

February 26, 2003

scp ENVIRONMENT COMMITTEE 10:00 a.m.

PRESIDING CHAIRMEN: Senator Williams

Representative Widlitz

MEMBERS PRESENT:

SENATORS: Coleman, Cook, Handley,

McKinney

REPRESENTATIVES: Bernhard, Caruso, Chapin,

Collins, Davis, Fontana,

Hetherington, Lewis, Megna,

Moukawsher, Piscopo, Roy,

Sharkey, Stillman, Urban,

Wilber, Willis

DEPUTY COMMISSIONER GRESCZYK: Good morning, members of the Environment Committee and co-chairs. It's good to be here today and I thank you for the opportunity to address you.

I'm here to address raised -- the raised bill concerning the fair pricing of milk, and the number is 852.

The Department has been watching the dairy issue quite closely for -- since the demise of the compact back in September 30 of 2001. And since that time, we've witnessed the pricing -- we've monitored the pricing of milk and we also have been paying close attention to our dairy farmers.

When the dairy -- when the New England Dairy Compact ended back then, we've seen a continual slide of pricing to farmers. And basically, farmers are getting anywhere from 30 to 40 percent less for their milk. And we actually have a financial crisis in not only our dairy farms in this state but across New England. And to make a long story short, we're working with the other departments of agriculture in New England. We requested of the Governor, who was still chairman of the New England Governors Conference, to pass a resolution that would encourage re-implementation of the compact or an expanded like compact, which might include other states like New York and Pennsylvania. And when we had the compact, we had stability.

We're not really sure if this particular legislation will help farmers. It's interesting though since this legislation started, we have witnessed somewhat of a fall in pricing in certain retail venues, but for the most part, this bill doesn't really help farmers out themselves. And our primary concern is keeping our open space open, our farms working and, you know, our farmers hopefully making a return on investment.

Most farms today are -- simply just aren't making it. And unless they have zero debt -- we've got issues of power being turned off on farms and -- we're trying to monitor and work with the farmers very closely and trying to work with our federal counterparts. Issues of the current farm bill is -- it actually penalizes the larger farms.

And the thing that's most sad to us and the Department, Government through cooperative extension, through various forms of farm service agency, different other governmental agencies have encouraged farmers to get bigger. Families have banded together, so you'll have what will be considered a large farm, an LLC type of an operation, and there might be three or four families. And the policy that the Federal Government has in place is so discriminatory towards large operations that they had a part in helping to create, it's -- it's really penalizing our big operators.

Anybody with more than a hundred cows are really getting hurt. They have no control over the pricing they get for their product and they're -- and we anticipate a major strike across the country and not just -- not just here in Connecticut or New England.

But we are working on other ways of trying to shore up our farmers. And I'm here today not really to speak in favor or against the bill, but just to let you know that there's truly a real crisis out there. And you know, again, we're diligently trying to do something with our counterparts across New England. And certainly this has gotten the attention of -- even states that were historically against the old compact, they're now starting to take a second look at it because the crisis is huge. And we've got people that aren't going to be able to plant their inputs for crops this spring, corn -- you know, field corn, fertilizers, pesticides, etcetera, to develop a crop. And then you couple that with new regulations coming down on the AFO/KFO (phonetic) side of it, which is the concentrated animal feed operations, and we're looking at regulations that could be the straw that would break the camel's back, and there's no funding available from the feds or the State to help the farmers stay in business.

With that, I thank you for the time and if anybody has any questions, I'd be happy to try to answer them.

SEN. WILLIAMS: Yes, thank you. From your -- based on your testimony and the written testimony I think we'll hear from the Farm Bureau -- the Connecticut Farm Bureau Association as well, it seems that what they're saying and what you're saying in terms of Bill 852 on the pricing of milk is that it doesn't do enough. Is it better than nothing?

DEP. COMM. GRESCZYK: Well, the jury is kind of out. I mean it brought a lot of attention and -- and I mean you do see milk on sale all of a sudden for \$1.99 and two dollars and change, but -- but quite frankly, you know, farmers are getting less than a dollar a gallon for the milk and it cost them more than that to produce it.

And I don't know -- milk is kind of a constant staple, people buy X amount, and unless the price gets really out of whack, consumption usually remains -- it's a staple, people buy it. If it's three gallons a week, it doesn't matter if it's \$2.00 a gallon or \$4.00 a gallon, it's still three gallons a week is what they buy. And certainly -- the beauty of the compact was that it took care of the consumers' concerns, the processors' and the producers. It was kind of a marriage in heaven so to speak.

But the current -- you know, anytime -- you know, the competition, theoretically, if the price gets down, it should create increased demand. But I don't know if that's the case in milk, and that's our -- been our -- in monitoring that's what we found.

SEN. WILLIAMS: Thank you. Representative Davis.

REP. DAVIS: Thank you. To follow up on the Chairman's question, I'm not sure you were quite on point in your answer with all due respect, Bruce -- not Bruce -- we've been all night -- (laughter) -- I mean it's an income problem --

DEP. COMM. GRESCZYK: Yes, it is --

REP. DAVIS: -- the dairy compact expired at the federal level --

DEP. COMM. GRESCZYK: Right.

REP. DAVIS: -- market-based, no public subsidy --

DEP. COMM. GRESCZYK: Well, there is public subsidies --

REP. DAVIS: No, under the old system --

DEP. COMM. GRESCZYK: -- under the new system it's --

REP. DAVIS: No, under the old system --

DEP. COMM. GRESCZYK: Right --

REP. DAVIS: -- there was no public subsidy --

DEP. COMM. GRESCZYK: Right --

REP. DAVIS: -- market-based solution kind of things, even Democrats like to see, and now we're talking about an income problem. Why -- why aren't you saying that this is something that we need even while negotiations are going on at the federal level for, as I understand it, a variety of compacts across -- regional compacts across the country?

DEP. COMM. GRESCZYK: We're not sure that it would work, Representative Davis. And --

REP. DAVIS: Be explicit please.

DEP. COMM. GRESCZYK: Because -- I thought I was being explicit --

REP. DAVIS: I listened to your testimony --

DEP. COMM. GRESCZYK: I tend to -- I -- we tend to believe that the price, whether up or down a little, will have no real impact on consumption. The theory is good that if you control the price, theoretically if the price stays within a certain parameter, you might -- if it gets -- if the retail price drops, it should spur more consumption --

REP. DAVIS: So if the --

DEP. COMM. GRESCZYK: -- or --

REP. DAVIS: If the retail -- I apologize -- if the retail price drops as you mentioned it has because there's been tension brought because of this bill, that's good because that might create more consumption and so therefore, you know, that's going to bring about hopefully a better price at the dairy end. Wouldn't that be correct?

DEP. COMM. GRESCZYK: We have no evidence that it actually has spurred any actual increase in purchases. In the past, milk prices have seasonal fluctuations of highs and lows. More milk is sold in the winter months than in the summer months, but then on the manufacturing side, the summer picks up because of the demand for ice cream and things like mozzarella cheese and that sort of thing, but the fluid milk price basically has peaks and valleys. And unless the price gets totally out of whack, like extremely high, it has no real impact on -- you know, you could cut the price in half from what it is today and we wouldn't expect to see any increased consumption.

REP. DAVIS: Two questions left. What do you place the odds at for these regional compacts to pass at the federal level? Do you have a sense of --

DEP. COMM. GRESCZYK: Actually, the meetings that we've had on the -- at the regional level, we know that the State of New York and the State of Pennsylvania are extremely interested in getting into a compact. We also know that the Midwest, who historically opposed the compact, now is taking a second look at it. We also know that in the budget reconsideration of this year, that the federal program is out of money. And the beauty as you outlined earlier of the compact was that it cost the consumer no money, it cost the Federal Treasury no money and it cost the states no money, and it basically gave balance in pricing to retailers, consumers, and most of all to our producers, who we're most concerned about.

REP. DAVIS: But based on your understanding of what's going on in Washington, what would you place the odds at --

DEP. COMM. GRESCZYK: I think it's --

REP. DAVIS: -- for the compact --

DEP. COMM. GRESCZYK: I think --

REP. DAVIS: -- coming back?

DEP. COMM. GRESCZYK: -- compact or compact like legislation is a very real probability from some of the comments that we're hearing. And six months ago we would have said it's dead and gone, but also because of the tightness of all budgets, both state and federal, that people will be taking a second look at it because it's basically a neutral thing.

REP. DAVIS: And in line with this, do you see harm short of the compact being acted on while we're in legislative session, the harm in enacting something like this that may or may not provide some help?

DEP. COMM. GRESCZYK: We're -- we're not so certain that it will work. Would it be harmful per say, I don't know. And to say that it would be or say that it wouldn't, we haven't -- we don't really know what it would do. We do have concerns in the dairy industry where we've had a mass consolidation of larger entities buying up all the independents. I mean in New England right now, we're down to basically two locally owned independents --

REP. DAVIS: That's --

DEP. COMM. GRESCZYK: -- Bohurst (phonetic) Dairy in Maine and Guida's Dairy in New Britain. Also in Connecticut we have a producer -- we have a couple of producer bottlers of reasonable size and we also have like Marcus Dairy in Danbury that also has concerns over it.

And the thing that troubles us -- as these other entities continue to buy up the processors in New England, it might leave our people, our farmers in Connecticut and New England without a market to actually sell their milk. So if the milk starts coming in from Ohio and Texas and other states, what happens to our milk. And our cost of producing milk is greater in Connecticut and New England because of higher land values and import fees for fertilizers, etcetera.

So it's real important that anything that's done, we look at our local bottlers across the state, small cheese producers -- I mean we have several in Connecticut -- and there's a lot of infrastructure here that might at risk as a result of this legislation. So to take a cavalier attitude from the Department -- I mean, obviously, we regulate both the dairy farmers themselves and the processing side of it, we also know that a lot of our processors are having a tough time. And we want to keep them there, because without the processors, our dairy farmers have a real problem.

And -- you know, so I -- I wouldn't want to see something rushed into. The intent of this is very good, but whether or not it has long-term best interests for our region, not just in the case of the farmers but also the processors and gives the retailers an option too so they don't have to deal with some big conglomerate from out west, which is the case -- I mean we've seen Sealtest, Garelick, Cumberland, the -- St. Albin's co-op up in Vermont -- everything is coming under the thumb of one entity. And we only have a few of our -- in New England region people left. And I think it's important that before we do anything, we take into consideration what happens to them.

REP. DAVIS: Alright, thank you. Thank you.

SEN. WILLIAMS: Thank you. You know, I just wanted to follow up with a couple based on Jeff's questions as well. It seems to me that under the existing system, competition, if there is any left, is rapidly disappearing in terms of processors and who farmers can market their milk to. And one of the arguments that we've heard on this issue is that the gap between what farmers are being paid and what the so-called middlemen and retailers are charging has been increasing significantly. And therefore, it seems to me what this bill is trying to do is tie the price that's paid to the farmer, to the producer to some reasonable percentage of the end retail price so that the gap that has been widening, or at least that's what we're told, is narrowed or at least that the farmers are guaranteed of some reasonable percentage of that end price so that they are -- they are not consistently paid at a very low rate while those who process and then sell at the retail level the milk charge ever higher prices and increase their profits and their margins.

Doesn't this bill take that on? Doesn't this bill accomplish that? And isn't that worth something --

DEP. COMM. GRESCZYK: On the -- on the surface, Senator, I do believe the intention of the bill is quite good. However, I don't think it's that simple. And having spoke with the leadership of Agri-Mark (phonetic), which is New England's largest milk producers co-op and that a large percentage of our farmers do belong to, they're not so sure that it will work either -- and I believe they sent in testimony today -- but they have a different theory that they're going to try to talk to retailers on. And I would like to see them given a chance to try to make

something work. The intent is good though.

SEN. WILLIAMS: Are there other questions? Thank you very much.

DEP. COMM. GRESCZYK: Thank you.

SEN. WILLIAMS: Is Attorney General Blumenthal here? (No audible reply). Is Ronald Cotterill here? (Pause).

: Hurry up.

SEN. WILLIAMS: Good morning. We have Ronald Cotterill --

RONALD COTTERILL: Yes --

SEN. WILLIAMS: -- I presume --

RONALD COTTERILL: That's me.

SEN. WILLIAMS: -- who is the author of the report Dairy Policy for New England, Options at the State and Regional Level.

RONALD COTTERILL: Yes, thank you. Can you hear me? I'm here in conjunction with the Attorney General, Richard Blumenthal. He's a bit delayed, so I'll go first and he will follow up.

I'd like to thank the committee for having me testify this morning. And I'd like to summarize my written testimony, which is in great detail on this issue.

Basically, the -- I would stress that this study that I'm giving you here today is the first real study from the University of Connecticut that looks at this law and its close details. And the conclusion of this study is that this bill will help farmers. It will help farmers perhaps even more than consumers.

Where are we at today in dairy policy in New England, our research showed that at the implementation of the Northeast Dairy Compact, Connecticut's dairy farmers got roughly three cents a gallon more for their milk during the compact period while the retailers and the processors elevated the price and captured an additional 14 cents a gallon to their bottom line, that's over and above what they paid the farmers and over and above what they paid their workers. And at the time they attributed all of the 17-cent gain to the dairy compact.

Our research showed that at that time -- and we have a recent paper that's completed and it's available on our website and it's cited here in great econometric detail that documents that fact. So we have the processors, but probably more importantly the retailers resisting federal dairy policies in New England. This has great implications for federal -- for dairy policies in New England.

And what I'm proposing here today is an entirely new approach to dairy policy in New England. I'm proposing that we link the support to the farmer to the margins that the processor earns and also the margins that the retailer earns. To date, federal policy links the price that the farmer in New England receives to the national manufacturing milk price out in the rest of the country. I'm suggesting we break that link for fluid milk and bring our policy home to New England and link it to the market power that has been demonstrated by the retailers and the

processors over the last five years in this market, market power that has been exercised to the detriment of consumers and New England dairy farmers.

Alright, with that introduction, let's go to the actual written text. The Connecticut -- basically, the Connecticut, Massachusetts and New Hampshire legislatures have bills before them that seek to limit price gouging by processors and retailers. Here we will analyze the proposed fair pricing legislation. Our primary conclusion is that the proposed fair pricing legislation will most likely benefit farmers more than consumers. Given that the primary cause of the wide retail farm price spread that we're observing today is a steep drop in the farm milk price, this is perhaps very appropriate.

As we document below, the New England dairy market channel is no longer competitively structured. Consequently, farming and retail prices are not competitive prices. This deviation from competition damages economic efficiency. Resources are not allocated to production in a fashion that gives society the most for its fixed bundle of resources. That's Econ 101 at the University of Connecticut, ladies and gentlemen.

Deviation from competition also transfers income from farmers and consumers to the processors and retailers that have market power, i.e. the power to set prices in their favor.

For these economic reasons there is a need to implement the proposed fair pricing law or some other policy, there may be other options, to address the lack of competition. The proposed law restructures incentives so that processors and retailers behave more like competitive firms.

Alright. Here we're only going to note that the recent research and legal proceedings on milk prices in southern New England document that consumers pay currently about \$3.00 a gallon for their milk while the farmer gets about \$1.00. You heard Bruce say that it's less than \$1.00 to the farmer at this time. The cost to processing and retailing milk, including a competitive profit, are approximately \$1.00. So there is an additional dollar in excess profits in the channel at the current time. Our survey research documents this.

While copies of the Connecticut, Massachusetts and New Hampshire bills are provided as attachments B, C and D to this testimony, a newspaper article, Attachment F, describes the Maine program. The proposed Connecticut and Massachusetts laws are quite similar. The New Hampshire bill was quickly drafted and will most likely be amended to follow the lead of Connecticut and Massachusetts. We support convergence of the three state bills so that the resulting laws will give uniform treatment to the New England milk industry outside of Maine.

Also, the resulting law could then be jointly enforced. Here we'll only discuss Massachusetts and the Connecticut law. Both the Massachusetts and the Connecticut bills have a very important feature that distinguishes them from the New York State milk price gouging law. The New York retail price ceiling that triggers investigation is 200 percent of the federal market orders minimum price. Whereas, the Connecticut and Massachusetts bills operate off of the price actually paid to the producer or the farm price for Class 1 milk. This distinction as to the trigger price at the farm level is absolutely critical for the performance of the laws.

The New York price gouging law was passed to safeguard consumers when the legislature passed a law that gave the Commissioner of Agriculture

emergency over-order pricing authority. Any state mandated or cooperative over-order premium, or any other factor that raises prices above that Federal minimal level to prices that are twice the level of the federal minimum price, triggers investigation. Thus, the New York price gouging law limits the scope of cooperatives and state activity to implement over-order premiums. It is exclusively oriented towards protecting consumers from price gouging.

The proposed Connecticut and Massachusetts laws do not limit the ability of farmer-oriented groups to charge over-order premiums. In fact, the opposite is the case.

To understand how the proposed law works, consider an example under the Massachusetts 200 percent rule. With milk at \$3.00 a gallon and the farm price at \$1.00 a gallon, under the 200 percent Massachusetts rule, the processor and retailer have options. They can cut the price -- the retail price to \$2.00 a gallon under the two to one rule that we want, or they increase farm prices via premiums to farmers to \$1.50 a gallon. Note that there is a built in bias towards working with farmers. Channel firms keep \$1.50 margin when they pay over-order premiums to farmers, but they keep only \$1.00 when they cut the retail price. Conduct under the proposed law will, if anything, be more beneficial to farmers than consumers. Why? Because it gives market incentives for the processors to raise the price to farmers.

Now, let's examine the proposed Connecticut laws independent targeting of processors and retailers. Under the Connecticut law, processors are open to investigation if the price that they charge is higher than 140 percent of the price paid farmers. Again as farm price drops, processors have an incentive to mitigate that drop by paying farmers an over-order premium.

For example, if a processor wants to earn 60 cents per gallon to process and deliver milk to retailers, then the price they need to pay farmers to comply with the proposed law is \$1.50 a gallon. This is equivalent to \$17.40 per hundred-weight. Processors would pay an over-order premium to bring a lower farm price up to this level. Alternatively, processors could cut the wholesale price until it is 140 percent of the farm price, but this makes a deeper cut into their margin and thus is not as profitable.

The same logic holds for retailers -- for retailers, okay. Are the proposed 140 percent rates in the Connecticut law appropriate? I think it is for processors. The answer however is critical to the performance of the law and thus needs to be set either by the legislature or a designated commission. In --

SEN. WILLIAMS: You know, Professor --

RONALD COTTERILL: Yeah?

SEN. WILLIAMS: -- Cotterill, let me jump in --

RONALD COTTERILL: Sure.

SEN. WILLIAMS: -- and I need to jump in for a couple of reasons, because I want to give our committee a chance to ask questions --

RONALD COTTERILL: Sure.

SEN. WILLIAMS: -- and we are on a very very tight timetable. The Senate is going

into caucus at 11:00 o'clock and actually going into session at 12:00 noon today, so all meetings will have to stop at that point. And we do --

RONALD COTTERILL: Alright --

SEN. WILLIAMS: -- need to give the folks who have signed up our best shot at an opportunity of speaking to our committee today, so --

RONALD COTTERILL: Okay. I'm -- I'm effectively done.

SEN. WILLIAMS: Well, okay -- (laughter) -- well, then it's -- then it's perfect timing. (Laughter).

RONALD COTTERILL: I would just -- I would just say that I was recommending that the markup for the retailer be reduced from 140 to 130 because the gross margin then would be 23 percent rather than -- which is more in line with what one should earn on milk.

And then the -- the last thing I would say -- I'll skip over the federal order stuff, but there's a good deal of justification for pursuing a Connecticut or a New England based approach. What I'd like to say is the proposed law needs to involve interregional cooperation to assure uniform treatment of firms. And in fact, the development of the law needs to be interregional.

And I would close by a statement by Steve Kerr, the Vermont Commissioner of Agriculture, who recently said we're hungry for ideas. The best single answer to this problem of failing farms is a better price for milk, but the state isn't in a position to do that.

Ladies and gentlemen, Connecticut and other New England states are in a position to raise farm milk prices from their current low prices. The proposed fair pricing law is one way to do it. One thing is clear, if New England citizens want to retain the few dairy farms that are left, the pricing of milk has to change. And we're not talking about the price recovery next fall. Milk pricing practices and milk pricing institutions have to change.

Thank you for having me talk.

SEN. WILLIAMS: Thank you. And I want to thank you and we appreciate your testimony that you've submitted and the supporting documentation. That does become a record of this public hearing. Are there questions?

: Representative Wilbur.

SEN. WILLIAMS: Representative Wilbur.

REP. WILBUR: Yes, thank you, Mr. Chairman. Dr. Cotterill, in your proposal -- we're in a Federal milk marketing order now, am I correct that covers Pennsylvania, New York and New England?

RONALD COTTERILL: Yes.

REP. WILBUR: And for anything to be effective, it would have to be done on a regional basis?

RONALD COTTERILL: Uh --

REP. WILBUR: I thought that was one of the things you just stated?

RONALD COTTERILL: Regional New England -- I think this can be effective with the New England states cooperating, possibly New York if you wanted to bring them in. You don't effectively really need beyond that for this to work for New England farmers. If you wanted it to work for New York and Pennsylvania farmers, yeah you would need to bring them in.

REP. WILBUR: I understand anyway through the grapevine that the Commissioners of Agriculture from New England are all working together. There may be a meeting next Friday to work on this. And I'm glad that -- Mr. Gresczyk said that New York farmers were interested in that type of a thing. Would you be willing to work with the industry and come up with some kind of a concrete situation, because I do know there's a little bit of back and forth of the testimonies and things that are before us that we've got to come up with something that will benefit I believe everybody that we have at the table.

RONALD COTTERILL: Of course I'd be willing to work with the industry. And I would stress that this approach is more of an industrial policy than a regulatory policy like in a public utility. We're not trying to prevent processors or retailers from making a profit. All we're saying is that it be a more reasonable profit and that the farmers and the consumers have a better deal out of this milk marketing channel than they're getting today.

REP. WILBUR: Thank you.

RONALD COTTERILL: Yeah.

SEN. WILLIAMS: Thank you very much for your testimony.

RONALD COTTERILL: You're welcome.

SEN. WILLIAMS: Richard -- is Attorney General Blumenthal here? (No audible reply). He's not here, so we'll move to the public portion. If he does arrive, maybe we can accommodate him within the public portion of the agenda. Carl Herbein --

: No, they switched. They switched --

SEN. WILLIAMS: Oh, I'm sorry, I'm sorry. The order was switched here apparently. Bruce Krupke, followed by Carl Herbein. Krupke?

BRUCE KRUPKE: Yes and good morning. Thank you. Krupke is correct.

My name is Bruce Krupke. I am Executive Vice President of New York State Dairy Foods Trade Association located in Syracuse, New York.

Chairman Williams, Widlitz, and members of the Environmental Committee, thank you very much for your time. I understand you're under a time constraint. I've passed out testimony that you can read at some other time. I'm going to summarize it very quickly for you.

With all due great respect -- and I'm going to adlib a little bit here because of the time restraint -- coming from New York State and living with this law since 1991 in New York State, I can tell you that it's one of the worst laws that I've ever seen in my life. And the effect that it's had on our dairy industry has been terrible.

With all due great respect to Professor Cotterill, it is his testimony

and his way of thinking and his type of economics that has hurt the dairy industry for the past 60 years.

Competition moves prices down. This proposal will not help dairy farmers. I contend that it will not help consumers either. The main reasons: In my testimony you'll see that the bill is a one size fits all approach to milk processing and to the distribution industry as well as the retail industry. Establishing a specific ceiling, a constant ceiling for milk prices which can be charged at wholesale and retail, cannot be fairly or equally applied to both the dairy and the retail industries.

Not all dairy companies are the same. You have big ones and small ones. You have ones that operate under different efficiencies. The same with retailers. You have large retailers and small retailers. You have different types of retailers that are now selling milk, wholesale clubs. Wal-Mart is now selling milk. All types of retailers are selling milk with different philosophies in marketing and profit structures and reasons.

New York State has had a milk retail price threshold law since 1991. We know the law is not working and it's been detrimental to our industry. The numbers, the facts, and the statistics show that milk plants have decreased almost 40 percent since the inception of the law in New York State. In 1991 the threshold price for a gallon of milk was \$2.60 in New York City. Today the price allowed is \$2.44, 16 cents less.

The problem with our law and your Bill 852 is that it does not contain any provisions for inflationary costs such as transportation, assembly, handling, processing, ordering, inventory control, packaging, shipping, research and development of new products, and so on -- (bell ringing) --

SEN. WILLIAMS: I have to let folks know, and I should have mentioned this, that we're on a three-minute timetable now. So if you could just briefly summarize --

BRUCE KRUPKE: I'll summarize for you --

SEN. WILLIAMS: -- (inaudible, overlap of talking) --

BRUCE KRUPKE: -- very well. The bill does nothing to help dairy farmers. It restricts the amount of money that's in the pipeline that can flow back to the dairy farmers. The bill won't work. Your farmers will be reduced, the retailers profit structure will be less, they'll pay less attention to the dairy section. The number of processors in your state will be reduced because of this law because they will have less ability to compete in the marketplace. That's what we've observed in New York State and that's what you'll observe here in Connecticut if you observe this law.

There are other ways going about to reaching the goals of Bill 852, but this is not one of them. Thank you.

SEN. WILLIAMS: Thank you. Are there questions? Representative Willis.

REP. WILLIS: Hi. Thank you for coming today to testify before us.

Since we're from Connecticut and you're from New York, we don't know what the New York State Dairy Foods, Inc. is. Could you please explain your organization and your board? Is this made up of farmers?

BRUCE KRUPKE: No, ma'am. Uh --

REP. WILLIS: Who are they made up of?

BRUCE KRUPKE: We're made up of dairy processors, manufacturers, both milk, cheese, ice cream. We're distributors. We are some retailers. We do have some farmers in our group. And we've been in existence since 1928.

REP. WILLIS: Could you name the farmers in the group?

BRUCE KRUPKE: Preva Milk Cooperative (phonetic), Rosdale Farms (phonetic) out of Lowville, New York. And we have a number of different farms scattered throughout New York State. We do not predominantly represent dairy farmers as a general rule though.

REP. WILLIS: Okay. Thank you very much.

BRUCE KRUPKE: You're welcome.

SEN. WILLIAMS: Other questions? Thank you.

BRUCE KRUPKE: Thank you very much.

SEN. WILLIAMS: Carl Herbein.

CARL HERBEIN: Good morning, members of the Environmental Committee of the State of Connecticut.

My name is Carl Herbein. I'm a CPA from Pennsylvania. I'm the managing partner of a regional CPA firm with a concentration of our work in the dairy industry.

I appear here today on behalf of the International Dairy Foods Association and its individual members who produce, package, and deliver milk to Connecticut stores and consumers.

I'm familiar with the marketing conditions in Connecticut from providing professional services here in your state. And I'm here to talk to you about the serious harm that could be placed upon your remaining processors in Connecticut.

We have Guida Dairy in New Britain, Connecticut, an important part of that community with approximately 400 employees. We have an HP Hood plant in Suffield, Connecticut with approximately 200 employees. And we have Marcus Dairy in Danbury, Connecticut with approximately 150 employees. These are important businesses here in your state.

I wish to provide you with pertinent and significant information in your consideration of Bill 852. These new proposed regulations could limit the availability of fluid milk products in Connecticut. It could also force the processing companies located here now to go out of business.

Additionally, with one of the provisions in the bill, which I'll speak to in just a moment, we could be placing significant administrative burden upon the State of Pennsylvania in controlling this price control system.

I've been asked and have conducted a review of this bill and wish to provide you with my results. I have a prepared statement which will be distributed to you.

Bill 852 limits prices that processors, the company that puts the milk in the bottle, to retailers at 140 percent of what that processor pays to farmers for his milk. The 40 percent margin over the raw milk cost would have to provide the revenue to pay for the containers, the processing, the labor, utilities, and the delivery of that product. My study shows that that is clearly not the case and there will be a tremendous and harmful shortfall to the processors. I'll share a few numbers with you in just a moment.

The -- the ability to compare Connecticut's proposed bill with Pennsylvania is quite possible. And I'd like to share with you some comparisons. Pennsylvania -- eastern Pennsylvania, the Philadelphia region is governed by the USDA Federal Order System No. 1 exactly the same way that Connecticut is covered -- (bell ringing) -- so we have the same underlying producer raw milk costs. Pennsylvania has a longstanding system of regulating all three segments of the dairy industry, the producer, the processor and the retailer with minimum prices. In other words, prices below which a product cannot be sold.

852 provides -- imposes an arbitrary maximum price with the 40 -- the 140 percent formula that I mentioned earlier. Fluid milk fluctuates greatly in cost as it's priced by the USDA due to seasonality and changes in supply and demand. And as an example, the cost of the milk today in Connecticut for a gallon of 2 percent milk is \$1.14. In November of 2001, it was \$1.59, or a difference of 45 cents in that relatively short period of time. When we apply a percentage to a fluctuating number, we get vastly different statistics. And when we applied the 140 percent to today's milk costs, we would have a maximum price to the retailer of \$1.59. In November 2001 that would be \$2.22 cents, a difference of 63 cents, which has no bearing at all on the change in cost.

Pennsylvania on the other hand, its system is based upon costs to all segments of the milk chain, actual costs. In Pennsylvania the minimum price today for a 2 percent gallon of milk is \$2.09 comparing with Connecticut's proposed wholesale price, into store price of \$1.59, or a 50-cent difference in price. That is a significant and alarming amount.

I'd like to next give you a few thoughts on the effect that this will have on the processors. In February of 2003 your 40 percent limitation is designed to cover container, plant and delivery costs. That 40 percent amounts to 45 cents per gallon of milk. The actual costs for container, processing, packaging and delivery --

REP. WIDLITZ: Excuse me -- excuse me --

CARL HERBEIN: -- which I've extracted from a Pennsylvania --

REP. WIDLITZ: -- I'm sorry to interrupt you, but we do have a lot of people waiting. You did mention that you have written testimony to submit to us?

CARL HERBEIN: Yeah, I do. It's being distributed and --

REP. WIDLITZ: Okay. If you could try to just summarize --

CARL HERBEIN: Thank you, I will. I'll complete --

REP. WIDLITZ: -- we'd appreciate it, so we can get some questions --

CARL HERBEIN: Thank you. The shortfall between Connecticut and actual cost is 58 cents per gallon.

The -- the -- my closing comments are that regional competition without arbitrary restraints will be a catalyst to increase sales and provide market stability. Bill 852 will result in significant harm to the processors and also will result in an unstable market. Thank you.

REP. WIDLITZ: Thank you very much --

CARL HERBEIN: I'd be happy to answer any questions.

REP. WIDLITZ: Are there questions from Committee members? (No audible reply). Alright, we do have your written testimony. Thank you very much.

CARL HERBEIN: You're welcome.

REP. WIDLITZ: Okay, next is Al Guida please.

: (Inaudible).

REP. WIDLITZ: Oh, I'm sorry, I'm sorry. Our Attorney General, Richard Blumenthal, is present now and we'd like to ask you to please come forward.

ATTORNEY GENERAL BLUMENTHAL: Thank you very much, Madam Chairwoman and members of the committee. I'm delighted and honored to be with you again and appreciate your perseverance and attentiveness after a very arduous evening --

: (Inaudible) --

ATTY. GEN BLUMENTHAL: -- (laughter) -- and therefore, I will close by saying -- (laughter) -- I see my good friend Representative Wilbur here and you've heard from Professor Cotterill, so you've really understood the guts of what I'm about to tell you, but essentially the price of milk in Connecticut, as you know, is at an all time high while the price of milk to consumers -- the price of milk paid to Connecticut farmers is at an all time low and the price paid by consumers is at very high historic levels.

And something is wrong with this picture that this legislation, Senate Bill 852 is designed to correct. And it will mesh with measures that have been proposed in Massachusetts and elsewhere in New England that will restore some sense of fairness to this market. It is not a regulatory measure. It is designed to really allow the market to continue to operate, but provide some sense of fairness through the 140 percent limitation that will guarantee both consumers and farmers fairness in the price of milk.

As you know, there are charts that illustrate the present trends in milk prices. The trends have been exacerbated by the end of the milk compact in September of 2001. And the important point here is that we're not going to dictate to anyone what the price should be, but simply provide some limitation so that the spread or the price gouging that now happens in this market is no longer permitted to occur.

I have submitted testimony. As I've mentioned, you've heard from other witnesses, and I'd be happy to answer any questions that you have, but the basic point is that dairy farmers as well as consumers face a crisis as raw milk prices decline, a crisis that affects our quality of life in Connecticut, our open space, our consumption patterns in denying

particularly needier people the affordability of milk and at the same time consumers ought to have the benefit of fair prices. Thank you.

REP. WIDLITZ: Thank you for your testimony. I just have one quick question. Have the -- have any of these price controls in effect been tested constitutionally?

ATTY. GEN. BLUMENTHAL: I am not aware of any court case that has resulted in a decision yet that would affect this law, but I'd have to check.

There may well have been a test of the New York statute, which as you know is similar but really distinct in a number of ways, the 200 percent limitation is keyed to the federal minimum price. And ours of course would be different insofar as it would be tied to the price actually paid the producer. So there would be very important differences between our law and New York's even if there has been a test of the New York law, but I -- and I'd be happy to find that out for you.

REP. WIDLITZ: Thank you. Are there questions from committee members? Representative Wilbur.

REP. WILBUR: Thank you --

(Gap in proceeding, changing from tape 1A to 1B)

REP. WILBUR: -- investigation completed in regards to --

ATTY. GEN. BLUMENTHAL: We are continuing --

REP. WILBUR: -- any solid documentation --

ATTY. GEN. BLUMENTHAL: -- our investigation. We have a number of -- well, we have two -- essentially two investigations going. One concerns the merger between Hood and National Dairy Holdings -- HP Hood and National Dairy Holdings. There is a paragraph in my testimony that deals with those investigations.

The second concerns the market generally and potential collusion among the retailers focusing on supermarkets. As you know, we have been very interested in this industry in the past. We successfully stopped a conspiracy to fix prices to schools in certain parts of Connecticut on the prices of milk. And we have done in the past investigations concerning the supermarket and retailing industry and we are continuing that investigation. So both are ongoing, but neither has reached a conclusion.

REP. WIDLITZ: Thank you. Any other questions? (No audible reply). Thank you very much.

ATTY. GEN. BLUMENTHAL: Thank you.

REP. WIDLITZ: Next is Al Guida, followed by Neil Marcus.

AL GUIDA: Good morning. My name is Alexander Guida. I'm the President and CEO of Guida Dairy Company of New Britain. We've been in business in Connecticut since 1886. We are one of a very few handful of independent family owned processors left in the entire northeast. We too are in crisis. Everyone is worried about the consumer, everyone is worried about the farmer. Everyone should know the entire picture.

We have long been and have long had the support of Connecticut

agriculture and Connecticut farmers. We used to advertise on the box Connecticut milk for Connecticut people. We can longer effectively do that. We get all the milk that we can in Connecticut from our Connecticut farmers and we prefer that. We understand they are in a crisis mode.

Going back to the dairy compact imposition of three years ago, we did not testify, we did not oppose the dairy compact. We said let's see what we can do to live with the situation to allow the farmer members to survive and to continue. The dairy compact was a temporary measure. The grand political scheme has shown that it was not an answer that everyone was comfortable with.

We view the Senate Bill 852 as proposed as being reactionary, ill-conceived, and totally unrealistic in its objective to get money to the farmers. We are in favor of helping the farmer. We didn't oppose the compact, but we're testifying in opposition of this bill because we know -- I don't have a Ph.D. in economics. I studied economics in school and I study dairy economics every year, every day, every hour of my employment in the family business. It just simply isn't going to happen. Those are the stark realities of the situation.

The free market laws of economics work best in most cases. We have been up against a tremendous consolidation in our industry. We are trying to stay alive. A bill such as this in the Connecticut operation is going to have no question but to impact us adversely. I don't come to testimony very often, I don't speak out very often, but this is -- is this an ill-conceived attempt, a reaction to get money to the farmer. And the objective is not going to be -- and I'm in favor of that, but the objective is not going to be realized.

In fact, I'd like to make a testimony that the -- the dairy compact itself was responsible for a significant increase in costs, significant money being paid to farmers -- (bell ringing) -- I'm not in opposition to that, but it raised the Connecticut price to be more consistent with what the milk price was throughout the country.

In fact, I think inadvertently the dairy compact is responsible for some of the high prices that are in existence today. Retailers simply saw that milk is relatively an elastic and their business needs and changes have changed and they need to maintain levels on any level that they can. It's not good for our business. I don't see it good for Connecticut. And I see the laws of economics as harsh as they are and as swift as they are and with the changes that have occurred with the concentrations on the supply side, the concentrations on the processing side and the joint ventures and concentrations even with the large retailers, it may take a little longer for those laws of economics to really act, but they will eventually act.

I would welcome any questions.

REP. WIDLITZ: Thank you for your testimony. Are there questions from the committee members? (No audible reply). Do you have written testimony for us?

AL GUIDA: I do not.

REP. WIDLITZ: Okay. Well, we thank you very much for coming forward today.

AL GUIDA: Thank you.

REP. WIDLITZ: Thank you. Neil Marcus, followed by Warren Boyle.

NEIL MARCUS: Thank you, Madam Chairwoman and members of the committee.

My name is Neil Marcus. I'm the President of Marcus Dairy. I'm going to dissuade you of the fact that the first speaker talked about only two independent processors left in the New England. When I left Danbury this morning, we were still in business, and we're independent and we've been that way for a long time. And if this act is not passed, we hope to be that way for a long time in the future.

The -- I wear cows on my tie. I have milk running in my blood. I'm the third generation of this business for -- we have the fourth in the business as well. We only go back to 1923 in Connecticut, so we don't have the history of the Guidas, but we're close on their heels.

I've given you written testimony as to what our concerns are with the bill. I, again, have supported action both at the national level and in the State of Connecticut to help farmers. I was a member of the Northeast Dairy Compact, a representative from the State of Connecticut. I serve on the Milk Regulation Board for the State of Connecticut.

And unfortunately, this bill is the result of some real misconception about the economics. And I have a real problem with Professor Cotterill. I again unfortunately went to the University of Pennsylvania, so I didn't take Economics 101 at the University of Connecticut. I did at the Wharton School and they think a little differently I guess. But I've never known of an industry that has been benefited by increasing its costs, which is one of the premises that was made; if you increase your costs, you're going to increase the return to the processor or the manufacturer. I don't know of any industry where that's occurred.

However, our costs have gone up significantly as I point out in my written testimony, just in the last year, thank you in part to the work of this legislature. Diesel fuel has gone up enormously. I looked -- when I wrote the report, I said what we were paying last year at this time was about \$1.10 a gallon and now it's \$1.81, but actually that was last week. This week it's about \$1.92. Now, the 40 percent that's contemplated in this act doesn't consider the hundred percent increase, or almost a hundred percent increase in the costs of some basic commodities.

The problem is that the economic study that has fostered this bill hasn't at all studied the industry. Nobody has talked about the costs except for one of the speakers this morning, Mr. Herbein, who talked about the fact that packaging, the cost of electricity, labor, all those. To think that that is 40 percent of what is actually received by the farmer in his paycheck is preposterous. It just is not an industry norm. And so what you're going to do with this bill is you're -- if you adopt it, is you're going to set up a system whereby milk can no longer be sold from a processor to a retailer. It's going to go through a distribution channel where everybody can take an interim markup and get outside of this act, which is kind of silly. (Bell rings). I've got a bunch of teamsters in our operation who will be very unhappy if they lose their jobs because we can no longer sell to a store by delivering to a store because you can't do it on 40 cents on a gallon if the gallon of milk cost us a dollar.

So the -- the other thing is that to suggest that in any industry price controls have fostered competition is to me voodoo economics, because in reality -- just look here in the State of Connecticut, we've deregulated the utilities. Why? Because price controls were not fostering competition, so we did it on the theory that we'd have competition. At

the federal level we deregulated the airline industry. There are all sorts of industries where regulations and price controls were seen as anti-competitive. I point that out in my written testimony.

And the fact of the matter is the biggest question I have for you is has anybody thought about the fiscal impact on the State of Connecticut of fielding a hundred auditors to enforce this act, 200 auditors? I mean how many companies ship into the State of Connecticut? We've identified only about two of us that are still active in the state, but most of the milk that you're talking about priced in the supermarkets and the retail stores are coming from companies far outside of Connecticut, Pennsylvania, New York, New Jersey, and you've got to look -- and Massachusetts -- you've got to look at who's going to audit the price changes every single month from hundreds of -- not hundreds -- but from 20 or 30 processors and thousands of retailers. I mean the enormity of this proposal boggles my mind, especially when I understand that we have a fiscal crisis in the budget of the State of Connecticut --

REP. WIDLITZ: I'm going to --

NEIL MARCUS: -- and there's some idea of eliminating the Department of Agriculture as part of the cost savings, so --

REP. WIDLITZ: Thank you. We do have your written testimony and --

NEIL MARCUS: I thank you for your time and I'll tell you that we will -- we will do anything in our company to assist the farmers of the State of Connecticut and New England generally, but this bill unfortunately just misses the mark. And if anything, it's going to affect the consumer by making it difficult to find a retailer that can sell milk in the State of Connecticut under the provisions of this act. Thank you.

REP. WIDLITZ: Thank you. Are there questions from committee members? (No audible reply). Thank you very much for your testimony.

NEIL MARCUS: Thank you.

REP. WIDLITZ: Warren Boyle, followed by Skip Trotta.

WARREN BOYLE: Good morning. My name is Warren Boyle. I own Fitzgerald's Foods in Simsbury, Connecticut. It's a single store, independent grocery store. And I thank you for your time this morning and I'll try to finish before the bell goes off.

We talk about trying to make milk competitive. In my store we check the price of milk of our competitors, which are Stop & Shop, there's another independent, Andy's, and Big Y every week. The first thing we do Monday is go out and check everybody's milk prices and make sure we're okay. If somebody is higher than us, we lower our price. Milk is an extremely competitive commodity. We know it's something the customer remembers the price of, we do it automatically.

The other thing I think that's going to happen is if you did pass this bill, you're going to make it really tough on not only independent processors, but the independent grocer to stay competitive.

Now, we talk about price gouging and whatnot, I have a handout that went to you, and I'll do this quickly. On the front page, I had my accountant send me what my expense level was to run my business last year. And I ran my business and it cost me 31.2 percent of my sales to run my business.

If you go to the second page -- the back pages are all backup for what I'm about to tell you -- off of our registers every week we pull commodities and individual items, how many we sold, what the cost was, what the retail was and what the gross profit was. And if you look at the first line on this -- it's three weeks, just the last three weeks that we had data compiled for -- my gross profit on my entire milk category, my entire fluid milk category is 24.7 percent. That week I had some milk on at \$1.99 that I paid \$1.98 for, I made 1.5 percent in total on that.

The next line would tell you what my gross profit would be without a sale item, but we have a sale item on milk every single week. So if you go to the bottom line, take my total mix of dairy, add it to my fluid milk, and my dairy returned me 21.5 percent, but it cost me 31.2 to run my store. So if you reduce my milk gross again, I've got to do one or two things; I've got to cut back on help, find some other way to reduce expenditures, or I've got to go up on other items. So if you reduce the cost on milk, they're going to pay more for butter, or yogurt, or whatever else, because there isn't a lot of room to move.

Gross profit in my store this past year was under one percent. Now, I had an extremely competitive situation. A brand new Stop & Stop opened next to me, but I made under one percent. So what do I do when you take away gross out of my milk category? I'm only getting 24.7 percent with a 31.2 percent expense line. And you're going to find that's true in all the stores. We're not making enough gross in milk -- (bell rings) -- to cover what we have to spend. And I almost made it.

Thank you. I'll field any questions if anyone has any.

REP. WIDLITZ: Thank you. That's -- that's a very interesting point. I was curious about that with the larger distributors having actually more leverage to make up losses in other areas where the smaller suppliers really don't have that flexibility.

But anyway, are there questions from committee members? Senator McKinney.

SEN. MCKINNEY: If this act were passed, would you agree that one of the consequences will be that folks like Marcus Dairy and Guida Dairy will get their milk sold to a distributor who then you'll have to buy from?

WARREN BOYLE: I don't know that I can understand that question. I don't understand their business that well.

SEN. MCKINNEY: The reason why I'm asking that is for the last three years I've been part of a owner in a small retail gourmet food shop --

WARREN BOYLE: Um-hmm.

SEN. MCKINNEY: -- and I'd like to have your one percent profit margin. (Laughter). And we've done business with both of these gentlemen. And they're the only supplier to our business that comes in when they deliver the milk takes old milk out and we don't pay for it.

WARREN BOYLE: You're -- that you're absolutely correct on.

SEN. MCKINNEY: And my thought would be that if the link is broken and small stores have to deal with a distributor, they're not going to get that deal. I've never

gotten it from any other food distributor.

WARREN BOYLE: If I may give you a great example to that. Nabisco and Keebler are now in the process of reassessing smaller stores and if you're not at a certain level, you now have to buy from another broker. It does two things. First of all, you have to order it yourself, put it up yourself, no credits. And the last thing it does is it makes you unable to compete because now you have to pay the broker something to get it to you, because Nabisco delivers it to them and they get their base price and now you've got to pay extra to get it to you and you can no longer price those Nabisco products competitively. Fortunately, we're at a level that we still buy direct from Nabisco.

If the same thing happens to milk, you will take small operators like myself and plenty more in the state and force us to where our percentage of our costs will put us above every other large chain store and there's nothing we can do about it.

SEN. MCKINNEY: Well, I agree. I mean we had a Stop & Shop next to us that's now a Super Stop & Shop and they're selling products at a price that's less than what we have to pay that distributor --

WARREN BOYLE: Correct.

SEN. MCKINNEY: -- of the product.

WARREN BOYLE: You're absolutely correct.

SEN. MCKINNEY: So, I want to make sure that doesn't happen. I appreciate your testimony.

WARREN BOYLE: Thank you for listening to me. Any other questions?

REP. WIDLITZ: Any other questions? (No audible reply). Thank you very much.

WARREN BOYLE: Thank you very much for your time.

REP. WIDLITZ: Okay, Skip Trotta, followed by Lucy Nolan.

SKIP TROTТА: Thank you for the opportunity to be able to speak to you today. My name is Skip Trotta. I own and operate a supermarket in Sharon, Connecticut. It's a single supermarket.

What we have -- I think the supermarket -- I've done this since I was nine years old -- but the supermarket business is really pennies and dollars and cents. And as we put some -- I'd just like to take a minute and put some dollars and cents to the estimates.

The way I understand this bill -- and it was a little tough figuring out exactly how it was worded -- but it looks to me like we're going to -- we will not be able to retail milk more than 140 percent over what the farmer receives in his payment. Am I correct?

: A hundred and forty over wholesale -- (inaudible) --

SKIP TROTТА: A hundred and forty over what?

: What you pay the wholesaler --

SKIP TROTТА: What I pay my wholesaler?

: Yes, yes. Forty percent -- (inaudible) --

SKIP TROTТА: So, I would be working at a 40 percent markup? Well, we haven't used the word markup in the grocery business since I was a little kid and we had a screen door on the store. We -- although I didn't take Econ 101, we're now working on gross profits. And the difference is -- 40 percent sounds like a lot when you say it is a gross profit. It isn't. It's probably about 22, 23 percent. And that's how we operate our stores, we base them on retail and not on cost.

So we have to operate a dairy case -- whether it's 36 feet or 76 feet long, we have to operate it at a particular gross profit. That has -- and all the items in there have to at the end of the week mix out to a certain amount of money. I have no debt in my business, so I am able to operate at 24 percent for my store. And I expect my dairy department to produce 30 percent. My dairy department does produce 30 percent and my markdowns, which are sale items, because we have milk on sale, we have byproducts on sale, we have eggs, orange juice on sale every single week. We end up with a 26 percent gross profit out of the dairy case at the end of the week. That 26 percent leaves me two percent. That two percent is my margin that can fall plus or minus depending on how well I've mixed my products and how well the customers have done in just picking my specials. So -- so if -- that case from one end to the other has to produce that particular gross margin.

If my gross margin is reduced on milk and I'm currently working on about 30 percent, 28 to 30 percent gross profit on milk for my everyday price, although we have milk on sale every single week, we're \$1.99 every three weeks and then we work on one or two percent. When I'm at full price, I am working on 28 to 32 -- 28 to 30 percent. That deli -- that whole department has to show me 26. If it doesn't, then it's not paying its way.

In order to show 26, if my milk has to go to 22, or 21, or 23 percent and never on sale because I won't be able to put it on sale because it would come far too low, and every three weeks we are on sale with either -- well usually gallons every three weeks and quarts the next week and half-gallons the next week, that would have to stop. And we also -- because 23 is a whole lot less than 28 and 30, I would now have to raise about a hundred items in my dairy case in order to offset the milk. Now whereas milk is only 36 items in my case, the movement on every one of those is so intense, that we would probably have to raise about a hundred items, which means milk and -- I mean not milk, but our orange juice, our yogurt, all the other allied items, all dairy items, eggs, juice, all those items would have to go up in order to compensate for it, because we cannot operate a supermarket at a zero percent or a minus zero percent and stay.

The farmer is an endangered specie, I understand that. So is the independent supermarket. You need only to look around every town in Connecticut and count, there are probably as many independent supermarkets left as there are farms. Independent supermarkets are disappearing. This is going to help us to disappear. We cannot operate at a loss. And we would be pushed to a loss. To sell milk at 21 or 23 percent will push us down. Our fuel bill is the highest it's ever been. Our worker's compensation is the highest it's ever been. All these -- all these are real. These are checks that we have to write out at the end of the week, at the end of the month, at the end of the year. It has to come from someplace.

REP. WIDLITZ: Thank you for your testimony. Are there questions from committee members? Representative Chapin.

REP. CHAPIN: Thank you, Madam Chair. I just had a question -- one question. Do you get complaints about the price of milk in your store?

SKIP TROTТА: I sell milk -- one brand of milk at 2.99. My other two brands of milk are sold at \$3.29. I don't have one customer who has complained about my milk price. I will say that I'm very close to the border, we're up in the northwest corner of Connecticut. And New York State does sell milk for less than us. But I operated a large supermarket in New York State for many years and we always paid less for milk in New York State than we did in Connecticut. I don't know the reason for that. I've never questioned it. But it does cost us a little bit more for our milk in Connecticut. I think maybe land values -- I don't know -- I couldn't even speculate on that. But --

REP. CHAPIN: Thank you --

SKIP TROTТА: -- I don't know if that answers your question.

REP. CHAPIN: It does. Thank you very much.

REP. WIDLITZ: Thank you. Any other questions? (No audible reply). Thank you very much for your testimony. Lucy Nolan, followed by Melissa -- it looks like Greenbacken.

LUCY NOLAN: Good morning, Madam Chairwoman and members of the committee. My name is Lucy Nolan and I'm Executive Director of End Hunger Connecticut. We're a statewide anti-hunger and food security advocacy organization who represent the State's food banks and soup kitchens and emergency food sites in this state.

I'm here today in support of SB 852, AN ACT CONCERNING THE FAIR PRICING OF MILK. We support this proposed legislation because it directly helps the milk buying family.

You know, milk is a drink that we've finding more and more helps our public health. We know that children who drink milk get 95 percent of their bone density by the time they're 17, so they really need to drink milk at that time. We have -- all our school programs, school nutrition programs have milk as a major component in it. We're finding now that people who have milk in their diet consistently are less obese than those who don't. Again, these are all things that -- the reason we support this is because we really need to promote drinking milk and we need to promote it in families.

Families are -- right now tend to have the less amount of elastic money. I'll tell you -- I'm sure people are sick -- some people are sick of hearing this -- I have three young children, three boys, we drink six gallons of milk a day -- a week. We drink a lot of milk. This bill will affect me personally. And it will affect the food pantries and it will affect the soup kitchens because these are people who are trying to get nutritious food out to people who need it the most. They really are the state's neediest. And milk is one thing that can get -- that can help them.

We appreciate supermarkets. They donate a lot of food to food pantries and to emergency food sites. But we also know that a lot of good well would go farther to getting milk at a price that people could afford it. Milk is something that at the price -- people do buy it because they have to. But people may be drinking -- kids may be drinking less of it because families can't afford it. As -- you know, food stamps don't go as far as a monthly food allotment would allow. And so having a food like milk, which is a very necessary food, to be cheaper would be very

helpful to everyone in the state.

I also want to say that I'm a member of the Northeast Regional Anti-Hunger network, which has seven New England states -- northeast states in it. And we have been talking about this as a consumer bill. And so we are looking at a way to look at this as a regional compact, as a dairy, and something to work with the farmers because we are very supportive of the farmers. We believe that the farmers really need to get more money for their milk, especially now as we come into a time of some national security. We don't need to be getting our milk from Ohio. We need to be keeping our farms in Connecticut where we can have fresh food, fresh dairy that comes to us directly. Thank you.

REP. WIDLITZ: Thank you for your testimony, we have your written testimony also, and also for the good work that you do.

LUCY NOLAN: Thank you.

REP. WIDLITZ: Are there questions by members of the committee? (No audible reply). Okay, thank you very much.

LUCY NOLAN: Thank you very much.

REP. WIDLITZ: Melissa Greenback, followed by Brenda Mihaliak. Melissa Greenback? (No audible reply). Okay. Brenda Mihaliak, followed by Mark Winne. Brenda? (No audible reply). Okay. Then we'll go to Mark Winne, followed by Bonnie Burr.

MARK WINNE: Good morning, Representative Widlitz and members of the committee.

My name is Mark Winne. I'm the Director of the Hartford Food System here in Hartford. We are a 25-year-old non-profit organization that has worked this whole time on issues -- on food issues confronting low-income families in our state, as well as the issues confronting our farmers.

I did want to correct a couple of impressions that you may have gathered from previous speakers. This bill would -- and I am speaking in favor of this bill by the way, 852, AN ACT CONCERNING THE FAIR PRICING OF MILK. That this bill would give retailers a 28 percent gross margin. That number is higher than their current gross margin. So, I'm not quite sure why they're opposing it at this point.

We -- and I also -- another statistic that's important from the previous speaker, we -- kids are drinking less milk today. They are drinking more soda. That's not good for them. It's not good nutrition policy, it's not good health policy. We need to take a look at that issue as well. This bill does help increase demand for milk if you can lower the retail price.

Consumers are losing right now with respect to milk prices, farmers are losing. Prices for farmers for milk are at an all time low. As the price continues to go down, the retail price does not seem to change, but yet the processors and the retailers continue to keep their prices where they were. In other words, they seem to be winning while the farmer and the consumer continue to lose.

And it's not just the consumer who's losing a little, it's the low-income and working families of Connecticut who are losing most because they spend the greater share of their income on food, a greater share than the rest of us. Twenty to thirty percent of the average household budget for a low-income family will go to food purchases compared to ten

percent for higher income families. If they're paying a dollar too much for a gallon of milk, which the numbers seem to suggest, that adds up over a long period of time.

It's also the taxpayer interestingly enough who's losing from high milk prices because Connecticut spends 250 million dollars of federal reimbursements annually that are funded by national taxpayers for food assistance programs like WIC, food stamps and school lunch. All of these programs and their recipients spend a lot of money on milk, which means they are spending too much for milk because the middlemen tend to be gouging them at this point.

It also means that the residents of Connecticut will be looking at less farmland in the future if you do not pass this bill or some version of it, because 100,000 acres of our remaining 360,000 acres of farmland is devoted directly or indirectly to dairy production. When those farms go out of business, as they most certainly will because a farmer cannot continue for very long if the price he or she is receiving is below his cost of production, there is no suitable agricultural alternative for that 100,000 acres. You'll be looking instead at new subdivisions, strip malls and perhaps more supermarkets. As the land disappears, so do the farmers and of course so does our state's food security. (Bell rings).

Just let me summarize by saying that the system seems to be working particularly well. We've heard about how the market functions, we've heard the numbers, and we seem to want to maintain that faith in that system. However, the system works well, as the Harvard economist John Kenneth Galbraith once said that left to themselves, market forces don't always work out for the best except perhaps for the most powerful, which is what is happening in Connecticut and elsewhere. The rules of the market economy are working out really well for the powerful, but for everyone else the game is killing them. If the rules don't change, and only you as members of the State Legislature can change the rules, dairy farming in Connecticut will be as dead as blacksmithing. If you don't change the rules, the consumer and the taxpayer will be cheated out of their hard earned consumer dollars.

Please don't rely on the marketplace as it is presently configured and controlled to make things right. It will be too late by then and we will all be buying our milk out of a 3,000 mile pipeline pumping it from a few mega-factory farms located somewhere west of the Rockies. Thank you.

REP. WIDLITZ: Thank you very much for your testimony. Questions? Representative Sharkey.

REP. SHARKEY: Thank you, Madam Chairman.

I just -- pardon my ignorance on this, but I'm trying to understand the argument that these price controls, if enacted, would benefit farmers. I'm -- I'm losing the connection there. How -- how will capping the prices that can be charged by the middlemen and the retailer benefit the farmer?

MARK WINNE: There is -- first of all, we would assume that prices would drop and demand could increase. There is evidence that that does in fact take place. As demand increases, so potentially does price. But at the same time there is a more than a solid economic assumption behind this that farmers could receive over-order premium payments for their milk as well. And I would defer to Dr. Cotterill for a more detailed explanation of that, but it does look convincing if you take a close look at it.

REP. SHARKEY: So the theory is that by controlling prices on what retailers and

producers -- or I'm sorry -- what processors can charge, that we're trying to manipulate the market so that in the hope that we're going to -- that that's going to have a ripple effect that will benefit farmers in the end?

MARK WINNE: I'd say it's more than manipulation. I would say that there's a real incentive to pay over-order -- what are called over-order premiums to farmers.

REP. SHARKEY: Right, but my -- when I say manipulating, I mean by manipulating the ultimate price that can be charged --

MARK WINNE: Right --

REP. SHARKEY: -- by retailers --

MARK WINNE: Right --

REP. SHARKEY: -- and processors, that that is a manipulation of the market. And the hope is that that will then trickle down to the farmer --

MARK WINNE: That's right.

REP. SHARKEY: -- is that the argument -- okay, thank you.

REP. WIDLITZ: Further questions? (No audible reply). Thank you very much. Bonnie Burr, followed by Robert Kellerman.

BONNIE BURR: Chairwoman Widlitz and other members of the Environment Committee, my name is Bonnie Burr and I am the Director of Government Relations for the Connecticut Farm Bureau.

You've heard plenty of testimony both on the pro and con side of how we want to control the price of milk in Connecticut. For those of us that have grown up in the industry, and again I would elude to Representative Chapin and to Representative Wilbur, the fact that milk prices are set at a federal level and are worked through a regional program, states that we have to address this on a regional basis.

While we certainly appreciate all the work that the Attorney General in conjunction with Representative Wilbur and Representative Willis and Senator Roraback and others have done to try to bring focus to this issue, we have sent this proposal out to the American Farm Bureau. We have economists on staff that reviewed it, as well as send it out beyond that to other farm economists. None of them found where the direct link was going to be made that this bill was going to help Connecticut dairy farmers.

We've made the assumption that if we can decrease the price, then we can certainly help to increase some form of demand. That in fact while there's the anecdotal information and Dr. Cotterill says that he can support that, nationally we don't see that. If we decrease or put a cap on the price of milk in the State of Connecticut, we are not even going to begin to touch the two percent over -- under-demand that we have for milk. And that's the basic reality. The State of Connecticut is not going to consume all that milk nationally. That's one of the pieces we need for you to understand.

We have kind of a basic rule in dairy. When we have a two percent over-supply, we have a 20 percent decrease in the price of our milk. Right now our farmers are getting about 95, 96 cents a gallon. When we were at the height of where we were making -- having the ability to meet our

costs, we get about \$1.20. That means we're about 25 cents below what we need to have in order to meet our costs.

Representative Davis had asked about the ability to try to get a compact or something that would be a market driven program. We do believe it's possible. It's becoming more possible every day. Again, the Commissioner identified that there is quite a budget problem going on in Washington as well as here. And the farm bill is about to get a very serious look at in terms of the money that's going in. The compact was market driven. It did cost the consumers three cents and that has been identified for you.

We believe that we need to continue to put a focus towards some sort of a federal system, interstate commerce. I am not an attorney, but I've got to tell you -- the question had come out I believe that what are the cases -- (bell rings) -- the fact that interstate commerce drives how milk is priced, states that we really have to address this on a regional issue. And we're looking for the commissioners who are going to be meeting on Friday to come back with us with some ideas on that.

REP. WIDLITZ: Thank you. We'll be looking forward to hearing from you about what develops from that meeting. Are there questions from -- yes, Representative Chapin.

REP. CHAPIN: Thank you, Madam Chair. Good morning or good evening, Bonnie. I'm not --

BONNIE BURR: You can say it's good evening and I'll say it's good morning.

REP. CHAPIN: It's like being at the casino when you're -- (laughter) --

BONNIE BURR: Uh-huh.

REP. CHAPIN: -- that's very funny, I lost my train of thought -- (laughter) -- have you spoken to any of your dairy farm members about this particular bill? And if so, have they offered you any feedback as to whether or not they think this will actually help them?

BONNIE BURR: We -- we did get together as -- we have -- the Connecticut Farm Bureau has a State Dairy Committee. The State Dairy Committee did convene. About 85 percent of the farmers in the State of Connecticut are members of the Agri-Mark Cabot Co-op. So anytime you see that Cabot brand, know that that's owned by Connecticut dairy farmers. We work closely with their economists. Again, the ideas that we need to bring this issue out to focus are certainly -- are certainly greatly appreciated. And we certainly like the fact that this is getting a lot of attention. But the bottom line is at this point in the process, we do not see where Senate Bill 852 is going to increase the price that farmers get at their mailbox. We do not see it. There's certainly a lot of places where this can have some work done. Again, we're looking for that to happen at the commissioner level where they're going to be meeting, you know, to help to start bringing together all of the regional aspects that need to be brought into the arena.

REP. CHAPIN: Thank you very much.

REP. WIDLITZ: Any other questions? Representative Sharkey.

REP. SHARKEY: Thank you, Madam Chair.

Just briefly -- I mean this is obviously following up on the question that I had for the previous speaker. So the farmers are telling us that

they don't think that this bill will actually generate more revenue for them. The question is what do the farmers believe will? You know --

BONNIE BURR: Sure. When we had the dairy compact, it was a market driven program. If the milk -- if the price of milk -- we sell milk in hundred-weight lots, okay. Basically, it's probably about -- when the compact was in effect, and I would have to rely on our economists to tell you that, but let's say it was \$1.25 to \$1.30 is what farmers were receiving. If the price fell below that, then the compact kicked in. And again, it was market driven. It was not -- it was not paid for by the state government or the federal government. It was paid for by the market. That's the sort of process we want to see go back into it. We want to see this be market driven. And again, there's all sorts of things that are flying fast and furious. Is this part of the process? It very well could be --

REP. SHARKEY: So --

BONNIE BURR: -- is this it alone? No.

REP. SHARKEY: I'm sorry So the -- so what you're suggesting is that there should be a floor established?

BONNIE BURR: Well -- and that's what the compact did --

REP. SHARKEY: Right --

BONNIE BURR: -- it set the compact at the farm price -- again it was \$16.94 --

REP. SHARKEY: Right.

BONNIE BURR: -- and it said if the price falls below that, then we had this market driven program that kicks back in so that farmers can pay their bills --

REP. SHARKEY: Right, okay --

BONNIE BURR: -- and I think that's -- that's the key to what we're looking for.

REP. SHARKEY: Thank you.

REP. WIDLITZ: Any further questions? Thank you, Bonnie. I'm sorry. Representative Wilbur.

REP. WILBUR: Thank you very much, Madam Chairman.

We have seen in the New England area that our processing plants have closed one right after another. And because of that, there was a major purchasing buyout of Cumberland Farms and a whole bunch of others, and we ended up with the -- one of the largest plants in New England that's owned by Dean Foods. Am I correct?

BONNIE BURR: That is my understanding.

REP. WILBUR: And it processes milk at one of the largest plants in the world that's in Franklin, Massachusetts. And virtually all the fluid milk that sells in the grocery stores in Boston and Connecticut comes from this big super-plant now. Am I right --

BONNIE BURR: And I -- Representative Wilbur, I don't know what those percentages are.

REP. WILBUR: Well, it's kind of interesting that I see that the processors are also claiming that the cost of their large scale operation when they created this big monster would pass on to the consumers because they claim that the effective markets would remain intensively competitive. Now, you're aware of -- very well aware of a dairy magazine that comes through and right now they're having a cattle judging contest --

BONNIE BURR: Yes, sir --

REP. WILBUR: -- called boards dairymen, and one of the little articles that were in the little bracket there was the Dean Food Company's quarterly earnings more than doubled from last year's marketing, totaling 68.7 million. This increase was mostly driven by brands gained when Sousa Foods acquired Dean in 2001. And it goes on to say that lower raw milk costs and improvements in their specialty food business also helped to raise their bottom line. I think if we looked at this thing and you'll see that Dean Foods in quarterly earnings more than doubled, and one of the reasons is because of the raw milk prices.

BONNIE BURR: I think there are two issues and we can't lose sight of the fact that we've got two issues. Right now the issue that the Farm Bureau wants to address is the price that we're getting on the farm, okay. And again, that is a federally market -- that's -- we have a federal market order that was eluded to earlier. I've got to tell you, I grew up in the industry, and I did go to U-Conn and I did take Economics 101, but I think that we need to understand that this is an exceptionally very very difficult program. If you think you guys have got a problem with some of the issues that come before this committee, mention the word milk marketing in Washington and you will send everybody to the corners of the room. This is such a divisive issue. And I think you've obviously seen just a portion of it here.

The issue that Representative Wilbur is alluding to are the fact that we are seeing a very intensive move towards the concentration. Dean Foods has continually brought out the processors. This is a real, real, real concern. I would say it's probably the number one concern of Connecticut dairy producers right now, is the fact we will be left with two, two processors in the State of Connecticut, and you heard from both of them today, Guida's and Marcus. We are extremely concerned what happens if one of them loses the ability to stay competitive. If they don't stay competitive, we have absolutely nowhere to go but further down. And to be honest with you, that's what's most alarming to our dairy farmers. Do they want to get paid more for milk? You bet they do. They want to see a 25 cent increase per gallon of what they get. That has to be done on a regional basis. I've stated that before.

But the issue of antitrust -- and that's something else that Attorney General Blumenthal has been working on is of even bigger concern to the dairy producers. We cannot afford to have one company selling milk in this region. We cannot do that. And that's what is going to happen if we start to see increased pressure put on our processors like Guida and Hood who -- I'm sorry, Guida and Marcus, who are processors that we work with on a daily basis. Our milk -- I mean your milk probably went right to Guida, that's what my bet would be. And if Mr. Wilbur's milk didn't go to the Guida plant, I can guarantee it went right up 91 to the Cabot butter plant, and that was probably two days out of seven.

We can't afford to lose the fluid market that we have with Marcus and Guida. And that -- that again is where we want to sit down and have a conversation on how we can preserve all of these small family businesses. And in reality compared to Dean Foods, which is a multi-national, they are small family businesses. And that's what you need to address at this circle, is what is the viability that you want to have

with our producers and with our smaller processors, as well as some our independent grocery stores that exist, because that has to happen, we all work together on this. And that's what we're going to hope that the commissioners and the economists that they'll be meeting with on Friday are going to do.

REP. WIDLITZ: Thank you very much, Bonnie. Any other questions? (No audible reply). Okay.

The last person I have signed up to testify is Robert Kellerman. If there's anyone else here who would like to sign up, please come forward.

ROBERT KELLERMAN: Good morning, Madam Chairman and members of the Board. Thank you for this opportunity to speak --

(Gap in testimony, changing tape 2B to 3A)

ROBERT KELLERMAN: -- back in July of 2001 the legislation had changed the act, removing the contractor from the reimbursement application process and putting the homeowner responsible to file for reimbursement. At anytime we were not notified that there is a difference in the deadline of one month. We were told that any work had to be completed by December 1<sup>st</sup> and any paperwork had to be filed by the 31<sup>st</sup> of December of 2001.

We had filed -- we had finished all our work by December 1<sup>st</sup> and all of our paperwork was sent in before the 31<sup>st</sup>. On December 14<sup>th</sup> we had received a phone call stating that we would -- anything that was sent in after the 1<sup>st</sup> would be rejected, which we were unaware of. So what I did was try to make it -- to file appeals for our clients to try to get their claims passed.

We didn't have too much luck with that, so we went to our local representatives to try to get maybe the language changed just to get these files -- these claims covered for the homeowners that had been rejected. Last year we came to the Environment Committee with House Bill 5080 and it made it to the Senate. And unfortunately, it was put at the foot of the calendar and never addressed.

This year we're trying to basically do the same thing, just to help these homeowners that are out all this money. We have been paid in full. And I just feel that they're being punished for a lack of communication between the program and the contractors. And basically, we're just trying to get everything put through for them as they're out the money.

REP. WIDLITZ: Thank you for your testimony. I think this is an issue that we are eager to address. And I'll call on Senator McKinney for questions.

SEN. MCKINNEY: Thank you, Madam Chair. Thanks Rob, for being here today --

ROBERT KELLERMAN: Sure.

SEN. MCKINNEY: -- and I'm happy we finally have you before us so we can talk about this. Just quickly just so it's on the record, I want to make sure I understand this and people and the committee members understand it, the first tank amnesty program we had said work had to be performed by July 1, 2001 and the paperwork filed by December 1, 2001?

ROBERT KELLERMAN: It was stated any tank removed prior to July 1, 2001, that paperwork had to be filed by December -- uh -- by December 1 --

SEN. MCKINNEY: Correct --

ROBERT KELLERMAN: -- is what the act read.

SEN. MCKINNEY: And then we extended the amnesty program and said that if tanks were removed after July 2 -- or July 2 and after, that that paperwork for those tanks had to be filed by December 31<sup>st</sup>.

ROBERT KELLERMAN: Correct.

SEN. MCKINNEY: And it was your understanding in discussions with agency folks that they continued to stress that work had to be done by December 1<sup>st</sup> and paperwork had to be filed by December 31<sup>st</sup>?

ROBERT KELLERMAN: Correct.

SEN. MCKINNEY: And so all of the cases that you have, tanks were removed prior to July 1<sup>st</sup> and the paperwork was filed prior to December 31<sup>st</sup>?

ROBERT KELLERMAN: Correct.

SEN. MCKINNEY: And my understanding, and I'm sure the committee probably knows, you know we know each other and I have put in this bill as well as others, but your company, Connecticut Tank Removal, has 14 outstanding --

ROBERT KELLERMAN: Correct --

SEN. MCKINNEY: -- unreimbursed tank claims --

ROBERT KELLERMAN: Yes.

SEN. MCKINNEY: And it's, what, about \$130,000.00?

ROBERT KELLERMAN: A hundred and thirty, a hundred and fifty ballpark.

SEN. MCKINNEY: And people have brought legal action against you --

ROBERT KELLERMAN: Correct --

SEN. MCKINNEY: -- correct?

ROBERT KELLERMAN: Yes.

SEN. MCKINNEY: And is it fair to assume that that \$130,000.00 would pretty much have a devastating impact on your business?

ROBERT KELLERMAN: Yes, it would. We're a relatively small business and we try to do the best for everybody and also for the environment. We're here to --

SEN. MCKINNEY: Well, I think you guys do a great business and --

ROBERT KELLERMAN: Thank you --

SEN. MCKINNEY: -- but I'm biased. The last -- the last question I have for you and the last thing I want to talk about is there is testimony that's been submitted by

the Chairman of the Underground Storage Tank, Petroleum Cleanup Account Review Board -- and I won't even try to pronounce the doctor's last name, but -- and you submitted a letter that you got as well from the review board --

ROBERT KELLERMAN: Yes --

SEN. MCKINNEY: -- in support of this legislation.

ROBERT KELLERMAN: Yes.

SEN. MCKINNEY: What they have submitted in terms of their testimony, and it's the only reservation they have on the bill, is that the board is concerned that there may be additional claims filed beyond what the board has on record that would exceed current appropriations. In other words, there is money left and that money would probably cover the claims on file for people whose, you know, money was stolen or the company went out of the country or bankrupted, etcetera, but that maybe this -- you know, there's all of these claims out there that haven't been filed yet. And it's my understanding that you don't have any other claims --

ROBERT KELLERMAN: No --

SEN. MCKINNEY: -- what's on file is what's on file?

ROBERT KELLERMAN: What's on file is -- that's it.

SEN. MCKINNEY: So -- so then you would not have any objection to changing the language in the bill that would restrict the bill to all claims on file?

ROBERT KELLERMAN: Not at all.

SEN. MCKINNEY: Okay. Alright, thank you for coming up here today.

ROBERT KELLERMAN: Thank you. Any other questions?

REP. WIDLITZ: Thank you. Any other questions or comments from the committee? (No audible reply). Thank you very much for coming and testifying.

ROBERT KELLERMAN: Thank you.

REP. WIDLITZ: Anyone else who would like to address us today? Okay, we'll adjourn the public hearing. Thank you everyone.

(Whereupon, the hearing was adjourned.)