[Senate, June 11, 2008 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 2576]

The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

AN ACT RELATIVE TO THE PRESERVATION OF DAIRY FARMS

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to aid in the preservation of the dairy farming industry in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, And by the authority of the same, as follows:

SECTION 1. Chapter 10 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 48, the following new section:-

Section 48A. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Dairy Promotion Trust Fund, to be used without further appropriation, for the purposes set forth in section 14B of chapter 94A. Any unexpended balance in the fund at the end of the fiscal year shall not revert to the General Fund but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.
The dairy promotion board, established pursuant to section 14B of chapter 94A, shall have exclusive authority to receive and expend monies pursuant to section 14B of chapter 94A. The books and records of the dairy promotion trust fund shall be subject to an annual audit by the state auditor.

SECTION 2. Chapter 20 of the General Laws, as so appearing, is hereby amended by inserting after section 26 the following new sections:

Section 26A. Notwithstanding any general or special law to the contrary, the department may offer both farm viability technical assistance and implementation funding to an owner of an agricultural property, as defined under section 1A of chapter 128, permanently restricted pursuant to chapter 184, provided that the owner demonstrates in the case of implementation funding that the implementation shall improve the economic viability of the farm; retain or create private sector jobs and tax revenue either directly or indirectly associated with a farm business; improve farm productivity and competitiveness; expand farm facilities as part of a modernization or business plan; support renewable energy or environmental remediation projects on farms; or expand and support markets and infrastructure to strengthen the farming industry. The department may adopt regulations to carry out the provisions of this section.

Section 27. (a) There shall be a linked deposit loan program established by the department for the purposes of making linked loans to eligible borrowers. The commissioner shall administer the program, and may, in consultation with the treasurer, promulgate rules and regulations governing loan applications and the use of program funds for eligible projects. The
commissioner shall have the discretion to determine the amounts of the loans available to
borrowers, provided that no linked loan shall exceed $500,000. Up to $50,000,000 shall be
provided as loans over the life of the program. The commissioner shall disseminate information
regarding the linked loan program to eligible borrowers.

SECTION 3. Chapter 94A of the General Laws as so appearing is hereby amended by inserting
after section 14A the following section:-

Section 14B. Massachusetts Dairy Farm Promotion Board.

(a) There shall be established a Massachusetts dairy promotion board, hereinafter referred to as
the “board”. The board shall consist of the secretary of administration and finance or his
designee; the commissioner of the department of agricultural resources or his designee, who
shall serve as chairperson; and seven members appointed by the commissioner. Of the members
appointed by the commissioner, 1 shall be selected from a list of three individuals nominated by
the Massachusetts cooperative of milk producers federation; 1 shall be a Massachusetts
producer dealer and shall be selected from a list of three individuals nominated by the new
england producer handlers association; 2 shall be selected from a list of five individuals
nominated by the Massachusetts association of dairy farmers; 2 shall be selected from a list of
five individuals nominated by agri-mark cooperative; 1 shall be selected from a list of three
individuals nominated by the Massachusetts food association.
(b) With the exception of the commissioner and secretary of administration and finance, board members shall be appointed to three-year terms. The initial terms shall be staggered as follows: The members nominated by Massachusetts cooperative of milk producers federation, the Massachusetts food association, and the new england producer handlers association shall serve for a full three-year term; 1 member each nominated by the Massachusetts association of dairy farmers and agri-mark cooperative shall serve a three-year term and the remaining members shall serve one-year terms. The Massachusetts association of dairy farmers and agri-mark cooperative shall designate, upon providing nominations for appointment, the member to serve for one year and the member to serve for three years. A vacancy shall be promptly filled by the appointing authority for the vacated position for the unexpired term. A producer member who changes the geographic market into which the member sells milk or who ceases the production of milk in Massachusetts will be considered to have vacated membership if the change or cessation continues in excess of 3 months. A majority of the members of the board constitute a quorum and the affirmative vote of at least a majority of members present at a meeting is necessary to transact all business and carry out the purpose of the board.

(c) The board shall have the purpose of developing and increasing the consumption of Massachusetts dairy products. Such programs may include but shall not be limited to promotional activities such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, Massachusetts dairy products generally; research activities including but not limited to studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products, and other related efforts to expand demand for dairy products; and education which includes those
activities intended to broaden the understanding of sound nutritional principles, including the role of milk and dairy products in a balanced diet.

(d) With the approval of the board, the commissioner shall be authorized to administer any programs and to issue and make effective such administrative rules and regulations and interpretations as may be authorized and necessary to carry out the purposes of the board.

(e) The board shall assess a fee of 10 cents per hundredweight upon milk delivered by Massachusetts milk producers or that fee that is commensurate with the credit allowed for producer contributions to state qualified programs under the Dairy Production Stabilization Act of 1983, codified at 7 U.S.C. 4501-4514 as amended. The fee shall be collected as follows: (1) A dealer, who purchases milk directly from producers, shall withhold from each Massachusetts milk producer a fee of 10 cents per hundredweight on all milk produced and shall forward that fee to the board no later than the last day of the month following the month in which the milk was produced; (2) All producer dealers shall pay to the Board a fee of 10 cents per hundredweight on all milk produced by the producer dealer no later than the last day of the month following the month in which the milk was produced.

(f) The board may receive and expend funds from any source, public or private, to carry out the purposes of this section. The monies collected and deposited into the dairy promotion fund shall be controlled exclusively by the Massachusetts dairy promotion board subject to annual spending plan approval by the secretary of administration and finance.
(g) The board shall keep books, records and accounts of all its activities, which shall be open to inspection. The state auditor shall conduct an annual audit of the board’s books. The state auditor shall present the results of the audit to the board, the commissioner, the state treasurer and the house and senate committee on ways and means. The board shall also prepare an annual report that must include a summary of all receipts and expenditures, including expenditures for specific promotional, educational, or research programs; a description of the various promotional, educational or research programs operated, contracted or sponsored by the board; and directory of current board members, including their affiliation and term of office and shall provide a copy of the annual report to the house and senate committee on ways and means and the executive office of administration and finance.

SECTION 4. Notwithstanding any general or special law to the contrary, a commission shall be established to study and recommend options for updating farming technology including, but not limited to, ways to promote energy conservation, collaborative purchasing, purchasing and selling of energy, energy saving technology, and alternative options for sustainability and growth. The commission shall, in the course of its study, analyze current regulations and statutes to ensure such regulations and statutes are not impediments to the adoption of farming technology. Said commission shall be appointed by the governor and shall consist of the following members: the commissioner of the department of agricultural resources or his designee who shall serve as chairman, the commissioner of the department of environmental protection or designee, the commissioner of the department of revenue or his designee, the commissioner of the department of public health or his designee, a representative from the Massachusetts technology collaborative, a dairy farmer who is licensed as a producer dealer, a
dairy farmer who represents the Massachusetts association of dairy farmers and a dairy farmer who represents the Massachusetts cooperative of milk producers federation. The commission shall file a report with its findings and recommendations to the governor, the clerk of the house and senate, the house and senate committee on the environment, natural resources and agriculture, and the house and senate committees on ways and means, by April 1, 2009, and annually thereafter. Said commission shall meet quarterly or as need if requested by 4 or more members of the commission.

SECTION 5. Section 8A of chapter 59 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

The local appropriating authority, as defined in section 21C, of a city or town may, by a two-thirds vote, seek voter approval to not impose the excise established by this section.