF
JULY 1, OF EACH FISCAL YEAR

<u>MILK COMMISSION</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>
Administrator	1	1	1	1	1	1
Executive Officer	1	1	0	1	1	1
Assistant Executive Officer	1	1	1	1	1	1
Audit Supervisor	1	1	1	1	1	1
Milk Commission Auditor	3	3	5	6	5	5
** Milk Commission Assistant Auditor	0	0	3	3	3	2
Milk Commission Inspector	3	2	0	0	0	0
* Dairy Inspector	0	0	1	1	1	1
Accountant B	1	1	1	1	1	1
Accountant A	1	1	1	1	1	1
Confidential Secretary	1	1	1	1	1	1
Clerk Stenographer C	1	1	1	1	1	1
Clerk Stenographer B	0	1	1	1	0	1
Clerk Typist B	1	1	1	1	1	1
Sub-Total	15	15	18	20	18	18
<u>LOCAL MILK BOARDS</u>						
Chairman Local Boards	5	5	4	3	3	3
Local Milk Board Secretary	4	3	3	2	2	2
Milk Commission Inspector	1	1	0	0	0	0
Clerk Stenographer C	2	2	3	1	1	1
Clerk Stenographer B	1	1	0	0	0	0
Sub-Total	13	12	10	6	6	6
Grand Total	28	27	28	26	24	24

* Position Milk Commission Dairy Inspector established as of July 1, 1969.

** Positions Milk Commission Auditor Assistants established as of July 16, 1969

STATE MILK COMMISSION
SCHEDULE OF REVENUES
FISCAL YEAR ENDED JUNE 30, 1968

	<u>Commission</u>	<u>Local Boards</u>	<u>Grand Total</u>
Cash Balance June 30, 1967	\$ 132,070.22	\$ 46,181.76	\$ 178,251.98
Revenue July 1, 1967 — June 30, 1968	<u>251,884.00</u>	<u>80,186.45</u>	<u>332,070.45</u>
Total	\$ 383,954.22	\$ 126,368.21	\$ 510,322.43
* Less Expenditures July 1, 1967 — June 30, 1968	<u>\$ 232,193.35</u>	<u>\$ 83,454.79</u>	<u>\$ 315,648.14</u>
Balance	\$ 151,760.87	\$ 42,913.42	\$ 194,674.29
Less transfer to General Fund by the Comptroller during the month of January 1968. "Legal Ser- vices by Department of Law."	<u>\$ 8,500.00</u>	<u>—</u>	<u>\$ 8,500.00</u>
Net Cash Balance June 30, 1968	<u>\$ 143,260.87</u>	<u>\$ 42,913.42</u>	<u>\$ 186,174.29</u>

REVENUE DERIVED FROM SALE OF SURPLUS PROPERTY

Cash Balance June 30, 1967	\$ 162.25
Revenue — July 1, 1967 — June 30, 1968	<u>84.00</u>
Total	\$ 246.25
Less Expenditures July 1, 1967 — June 30, 1968	<u>\$ 192.25</u>
Net Cash Balance June 30, 1968	
Surplus Property Disposal Fund (305-885)	<u>\$ 54.00</u>

Milk Commission assessment rate levied for year ending June 30, 1968, varied from .0125 to .0175 cents per pound on both processors and producers.

Local Milk Board assessment rate levied for year ending June 30, 1968, varied from .0025 to .0100 cents per pound on both processors and producers.

STATE MILK COMMISSION
SCHEDULE OF EXPENSES
FISCAL YEAR ENDED JUNE 30, 1968

<u>OBJECT OF EXPENSE</u>	<u>COMMISSION</u>	<u>LOCAL BOARDS</u>	<u>GRAND TOTAL</u>
<u>PERSONAL SERVICES</u>			
Salaries	\$ 115,560.24	\$ 56,617.04	\$ 172,177.28
Special Payments	<u>6,060.00</u>	<u>4,720.84</u>	<u>10,780.84</u>
Total	\$ 121,620.24	\$ 61,337.88	\$ 182,958.12
<u>CONTRACTUAL SERVICES</u>			
General Repairs	\$ 38.85	\$ 193.43	\$ 232.28
Maintenance Service Contracts	719.94	235.86	955.80
Motor Vehicle Repairs	—	—	—
Light, Heat, Power, & Water	—	2.00	2.00
Travel	27,296.53	2,940.06	30,236.59
Transportation	—	15.00	15.00
Communication	4,456.88	2,784.68	7,241.56
Printing	1,357.80	—	1,357.80
Other	<u>51,568.54</u>	<u>1,357.78</u>	<u>52,926.32</u>
Total	\$ 85,438.54	\$ 7,528.81	\$ 92,967.35
<u>SUPPLIES</u>			
Office Supplies	\$ 1,278.50	\$ 743.19	\$ 2,021.69
Medical and Laboratory Supplies	84.21	—	84.21
Building and Maintenance Supplies	—	—	—
Other	—	—	—
Total	\$ 1,362.71	\$ 743.19	\$ 2,105.90
<u>EQUIPMENT—REPLACEMENT</u>			
Office Equipment	\$ 2,040.50	\$ 694.30	\$ 2,734.80
<u>CURRENT CHARGES & OBLIGATIONS</u>			
Rent	\$ 10,368.00	\$ 6,000.95	\$ 16,368.95
Insurance — Fire	20.00	67.00	87.00
Insurance — Workman's Comp.	164.00	42.20	206.20
Insurance — Surety	35.00	279.00	314.00
Insurance — Other	123.00	43.00	166.00
Dues and Subscriptions	<u>273.65</u>	<u>21.00</u>	<u>294.65</u>
Total	\$ 10,983.65	\$ 6,453.15	\$ 17,436.80
<u>PENSION AND RETIREMENT ALLOWANCES</u>			
Federal Old-Age Insurance	\$ 4,099.41	\$ 2,460.73	\$ 6,560.14
Retirement Insurance	3,777.16	1,393.53	5,170.69
Group Insurance	<u>326.52</u>	<u>132.00</u>	<u>458.52</u>
Total	\$ 8,203.09	\$ 3,986.26	\$ 12,189.35
<u>EQUIPMENT — ADDITIONAL</u>			
Office Equipment	\$ 2,736.87	\$ 2,711.20	\$ 5,448.07
Total Expenses	<u>\$ 232,385.60</u>	<u>\$ 83,454.79</u>	<u>\$ 315,840.39</u>

NOTE: This statement does not include the \$8,500.00 expense for legal services. This expense is deducted from current revenues and transferred to the General Fund on January 1, of each fiscal year.

STATE MILK COMMISSION
SCHEDULE OF REVENUES
FISCAL YEAR ENDED JUNE 30, 1969

	<u>Commission</u>	<u>Local Boards</u>	<u>Grand Total</u>
Cash Balance June 30, 1968	\$ 143,260.87	\$ 42,913.42	\$ 186,174.29
Revenue July 1, 1968 — June 30, 1969	<u>262,466.57</u>	<u>83,839.38</u>	<u>346,305.95</u>
Total	\$ 405,727.44	\$ 126,752.80	\$ 532,480.24
Less Expenditures July 1, 1968—June 30, 1969	\$ <u>213,545.21</u>	\$ <u>74,833.80</u>	\$ <u>288,379.01</u>
Balance	\$ 192,182.23	\$ 51,919.00	\$ 244,101.23
Less transfer to General Fund by the Comptroller during the month of January 1968. "Legal Services by Department of Law."	\$ <u>10,000.00</u>	—	\$ <u>10,000.00</u>
Net Cash Balance June 30, 1969	\$ <u>182,182.23</u>	\$ <u>51,919.00</u>	\$ <u>234,101.23</u>

REVENUE DERIVED FROM SALE OF SURPLUS PROPERTY

Cash Balance June 30, 1968	\$ 54.00
Revenue July 1, 1968 — June 30, 1969	<u>—</u>
Total	\$ 54.00

In accordance with the provisions of Section 49, Chapter 806 of the Acts of Assembly of 1968, the following amount was transferred as of April 24, 1969 to the Surplus of the General Fund.

305-88S Surplus Property Disposal Fund	\$ <u>54.00</u>
Balance	None

Milk Commission assessment rate levied for year ending June 30, 1969, was .0175 cents per pound on both processors and producers.

Local Milk Board assessment rate levied for year ending June 30, 1969, varied from .005 to .0075 cents per pound on both processors and producers.

STATE MILK COMMISSION
SCHEDULE OF EXPENSES
FISCAL YEAR ENDED JUNE 30, 1969

<u>OBJECT OF EXPENSE</u>	<u>COMMISSION</u>	<u>LOCAL BOARDS</u>	<u>GRAND TOTAL</u>
<u>PERSONAL SERVICES</u>			
Salaries	\$ 124,516.91	\$ 49,236.41	\$ 173,753.32
Special Payments	5,070.00	4,060.00	9,130.00
Total	\$ 129,586.91	\$ 53,296.41	\$ 182,883.32
<u>CONTRACTUAL SERVICES</u>			
General Repairs	\$ 276.05	\$ 135.35	\$ 411.40
Maintenance Service Contracts	(34.14)	—	(34.14)
Professional Service (Other)	11,725.81	—	11,725.81
Motor Vehicle Repairs	—	—	—
Light, Heat, Power and Water	—	—	—
Travel	28,618.97	4,056.16	32,675.13
Convention and Education Travel	1,613.05	—	1,613.05
Transportation	—	49.50	49.50
Communication	6,100.03	2,909.62	9,009.65
Printing	1,506.06	—	1,506.06
Other	3,544.69	451.86	3,996.55
Total	\$ 53,350.52	\$ 7,602.49	\$ 60,953.01
<u>SUPPLIES</u>			
Office Supplies	\$ 2,423.82	\$ 500.68	\$ 2,924.50
Medical and Laboratory Supplies	57.95	—	57.95
Building and Maintenance Supplies	14.94	20.83	35.77
Other	—	—	—
Total	\$ 2,496.71	\$ 521.51	\$ 3,018.22
<u>EQUIPMENT — REPLACEMENT</u>			
Office Equipment	\$ 7,189.67	\$ 1,257.36	\$ 8,447.03
<u>CURRENT CHARGES & OBLIGATIONS</u>			
Rent-(Land & Structures)	\$ 10,438.00	\$ 6,972.50	\$ 17,410.50
Rent-(Business Equipment)	914.20	1,147.91	2,062.11
Insurance — Fire	161.00	60.20	221.20
Insurance — Workman's Comp.	—	27.00	27.00
Insurance — Surety	25.00	117.00	142.00
Insurance — Other	123.00	43.00	166.00
Dues and Subscriptions	247.60	12.00	259.60
Total	\$ 11,908.80	\$ 8,379.61	\$ 20,288.41
<u>PENSION AND RETIREMENT ALLOWANCES</u>			
Federal Old-Age Insurance	\$ 4,863.32	\$ 2,325.48	\$ 7,188.80
Retirement Insurance	\$ 3,785.44	\$ 1,317.02	\$ 5,102.46
Group Insurance	363.84	133.92	497.76
Total	\$ 9,012.60	\$ 3,776.42	\$ 12,789.02
TOTAL EXPENSES	\$ 213,545.21	\$ 74,833.80	\$ 288,379.01

NOTE: This statement does not include the \$10,000.00 expense for legal services. This expense is deducted from current revenues and transferred to the General Fund on January 1, of each fiscal year.

STATE MILK COMMISSION
 SCHEDULE OF REVENUES
 FISCAL YEAR ENDED JUNE 30, 1970

	Commission	Local Boards	Grand Total
Cash Balance June 30, 1969	\$ 182,182.23	\$ 51,919.00	\$ 234,101.23
Revenue July 1, 1969 — June 30, 1970	237,369.92	45,757.07	283,126.99
Total	\$ 419,552.15	\$ 97,676.07	\$ 517,228.22
Less Expenditures July 1, 1969 — June 30, 1970	\$ 240,231.36	\$ 64,032.78	\$ 304,264.14
Balance	\$ 179,320.79	\$ 33,643.29	\$ 212,964.08
Less transfer to General Fund by the Comptroller on January 1 of each year to cover expense of "Legal Services by Department of Law."	\$ <u>10,000.00</u>	—	\$ <u>10,000.00</u>
Net Cash Balance June 30, 1970	\$ <u>169,320.79</u>	\$ <u>33,643.29</u>	\$ <u>202,964.08</u>

Milk Commission assessment levied for year ending June 30, 1970, varied from .0175 to .02 cents per pound on both processors and producers.

Local Milk Board assessment rate levied for year ending June 30, 1970, varied from .0025 to .0075 cents per pound on both processors and producers.

STATE MILK COMMISSION
SCHEDULE OF EXPENSES
FISCAL YEAR ENDED JUNE 30, 1970

<u>OBJECT OF EXPENSE</u>	<u>COMMISSION</u>	<u>LOCAL BOARDS</u>	<u>GRAND TOTAL</u>
<u>PERSONAL SERVICES</u>			
Salaries	\$ 142,361.91	\$ 43,779.07	\$ 186,140.98
Special Payments	<u>5,070.00</u>	<u>2,893.60</u>	<u>7,963.60</u>
Total	\$ 147,431.91	\$ 46,672.67	\$ 194,104.58
<u>CONTRACTUAL SERVICES</u>			
General Repairs	\$ 523.57	\$ 237.45	\$ 761.02
Professional Services	12,780.70	—	12,780.70
Travel	38,657.96	2,735.54	41,393.50
Convention and Educational Travel	2,449.89	—	2,449.89
Communication	6,618.77	1,885.74	8,504.51
Printing	1,740.86	—	1,740.86
Other	<u>2,219.42</u>	<u>54.76</u>	<u>2,274.18</u>
Total	\$ 64,991.17	\$ 4,913.49	\$ 69,904.66
<u>SUPPLIES</u>			
Office Supplies	\$ 3,593.69	\$ 281.33	\$ 3,875.02
Medical and Laboratory Supplies	<u>207.14</u>	<u>—</u>	<u>207.14</u>
Total	\$ 3,800.83	\$ 281.33	\$ 4,082.16
<u>EQUIPMENT-REPLACEMENT</u>			
Office Equipment	<u>\$ 1,515.87</u>	<u>\$ —</u>	<u>\$ 1,515.87</u>
<u>CURRENT CHARGES & OBLIGATIONS</u>			
Rent-(Land & Structures)	\$ 10,431.00	\$ 7,156.00	\$ 17,587.00
Rent-(Equipment)	929.58	1,306.46	2,236.04
Insurance — Fire	20.00	25.00	45.00
Insurance — Workman's Comp.	175.00	28.00	203.00
Insurance — Surety	25.00	117.00	142.00
Insurance — Other	123.00	—	123.00
Dues and Subscriptions	<u>286.35</u>	<u>4.00</u>	<u>290.35</u>
Total	\$ 11,989.93	\$ 8,636.46	\$ 20,626.39
<u>PENSION AND RETIREMENT ALLOWANCES</u>			
Federal Old-Age Insurance	\$ 5,887.96	\$ 2,219.30	\$ 8,107.26
Retirement Insurance	4,216.65	1,193.09	5,409.74
Group Insurance	<u>397.04</u>	<u>116.44</u>	<u>513.48</u>
Total	\$ 10,501.65	\$ 3,528.83	\$ 14,030.48
Total Expenses	<u>\$ 240,231.36</u>	<u>\$ 64,032.78</u>	<u>\$ 304,264.14</u>

NOTE: This statement does not include the \$10,000.00 expense for legal services. This expense is deducted from current revenues and transferred to the General Fund on January 1, of each fiscal year.

STATE MILK COMMISSION
 SCHEDULE OF REVENUES
FISCAL YEAR ENDED JUNE 30, 1971

	<u>Commission</u>	<u>Local Boards</u>	<u>Grand Total</u>
Cash Balance June 30, 1970	\$ 169,320.79	\$ 33,643.29	\$ 202,964.08
Revenue-July 1, 1970 — June 30, 1971	<u>269,779.82</u>	<u>34,462.75</u>	<u>304,242.57</u>
Total	\$ 439,100.61	\$ 68,106.04	\$ 507,206.65
Less expenditures July 1, 1970-June 30, 1971	<u>\$ 295,120.34</u>	<u>\$ 39,859.13</u>	<u>\$ 334,979.47</u>
Balance	\$ 143,980.27	\$ 28,246.91	\$ 172,227.18
Less transfer to General Fund by the Comptroller on January 1 of each year to cover expense of "Legal Services by Department of Law."	<u>\$ 10,000.00</u>	<u>—</u>	<u>\$ 10,000.00</u>
Net Cash Balance June 30, 1971	<u>\$ 133,980.27</u>	<u>\$ 28,246.91</u>	<u>\$ 162,227.18</u>

Milk Commission assessment rate levied for year ending June 30, 1971, was .02 cents per pound on processors and producers.

Local Milk Board assessment rate levied for year ending June 30, 1971, varied from .0025 to .004 cents per pound on processors and producers.

STATE MILK COMMISSION
SCHEDULE OF EXPENSES
FISCAL YEAR ENDED JUNE 30, 1971

<u>OBJECT OF EXPENSE</u>	<u>COMMISSION</u>	<u>LOCAL BOARDS</u>	<u>GRAND TOTAL</u>
<u>PERSONAL SERVICES</u>			
Salaries	\$ 171,253.23	\$ 28,198.84	\$ 199,452.07
Special Payments	6,180.00	1,450.00	7,630.00
Total	\$ 177,433.23	\$ 29,648.84	\$ 207,082.07
<u>CONTRACTUAL SERVICES</u>			
General Repairs	\$ 622.52	\$ 165.00	\$ 787.52
Professional Services	26,756.14	—	26,756.14
Travel	44,678.43	1,546.44	46,224.87
Convention and Educational Travel	8,459.86	175.88	8,635.74
Communication	5,527.06	1,138.52	6,665.58
Printing	1,422.20	—	1,422.20
Other	1,794.75	11.39	1,806.14
Total	\$ 89,260.96	\$ 3,037.23	\$ 92,298.19
<u>SUPPLIES</u>			
Office Supplies	\$ 1,357.79	\$ 150.23	\$ 1,508.02
Medical and Laboratory Supplies	64.95	—	64.95
Maintenance Supplies	12.10	—	12.10
Other	2.50	—	2.50
Total	\$ 1,437.34	\$ 150.23	\$ 1,587.57
<u>EQUIPMENT-REPLACEMENT</u>			
Office Equipment	\$ 664.45	\$ —	\$ 664.45
<u>CURRENT CHARGES & OBLIGATIONS</u>			
Rent-(Land & Structures)	\$ 12,056.00	\$ 3,996.00	\$ 16,052.00
Rent-(Equipment)	1,005.20	747.60	1,752.80
Insurance — Fire	37.00	25.00	62.00
Insurance — Workman's Comp.	161.00	28.00	189.00
Insurance — Surety	25.00	124.00	149.00
Insurance — Other	462.00	—	462.00
Dues and Subscriptions	299.15	—	299.15
Total	\$ 14,045.35	\$ 4,920.60	\$ 18,965.95
<u>PENSION AND RETIREMENT ALLOWANCES</u>			
Federal Old-Age Insurance	\$ 7,121.00	\$ 1,397.80	\$ 8,518.80
Employee Retirement Contribution	4,709.06	630.42	5,339.48
Group Insurance	448.95	74.01	522.96
Total	\$ 12,279.01	\$ 2,102.23	\$ 14,381.24
Total Expenses	\$ 295,120.34	\$ 39,859.13	\$ 334,979.47

NOTE: This statement does not include the \$10,000.00 expense for legal services.
This expense is deducted from the cash balance and transferred to the General Fund on January 1, of each fiscal year.

STATE MILK COMMISSION
 SCHEDULE OF REVENUES
FISCAL YEAR ENDED JUNE 30, 1972

	<u>Commission</u>	<u>Local Boards</u>	<u>Grand Total</u>
Cash Balance June 30, 1971	\$ 133,980.27	\$ 28,246.91	\$ 162,227.18
Revenue-July 1, 1971- June 30, 1972	<u>283,790.70</u>	<u>38,981.03</u>	<u>322,771.73</u>
Total	\$ 417,770.97	\$ 67,227.94	\$ 484,998.91
Less expenditures July 1, 1971-June 30, 1972	<u>\$ 260,439.99</u>	<u>\$ 41,218.24</u>	<u>\$ 301,658.23</u>
Balance	\$ 157,330.98	\$ 26,009.70	\$ 183,340.68
Less transfer to General Fund by the Comptroller on January 1 of each year to cover expense of "Legal Services by Department of Law."	<u>\$ 10,000.00</u>	<u>—</u>	<u>\$ 10,000.00</u>
Net Cash Balance June 30, 1972	<u>\$ 147,330.98</u>	<u>\$ 26,009.70</u>	<u>\$ 173,340.68</u>

Milk Commission assessment rate levied for year ending June 30, 1972, was .02 cents per pound on processors and producers.

Local Milk Board assessment rate levied for year ending June 30, 1972, varied from .00175 to .0025 cents per pound on processors and producers.

STATE MILK COMMISSION
SCHEDULE OF EXPENSES
FISCAL YEAR ENDED JUNE 30, 1972

<u>OBJECT OF EXPENSE</u>	<u>COMMISSION</u>	<u>LOCAL BOARDS</u>	<u>GRAND TOTAL</u>
<u>PERSONAL SERVICES</u>			
Salaries	\$ 168,536.39	\$ 28,542.00	\$ 197,078.39
Special Payments	5,114.65	1,200.00	6,314.65
Total	\$ 173,651.04	\$ 29,742.00	\$ 203,393.04
<u>CONTRACTURAL SERVICES</u>			
General Repairs	\$ 513.24	\$ 33.50	\$ 546.74
Professional Services	—	—	—
Travel	42,662.74	2,005.75	44,668.49
Convention and Educational Travel	5,611.71	171.05	5,782.76
Communications	4,154.11	1,411.59	5,565.70
Printing	149.50	—	149.50
Agency Service Contracts	26.20	—	26.20
Other	738.71	—	738.71
Total	\$ 53,856.21	\$ 3,621.89	\$ 57,478.10
<u>SUPPLIES</u>			
Office Supplies	\$ 2,647.64	\$ 86.67	\$ 2,734.31
Medical and Laboratory Supplies	30.75	—	30.75
Maintenance Supplies	12.61	—	12.61
Total	\$ 2,691.00	\$ 86.67	\$ 2,777.67
<u>EDUCATIONAL COMPENSATION</u>			
Educational Expense	\$ 30.00	\$ —	\$ 30.00
<u>EQUIPMENT-REPLACEMENT</u>			
Office Equipment	\$ 4,610.93	\$ 851.45	\$ 5,462.38
<u>CURRENT CHARGES & OBLIGATIONS</u>			
Rent-(Land & Structures)	\$ 11,364.75	\$ 3,996.00	\$ 15,360.75
Rent-(Equipment)	986.70	606.37	1,593.07
Insurance — Fire	25.00	25.00	50.00
Insurance — Workman's Compensation	193.00	29.00	222.00
Insurance — Surety	25.00	128.00	153.00
Insurance — Other	(99.00)	—	(99.00)
Dues and Subscriptions	343.40	104.90	448.30
Total	\$ 12,838.85	\$ 4,889.27	\$ 17,728.12
<u>PENSION AND RETIREMENT ALLOWANCES</u>			
Federal Old-Age Insurance	\$ 7,054.00	\$ 1,363.84	\$ 8,417.84
Employee Retirement Contribution	5,275.00	600.00	5,875.00
Group Insurance	432.96	63.12	496.08
Total	\$ 12,761.96	\$ 2,026.96	\$ 14,788.92
Total Expenses	\$ 260,439.99	\$ 41,218.24	\$ 301,658.23

NOTE: This statement does not include the \$10,000.00 expense for legal services.
This expense is deducted from the cash balance and transferred to the
General Fund on January 1, of each fiscal year.

STATE MILK COMMISSION
 SCHEDULE OF REVENUES
FISCAL YEAR ENDED JUNE 30, 1973

	<u>Commission</u>	<u>Local Boards</u>	<u>Grand Total</u>
Cash Balance June 30, 1972	\$ 147,330.98	\$ 26,009.70	\$ 173,340.68
Revenue-July 1, 1972-June 30, 1973	<u>296,122.21</u>	<u>40,880.83</u>	<u>337,003.04</u>
Total	\$ 443,453.19	\$ 66,890.53	\$ 510,343.72
Less expenditures July 1, 1972-June 30, 1973	<u>\$ 263,350.97</u>	<u>\$ 13,215.86</u>	<u>\$ 306,566.83</u>
Balance	\$ 180,102.22	\$ 23,674.67	\$ 203,776.89
Less transfer to General Fund by the Comptroller on January 1 of each year to cover expense of "Legal Services by Department of Law."	<u>\$ 11,000.00</u>	<u>—</u>	<u>\$ 11,000.00</u>
Net Cash Balance June 30, 1973	<u>\$ 169,102.22</u>	<u>\$ 23,674.67</u>	<u>\$ 192,776.89</u>

Milk Commission assessment rate levied for year ending June 30, 1973, was .02 cents per pound on processors and producers.

Local Milk Board assessment rate levied for year ending June 30, 1973, varied from .00175 to .0025 cents per pound on processors and producers.

STATE MILK COMMISSION
SCHEDULE OF EXPENSES
FISCAL YEAR ENDED JUNE 30, 1973

<u>OBJECT OF EXPENSE</u>	<u>COMMISSION</u>	<u>LOCAL BOARDS</u>	<u>GRAND TOTAL</u>
<u>PERSONAL SERVICES</u>			
1110 Salaries	\$ 169,879.78	\$ 29,680.00	\$ 199,559.78
1130 Special Payments	4,800.00	1,175.00	5,975.00
Total	\$ 174,679.78	\$ 30,855.00	\$ 205,534.78
<u>CONTRACTUAL SERVICES</u>			
1210 General Repairs	\$ 310.22	\$ 106.50	\$ 416.72
1220 Motor Vehicle Repairs	223.50	—	223.50
1240 Travel	40,038.39	2,358.11	42,396.50
1241 Convention and Educational Travel	5,266.20	80.95	5,347.15
1260 Communication	6,647.54	1,282.11	7,929.65
1270 Printing	927.00	—	927.00
1281 Laundry	19.50	—	19.50
1299 Other	3,515.85	18.90	3,534.75
Total	\$ 56,948.20	\$ 3,846.57	\$ 60,794.77
<u>SUPPLIES</u>			
1340 Office Supplies	\$ 3,069.52	\$ 231.87	\$ 3,301.39
1350 Medical and Laboratory Supplies	80.70	—	80.70
1370 Maintenance Supplies	13.27	—	13.27
Total	\$ 3,163.49	\$ 231.87	\$ 3,395.36
<u>EQUIPMENT-REPLACEMENT</u>			
1510 Office Equipment	\$ 1,517.98	\$ 470.63	\$ 1,988.61
<u>CURRENT CHARGES & OBLIGATIONS</u>			
1730 Rent-(Land & Structures)	\$ 10,748.50	\$ 4,065.99	\$ 14,814.49
1731 Rent-(Equipment)	935.85	943.44	1,879.29
1741 Insurance — Fire	—	25.00	25.00
1742 Insurance — Workmen's Compensation	225.00	52.00	277.00
1743 Insurance — Surety	25.00	128.00	153.00
1749 Insurance — Other	124.00	—	124.00
1785 Dues and Subscriptions	398.00	111.60	509.60
Total	\$ 12,456.35	\$ 5,326.03	\$ 17,782.38
<u>PENSIONS AND RETIREMENT ALLOWANCES</u>			
1890 Federal Old-Age Insurance	\$ 7,990.57	\$ 1,537.44	\$ 9,528.01
1891 Employee Retirement Contributions	3,025.00	425.00	3,450.00
1892 Group Insurance	500.00	75.00	575.00
1893 Medical Hospitalization Benefits	3,069.60	448.32	3,517.92
Total	\$ 14,585.17	\$ 2,485.76	\$ 17,070.93
Total Expenses	\$ 263,350.97	\$ 43,215.86	\$ 306,566.83

NOTE: This statement does not include the \$11,000.00 expense for legal services.
This expense is deducted from the cash balance and transferred to the
General Fund on January 1, of each fiscal year.

APPENDIX VI

A BILL to amend and reenact §§ 3.1-426, 3.1-426.1, 3.1-437, 3.1-441 and 3.1-452, as severally amended, of the Code of Virginia; and to amend the Code of Virginia by adding a section numbered 3.1-437.1; and to repeal §§ 3.1-436, 3.1-454, 3.1-455, 3.1-456, 3.1-457 and 3.1-462 as severally amended, of the Code of Virginia, the amended, added and repealed sections relating to the Virginia Milk Commission.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-426, 3.1-426.1, 3.1-437, 3.1-441 and 3.1-452, as severally amended, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 3.1-437.1 as follows:

§ 3.1-426. Composition. — There is hereby continued the Milk Commission, consisting of an administrator and ~~four~~ *six* members, all of whom shall be appointed by the Governor, two of whom shall be producers of milk, and ~~three~~ *four including the administrator* shall be consumers but none of such ~~three~~ *four* latter members shall have any connection financially or otherwise with the production or distribution of milk or products derived therefrom. *The remaining member of the Commission shall be a milk processor-distributor. The administrator shall serve in an ex officio capacity without a vote.* Any vacancies occurring shall be filled by appointment by the Governor. One member of the Commission shall act as chairman, ~~as designated by the Governor who shall be elected annually by the membership of the Commission.~~ *The Governor shall annually appoint a new chairman from the membership of the Commission.* No member shall serve as chairman after he has so served ~~until each other member of the Commission has acted as chairman and as administrator and no chairman shall serve successive terms as chairman.~~ The administrator shall devote full time to the duties of his office, which shall be located in the principal office of the Commission. The technical and other services for such Commission shall be performed, so far as practicable, by forces and officers in the Department of Agriculture and Immigration, the Virginia Agricultural Extension Service of the Virginia Agricultural Experiment Station, without additional compensation. The Commission may appoint a secretary and any such additional technical and other assistants and employees as may be necessary to carry out the provisions of this article, and prescribe their powers and duties.

§ 3.1-426.1. Terms.—The administrator of the Commission shall hold office at the pleasure of the Governor for a term concurrent with the term of the Governor making the appointment or until a successor to that administrator is appointed by the next succeeding Governor. Of the remaining ~~four~~ *six* members of the Commission, ~~two~~ *three* shall be consumers and ~~neither~~ *none* of such ~~two~~ *three* members shall have any connection financially or otherwise with production or distribution of milk or products derived therefrom, *nor shall the administrator have any such connection; the remaining* ~~two~~ *two* members shall be producers *and the remaining member shall be a milk processor-distributor.* Initially one producer ~~and~~, one consumer *and the processor-distributor* shall be appointed to serve for a period of one year and may, thereafter, be appointed for not more than two terms of four years. The remaining producer and the remaining ~~consumer~~ *consumers* shall initially be appointed to serve for a period of three years and may, thereafter, be appointed for not more than two terms of four years. No member except the administrator and those initially appointed may serve for or during more than two terms of four years each; provided, however, any member appointed to fill an interim vacancy may be appointed for not more than two additional terms of four years each after the expiration of the term of the interim vacancy which that member filled.

§ 3.1-437. Fixing prices. — The Commission, after public hearing and investigation, may fix the prices to be paid producers or associations of producers by distributors in any market or markets, may fix the minimum and maximum wholesale and *maximum* retail prices to be charged for milk in any market, and may also fix different prices for different grades of milk. In determining the reasonableness of prices to be paid or charged in any market or markets for any grade, quantity, or class of milk, the Commission shall be guided by ~~the cost of all pertinent economic factors relevant to production and~~, *processing, and distribution of milk as they affect the public interest in maintaining an adequate supply of milk within Virginia*, including compliance with all sanitary regulations in force in such market or markets, necessary operation, processing, storage and delivery charges, the prices of other foods, and the welfare of the general public. *The Commission may adopt a formula incorporating these economic factors which will adjust automatically the prices to the paid producers or associations of producers by distributors in any market or markets, and then provide for the automatic adjustment of resale prices according to the result obtained by the use of this formula. Public hearings shall not be required for price adjustments obtained by use of a formula, but shall be held for adoption or amendment of the formula itself.*

§ 3.1-437.1. *The Commission shall have no authority to establish a minimum retail price for milk, except upon a determination after public hearing that the absence of a minimum retail price has caused or is about to cause a disruption in the Virginia milk market or some segment thereof which is likely to depress the producer price or has caused or is likely to cause a substantial reduction in competition between processor-distributors in an area, so as to adversely affect the public health and welfare which requires an adequate supply of milk at reasonable and fair prices. In accordance with the General Administrative Agencies Act, § 9-6.1 et. seq. of the Code of Virginia and in particular § 9-6.5 thereof, the Commission may establish minimum retail prices on an emergency basis, prior to public hearing.*

The Commission in establishing any minimum retail price when it deems it necessary to do so, shall impose a minimum retail price only for an area or political subdivision wherein the public interest as herein set forth justifies a minimum retail price being set and shall be guided by the same factors used in determining the reasonableness of prices under § 3.1-437. The Commission shall periodically review all outstanding minimum retail price orders to insure that they do not remain effective any longer than the public interest requires.

§ 3.1-441. Defining market areas ~~and milksheds~~. — The Commission may define what shall constitute a natural market area and define and fix the limits of the ~~milkshed~~ or territorial area within which milk shall be produced to supply any such market area; provided, that producers, producer-distributors, or their successors now shipping milk to any market may continue so to do until they voluntarily discontinue shipping to the designated milk market.

§ 3.1-452. Annual budget; monthly assessments. — The Commission shall prepare an annual budget and shall collect the sums of money required for this budget from the ~~local milk boards in the form of monthly assessments, and the local milk boards shall pay the assessments so levied~~ *distributors and producers in markets where the provisions of this article are in operation*. The assessments so levied shall not exceed two cents per hundred pounds of milk, or cream (converted to terms of milk) handled by distributors and two cents per hundred pounds of milk, or cream (converted to terms of milk) sold by producers in each market in which the provisions of this article are in operation.

2. That §§ 3.1-436, 3.1-454, 3.1-455, 3.1-456, 3.1-457 and 3.1-462, as severally amended, of the Code of Virginia are repealed.

APPENDIX VII

A BILL to amend the preamble to Chapter 357 of the Acts of Assembly of 1934, relating to the supervision, regulation and control of the milk and cream industry in the Commonwealth.

Be it enacted by the General Assembly of Virginia:

1. That the preamble to Chapter 357 of the Acts of Assembly of 1934 is amended and reenacted as follows:

Whereas, the production and distribution of milk and cream is an industry upon which, to a substantial degree, the prosperity and health of the people of the Commonwealth of Virginia depend; and the present economic emergency is in part the result of the disparity between the prices of milk and cream and other commodities, which disparity has diminished the power of milk producers to purchase industrial products, has broken down the orderly production and marketing of milk and cream, and has seriously impaired the agricultural assets supporting the credit structure of the Commonwealth and local political sub divisions thereof; and

Whereas, unhealthful, unfair, unjust, destructive and demoralizing economic trade practices have grown up, and are now carried on in the production, sale and distribution of milk, and milk and cream products in the Commonwealth, which impair the dairy industry in the Commonwealth, and the constant supply of pure wholesome milk to the inhabitants thereof, and constitute a menace to the health and welfare of the inhabitants of the Commonwealth; and

Whereas, in order to protect the well-being of the people of the Commonwealth of Virginia, and to promote the public welfare, public health and public peace, the production, transportation, processing, storage, distribution, and sale of milk and cream in the Commonwealth of Virginia, is hereby declared a business affecting the public peace, health and welfare, which should be supervised and controlled in the exercise of the police power of the Commonwealth in the manner hereinafter provided; now, therefore,

APPENDIX VIII
SENATE JOINT RESOLUTION NO.

Continuing the commission to study the Milk Commission.

Whereas, Senate Joint Resolution No. 81 of the 1973 Session of the General Assembly created a commission to investigate the structure, duties, operations and procedures of the Milk Commission to determine whether they are in keeping with the present economic and agricultural conditions and recommend any changes which should be made; and

Whereas, the report of the Study Commission recommends certain action the effect of which, if implemented, should be studied and evaluated and that continued existence of the Study Commission for this purpose would be beneficial to the General Assembly; and

Whereas, it may be necessary to make further recommendation to fully comply with the directives of Senate Joint Resolution No. 81 as passed by the 1973 Session of the General Assembly; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Milk Commission Study Commission created by Senate Joint Resolution No. 81 of the 1973 Session of the General Assembly be, and the same is hereby, continued until November one, nineteen hundred seventy-five so that the members of the Commission may observe the effects of their recommendations as implemented. The present officers and members of the Commission shall continue to serve and the Commission shall observe the effects of their recommendations and make any additional recommendations necessary to fully comply with the directives contained in Senate Joint Resolution No. 81 as passed by the 1973 Session of the General Assembly. The agencies directed to cooperate with the Commission shall continue to do so.

The balance of the funds previously appropriated to the Commission are hereby reappropriated for the purposes of this study.

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