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STATE OF MAINE
 ONE HUNDRED AND SIXTEENTH LEGISLATURE
 COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

HS 476

M 3593

1994

January 26, 1994

Judy A. Paradis, Senate Chair
 Robert J. Tardy, House Chair
 Joint Standing Committee on Agriculture
 State House Station #115
 Augusta, Maine 04333

Dear Senator Paradis and Representative Tardy:

Public Laws of 1993, chapter 413, section 5, called for six of the "commodity" agencies of State Government to "... conduct studies of their respective organizations that examine alternative models of organizing their functions in a way so as to maximize services to the populations each organization serves." That legislation went on to require each of the six agencies to report to the Joint Standing Committee on Appropriations and Financial Affairs "... no later than January 4, 1994, with their findings and recommendations, including any draft legislation." A copy of PL 1993, c. 413 is enclosed for your review.

On January 20, 1994, the Appropriations Committee met with the six commodity agencies to review their reports and discuss whatever legislation might be needed. At the conclusion of that meeting, a motion was made, and accepted, that the reports and any proposed legislation, be referred to your committee for its review and action. The Appropriations Committee members believe committee recommendations to the Second Regular Session of the 116th Legislature are more properly the responsibility of the Joint Standing Committee on Agriculture.

Enclosed for your review are the reports from the Maine Blueberry Commission, the Maine Potato Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council. In the near future two bills will be printed that would implement the recommendations in those reports requesting legislative changes to their current enabling legislation. The first bill will involve minor changes requested by the Maine Potato Board. The second bill will involve the changes requested by both the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council. It is our understanding the Maine Blueberry Commission is not seeking legislative changes at this time.

We will work to ensure that these bills are referred to your Committee. In the meantime, please contact us if you have any questions concerning this request or need additional information. Thank you for your attention to this matter.

Sincerely,



Michael D. Pearson
Senate Chair



Lorraine N. Chonko
House Chair

Enclosure

cc: Members, Joint Standing Committee on Agriculture
Members, Joint Standing Committee on Appropriations and Financial Affairs
Edward J. McLaughlin, Executive Director, Maine Blueberry Commission
David R. Lavway, Executive Director, Maine Potato Board
Grace Additon, Director, Maine Dairy Promotion Board & Dairy & Nutrition Council
Deb Friedman, OPLA ✓

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Maine Dairy & Nutrition Council

STATE HOUSE STATION 97, AUGUSTA, MAINE 04333-0097 TEL.: 207 287-3621 FAX: 207 287-7161

January 13, 1994

James Clair
Deputy Director
Office of Fiscal and Program Review
State House Station #115
Augusta, Me 04333-0115

Dear Mr. Clair,

In response to P.L. 1993, Chapter 413, the Maine Dairy Promotion Board and Maine Dairy & Nutrition Council submit a draft report concerning proposed organizational changes.

This report outlines the proposed changes, as recommended by the Board and Council members, to determine the most effective way to achieve the long range goals and objectives of each program.

For the record, this report will be reviewed and evaluated at the Joint Board/Council meeting on January 20, 1994. A final proposal will be sent to you following Board/Council approval.

If I can provide additional information, please don't hesitate to contact me.

Yours truly,

A handwritten signature in cursive script that reads "Grace R. Additon".

Grace R. Additon,
Director

GRA/alw

DRAFT

*Maine Dairy Promotion Board and
Maine Dairy & Nutrition Council's Report
Concerning
Organizational Changes in Response to
L.D. 122*
**AN ACT TO MAINTAIN
THE INTEGRITY OF
COMMODITY TAX ACCOUNTS**

December 22, 1993

*prepared by
Grace R. Additon
Program Director*

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**Maine Dairy Promotion Board and
Maine Dairy & Nutrition Council's
Report Concerning Organizational Changes
in response to
L.D. 122,
An Act to Maintain the Integrity of Commodity Tax Accounts.**

Introduction

Maine Dairy Promotion Board

The Maine Dairy Promotion Board (MDPB) was established “ to promote the prosperity and welfare of this State and of the dairy industry of the State by fostering promotional, education, advertising and research programs.” Title 7, c. 604, § 2993

The current MDPB has its genesis in the 1953 Maine Milk Tax Committee statutes. These have been amended periodically to increase funds in order to more adequately finance a strong promotional program for Maine-produced milk. Under the reorganization act passed by the 105th Legislature, the Maine Dairy Promotion Board became incorporated within the Department of Agriculture.

Maine Dairy & Nutrition Council

The Maine Dairy and Nutrition Council (MD&NC) represents a long-term investment in the State's dairy industry. "In order that the optimal health of the citizens of the State may be achieved more fully, the Maine Dairy and Nutrition Council shall provide guidance in nutrition and nutrition education based on the concept of a balanced diet, including milk and its products in accordance with scientific recommendations, and protect the interests of all the people of the State by strengthening and preserving the dairy industry." Title 7, c. 604-A, §2999.

Originally established in 1949 under the name of the Maine Milk Advisory Committee, the agency was supervised by the Maine Development Commission and renamed the Maine Dairy Council two years later. In 1969 it was incorporated within the Department of Agriculture and renamed the Maine Dairy and Nutrition Council in 1975.

Organization of Board/Council

Collectively known as the Maine Milk Program (MMP), the MDPB and the MD&NC are grassroots organizations. The Maine Dairy Promotion Board members consist of four dairy farmers and the Commissioner of Agriculture, Food and Rural Resources or his designee, and are appointed by the Commissioner.

The four producers include 2 producers selling milk on the Maine market and 2 producers selling on the Boston Federal Milk Marketing Order No.1. Producer members selling on the same market are not allowed to belong to the same cooperative or sell to the same dealer. Members may serve two consecutive four-year terms on a rotating basis.

The MD&NC consists of four dairy producers and one dealer representative. Appointments are also made by the Commissioner of Agriculture along marketing lines with two consecutive four-year term limits.

The ten-member Board/Council meets jointly at least bimonthly. Changes in policies and operating procedures are made by majority vote when ALL members of the Board and Council are present.

Dairy & Tobacco Adjustment Act of 1983

The Dairy and Tobacco Adjustment Act of 1983 created a national program for dairy product promotion, research, and nutrition education as part of a comprehensive strategy to reduce milk supplies and increase consumption of milk and dairy products. The Act directed the Secretary of Agriculture, United States Department of Agriculture (USDA), to establish the National Dairy Promotion and Research Board (NDB) to implement the program.

Designed to complement existing promotional programs, this self-help program is funded by a mandatory 15-cent assessment for every 100 pounds of milk produced and marketed by dairy farmers nationwide. The Act permits up to 10 cents of the mandatory 15 cent assessment to be used by local dairy product promotion, research or nutrition programs (Qualified Programs).

Maine Dairy Promotion Board and Maine Dairy & Nutrition Council enjoy qualified status under this federal order. Maine's qualified program is required by State statute to credit ten cents per hundredweight (cwt.) of the checkoff fee to the Maine Milk Program. Eight cents per hundredweight is used for promotional and advertising

activities; the remaining \$.02/cwt. supports the Maine Dairy and Nutrition Council's nutrition education efforts. Revenue generated for the Maine Milk Program funnels more than a half million dollars into the Maine economy.

Additionally, \$.015/cwt. is assessed on Maine milk dealers based on milk produced and sold on the Maine market for MD&NC activities. Of the total monies collected for nutrition education activities in Maine, approximately one-third or sixty thousand dollars (\$60,000.) comes from Maine processors.

The U.S. Department of Agriculture (USDA) has oversight responsibility for monitoring Qualified Programs. The objectives of this oversight are to insure that 1) all program funds are accounted for and are spent for activities authorized to increase consumption of milk and dairy products generally, 2) the program is administered in accordance with the Act, and 3) assets are safeguarded against fraud, waste and unauthorized use. A qualified program which fails to satisfy the certification standards is subject to termination.

Both MDPB and MD&NC were recently certified as Qualified Programs. Without recertification the total 15-cent per hundredweight assessment would go directly to the National Dairy Board.

United Dairy Industry Association™

MDPB is a member of the United Dairy Industry Association™ (UDIA), a federation of 18 state and regional promotion and dairy council groups throughout the country. UDIA is not a direct recipient of national checkoff funds. It extends its effectiveness through specific programming that is funded by its members who identify a need for

that programming. UDIA's current membership represents about 70 percent of the checkoff assessment.

The association provides a leadership role for the industry by coordinating programs and resources which will enhance the dairy farmers economic well-being. UDIA develops and implements programs to serve the needs of its member units. Such a shared approach offers efficiency of funds and program efficacy, in terms of practicality and appropriateness to the members. The director, MMP, represents Maine at UDIA's Member Management Group meetings.

To maximize the return on the total 15-cent checkoff, National Dairy Board and United Dairy Industry Association combine funding and coordination of projects to produce more effective and efficient management of producers' promotion dollars through larger, broad-based projects.

American Dairy Association®

American Dairy Association® (ADA) is the advertising and marketing service division of UDIA. ADA develops generic fluid milk commercials as part of its total product promotion for milk and dairy products. MDPB contracts the services of a local advertising agency for placement of in-state media campaigns and promotional programs designed to encourage the consumption of Maine milk and dairy products.

National Dairy Council®

The Maine Dairy and Nutrition Council (MD&NC) is an affiliate of National Dairy Council® (NDC), the non-profit educational and research entity of UDIA. NDC, whose mission is to contribute to the achievement of optimal health by providing leadership in nutrition research and nutrition education, is recognized as one of the most credible

organizations in nutrition education and research. An organization of this scope and purpose exerts a very significant influence through support of research to gain new knowledge in nutrition and through wide dissemination of nutrition information for the benefit of the American consumer.

MD&NC's nutrition education program is an extension of NDC's and focuses its nutrition efforts on three target groups: educators, health professionals, and consumers.

The basic tenet of Dairy Council's nutrition education program is that good nutrition is essential to good health. Programs are built around the basic five food group philosophy - milk, meat, fruits, vegetables, and grains - and information disseminated through many outlets. MD&NC uses this information to contribute to the optimal health and well-being of the citizens of Maine.

MDPB employs a director and part-time secretary while MD&NC employs two nutrition educators, a secretary and a part-time stores clerk. The position of Director, Maine Milk Program, was established for the purpose of providing a single person the responsibility of fiscal management, supervision of staff, and implementation of board/council-approved programs. The Director is the Board's representative in program planning and development at national and regional levels, and is supervised by the Director, Bureau of Production and Marketing.

Organizational Discussion

On October 14, 1993 Board/Council members met to evaluate the current and future organizational environment in response to LD 122 to determine how the Maine Milk Program might best achieve its long-range goals and objectives.

Options

Five alternatives were discussed:

- 1) Status quo
- 2) Status quo with administrative changes only
- 3) Line agency with legal changes
- 4) Public Instrumentality
- 5) Private Non-profit Corporation

Board/Council members agreed that organizational alternatives were limiting due to the fact that 1) both programs must retain qualified status as required by the federal law and 2) further consolidation of the two programs could create a credibility issue because of the nature of the two programs (advertising/ promotion vs. nutrition education).

Farmers voiced concern with the 115th Legislature's proposal to transfer dedicated revenue to the general fund. They feel that using dairy funds for non-dairy purposes is impermissible and in direct violation of the 1983 Dairy and Tobacco Adjustment Act. Unauthorized use of industry revenue could jeopardize the qualified status of the local programs. Farmers view confiscation of federally mandated funds for general account

purposes as further erosion of program initiatives.

Board/Council members are frustrated by their inability to deal directly with personnel issues (i.e. hiring and compensating staff). Mandatory shutdown and furlough days are perceived as further evidence that farmers have lost control of dairy industry programs.

Members reiterated their discontent with state bureaucracy. Farmers view duplication of process-oriented activities as an unnecessary expense. Since Maine voluntarily pools resources with other dairy groups for efficient program management and reduced costs, going-out-to bid for promotional and nutrition education materials are duplicitous. Systems are in place at the national level to purchase programs and services for cost-effectiveness. Reducing bureaucratic details at the state level for purchasing materials developed by National Dairy Board, American Dairy Association and National Dairy Council would allow the programs to operate at full strength.

Whereas the Board/Council acts as a body to review plans, programs, and budgets and to counsel the Executive Director in program implementation, farmers feel that the MMP should not be subject to the same requirements as general-funded programs. Board/Council members maintain that they should have the authority and flexibility to expend funds in the most efficient and effective way.

Status Quo:

There was total agreement that status quo is unacceptable.

Private Non-Profit Corporation:

Members agreed that a nonprofit corporation approach requires a vast and

unacceptable commitment of staff and financial resources. Routine administrative requirements (i.e. legal counsel and accounting services) are widely viewed as placing an unacceptable burden on program finances. Members also expressed concerns about the lack of accountability for producer funds and loss of personal liability as provided in the Maine Tort Claims Act. Furthermore, members questioned the wisdom of “borrowing” the state’s tax collection ability since tax-imposed revenues were involved.

Status Quo with Administrative Changes:

Members concluded that the underlying problems would not be resolved with administrative changes only. They acceded that improvement sought for in administrative inefficiencies in purchasing and budgeting could be smoothed out with a Plan of Work, similar to the plan submitted annually by the Maine Potato Board.

Public Instrumentality:

Initially, some members favored reorganizing as a Public Instrumentality until a number of implications were considered. Additional administrative expenses (i.e. legal counsel and accounting services to maintain personnel and financial records) were viewed as being a significant obstacle to moving the program in this direction. Also, there was no guarantee that the legislature would not attempt in the future to use industry funds for non-dairy purposes. Members concluded that less drastic changes could result in similar accomplishments without the risk of staff resignations which would be unduly detrimental to the program.

Line Agency with Legal Changes:

Maine Dairy Promotion Board and Maine Dairy & Nutrition Council members concluded that the Line Agency with Legal Changes option was their organizational

preference.

Members were resolute in their feeling that industry dollars are to be used for the betterment of the industry and not state government. They agreed that the state cap charges were reasonable for the services provided. Also, as a state agency, the accountability issue would not be compromised.

Board/ Council control over staff and their work schedules is important to farmers. Under this model, salary and terms of employment would be determined by Board/Council members. Using the Maine Potato Board as a model, Maine Milk Program would be staffed by unclassified employees not subject to Personnel Laws. Employee salaries would be fixed by the Board/Council, subject to the approval of the Commissioner of Agriculture. Employees would be exempt from participating in state shutdown/furlough days. Benefits for these positions (individual health insurance, dental insurance and retirement) will be those provided by Law as State employees.

Administrative processes through the department would continue to be governed by the laws and rules affecting agencies. A plan of work would allow greater operational flexibility, thereby eliminating single purchase preapprovals and travel justifications to regional and national meetings. Fewer administrative responsibilities would allow the executive director more time to pursue promotional/nutrition education opportunities.

Summary

MMP offers a unique opportunity for teamwork in which nutrition education and promotion work in complementary fashion without compromising the credibility issue.

Consequently, members of Maine Dairy Promotion Board and Maine Dairy & Nutrition Council have determined that the industry would best be served if the Maine Milk Program were to remain a State Agency within the Department of Agriculture, Food and Rural Resources with appropriate legislative changes to implement the items discussed in this report.

The Maine Potato Board would serve as a model for reorganizing the MMP. The Board/Council acts as a body to review plans, programs, and budgets and counsels the Executive Director in program implementation. Personnel would be unclassified and entitled to benefits applicable to state employees.

Board/Council members would have authority and flexibility to expend funds in the most efficient and effective way. Administrative processes would continue to be governed by the laws and rules affecting state agencies while a plan of work would allow greater operational flexibility.

The MMP has established a sound record of successful programming, especially as it relates to consumer demand for dairy products. Today it is more important than ever to continue the strength of the MDPB and MD&NC since dairy farmers rely on the marketplace to make a profit on milk sales. With industry leadership, MMP understands the economic and production issues farmers face. And with the continued support of the legislature, MMP is more than equal to the challenge of making sure that consumers continue to value dairy products as an important part of their diets every day.

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UNITED DAIRY INDUSTRY ASSOCIATION
(UDIA)

NDC conducts a nutrition education and nutrition research program for UDIA

ADA is the advertising & marketing service division of UDIA

