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BACKGROUND on H.B. 1223 and 1224 introduced by Rep. John Lawrence and passed 194-2 and 196-0 in the House in December 2019

- The state-mandated over-order premiums established by the Pa. Milk Market Board (PMMB) are built into the state-minimum retail price for milk and are to be used for the benefit of Pennsylvania's dairy farmers.
- Rep. Lawrence notes that, "Currently many farmers question whether they are receiving those benefits."
- Under the PA Milk Marketing Law, average costs of retailers and processors are determined annually by the PMMB through cost recovery hearings and the law requires the minimum price to cover these costs plus add 2.5 to 3.5% profit margin for retailers and processors.
- Under the PA Milk Marketing Law, the producer over-order premium is established by PMMB through a hearing process semi-annually and in emergency conditions. But market conditions are part of the process for establishing this premium so unlike the processor and retailer portion there is no "cost recovery" in these premiums.
- The payment of the over-order premiums to dairy farmers is only traced by the PMMB in the cases where the milk meets three criteria: produced, processed and sold in PA. However, PA consumers pay this premium no matter where the milk was produced or processed.
- Any out-of-state transaction at warehouses in Maryland, New Jersey, Ohio and New York break the chain of following the pass through. Out of state milk in processor receipts reduces the obligation to pay Pennsylvania producers even when PA milk receipts match PA milk sales to consumers.
- Other loopholes exist, as well as increased pressure of out of state packaged milk sales as well as out of state raw milk coming to in-state facilities and in-state milk going out of state for processing before coming back in to retail.
- The current PMMB over-order premium is \$1.00 per hundredweight, which translates to 8 cents per gallon built into the retail minimum price paid by Pennsylvania consumers. Prior to January 2018, the premium was 16 to 27 cents per gallon. It was reduced to 8 cents after December 2017 hearings, in part, due to pressure from out-of-state milk suppliers.

- This premium reduction in Jan. 2018 occurred just before the nation's largest milk bottler, Dean Foods, terminated milk supply contracts with 47 Pennsylvania farms in April 2018 and closed a plant in Erie in the summer of 2018. At the same time, Walmart started up its first milk bottling plant in Fort Wayne, Indiana, and milk from their Midwest supply chain flowed East. Walmart is a licensed dealer/handler in the PMMB system and controls its milk supply processed at Dean Foods plants in PA.
- There are four Dean Foods bottling plants remaining in Pennsylvania -- Lansdale, Lebanon, Schuylkill Valley and Sharpsville. All four are part of the April 3 purchase agreement whereby nationwide cooperative Dairy Farmers of America is buying 44 of Dean's 57 plants in the bankruptcy court-supervised sale.
- Cooperatives require farmers to sign contracts that declare cooperative ownership of the milk before it is picked up. This means the cooperatives receive the state-mandated premium intended for farmers, and they do not presently have to show what they've done with it. They are not audited for pass through of this premium.
- Representatives of the nation's largest cooperative -- DFA -- testified in past House hearings that the Pennsylvania state-mandated over-order premiums are pooled with overall marketing premiums, then co-op costs are deducted from these funds, and the remainder distributed through various co-op programs such as for quality and volume, admitting these funds leave the state.
- During a House hearing with the PMMB board last year, it was confirmed that premiums lost to Pennsylvania farmers were estimated at \$26 million annually, although the PMMB can only estimate this because they have no way of recording all retail sales.
- Pennsylvania consumers pay the over-order premium that is currently 8 cents per gallon built into the minimum retail price paid on all milk no matter what state the milk was produced or processed in.