

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By CHAIRMAN TOM BECK, on February 13, 1995, at
7:10 a.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck (R)
Sen. Reiny Jabs (R)

Members Excused: Sen. Bob Pipinich (D)

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council
Jennifer Gaasch, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: This was a subcommittee meeting
concerning SB 116.
Executive Action: None

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

Discussion:

CHAIRMAN TOM BECK asked Laurie Ekanger to begin.

Laurie Ekanger said she wanted to make sure everyone knew that the Governor's position has not changed. Their original proposal was that milk be decontrolled completely, at least at the retail level. She understood that both of those alternatives were rejected. The subcommittee proposed SB 364 and added some language at their request. After the meeting she was told that subcommittee had decided to decontrol milk at the retail level. They went down to Doug Sternberg's office and read the language and the language does not do that. There was some confusion about what had been done. She said that there were some different positions being expressed at the Agriculture committee meeting. She passed out (EXHIBIT #1).

CHAIRMAN BECK replied that SB 116 was the original bill that **SENATOR MIKE SPRAGUE** had. They were now looking at SB 364 as a possible compromise. He said they should go through it again to come to a conclusion. He asked **Dennis Iverson** to state his position.

Dennis Iverson replied he could only speak for the Meadow Gold producers. They support the agreement that the subcommittee had reached at the last meeting.

CHAIRMAN BECK said the amendment read: "notwithstanding the formula, retail prices of milk in Class I must be computed by the board in a manner so that reductions in the cost of milk at the wholesale level are passed on to the consumer at the retail level."

Dennis Iverson replied that he was not necessarily devoted to that language, but they would support any language that had the purpose of driving retail prices along with wholesale prices.

CHAIRMAN BECK asked if they had any position on striking all of the language on page 3, lines 12, 13, and 14 [(b), (c), and (d)], and just leave "the producer prices of milk for Class I, II, and III must be computed". He spoke to a few of the people from the IGA grocery store in Deer Lodge who said they were very concerned about the retail level because once it was decontrolled at that level the big chains will come in and control the price of milk.

Laurie Ekanger replied that was not their first proposal. She was concerned that maybe the committee had wanted to do something that the language did not do.

CHAIRMAN BECK replied that the original concept of the committee was to table the bill, but they would like to get a bill that they could blend in to try to correct the problem. He wants to fix the problem of milk going across the border and coming back into the state with lower priced milk.

Laurie Ekanger replied the goal of the industry was to not have to go out-of-state and back. She wondered if SB 364 would prevent that.

Ward Shanahan stated the two positions on subsection (10), and subsection (11) on page 3 were what the producers discussed and adopted and that is the main part of SB 364. He said that subsection (10) was to set up a competitive bidding situation involving the large contract sales of milk. That is where the out-of-state situation was involved.

Laurie Ekanger replied that to start the bidding, someone would have to take their milk out-of-state and come back, and it would allow for competition.

Ward Shanahan replied if he had the Billings contract and the school said they had an offer that will sell milk at \$.02 lower, the person would have a chance to meet that bid because the \$.02 lower would be probably be based upon one of the rerouting situations. He said the statistics that were given were important. 79% of Montana's Class I milk is consumed in Montana as opposed to Idaho and Wyoming's 10% to 15%. That means the system is working. There was very little going over to national surplus and that is why Meadow Gold agreed to stay with the consumers on that.

SEN. SPRAGUE said they were losing focus. He said they were trying to put the wording in perspective. The producers are now protected. The second priority is the consumer. As long as the competitive bidding is filtered to the consumer, then they have done their job.

Dennis Iverson replied that was what he meant in his earlier statement. They are interested in having the market adjustments reflecting a better consumer price.

Ward Shanahan replied the letter that was submitted to the subcommittee had language that was sufficient because it did take the word "any" out. There is going to have to be a split. Why would they bid on something if they were not going to make any profit at all? The Board of Milk Control has to decide what level of savings would be passed on to the consumer. The consumer would have the right to appear and say something about that.

CHAIRMAN BECK said the new language was on paragraph (7). "The formula for retail milk prices for milk in Class I must be computed by the board in a manner so that reductions in the cost of milk at the wholesale level are reflected in the price to consumers at the retail level."

SEN. SPRAGUE replied he felt comfortable with the intent. He said it was trying to make sure that is a formula.

CHAIRMAN BECK said he did not want to decontrol milk altogether because they do not know what the future is if they do that. He said he wanted to start to pull the price of milk down for the consumer and if it does not take place, he would almost guarantee that next session the decontrolling of milk will go right out the door. He said if they did not, he would get a lot of support to decontrol milk completely.

SEN. SPRAGUE replied they all know the problems that are going on and there is no time like the present to do something so that they are not all going downhill.

CHAIRMAN BECK replied they want to try to solve the problem.

Les Graham replied he talked to some people who were not emotionally involved and one of the problems he was having was that it had better be done now. He said he talked to people who said they had to be really careful when decontrolling just one level because no one really knows what will happen to the rest of the levels. He said they would support SB 364 as amended with **Ward Shanahan's** amendments and the study amendments. They need to have time to look over the repercussions of the entire thing. The formula is very complex.

Dave Ashley replied that the industry language would allow a competitor to meet a lower price offered by someone else, which is currently in the bill. If that language goes through, Dairygold is going to ship their milk out-of-state to meet their bid, and then Meadow Gold will ship their milk out-of-state and they will beat the bid of Dairygold, and this will continue until the milk costs \$.12 per half pint, which is where the milk should be at. The industry language does not solve the problem of the milk going out-of-state and back into Montana. If they wanted to be up front, they should just decontrol it at the wholesale level. That would allow for the retailers to make sure the savings get down to the retail level. At the same time they need to decontrol the retail level so that the consumers can get the lower price. He said a concern is the producer. By keeping minimum producer prices in place they would be protecting the producer. Currently Meadow Gold is buying about 5% of Montana production from outside the state and bringing it into Montana to process. The reason that was occurring was because of the quota which restricts the production of milk in Montana. It is coming into Montana at Class I milk prices. There should not be any concern of decontrolling the wholesale and retail level on the effect on the producer.

Les Graham replied that was correct. Dairygold does have some surplus milk. It has a first call provision, meaning that whenever possible Montana milk should be transferred from one processor to the other. That is the first call provision in SB 364. He said that was what they were talking about--the 5% that **Dave Ashley** mentioned.

Laurie Ekanger said that Meadow Gold would have to buy Dairygold's surplus.

Les Graham replied when it was possible, but of course weekend union contracts and weekend wages and that kind of thing come in to play with both companies. If they sit down and work out a process, they know a week or two ahead of time what their milk needs will be. There are some really good options out there. In Colorado he talked to some people. There are some states that meet provisions that have decontrolled wholesale and retail, but the use statements like "cannot go below cost to out bid". Those are things they need to look into and that is why they support the auditor's study. If they were going to eventually decontrol, then it should be done with a good solid foundation.

Dave Ashley replied he called Colorado and he passed out (EXHIBIT #2).

Les Graham replied there are only two states that control all levels of milk.

Laurie Ekanger stated there were only five, including Montana.

Les Graham stated there were only five that were still in complete control. There have to be some success stories out there.

SEN. SPRAGUE asked when they are using the words "below cost", what costs are included in the price? The costs of producing, the cost of shipping, the cost of packaging?

Les Graham replied on page 2, it says "The order requires that each handler, or handler-distributor, etc., held on file with the Commissioner of Agriculture a complete schedule of dock delivery, and limited service." Without studying this it says the people involved in the milk business must present to the Commissioner the order does not apply to the retail price and does not set prices, and prices must be above cost of manufacturing.

SEN. SPRAGUE replied there would be no reason they could not put that language in the present bill.

Ward Shanahan replied they did not know how it would affect the other levels.

SEN. SPRAGUE replied the 2-year study could do that.

Les Graham replied that is why they supported the study.

SEN. SPRAGUE replied that is why they need to implement a mathematical factor here. Otherwise they have to study for the 2 years and wait and see. This way it would be application and see.

Les Graham replied he was not sure how it worked. The price of milk in Denver is higher than in Montana in some cases.

SEN. SPRAGUE said they did not have that many distributors. Dairygold and Meadow Gold can agree if they have to. There is some competition, but it is limited by geography.

Bob Bachini replied they were not in favor of SB 364 as originally introduced. They were in favor with the amendments that were put on the bill at the last subcommittee meeting. He said they would do everything they could during the interim to get things worked out. He said there was not an easy solution. Maybe with the auditor's study it will help them find a solution.

Laurie Ekanger replied that the Governor's goal was to decontrol at least a portion of milk and to get government out. There were two things; to protect the consumer and now the producer, but then to move government out of milk control. It seems like everyone is agreeing that should be done, but not at this time. If that was what they were agreeing to then it should be said stronger in the amendment that directs a study. If the goal is to decontrol at least the wholesale and the retail in 2 years, then maybe they ought to state that as the goal in the amendment. They want the legislative auditor to have some suggestions on how that could be done. The language may not reflect what seems to be the intent.

Dennis Iverson replied they do want to presuppose the outcome of the study. They may determine that total decontrol would be necessary. They may determine that only partial decontrol would be necessary. They should not be told what they are to come up with.

Ward Shanahan replied they have to a certain extent because they have only talked about wholesale and retail and do they decontrol that. Maybe they should be saying "the impact of decontrolling milk".

CHAIRMAN BECK said they need to take a look at all of the facets in the controlling of milk. He thought there were some problems if they only decontrol one area. One thing is milk is going across the state line to get a cheaper price and that should be avoided. If they were actually buying the milk out-of-state at a lower price, how will that affect the milk market in Montana?

SEN. SPRAGUE replied they could affect that by guaranteeing to buy the quota and the pool first. If the producer was encouraged to produce more then they would not have to go out-of-state for their supply. The producer is being helped and also collared from getting any more out. The Hutterites are capable of producing three times what they are currently producing. The quota is restrictive. If they want to protect the producer and all of its productivity then they have done that. They said they must first buy Montana milk. If the industry is capable of increasing demand, it ought to have the freedom to increase production. If they are creating demand, and that would happen by lowering the consumer price, they would start seeing the retailer compete for price and demand will increase. They cannot forget the consumer.

CHAIRMAN BECK said they were trying to reduce the price to the consumer. They also want to protect the milk supply. They will not solve any problems if the Montana dairies go out of business. He said that total decontrol could put a strain on it. He said he wanted to gradually go into decontrolling milk.

SEN. SPRAGUE replied there was a protective mechanism, the Milk Control Board, which is there to protect the industry. There

should not be any fear in decontrolling the retail and the wholesale level.

CHAIRMAN BECK asked if **SEN. SPRAGUE** was interested in sponsoring SB 364 with **Ward Shanahan's** proposed amendment and the amendment which includes the study, and was there any language that he would like to add.

SEN. SPRAGUE replied he liked the bill, but it was drafted before they had ever finished SB 116. He said they had worked on lines 12, 13, and 14 and they needed to work on what has to be left in and what has to be taken out.

CHAIRMAN BECK asked if their preference was to eliminate lines 12, 13, and 14.

SEN. SPRAGUE replied that was correct.

Dennis Iverson replied he could not commit his clients to that. **Ward Shanahan** replied they were opposed to that.

SEN. SPRAGUE said the producer was being protected whether they decontrol the retailer or not. The consumer has to have some protection and some result that the lower prices would be passed.

CHAIRMAN BECK said they have left the Board of Milk Control intact and they have told them if they were not going to improve things then the legislature would have to. When they take one part and change it, what will it do to everything else?

SEN. SPRAGUE replied the distributor would like to guarantee the margin. Let the margin float a little bit.

Les Graham replied there was HB 280 which would transfer the Board of Milk Control to the Department of Livestock. HB 280 includes a statement of intent that backs up what the legislature is telling the Board to do. It covers the same language as in SB 364.

CHAIRMAN BECK said he would like to get **SENATOR REINY JABS'** opinion.

SEN. JABS said they were just giving the Board the power to lower the milk at the retail level. If they don't do it they would be penalizing the producer level, or deregulate everything.

Dennis Iverson and Les Graham replied that would happen if the study indicated that.

Les Graham replied it could be that the producer level should be deregulated as well. They need to study the various federal orders around.

Dave Ashley replied the wholesale level is saying if Dairygold brings in lower prices then Meadow Gold can meet it. He wondered if they could apply that to the retail level. Under the bill, Buttery's would have to charge the same as IGA and all of the other grocery stores. If a retailer charges a lower price, then the others can meet it. Having a little stronger method of passing those benefits to the consumer.

Ward Shanahan replied they understand on reflecting the savings at the wholesale level and the retail price, it was the retail price that he understood they were dealing with. Was there a general fixing of all grocery store prices?

SEN. SPRAGUE replied there was.

Ward Shanahan replied they wanted it to remain with the Board so it would all be on the table where everyone can see it. He said if they make a price cut at the wholesale level because they were competing over a contract, the Board has to decide what the split would be going up to the retail price, and then it issues an order directing that price to drop so the consumer would be directly benefited.

SEN. SPRAGUE replied if they did not decontrol the retail aspect of this, which is keeping a lid on everything.

Ward Shanahan replied it was effectively decontrolled by the provision to the extent that is by order of the Board passed on to the retail level.

SEN. SPRAGUE said the retailer has basically been mandated to not compete in price.

Ward Shanahan replied when the Board issued an order and then they have the wholesale price down, the retail price has to drop accordingly.

SEN. SPRAGUE replied it does if they have the freedom too, but they do not have the freedom to by the Board.

Ward Shanahan replied it did in the proposal. It says that "these will be reflected in the price to the consumer at the retail level".

SEN. SPRAGUE said all they were doing was fixing the margin. They are not letting the free system go. There maybe a retailer who was selling milk at cost. What if the retailer wanted to blow the inventory out and start fresh, they cannot blow it out. He has to wait until the consumer has bought all of the milk.

CHAIRMAN BECK replied there was no reason to blow out milk because the processor takes any expired milk back. He said that was different than another product.

SEN. SPRAGUE said that he was a retailer and he chose to do that, but he has no incentive to be competitive. The consumer does not take advantage of everything going on in the market. He is waiting at the end of the line to see what everybody decides so they ship their margins the same.

CHAIRMAN BECK replied he was concerned where a conglomerate, such as the Town Pump, wanted to put some service station out of business, they used to be able to drop the price below cost.

SEN. SPRAGUE asked how long a business would sell below costs.

CHAIRMAN BECK replied until he could get his competition out of the market.

Laurie Ekanger replied that it was illegal.

CHAIRMAN BECK replied it is now, but it was not before.

Les Graham replied that Good Sam, Costco, and those type of businesses will come in and they would see it in Billings and the consumers will. He would almost guess that Glasgow, Plentywood, Scobey, Malta, and those places would not see the benefits because they are not where there is a conglomerate that would come in and do that. The rural areas would not see the benefits. He said that he would like to see it looked into.

Dave Ashley replied that in terms of retail, they have Buttreys, Safeway, and Albertson's, but they have Associated Food Stores and they are a cooperative that has between 135 and 150 members and they purchase as well for the 200 other stores. 95% of the milk is purchased in Montana by the retailer and they can take care of themselves.

Les Graham replied they did not think that Associated warehouses milk.

Dave Ashley said he was speaking about Associated Foods.

Les Graham replied he did not think they did.

SEN. SPRAGUE replied it was a paper bargaining position. A person does not actually have to take possession of it.

Dave Ashley replied there was a letter from Dairygold offering them lower priced milk and lower prices than offered through the Board of Milk Control by routing it out-of-state.

Laurie Ekanger replied she looked at the language that allows the distributor to make an offer and then farther down it says "The Board may propagate rules regarding good faith offers to meet competition." She did not understand why that was preferable. It seems that the wholesalers would want to have a free market and they have that by going out-of-state and back. She did not

see how the language worked. She did not know how the Board would not know when they were competing or not. Why would they just not go out-of-state and back and then they would not have to do anything different than at the present time? It seems as if it would be easier for them if they did not have to mess with the Board.

Ward Shanahan replied that was the letter that Jock wrote to her last year. He said they competed in completely deregulated markets, but in Montana they have a historical situation. If they start taking parts out of it they are causing problems in other areas that is going to take awhile to settle. They have decided to stick with what the producers wanted to do. He said if they took (b), (c), or (d) out they would be in a law suit trying to figure out what "whenever possible" means.

Laurie Ekanger replied that it would be the producers who want them to have a price rather than the wholesalers. The producers want all of the other price controls.

Les Graham replied that all of the conversation points to the fact that it needs to be looked at. No one knows what is going to happen. He would like to know what will happen before drastic measures are taken. There are also the jobbers, and what will happen to them.

SEN. JABS asked if the producers do not want (a), (b), and (c) out of the bill either.

Les Graham replied the producers like the bill the way it was written.

SEN. JABS replied they were urging the Board of Milk Control to try to give the consumers a better deal. Can they not do that presently?

SEN. SPRAGUE replied that everything is fixed.

SEN. JABS asked who fixes retail? There is a big discrepancy between wholesale and retail.

Ward Shanahan replied there was the right to make a private rule-making application so that if they got into this, one of the retailers could make an application to the Board for decreasing the retail price, the other retailer could come in and respond to that, and the Board would have to make a decision. That would be done over a period of time. He said that he thought that power currently exists.

Dave Ashley replied that he was not aware of that.

Ward Shanahan replied he did not know if it had ever been done, but he was not sure that it did exist.

SEN. SPRAGUE said the Board was impotent to stop the milk from leaving the state and to get the retailer competitive. When you ask them to study it, it will be reflected 2 years from now. They don't have any authority to see to it that something gets done.

Les Graham said, a member of the Board of Milk Control told him "When they have approached these difficult decisions they have not had support from the Department of Commerce to do it." He said this is the first time they have been directed to do a job.

Dennis Iverson said in the past it has always been a simple "yes or no" to control or decontrol. He could not support the bill if the study was not included.

Laurie Ekanger replied there are only five states that have this much control over milk. She said there is experience to draw on in the other states.

CHAIRMAN BECK asked if they should have another section 12 in there at the retail level saying that they do not want this drawn down on certain people at the retail end. He did not know if they could even write another section into the bill. He was concerned about the smaller businesses going out of business. He did not want what happened in the service station industry to happen in the milk industry.

Bob Bachini replied that they can go to another town and buy gas at a lower price.

CHAIRMAN BECK replied he did not mind that, but he did not want other people to go to another town and buy something for \$.99 when it is costing the \$1.08 to buy the product and the other person would go out of business.

Ward Shanahan replied that under the federal orders there are federal warehouses filled with cheese, Class III milk. In Montana there is 79% consumption of Class I milk and if the consumer is so bad off, why are they buying so much of the basic consumption?

SEN. SPRAGUE replied they are buying it because they have limited supply and demand is unlimited.

Ward Shanahan replied that the federal government, in trying to protect the producer, has gotten into an unmanageable storage problem for Class III products.

CHAIRMAN BECK asked if they had not filled the demand for milk in the State of Montana.

SEN. SPRAGUE asked why are they importing milk?

CHAIRMAN BECK replied he had never gone to the grocery store and not been able to get milk.

SEN. SPRAGUE replied if they were importing 5% of the total Montana production, 811,000 pounds per day, that is 4,000 gallons of milk per day.

Les Graham replied that was being addressed with the first call provision in SB 364 because Dairygold has enough surplus so that this would not happen.

SEN. SPRAGUE said the industry said they have surplus, but they do not have surplus.

Les Graham replied that one processor has surplus and the other does not.

SEN. SPRAGUE asked why the processors bootleg milk across the border.

Laurie Ekanger replied that had to do with price.

SEN. SPRAGUE replied if the Governor and the task force had not brought this, the industry did not bring it to the legislature. They are admitting that it should have been brought to their attention and now in 2 years they will deny the fact that this was a problem.

Les Graham replied they did admit it should have been and they are saying they will next time.

CHAIRMAN BECK replied that was brought up in the last legislative session and it was taken out.

Bob Bachini replied they had an agreement with the amendments and now they are going beyond that.

SEN. SPRAGUE replied that SB 364 was written by the industry and he cannot imagine they would write a bill that would not help their industry.

Bob Bachini replied they did not like SB 364 even with the amendments, but they are willing to work in that direction. He said if it comes out with something other than the amendments there will be a larger problem.

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

CHAIRMAN BECK said if they were willing to put in the amendment by **Ward Shanahan** and the study amendment, that is fine. He asked if **SEN. SPRAGUE** was going to carry the bill.

SEN. SPRAGUE replied he did not know what form the bill was going to take. He said he was emotionally involved in the consumers' interests. He did not have empathy for the distributor's interests. He hoped they can come up with the protection of the consumer.

CHAIRMAN BECK replied he did not know if they have protected the producer or not.

Dennis Iverson recommended that they be looking at SB 364 and **SEN. SPRAGUE'S** concern had to do with whether or not SB 364 will positively impact the consumer. That says they are down to the amendment proposed by **Ward Shanahan** and he said they should try to come up with a way to say that.

Laurie Ekanger said there would not be a compromise of the decontrolling at the retail level.

CHAIRMAN BECK replied the Governor said he wanted full decontrol.

Laurie Ekanger replied the Governor's first position is complete decontrol and the second position would be to control everything except the retail position. She said if the legislature chooses not to take that position, the language is better than nothing.

Ward Shanahan replied he thought they were moving in the direction of a free market.

Dennis Iverson replied they have to find a way to get the bill out of here.

CHAIRMAN BECK told **SEN. SPRAGUE** to sponsor SB 364 in the form he wants and there would be a hearing on SB 364 in the Agriculture Committee. SB 116 would be tabled in committee. He said **SEN. SPRAGUE** could bring it in with any amendments that he wanted. He said if it is not a compromise then that bill would probably be dead also.

SEN. SPRAGUE said he did not want to try and sell a bill that would not happen.

Bob Bachini said he thought they already had an agreement.

CHAIRMAN BECK replied if there was not an agreement there would not be anything done.

SEN. SPRAGUE replied the intent of the agreement was to make sure the consumer would get some relief.

Bob Bachini replied the Governor's task force recommended to leave it be.

SEN. SPRAGUE asked about the task force.

Laurie Ekanger replied that this was the industry's bill and she did not know if they wanted it left up to **SEN. SPRAGUE** or not. Maybe it should be a committee bill.

CHAIRMAN BECK replied that was kind of their compromise, but they are not getting anywhere.

Dennis Iverson said the problem was with the amendment proposed by **Ward Shanahan**. He said maybe they can find a way to say that and reach the objective.

SEN. SPRAGUE thought they were down to (a), (b), and (c). He said they were down to those decisions.

Laurie Ekanger replied that unless the industry came up with some language that they are willing to live with, then nothing will be passed.

CHAIRMAN BECK replied that would be what would happen.

SEN. SPRAGUE replied SB 364 was brought to the subcommittee and they are trying to improve the bill.

CHAIRMAN BECK replied SB 364 would probably be amended by the committee and sent to the floor. He said the committee would put the amendment proposed by **Ward Shanahan** and the study on the bill.

SEN. JABS replied that **SEN. SPRAGUE** wanted to take (b), (c), and (d) out and it is a consensus of the wholesalers and the producers that they want to leave it in. It is a waste of time to keep trying to do that. He said they should put the amendment on and hope the Board does their job.

CHAIRMAN BECK replied he was trying to get a bill out of here.

ADJOURNMENT

Adjournment: 8:25 a.m.



SENATOR TOM BECK, Chairman



JENNIFER GAASCH, Secretary

TB/jg

MEMORANDUM

TO: Senate Agriculture Subcommittee on Milk Control
Senator Beck, Chair
Senator Jabs
Senator Pipinich

FROM: Laurie Ekanger, ^{Laurie} Governor's Office

RE: Governor's Position on Milk Control

I thought it might be helpful to restate the Governor's position on SB116 and SB364 dealing with the Milk Control Board.

1) First, the Governor continues to concur with the Renew Government Task Force that the Milk Control Board be eliminated and the price of milk decontrolled at all levels. This is the proposal in SB116 which remains the preferred alternative.

2) The second alternative, would continue the Milk Control Board and producer price controls and decontrol all other milk prices. Priority would be given to decontrolling the retail (consumer) price since the wholesale price is essentially decontrolled now through the industry "interstate program." This alternative can be accomplished in SB364 with the draft amendment language submitted by Dave Ashley when the subcommittee met. Although this is not the preferred alternative, this alternative would accomplish a central goal of the Task Force recommendation.

3) However, if the Legislature does not accept either of the aforementioned alternatives and instead chooses not to decontrol any milk prices, then language added to SB364 would be a step in the right direction. SB364 proposes to amend milk control laws to allow wholesalers an exception to the Board of Milk Control price. We support language encouraging the Board of Milk Control to reflect those wholesale price decreases when setting the retail (consumer) price. We also support language calling for an interim study on the economics and process to phase out the Milk Control Board and milk price controls. Dave Ashley submitted draft amendment language.

I believe this is completely consistent with what Dave presented to the subcommittee. Since the industry would only accept 3) above and not 1) or 2), the subcommittee accepted amendment language for 3).

I was concerned that there may have been some confusion that the amendments accepted by the subcommittee actually decontrol milk price-setting at the retail level, and thereby accomplish the Governor's proposal described in 2) above. They do not, of course, because all milk prices will still be set by the Board of Milk Control under 3) above.

c: Les Graham
Ward Shanahan
Dennis Iverson
Bob Bachini

**Colorado Milk Laws--Richard Campbell
(303) 239-4100**

The State of Colorado's Milk Marketing Order provides that processors must sell milk at "above cost." The law does not regulate the producer or retail level.

The Colorado Milk Marketing Order was implemented in 1963 and was last amended on January 1, 1992. The processors, like Meadowgold, Sinton and Robinson Dairies, must file their price schedules whenever they change prices. The Milk Marketing Office reviews them, and if the schedules appear to be at price levels which are not "below cost," the schedules are approved, generally within a day of being filed. Each schedule has 6-7 pages of prices for various products.

The schedules are public information and the various dairies charge very nearly the same prices.

Colorado, like Montana (30-14-209 MCA), has an Unfair Practices Act, which prevents retailers from selling at below cost. Richard mentioned that recently some of the stores were selling milk at 99 cents a gallon and that the Attorney General wrote the stores notifying them of the law.

INTERNATIONAL ASSOCIATION OF MILK CONTROL AGENCIES

Annual Directory of
Member Countries, States and ProvincesCOUNTRY/STATE/PROVINCE: ColoradoDATE: 1994

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Statutory authority (summarize makeup of Board or Commission, if any, and nature, scope and principal provisions of milk control law):

The Milk Marketing Order is administered by the Commissioner of Agriculture to whom the Milk Marketing Board makes recommendations. Statutory authority is the Colorado Agricultural Marketing Act of 1939 (C.R.S. 1973, Title 35, Article 28 as amended).

The Board consists of five members, all of whom are handlers, and one of whom is a handler who produces 51 percent of the milk processed by him.

The Order requires that each handler, handler-distributor, or distributor shall have on file with the Commissioner of Agriculture a complete schedule of dock delivery, limited service and full service delivery prices for each marketing area in which sale or offers to sell are made; and, in addition, must have on file a complete schedule of such discounts and rebates that are to be utilized in each of the marketing areas, with such discounts or rebates to be based upon the volume of sales at a point of sale. *The order does not apply to retail prices and does NOT "set" ANY PRICES; HOWEVER PRICES MUST BE ABOVE COST OF MANUFACTURE.*

The Order prohibits various unfair practices and, in addition, prohibits sales below cost. Coupons are now permitted but must be posted on price schedules as discounts. Price schedules are immediately effective when approved by the Commissioner.

Signed: Richard L. Campbell
Title: Director