

STATEMENT OF

TIM MOYER

EXECUTIVE SECRETARY

PENNSYLVANIA MILK MARKETING BOARD

**HOUSE AGRICULTURE AND RURAL AFFAIRS
COMMITTEE**

JUNE 17, 2015

Good morning Chairman Caser, Chairman Carroll, and members of the Committee. I'm Tim Moyer, Executive Secretary of the Pennsylvania Milk Marketing Board. I've been Executive Secretary since 2011 and have been employed by the Board since 1993. The Board appreciates the opportunity to provide you some thoughts on House Bill 1265, introduced by Representative Lawrence, that would amend the Milk Marketing Law.

The Milk Marketing Board is an independent state agency which primarily administers two laws: the Milk Marketing Law and the Milk Producers' Security Act. The Board consists of three members, appointed by the Governor for six year terms, with the advice and consent of the Senate. In addition to the three Board members, we currently employ 20 people and have a budget of approximately \$2.8 million. The Board receives no general fund appropriation – the Board's funding is derived almost exclusively from license fees.

The Board sets minimum producer, wholesale, and retail prices as part of a comprehensive legislative program to ensure that Pennsylvania dairy producers produce an adequate supply of milk to meet the fluid milk demands of Pennsylvania consumers. This program enhances the farm milk price while at the same time providing a fair and competitive price for consumers. The minimum producer price includes the Board-mandated over-order premium on Class I milk (bottled fluid milk) produced, processed, and sold in Pennsylvania. The over-order premium is adjusted periodically based on evidence received at public hearings. Currently the over-order premium is \$1.60 per hundredweight plus a \$0.25 per hundredweight fuel adjuster, for a total of \$1.85 per hundredweight. There is no Board-mandated premium on classes of milk other than Class I.

Milk dealers pay the over-order premium to their producers as part of their minimum producer payment. Each milk dealer's minimum producer payment, including the over-order

premium payment, is different, based on the utilization of the milk purchased from its producers. Since 1997, the Board's over-order premium orders have required milk dealers to show by line item on monthly statements to producers the specific amount of the over-order premium being paid. The Board's regulations, at 7 Pa. Code section 143.14, also require that milk dealers show on monthly producer statements the pounds of milk subject to the over-order premium and the amount of over-order premium paid. In addition, since 2005, when Board auditors calculate milk dealers' minimum producer payment obligations, they have not allowed payments shown on milk checks as bonuses or other premiums to be included when determining whether minimum producer payment obligations have been met. In short, it appears to the Board that for at least a decade fluid milk processing dealers have been required to comply with Board-imposed obligations that are, for all intents and purposes, identical to those found in House Bill 1265.

At this point, it is important to mention a significant distinction between milk dealers and dairy cooperatives. Basically, a cooperative is an association of dairy farmers organized to make collective sales of its members' milk. When a cooperative makes a sale of its members' milk to a milk dealer, Pennsylvania and federal law treat the cooperative and all of its members as a single producer. Cooperatives receive payments from milk dealers and then distribute the money to their individual cooperative members based on agreements between the cooperatives and their members. The monthly statement from a milk dealer to a cooperative will contain, as required by Board orders and regulations, a line item showing the specific amount of over-order premium paid to the cooperative as a whole. However, Pennsylvania and federal law provide that cooperatives may blend the net proceeds of all of their sales and distribute the money collected to their members in any way agreed to by the cooperative and its members. So it is true in the case of cooperatives that they may set their own policy as to how the over-order premium is

distributed back to their member dairy farmers. Currently, once a cooperative receives the minimum producer payment from a milk dealer, the Board's regulatory authority over that money ends.

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.

As noted earlier, it appears to the Board that milk dealers already comply with the provisions of House Bill 1265, and the Board does not plan to alter applicable provisions of orders, regulations, or Staff audit practices in any manner that would change that.

Thank you for the opportunity to discuss this legislation today. We'd be happy to answer any questions that you may have.