

Sunset Public Hearing Questions for
Tennessee Dairy Promotion Committee
Created by Section 44-19-114, *Tennessee Code Annotated*
(Sunset termination June 2015)

1. Provide a brief introduction to the committee, including information about its purpose, statutory duties, staff, and administrative attachments.

The Dairy Industry Promotion Act was passed by the Tennessee Legislature and signed into law on June 5, 1984. It's only purpose and duty is to permit dairy farmers in Tennessee to act jointly and in cooperation with other producers, handlers and processors of milk products in promoting and stimulating, by advertising, research, nutrition and other methods, the increased consumption, use and sale of all domestic milk and milk products without identification by brand or trade name. Presently the Tennessee Dairy Promotion Committee represents some 365 dairy farmers.

The Tennessee Dairy Promotion Committee has a total of 11 members that are appointed by the Tennessee Commissioner of Agriculture. The Tennessee Commissioner of Agriculture or a designated appointee serves on the board as an ex-officio member with non-voting status. The Tennessee Dairy Promotion Committee is headquartered at 60 Henry Bayless Road, Ardmore, Tennessee 38449. The Tennessee Dairy Promotion Committee receives no funding or staffing through the Tennessee Department of Agriculture or any other state agency. All of the Committee's expenses are paid with funds collected by the Committee.

2. Provide a list of current members of the committee. For each member, please indicate who appointed the member, how the member's presence on the committee complies with Section 44-19-114, *Tennessee Code Annotated*, and the member's county of principal residence. Please indicate if there are any vacancies on the committee and explain what is being done to fill those vacancies.

The members of the Tennessee Dairy Promotion Committee are appointed by the Tennessee Commissioner of Agriculture. There are currently no vacancies on the Committee. (see attached list)

3. Does the committee's membership include public/citizen members? Female members? Members of a racial minority? Members who are sixty years of age or older?

There are no public/citizen members on the Committee. The funds generated under the Tennessee Dairy Promotion Act are collected from dairy farmers only, for the purpose stated in the Act. Section 14 of the Act is specific that only dairy producers that are residents of Tennessee shall serve on the Committee. The Commissioner of Agriculture or his designate are ex-officio members of the Committee. There are presently two female members on the Committee. There are no members of a racial minority and there are members of the Committee sixty years of age or older.

4. How many times did the committee meet in fiscal years 2013 and 2014? How many committee members were present at each meeting?

2013- March 15- ten; May 30- nine; July 2- 11; October 17- nine

2014- May 30- nine; a meeting is scheduled for October 14.

5. What per diem or travel reimbursement do committee members receive? How much was paid to board members during fiscal years 2013 and 2014?

The members of the Committee are eligible for \$50 per day per diem and auto mileage at the prevailing state rate. They are also eligible for meals, lodging, and transportation expenses in accordance to state policy. The amounts paid annually vary depending on how many members attend and whether those in attendance actually claim expenses, which some do not.

6. What were the committee’s revenues (by source) and expenditures (by object) for fiscal years 2013 and 2014? Does the committee carry a fund balance and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the committee does not carry a fund balance, what was the source of the revenue for the excess expenditures?

	<u>Revenue</u>			<u>Expenses</u>			
	<u>Assessments</u>	<u>SUDIA Reimbursement</u>	<u>Other</u>	<u>Directors’</u>	<u>Audit</u>	<u>Admin.</u>	<u>Meetings</u>
2013 –	\$756,758	\$5,483	\$27	\$2,821	\$750	\$1,590	\$348
July 2014 -	\$456,431	\$0	\$46	\$1,627	\$950	\$1,425	\$42

7. Is the committee subject to Sunshine law requirements (per Section 8-44-1020 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the committee have for informing the public of its meetings and making its minutes available to the public?

A public notice of all meetings is placed on the Southeastern United Dairy Industry Association’s website. Public meeting notices are also posted on the state’s online Newsroom under Agriculture and Media Advisories which is accessible from anywhere within the state of Tennessee. Additionally, public meeting notices are posted on TN.gov’s searchable Public Participation website at <https://apps.tn.gov/pmn/index.html>, and distribute public meeting notices to approximately 25 major daily newspapers across the state. Minutes may be obtained from the Southeastern United Dairy Industry Association as well.

8. How does the committee ensure that its members are operating in an impartial manner and that there are no conflicts of interest? If the committee operates under a formal conflict of interest policy, please attach a copy of that policy.

A copy of the Conflict of Interest is attached. Each member signs a statement reflective of policy.

9. Has the Commissioner of Agriculture promulgated rules and regulations as authorized by Section 44-19-120, *Tennessee Code Annotated*? If so, please cite the reference.

Rule 0080-3-7 was filed September 20, 1984 and effective October 20, 1984. The rule specifies the qualifications of members, the nomination procedure, terms of office, and the representation and number of members to serve on the committee.

10. Does the committee have a website? Is so, please provide the web address. What kind of public information is provided on the website?

There has not been a website developed.

11. Describe the nature and extent of the committee's activities and accomplishments during the last two years.

In 2013 and 2014 the Committee considered several proposals from promotion companies on various programs each would implement with the funds available. The Committee voted on the programs they thought were best for Tennessee producers and made arrangements with their contractor, Southeast United Dairy Industry Association, Inc., to remit payment to the specified venders when projects were completed. The Committee reviews promotion proposals annually.

12. Please describe the promotional activities in which the committee is involved. What happens if dairy producers are not satisfied with certain aspects of the committee's promotional activities? What recourse do these producers have to make their complaints heard and what does the committee do to handle such complaints?

The Committee invests the assessments collected from Tennessee dairy farmers in marketing and promotional activities in an effort to increase the demand for dairy products. Dairy producers unsatisfied with the activities of the Committee should notify a member of the committee and encourage the committee to modify their investments. Committee members bring options to Committee meetings for the Committee to consider. Various proposals may be presented to the Committee for consideration.

13. Please describe the process for levying assessments for promotion of dairy products by the committee. In what year was the last petition for assessment received by the commissioner? When did the last change in the amount of assessment occur? How does the committee determine the amount to assess each producer?

The Tennessee Dairy Promotion Committee collects 10¢ per cwt. (hundred weight) for milk that is produced for commercial sales in Tennessee. The last petition for assessment was received by the Commissioner of Agriculture in 1984. There have been no changes in the assessment since the program began in 1984. The assessment is done on a volume basis not an individual member assessment. For each unit (cwt.) of milk that is produced the dairy farmer in Tennessee is assessed 10¢. The 10¢ per cwt. was established in 1983 by the Dairy and Tobacco Adjustment Act of 1983 passed by the U. S. Congress. A total assessment of 15¢ cwt. is paid by every dairy farmer in the U.S.; however, if a qualified program is in place, then 10¢ of the 15¢ can remain in a regional or state program. The Tennessee Dairy Promotion

Committee has been certified by USDA (United States Department of Agriculture) as a qualified program that can collect 10¢ of the total 15¢ per cwt. assessment.

14. Have all producers paid the assessments? What actions are taken when a producer does not pay the assessment?

Yes. Each producer pays on an equal basis according to their total production. If a producer fails to pay assessments to the Tennessee Dairy Promotion Committee then the Commissioner of Agriculture must take appropriate action under Section 21 of the "Act". USDA may also become involved in the collection of assessments that have not been filed.

15. How much money was assessed and collected in the past year? What is the current balance of the Dairy Promotion Fund? Have the financial statements been audited annually as required by Section 44-19-119, *Tennessee Code Annotated*?

In 2013, the Dairy Promotion Committee collected \$756,758 in revenue from assessments. December 31, 2013, the Committee had \$1,259.16 balance in the fund. The financial statements are audited annually by a Certified Public Accountant in accordance with TCA 44-19-119.

16. Under what circumstances would a producer receive a refund of assessments under Section 44-19-115, *Tennessee Code Annotated*?

Under no circumstances would a producer receive a refund of assessments unless the national law (Dairy and Tobacco Adjustment Act of 1983) was abolished. If the national law were abolished, then the Tennessee Dairy Promotion Act would be null and void (Section 22).

17. Has the committee developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the committee has developed and implemented quantitative performance measures, answer questions eighteen through twenty-five. If the committee has not developed quantitative performance measures, proceed directly to question twenty-six.

No quantitative performance measures for ensuring it is meeting its goals has been established.

18. What are your key performance measures for ensuring that your committee is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

19. What aspect[s] of the program are you measuring?

20. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.

21. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.
22. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?
23. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.
24. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.
25. Describe any concerns about your committee's performance measures and any changes or improvements you think need to be made in the process.
26. Provide an explanation of any items related to the committee that may require legislative attention, including your proposed legislative changes.

The Tennessee Dairy Promotion Committee has no recommendations at this time for any changes in the Tennessee Dairy Promotion Act.

27. Should the committee be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of the State of Tennessee?

It is strongly recommended that the Tennessee Dairy Promotion Committee be continued. The Committee provides an essential service to dairy producers and to the public welfare by promoting the sale and consumption of milk and milk products and the dissemination of sound, scientifically-based nutrition information.

28. Please list all committee programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The Committee does not conduct any programs or activities which receive federal financial assistance. All programs and activities are funded through the assessments on dairy producers described in Question 12.

If the committee does receive federal assistance, please answer questions 29 through 36. If the committee does not receive federal assistance, proceed directly to question 35.

29. Does the committee prepare a Title VI plan? If yes, please provide a copy of the most recent plan.
30. Does the committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not,

provide the name and phone number of the person responsible for dealing with Title VI issues.

31. To which state or federal agency (if any) does the committee report concerning Title VI? Please describe the information your council submits to the state or federal government and/or provide a copy of the most recent report submitted.
32. Describe the committee's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.
33. Describe the committee's actions to ensure it is meeting Title VI requirements. Specifically, describe any association monitoring or tracking activities related to Title VI, and how frequently these activities occur.
34. Please describe the committee's procedures for handling Title VI complaints. Has your association received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
35. Please provide a breakdown of current committee staff by title, ethnicity, and gender.

The Committee has no staff. Employees of the Southeast United Dairy Industry Association, Inc. who serves as the contractor provides staff resources.

36. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

The Committee has a contractual agreement with the American Dairy Association of Tennessee-Southeast United Dairy Industry Association, Inc. The Committee pays the contractor a total of 10 cents per cwt., with the Committee retaining discretionary control over 2 cents per cwt. for promotion of milk and milk products in the state of Tennessee, pursuant to the provisions of Chapter 948 of the Public Acts of 1984, less any expenses necessary to the operation of the Committee. Manager of the contractor is U. S. Citizen

TENNESSEE DAIRY PROMOTION COMMITTEE
BOARD MEMBERSHIP

NAME/ADDRESS	PHONE NUMBER	AFFILIATION	TERM EXPIRES
Raybon Bayless 60 Henry Bayless Rd. Ardmore, TN 38449	931/629-3404	Independent	July 2016
Randy Davis 2303 Davis Dairy Rd Philadelphia, TN 37846	865/458-5223	Independent	July 2016
David Saylor 101 Payne Lane Jonesborough, TN 37659	423/753-6005	Independent	July 2016
Kathy Dougherty Eastawood Farms 125 Co. Rd. 401 Madisonville, TN 37354	423/475-4228	Independent	July 2015
Roy Major 6851 Cainsville Road Lebanon, TN 37090	615/210-3214	Independent	July 2016
Paul Moss 635 Banks Levee Rd. Cottage Grove, TN 38224	731/782-3303	Co-Op	July 2016
Jared Franklin 400 Delong Rd. Bradyville, TN 37026	615/464-3191	Co-Op	July 2015
Tony White 1794 New Columbia Hwy Lewisburg, TN 37091	931/619-7626	Independent	July 2016
Johnny Sparkman 1086 Eaton Road Sparta, TN 38583	931/808-3730	Co-Op	July 2015
John Neal Scarlett Scarlett Dairy Farm 622 West Highway 11 E New Market, TN 37820	865/475-4716 865/475-8031 (F)	Independent	July 2015
Jim Yates 3077 Owl Hole Gap Road Rutledge, TN 37861	865/828-8146	Co-Op	July 2015
Julius Johnson, Commissioner of Agri. P.O.Box 40627 Nashville, TN 37204	615/837-5100		
Jimmy Hopper Dept. of Agri. P.O.Box 40627 Nashville, TN 37204	615/837-5152		
Joe Pearson TN Farm Bureau P.O.Box 313 Columbia, TN 38401	931/388-7872		

Updated 7/2014

**Tennessee Dairy Promotion Committee
Conflict of Interest Policy***

The following guidelines set forth standards for avoiding conflicts of interest for members of the Tennessee Dairy Promotion Committee:

- (1) Committee members should avoid any action that might result or create the appearance of:
 - (a) Giving preferential treatment to anyone appearing before the committee seeking business opportunities.
 - (b) Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan, unusual discount, or anything of monetary value except social and business courtesies (e.g. meals) from a person the committee member knows or has reason to know is seeking approval from the committee for a business opportunity.
- (2) Committee members shall not take any extraordinary action that might prejudice the committee's decision.
- (3) Committee members shall not use or give information acquired through this position, prior to its availability to the general public, to advance the interests of himself or herself, family, associates or friends, or any other person or enterprise.

This is to acknowledge that I have received a copy of the Tennessee Dairy Promotion Committee Conflict of Interest Policy.

Date	Signature	Name (print)
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*Adopted March 18, 2009