

## **TESTIMONY ON HOUSE BILL 1265**

Representative John Lawrence  
House Agriculture and Rural Affairs Committee  
Senate Agriculture and Rural Affairs Committee  
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Ag Progress Days  
Russell E. Larson Agricultural Research Center  
2710 W. Pine Grove Road, Pennsylvania Furnace, PA

Good Morning Chairman Causer, Chairman Vogel, Chairman Carroll, Chairwoman Schwank, and esteemed colleagues. I sincerely appreciate the opportunity to speak today on HB 1265 regarding transparency for state-mandated milk premiums for dairy farmers.

Milk pricing is an extremely complicated subject. HB 1265 is narrowly tailored with one goal - to ensure Pennsylvania family farmers know how many, if any, state government-mandated premium dollars are in their milk check.

In 1988, the Milk Marketing Board established an "over-order premium," a fee assessed on every gallon of Class 1 fluid drinking milk sold in Pennsylvania. The fee has varied over the years and is currently set at \$1.85 per hundredweight or \$0.16 per gallon.

The idea behind this state-mandated Over-Order Premium is simple: Pennsylvania consumers would be willing to pay a little more per gallon if they knew that they were helping out the Pennsylvania dairy farmer, and thus ensuring a steady, reliable source of local milk. As we all know, milk pricing is fickle – right now prices are down dramatically. Trying to make a living as a small dairy farmer is harder than ever. The intent of the premium was to cushion the blow that national or even global economic forces might have on the small, Pennsylvania family farmer. This fee is built-in to the price consumers pay for milk at the grocery store, and is to be paid back to the producer on milk that is produced, processed, and sold in Pennsylvania.

For decades now, this state-mandated over-order premium has been collected on each gallon of milk sold in Pennsylvania. Yet many family farmers do not know how much, if any, of that state-mandated money is actually getting back to them. Many have said to me that the money is "lost in the system." How can this be?

According to current Pennsylvania law and regulation:

- Milk dealers paying family farmers (producers) must include a line-item on the milk check showing the specific amount of state-mandated premiums contained in the check.

- Milk dealers paying cooperatives (producers) must include a line-item on the milk check showing the specific amount of state-mandated premiums contained in the check.
- Cooperatives paying family farmers are under no obligation to disclose anything on the milk check showing the specific amount of state-mandated premiums contained in the check.

HB 1265 seeks to correct this issue. This bill, less than 3 pages long, simply requires any family farmer receiving a milk check be told how much money he or she is receiving as a result of the Pennsylvania MMB over-order premium. Today, farmers selling to milk dealers receive this information with every check, farmers selling through cooperatives do not.

A Pennsylvania family farmer has the right to know how much of the payment he is getting for the milk sold off his farm comes from a state-mandated premium, regardless of whether that farmer sells his milk via a cooperative or a milk dealer. The state-mandated over-order premium should be transparent at all levels but particularly to the family dairy farmer.

A number of organizations, including the Pennsylvania Farm Bureau, have endorsed the accountability and transparency provided in this bill. However, it is no secret that House Bill 1265 has seen tremendous opposition, primarily from one large, multistate dairy cooperative, the Dairy Farmers of America. While I respect that everyone is entitled to their own opinion, and that good people can disagree, I respectfully submit to the committee that DFA's opposition to this bill is not in the best interest of Pennsylvania's dairy farmers.

Last June, DFA testified against this bill before the House Ag committee, and sent a follow up letter to Chairman Causer that was distributed to the committee. In my opinion, the letter from DFA actually makes the case for the transparency and accountability called for in House Bill 1265.

To quote from DFA's letter:

*"When DFA Northeast collects over-order premiums from the sale of milk, they are combined in one pool of money and lose state identity. In other words, there is no special account for PMMB premiums, New Jersey premiums, New York premiums, Class I premiums, manufacturing premiums, or other premium, etc. Once all of these premiums are collected, and after marketing expenses are paid, the premiums are all paid to Northeast DFA members in the form of market driven premiums..."*

Colleagues, this is the heart of the issue. The Pennsylvania Milk Marketing Board established the PA over-order premium to benefit Pennsylvania Dairy Farmers, period. It did not establish the premium so a milk cooperative can pad market driven premiums

they pay to dairy farmers throughout the Northeast! The fundamental claim that DFA is making, that they alone should be able to send a government mandated premium to out of state dairy farmers, points directly to the need for the additional accountability required in HB1265.

Notice that DFA states in their letter that they treat the PA MMB OOP as a "market driven premium." While this is legal, I submit to the committee it is reprehensible and points to the need for HB1265. A market driven dairy premium is one that is negotiated by the cooperative in the marketplace with the buyer of the milk, to be paid back to the dairy farmer members of the cooperative in whatever manner the cooperative determines best. The PA MMB OOP is not a market driven premium, it is a state-mandated premium.

The real question is this, is the PA MMB OOP just another revenue source for a cooperative to treat however they choose? Or should there be a shred of accountability that comes with a state government mandated premium?

Cooperatives negotiate *market* driven milk premiums for the benefit of the cooperative membership. It is not my business, nor the business of anyone in the government frankly, how the cooperative distributes these *market* driven premiums to their membership. However, when the cooperative takes a *government mandated* premium, intended by the state for the benefit of Pennsylvania dairy farmers, and treats it as just another market driven premium that can be used anyway the Board of Directors determines, that perverts the intent of the state Milk Marketing Board's over-order premium.

Who among us can stand for this? A Pennsylvania government-mandated milk premium, paid by Pennsylvania milk drinkers, should be going to Pennsylvania dairy farmers. Is it really the intent of the state government for a milk cooperative to claim that they alone can, without any accountability from the state which created the over-order premium, determine the fate of Pennsylvania premium dollars, that they can even determine to send them to out of state farmers?

Another quote from the DFA letter:

*"With respect to Pennsylvania, we [DFA] performed a special calculation for the month of April 2015 and found the amount of the **market driven premium** dollars paid to Pennsylvania farms was more than double the amount of **PMMB premiums** / dollars collected for that month."*(emphasis added)

Colleagues, this again makes the point for the need for House Bill 1265. Look carefully at what is being claimed. DFA claims that farmers are getting total market driven premiums that are more than double the PMMB premium – so why should anyone complain? The truth is Pennsylvania DFA farmers should be getting the Pennsylvania

MMB over-order premium **ON TOP OF** whatever market driven premium DFA negotiates.

Detractors of HB 1265 claim the simple disclosure of how PA MMB over-order premium dollars are distributed would be difficult or impossible. This simply does not pass the smell test. I point to the testimony provided by the Milk Marketing Board last year in reference to HB1265:

*"The Board reads the intent of House Bill 1265 as ensuring that all the money that cooperatives collect as over-order premium payments be distributed to Pennsylvania dairy farmer members of the cooperative and that the amount paid to each Pennsylvania dairy farmer member be shown as a line item on the statements from the cooperatives to its members. Our current thinking is that enforcement would consist of the Board developing a reporting mechanism for cooperatives to list their Pennsylvania members and the amount of over-order premium that was shown on each of those members' milk checks. We would compare the total received by the members to the amount received by the cooperative to ensure they matched and would spot check a statistically-appropriate number of actual milk checks to ensure reporting by the cooperative was accurate."*End quote.

Nothing could be simpler. The Milk Marketing Board already knows how much of the MMB OOP is received by each cooperative. Under HB1265, the MMB would ask for a report from the cooperative showing a list of farmers who received this money, and make sure the numbers matched.

Colleagues, I would like to make one final point. Detractors of this legislation have made various claims as to how the passage of this bill will somehow hurt Pennsylvania dairy farmers. Some of these claims include language that I believe is intended to confuse and obscure the simplicity of the bill. Again, I point to the letter DFA sent to Chairman Causer last year:

*"We [DFA] do not penalize a farm for being further away from a Class I plant than its neighbor nor do we penalize farms in a location where their milk may never touch a Class I plant because of distance or decisions we make dispatching the milk. Instead, cooperatives pool premium dollars to benefit all members. In summary, we want all farms to have the benefit of the diverse market in the Northeast regardless of their location."*

Colleagues, nothing in this legislation prevents a cooperative from pooling state-mandated over-order premium dollars and paying them to Pennsylvania dairy farmers. There is nothing in this bill about penalizing any farmer for being farther away from a Class I plant than someone else. I do take issue with DFA's stated desire to pool the Pennsylvania-created and mandated over-order premium with out of state dairy farmers, that is a key reason to support HB1265. Certainly I sympathize with DFA's

member farmers across the Northeast, and I am sure we all wish dairy farmers in the other 49 states received more for their milk. But we are here to represent the Pennsylvania dairy farmer, to ensure their well-being. We are here to ensure that the 16 cents paid every time a gallon of milk is sold in this state, as mandated by the state, is treated with care and dignity, and that the Pennsylvania dairy farmer knows as much as possible about how that 16 cents impacts them. I submit we are not here to condone the practice of taking precious dollars paid by Pennsylvanians and intended for our own state's dairymen and "*combin[ing them] in one pool of money*" so they "*lose state identity.*"

Accountability and transparency with any money resulting from a government mandated tax, fee, premium, whatever word used – accountability and transparency should be a given. House Bill 1265 requires exactly that – accountability and transparency to the Pennsylvania dairy farmer.

Colleagues, I close my testimony with this simple illustration. A few years back, the state established a shale gas impact fee. Imagine if the legislature instituted the impact fee, Chesapeake Energy collected the fee, and distributed the funds however they deemed appropriate. No one at the state level ever bothered to ask what Chesapeake did with the money. And imagine that after a few years, it was learned that some of the impact fees were used to fix roads in Ohio that had been damaged by drilling rigs. Who among us would stand for that? All of us would clamor for additional state oversight to ensure those impact fees went to the intended recipients.

With House Bill 1265, each and every dairy farmer in Pennsylvania will know how much of their milk check comes from the state-mandated over-order premium. Again, when a state-mandated premium enters the equation, certainly this committee and even more so the family farmer should know if that state-mandated premium is achieving the desired outcome.

I would like to sincerely thank the Chairmen and the committee for the opportunity to speak on the need for this legislation. I would be happy to take any questions from the members.



June 24, 2015

House Agriculture Committee  
Martin Causer, Chairman  
41 B East Wing  
Harrisburg, PA 17120

Dear Chairman Causer:

Last week, I had the opportunity to attend and listen to the testimony that was provided in the hearing to consider changes in the PMMB to reflect PMMB payment on cooperative milk checks. In an effort to reiterate our position stated in the hearing, I wanted to submit some clarifying comments.

During the hearing, DFA Northeast's Co-Chairman - Bill Beeman - made the statement that we send Pennsylvania money out of the state followed by a statement that New York money flows into Pennsylvania. In this statement, Mr. Beeman was trying to explain that all of the premium dollars we collect are blended together. Unfortunately, this was not fully explained and we are concerned that your committee may not understand how DFA collects premiums from the marketplace and pays out over-order premiums to members. The following is an explanation we hope you would share with your committee members.

When DFA Northeast collects over-order premiums from the sale of milk, they are combined in one pool of money and lose state identity. In other words, there is no special account for PMMB premiums, New Jersey premiums, New York premiums, Class I premiums, manufacturing premiums or other premiums, etc. Once all of these premiums are collected, and after marketing expenses are paid, the premiums are all paid to Northeast DFA members in the form of market driven premiums – base premiums, competitive premiums, volume premiums, quality, etc.

With respect to Pennsylvania, we performed a special calculation for the month of April 2015 and found the amount of the market driven premium dollars paid to Pennsylvania farms was more than double the amount of PMMB premiums / dollars collected for that month. Additionally, we performed the same calculation for August 2014 and the amount of market driven premium dollars paid to DFA members was more than triple the PMMB premiums collected. It is important to note that the founding principles under which a cooperative functions is to pool over order premiums such that members are equitably paid for their milk. We do not penalize a farm for being further away from a Class I plant than its neighbor nor do we penalize farms in a location where their milk may never touch a Class I plant because of distance or decisions we make dispatching the milk. Instead, Cooperatives pool premium dollars to benefit all members. In summary, we want all farms to have the benefit of the diverse market in the Northeast regardless of their location.

In Pennsylvania, we consistently pay more in market driven over-order premiums to our members than the specific PMMB premium dollars, and we maintain our position that this proposed legislation would disrupt the way dairy farmers conduct business in Pennsylvania. This proposed legislation would also add additional administrative costs since we balance the majority of the excess milk in Pennsylvania, causing a substantial portion of Pennsylvania milk to be delivered to plants outside Pennsylvania.

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To track the movement for more than 1,500 farms and identify the PMMB premium collected on Pennsylvania milk, which is a minimal percent of the overall premiums paid, and then determine what milk is delivered to Pennsylvania plants for payments to those members would not be an economic gain to farms, and in fact would create additional administrative work.

In summary, DFA continues to oppose the proposed legislation because it does not benefit our members, it disrupts the way we conduct business and ample transparency and accountability already exist today.

Sincerely,

A handwritten signature in black ink that reads 'John T. Siglow'.

John Siglow  
Dairy Farmers of America, Inc.  
Northeast Area

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