

1 **2021 Acts and Resolves No. 129, Sec. 31: Task Force Original Charge**

2 Sec. 31. DEPARTMENT OF FINANCIAL REGULATION; OVERSIGHT

3 OF MILK PRICING IN VERMONT; REPORT; TASK FORCE

4 (a) Findings. The General Assembly finds that:

5 (1) The minimum pay price received by most dairy farmers in Vermont
6 is regulated and established by the Federal Milk Market Order Program based
7 on a complex formula, and under this formula, the regulated minimum price
8 for Vermont dairy farms has been for many years set at an amount below the
9 costs of production.

10 (2) Most dairy farmers in Vermont utilize the two remaining
11 membership-based dairy cooperatives to sell their milk for market prices above
12 the federally regulated minimum pay prices, and the cooperatives levy fees and
13 other surcharges on their member dairy farmers to cover the marketing costs.

14 (3) Amidst radical market changes and an oversupply of milk, the dairy
15 cooperatives recently have been unable to obtain pay prices for Vermont dairy
16 farmers that are above the federally regulated minimum prices, and, as a result,
17 the charges assessed to their members have often caused the net price that
18 Vermont dairy farmers receive to fall below the regulated minimum prices and
19 to amount to significantly less than the costs of production.

1 (4) Vermont dairy farms have suffered from combined regulatory and
2 market failures, and 60 percent of the State's dairy farms subject to the federal
3 regulatory program have closed since the year 2000.

4 (5) Before Vermont loses another substantial portion of its remaining
5 dairy farming community, the State agency with expertise in financial
6 regulation and rational market pricing should review the milk pricing system
7 for dairy farmers in Vermont to collect and assess data on the long-term
8 sustainability and fairness to the Vermont dairy farming community of the
9 federal milk market order pricing system, current market conditions, and dairy
10 cooperative operation.

11 (b) Report. On or before January 15, 2021, the Commissioner of Financial
12 Regulation shall submit to the Senate Committees on Agriculture and on
13 Economic Development, Housing and General Affairs and the House
14 Committees on Agriculture and Forestry and on Commerce and Economic
15 Development an assessment of the long-term sustainability of Vermont dairy
16 farming under the existing federal milk market order pricing system, current
17 market conditions, and dairy cooperative operation. In developing the
18 assessment, the Commissioner of Financial Regulation shall obtain from the
19 Secretary of Agriculture, Food and Markets an accounting of payments made
20 to milk producers under the federal milk market order. After consultation with
21 the Secretary of Agriculture, Food and Markets, the Commissioner is
22 authorized to utilize the Vermont Milk Commission's authority under 6 V.S.A.

1 § 2936 to obtain information from milk handlers regarding the prices paid to
2 purchase various forms of milk from Vermont producers; the costs of
3 production, processing, transporting, distributing, and marketing milk; and any
4 other information deemed necessary and relevant by the Commissioner. The
5 Commissioner is also authorized to use the authority established under
6 6 V.S.A. § 2936, and the authority under 8 V.S.A. § 13, to assess the use and
7 impact of payments made to milk producers. The report of the Commissioner
8 of Financial Regulation shall include:

9 (1) an evaluation of the long-term sustainability of dairy farming in
10 Vermont under the current regulatory and market conditions; and

11 (2) recommendations for revising regulated dairy pricing and other
12 market regulation in the State to improve the future viability of Vermont dairy
13 farming.

14 (c) Task force.

15 (1) After receipt of the report required under subsection (b) of this
16 section, the Committee on Committees and the Speaker of the House shall
17 appoint a joint committee of legislators and other experts to be known as the
18 Task Force to Revitalize the Vermont Dairy Industry to develop legislation to
19 implement the recommendations of the Commissioner of Financial Regulation.

20 (2) The Office of Legislative Council shall call the first meeting of the
21 Task Force to occur not later than 45 days after receipt of the report required
22 under subsection (b) of this section.

1 (3) The Task Force shall elect co-chairs from among its members at the
2 first meeting.

3 (4) A majority of the membership shall constitute a quorum.

4 (5) The Task Force shall submit draft legislation to the General
5 Assembly on or before December 15, 2021.

6 (6) The Task Force shall cease to exist on March 1, 2022.

7 (7) For attendance at meetings during adjournment of the General
8 Assembly, a legislative member of the Task Force shall be entitled to per diem
9 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
10 not more than 10 meetings. These payments shall be made from monies
11 appropriated to the General Assembly.

12 (8) Other members of the Task Force that are not legislative members
13 shall be entitled to both per diem compensation and reimbursement of
14 expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings.
15 These payments shall be made from monies appropriated to the General
16 Assembly.

1 **2022 Acts & Resolves No. 162, Sec. 9. Extension of Task Force**

2 Sec. 9. EXTENSION OF TASK FORCE TO REVITALIZE THE
3 VERMONT DAIRY INDUSTRY

4 (a)(1) Notwithstanding 2020 Acts and Resolves No. 129, Sec. 31(c)(6), the
5 Task Force to Revitalize the Vermont Dairy Industry shall continue to exist
6 and retain the authority granted to it in 2020 Acts and Resolves No. 129,
7 Sec. 31 until February 1, 2023.

8 (2) The Task Force shall consist of:

9 (A) two members of the House of Representatives, appointed by the
10 Speaker of the House;

11 (B) two members of the Senate, appointed by the Committee on
12 Committees; and

13 (C) four nonlegislators with experience or knowledge of the Vermont
14 dairy industry, two of whom shall be appointed by the Speaker of the House
15 and two of whom shall be appointed by the Committee on Committees.

16 (b)(1) For attendance of a meeting of the Task Force to Revitalize the
17 Vermont Dairy Industry during adjournment of the General Assembly between
18 the effective date of this act and February 1, 2023, a legislative member of the
19 Task Force shall be entitled to per diem compensation and reimbursement of
20 expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These
21 payments shall be made from monies appropriated to the General Assembly.

1 (2) Other members of the Task Force that are not legislative members
2 shall be entitled to both per diem compensation and reimbursement of
3 expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings.
4 These payments shall be made from monies appropriated to the Agency of
5 Agriculture, Food and Markets.

Action Taken by the Vermont General Assembly to Address the Recommendations of the Task Force to Revitalize the Vermont Dairy Industry

- The Vermont General Assembly established the Task Force to Revitalize the Vermont Dairy Industry (Task Force) in 2020 Acts and Resolves No. 129, Sec. 31 (Act 129).
- The Task Force was charged with recommending legislation to revise dairy pricing and other market regulation in the State to support Vermont dairy farming.
- The Task Force offered multiple recommendations to implement or explore as measures that can stabilize, promote, and enhance the Vermont dairy industry and its products.
- This document lists the recommendations of the Task Force and summarizes action taken by the Vermont General Assembly in 2022 to address the recommendations.

Task Force Recommendations and Status of Action

A. RISK MANAGEMENT

1. State Payment of Farmer Premiums for Participation in Risk Management

- The Task Force recommended that the State pay the costs of farmers to participate in one of three U.S. Department of Agriculture (USDA) risk management programs that mitigate risks to farmers from price volatility in the milk market.
- The Task Force recommended that the State use federal funds from the American Rescue Plan Act of 2021 or other eligible federal funds to pay the farmers' premium costs.

Status: 2022 Acts and Resolves No. 83, Sec. 77 required the Vermont Secretary of Agriculture, Food and Markets to establish the Dairy Risk Management Assistance Program for the purpose of assisting milk producers that participate in the federal Dairy Margin Coverage (DMC) program.

- A milk producer in Vermont that participates in DMC at the first-tier coverage level may apply for reimbursement of premium payments from the Program.
- 2022 Acts and Resolves No. 83, Sec. 68(33) appropriated \$2.6 million to fund the Dairy Risk Management Assistance Program.

2. Increased Farmer Participation in Risk Management

- The Task Force recommended that the State take additional efforts to increase long-term participation by Vermont farmers in USDA risk management programs. State efforts could include education and outreach or facilitators to assist farmers when applying.

Status: The establishment of the Dairy Risk Management Assistance program by Act No. 83 (see above) likely will lead to future efforts to increase long-term participation of farmers in DMC or similar risk management programs.

3. Farm Bill Reauthorization of Risk Mitigation Program

- The Task Force advocated for the federal reauthorization of the three USDA risk mitigation programs. The Task Force recommended that the Vermont Agency of Agriculture, Food and Markets (AAFM), the Vermont congressional delegation, and the Vermont Milk Commission advocate for the reauthorization of the USDA risk mitigation programs, including reauthorization in the 2023 federal Farm Bill.

Status: USDA has been taking public input on the need for risk management programs under the 2023 Farm Bill. Details as to what the Farm Bill may include are sparse. Efforts will be made to collect more information, including from Task Force members.

B. PRICE STABILIZATION AND ENHANCEMENT

1. State Assistance for Farmer Participation in Risk Management

- USDA risk management programs are not only insurance against disaster but also a price stabilization tool. The Task Force recommends that the State pursue increased farmer participation in risk management programs as short-term price stabilization tools.

Status: See summary of actions above under Risk Management.

2. Federal Milk Market Order (FMMO) Reform in the 2023 Farm Bill

- The Task Force determined that comprehensive reform of the FMMO program is necessary to modernize the program, accurately reflect production costs, and account for changes in the milk market.
- The Task Force recommended that the Vermont congressional delegation, AAFM, and the Vermont Milk Commission advocate for amendments to the 2023 Farm Bill that would reform the FMMO pricing series so that it again promotes orderly marketing conditions and provides dairy farmers with equitable and predictable pricing.

Status: Although there has been some advocacy from interested parties for certain reforms, no specific federal action has been taken to date.

3. State Regulatory Milk Market Order Pricing Program

- The Task Force reviewed milk market order pricing programs in other states. Programs in other states regulate the entire amount paid by in-state milk plants to in-state farm suppliers or establish an amount to be added as a premium to the current FMMO price.
- The Vermont Milk Commission has authority to establish an in-state pricing order. However, because the market channel for Vermont raw milk has changed substantially, there are legal questions about how a Vermont milk market order should be constructed.

- The Task Force recommended that the General Assembly, through the Task Force, obtain an academic legal opinion to address the legal questions regarding establishing a Vermont milk market order for raw milk purchased in the State.

Status: A legal opinion was obtained by the Task Force from Professor Brannon Denning. The professor will be requested to present his legal opinion to the Task Force.

4. Raw Milk Use Tax

- The Task Force reviewed a Maine program that pays farmers subsidies from the general fund. The payments are supported by a handling fee on raw milk produced in-state.
- Vermont could implement a similar program, but the Vermont dairy industry is configured differently from Maine. These differences lead to legal and mechanical questions on how a subsidy program and fee or tax could be structured in Vermont.
- The Task Force recommended that the General Assembly, through the Task Force, obtain an academic legal opinion regarding implementation of a subsidy payment program. After receipt of the opinion, the Task Force can recommend whether the General Assembly should pursue a subsidy payment and tax option.

Status: A legal opinion was obtained by the Task Force from Professor Brannon Denning. The professor will be requested to present his legal opinion to the Task Force.

5. Fee on Retail Sale of Packaged Milk Products for Advertising Funding

- The Task Force received a proposal to impose a fee on all packaged fluid products labeled as milk and distributed in the State for sale, including plant-based beverages.
- Revenue generated from the fee could be used to fund expanded State marketing in Vermont and out of State of the beneficial qualities of Vermont's dairy industry.
- The Task Force recommends that the General Assembly take testimony to determine if a five to ten-cent fee on packaged, fluid milk sold in the State would be sufficient to promote the Vermont dairy industry and its products.

Status: No action taken to date.

C. INFRASTRUCTURE SUPPORT

- Over the next several years, Vermont will receive unprecedented federal funds to support the economy and develop infrastructure. These funds provide a generational opportunity to invigorate the State economy, including the Vermont dairy economy.

1. Expansion of Assistance and Infrastructure Programs

- The General Assembly should review existing financing programs available to dairy farmers or related businesses to identify where programs can be expanded or established to provide short-term assistance from available federal funds.

Status: The Appropriations Act of 2022, 2022 Acts and Resolves No. 185, Sec. G.701(b)(5) appropriated \$2,451,781.00 from the American Rescue Plan Act - Coronavirus State Fiscal Recovery Fund to AAFM for water quality grants, which may include infrastructure improvements on farms.

In addition, 2022 Acts and Resolves No. 162, Secs. 6 and 7 amended the criteria for awards of assistance under the Capital Equipment Assistance Program and the Farm Agronomic Practices Program. The amendments will give AAFM additional flexibility in awarding grants for activities that meet the purposes of each program.

2. Funding of Grant Writers; Ombudsperson

- The federal funds directly appropriated to Vermont will be disbursed through State-based grant programs. Accessing grants can be time consuming and difficult.
- The Task Force recommended funding grant writers to help farms and agricultural businesses maximize access and use of the federal funds.
- The Task Force recommended that the State explore creating an ombudsperson position to help farmers navigate legal requirements such as applications or land use laws.

Status: The Appropriations Act of 2022, 2022 Acts and Resolves No. 185, Sec. G.800(a)(2) authorized two new water quality program coordinator positions at AAFM. The positions were funded with American Rescue Plan Act (ARPA) funds. Consequently, the positions must focus on implementation of projects or programs funded with ARPA funds.

The Agency intends for one position to assist farms with the paperwork and follow-up required under ARPA. The second position will assist with paperwork but will also spend some time in the field working with farmers to complete paperwork and do some technical assistance on implementing water quality activities.

D. TRANSPORTATION

1. Hauling Costs

- Members of the Task Force noted that hauling costs are a significant cost borne by farmers. The Task Force recommended that the General Assembly explore alternatives for shifting the costs of hauling from dairy farmers to other sources.

Status: No action taken to date.

2. Highway Weights

- The Task Force recommended that the General Assembly conform weight limits on Vermont highways with neighboring states in order to facilitate regional dairy hauling.

Status: The jurisdictional committees of the Vermont General Assembly reviewed potential changes to highway weights and registration alternatives for milk hauling vehicles. Language on registration of milk hauling was agreed to, but issues remained regarding highway weights for all vehicles. Ultimately, the bill was not enacted.

E. LABOR

- The Task Force received testimony from multiple witnesses regarding the current labor shortage and how it is negatively affecting farm and dairy processing production.

1. Increased Commercial Driver's License Assistance

- The Task Force recommended that the General Assembly explore ways to enhance the current Department of Labor that provides funding for commercial driver's license training.
- The Task Force also discussed potential bonuses or additional financing for those participants committing to drive for a milk hauler or dairy processor.

Status: No known action taken by the General Assembly. Task Force members may have additional information.

2. Incentives; Housing or Bonuses

- The Task Force recommends that the General Assembly explore providing incentives, such as housing or bonuses, to attract labor for Vermont farms or dairy processors.

Status: No specific incentives were enacted. However, the 2022 Appropriations Act, 2022 Acts and Resolves No. 185, Sec. G.400(a), appropriated \$30,000,000 to VHCB from the ARPA – Coronavirus State Fiscal Recovery Fund to provide affordable mixed-income rental housing and homeownership, improvements to manufactured homes, recovery residences, and, if eligible, housing for farm workers and refugees.

3. Apprenticeship Programs

- The Task Force recommends that the State explore use of apprenticeship programs to attract individuals to the farming profession and provide them with training and experience. Experience gained through an apprenticeship can help individuals gain employment in farming, start a new farm, or help with farm succession or transition.

Status: No known action taken by the General Assembly. Task Force members may have additional information.

F. PURCHASING—STATE AGENCIES AND SCHOOLS

- The Task Force recommended that the General Assembly explore whether State agencies and schools are purchasing Vermont milk for State institutions and schools.
- If they are not, the Task Force recommended exploration of incentives that can be provided to increase State or school purchasing of Vermont milk.

Status: No known action taken by the General Assembly.

G. PROCESSING CAPACITY

- More dairy products and value-added products are produced and processed in Vermont today than 30 years ago. However, additional in-state markets or capacity would buttress the Vermont dairy market. The Task Force recommended that the General Assembly explore the various alternatives for increasing dairy processing capacity in the State.

Status: No known action taken by the General Assembly.

H. BUSINESS ASSISTANCE AND SUCCESSION PLANNING

- The Task Force recommended that additional funds be appropriated to provide dairy farmers with technical services they need for succession and transfer.
- The Task Force recommended developing a list or directory of service providers in the State by region.

Status: No additional funds were appropriated for technical services or succession and transfer. However, the 2022 Appropriations Act, 2022 Acts and Resolves No. 185, Sec. E.222, directs the Secretary of Agriculture, Food and Markets, in consultation with the VHCB, to inventory the existing programs available to assist new farmers beginning operations in the State. On or before January 15, 2023, the Secretary shall provide a report to the General Assembly on the degree of coordination across these programs. This shall include recommendations for improvement or change in operations and coordination that would benefit new farmers' experience in seeking assistance.

I. EXTENSION OF TASK FORCE AUTHORITY; ASSESSMENT AND QUANTIFICATION OF RECOMMENDATIONS

- Several of the Task Force's recommendations require further inquiry, legal analysis, and assessment, but the Task Force was scheduled to cease to exist on March 1, 2022.
- The Task Force recommended that its authority be extended until February 1, 2023, so that it could complete the necessary inquiry, legal analysis, and assessment.

Status: 2022 Acts and Resolves No. 162, Sec. 9 extended the authority of the Task Force until February 1, 2023.