

“It may be my most significant accomplishment – it will certainly be my most enduring. It took a while, but in the end, we did right by Wisconsin’s dairy farmers.”

Herb Kohl

America’s Dairyland

Nature and history conspire to make Wisconsin America’s dairyland: lush pasture, temperate climate, and generations of family dairy farmers and cheesemakers, many carrying on traditions from overseas and centuries past. But when Herb Kohl entered the Senate in 1989, a government pricing policy – based on regional discrimination and inefficient subsidization – was in the process of wiping out Wisconsin’s God-given advantage.

“And more,” remembers Kohl. “Our producers were in danger of being driven out of business by a government-sponsored pricing system that violated every tenet of free markets and basic fairness. I knew I was going to have to make changing that a touchstone of my time in office.”

“When I first met Herb Kohl, I was skeptical that this urban businessman would be willing and able to take on the notorious complexities of federal dairy policy. But I quickly learned differently. In my years of working with the Senator, I came to know him as an unrelenting, knowledgeable, and genuine advocate for Wisconsin dairy farmers and their right to a fair and equitable dairy policy. Without his tenacity, I am convinced that federal dairy policy would have taken a far different path, to the detriment of Upper Midwest dairy producers and the nation as whole.”

Steve Etko
Coordinator, Midwest Dairy Coalition
Senator Kohl’s agriculture advisor, 1992-1997

Milk Marketing Orders

When Kohl took office in 1989, the new junior Senator from "America's Dairyland," he faced a federal system for pricing milk that violated his deeply held beliefs in free market economics and regional fairness. Writing in an op-ed for the Appleton Post Crescent, Kohl stated his case bluntly: "Wisconsin dairy farmers are getting milked by the federal government. An archaic federal marketing system requires milk plants to pay dairy farmers more for their milk based on their distance from Eau Claire. That means that Wisconsin farmers are placed...at a competitive disadvantage compared with dairy farmers in other parts of the nation."

Kohl wasted no time in taking aim at the milk marketing order system that penalized Wisconsin dairy farmers for being productive. He introduced the Milk Marketing Order Equity Act that would "end the discriminatory pricing and other economic disincentives that currently exist," as Kohl wrote in a column that appeared in 1989 in newspapers across Wisconsin, and he pushed for the legislation's inclusion in the 1990 farm bill.

"At the time, I thought I was just proposing a common sense fix to a price control system that was, at least to me, obviously outdated and inefficient," remembers Kohl. "I had no idea that that was just the start of a debate that would rage over two decades and end up transforming the way this nation treats our dairy farmers."

Federal milk marketing orders came into existence as a result of the Agricultural Marketing Agreement Act of 1937, which gave the Secretary of Agriculture open-ended powers to manipulate milk prices. The rationale for the legislation was to reduce disorderly marketing conditions, improve price stability in fluid milk markets, and ensure a "sufficient quantity of pure and wholesome milk."

Federal milk marketing orders operate as a federation of regional units with a raft of intricate regulations to govern the overall price to be paid for milk in each region. In addition to establishing a formula to determine a minimum national price for milk, the milk marketing orders impose a premium price -- a "differential" -- based upon the distance from Eau Claire, Wisconsin, to where the milk is produced. The orders also enforce different prices depending upon the end use of the milk.

The program's tangled web of mind-numbing pricing schemes has metastasized into a multilayered, incomprehensible, intrusive labyrinth increasingly divorced from economic realities and market forces. This archaic system provides an all-obtrusive federal meddling in milk pricing. Each and every product containing milk costs consumers more as a result of the marketing orders, making them little more than a milk tax...

Primarily due to the "differential," milk marketing orders force consumers in New York, Texas and Florida, for example, to pay 30 to 35 cents more per gallon of milk than those in Wisconsin and Minnesota. Perversely, the differential system also penalizes dairy farmers in the most efficient dairy farming regions and rewards dairy farmers operating in high-cost, inefficient areas far from Eau Claire.

“He has been a champion for farmers and rural Americans and has been a friend of WFU for many years.”

**Darin Von Ruden
President
Wisconsin Farmers Union**

The 1990 farm bill did not include Kohl’s legislation. “I knew right then that this was going to be a long process,” says Kohl. “But I also knew that we would win eventually -- because what we were trying to do was create federal dairy policy that was good for all farmers and all consumers, no matter in what part of the country they lived.” So Kohl started to seek other venues and other vehicles to promote his dairy reform ideas.

In 1990, he joined a coalition of Wisconsin and Minnesota legislators to push Secretary of Agriculture Clayton Yeutter to hold national hearings on the milk market order system and, when the secretary agreed, Kohl helped make sure the group could testify. Though Yeutter was sympathetic to the case the Upper Midwestern legislators laid out, he did not exercise his authority to reform the discriminatory system, yielding to pressure from dairy farmers in the West, South, and Northeast who benefited from the skewed status quo. When asked by the Associated Press about the possibility that the milk market orders might be altered to make them fairer to Midwestern farmers, one lawyer representing Southern producers said: “We’re going to fight like hell to keep it from happening. They are not going to bulldozer over us.”

So it was no surprise in 1991 when the Bush Administration refused to act. Disappointed but far from defeated, Kohl and his allies continued to battle the antiquated milk market order system. Congress after Congress, Kohl sponsored legislation to reform or end the system, and he joined other Midwestern legislators in supporting a series of legal suits against the USDA brought by the Minnesota Milk Producers Association starting in 1990. As a result of those actions, a U.S. District court ruled several times that the manner in which the USDA manipulated milk prices was “arbitrary and capricious,” and in 1997, prohibited the USDA from enforcing the system until it could be made fair.

Though the administration appealed -- and the courts eventually delayed -- that outright injunction, the pressure brought to bear by the Midwestern lawmakers finally got the result they had long sought: a serious national debate over updating the milk marketing order system. The 1996 Farm Bill included provisions that gave the

administration the power to make sweeping changes to the milk market orders. Before that bill even became law, Kohl, at a March 1996 hearing before the Agriculture Appropriations Subcommittee, pushed Agriculture Secretary Dan Glickman to commit to real change: "I am hopeful that the milk marketing order reform provisions of the final farm bill will give you the tools necessary to make the pricing system more accurately reflect today's markets, to establish a system that is more defensible in today's economy and more fair to Wisconsin's farmers."

Glickman responded more positively than any USDA official had in the past: "Pricing differentials affect the Midwest in a disproportionately negative way. The differential is not fair. My goal is to reduce and eliminate the differential."

It would be three years – and countless meetings, phone calls, floor debates, hearings, proposals, and a national referendum of all dairy farmers – before that promise became even a partial reality. On March 31, 1999, the USDA announced its new federal milk market order rule. Said Kohl that day: "This is the first real dairy reform in over 60 years – since the New Deal. The USDA's final decision on milk marketing reform is a step in the right direction toward a simplified national pricing system...there are a lot of details to be analyzed, but at first glance, I am encouraged...it looks like Wisconsin's dairy farmers will be able to compete in a fairer, more market oriented system due to a narrowing of the price differential."

"My primary purpose in rising at this point is to praise my senior colleague, Senator Kohl. The words that have been said about many in this effort are true. But I want everyone to know that this was not an effort that he initiated a week ago, or 2 weeks ago, or 2 years ago. Every single day since I have been in the Senate I have found working with Senator Kohl on this critical issue to be one of the best opportunities to work with another Senator together for our state. This has been certainly the most dramatic example. But it is an example also of the tenaciousness that Senator Kohl has on behalf of our dairy farmers."

Senator Russ Feingold, November 19, 1999

After a decade of fighting for reform of the milk marketing system, Kohl may have sounded muted in his reaction to success. But by this point, he and his allies were waging a war on two fronts. The early 1990s saw a new dairy pricing scheme take root – one that intensified regional conflicts and disadvantaged Wisconsin dairy farmers far more than milk marketing orders ever had: The Northeast Dairy Compact.

Regional Dairy Compacts

Before the ink dried on the USDA's milk marketing order reforms, efforts began in the House and Senate to overturn the proposal. As Senator Kohl explained to dairy farmers in Eau Claire in September of 1999, "It is never over until it's over and even when it's over, it isn't over. That's the way it is in Washington."

"That may sound cynical," states Kohl today, "but when I look back I realize I wasn't cynical enough. I thought the fact that the Secretary of Agriculture was moving – albeit at a glacial pace – toward a national policy on milk prices would be the cue for my colleagues to call a truce in the regional civil war on dairy. In fact, just the opposite occurred."

Kohl refers to the intensification of the battle over the Northeast Dairy Compact that took place in 1999. The compact was a cartel agreement among six New England states to set the price of milk produced in their region.

As Kohl explained in an opinion column that ran in papers across Wisconsin in the

What is a dairy compact, and how does it work?

The Northeast Dairy Compact is a formal agreement among six New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) to keep the price of milk in the region high enough so New England's dairy farmers can stay in business. Because of Congress' authority under the Constitution to regulate interstate commerce, both federal and state legislation was required to create the compact.

Under the compact, a commission of 26 delegates--three from Maine, three from New Hampshire, and five from each of the other states--establishes a minimum price for milk in the region. The minimum price established in July 1997 was \$16.94 per hundredweight (100 pounds, or 11.6 gallons). Since then, the compact's minimum price has not changed.

The compact's minimum price for milk is a supplement, not a replacement, for federal milk price supports. The compact's minimum price of \$16.94 may be higher or lower than the regional minimum price for milk established monthly by the U.S. Department of Agriculture. When the compact price is lower than the USDA's price, as it has been for the past three months, the compact has no effect on the market. But when the compact's price is higher than the USDA's price, milk processors that sell milk in New England must pay the difference to the compact...

The compact increases the price consumers pay for milk in New England, though economists disagree on how much. The Wall Street Journal editorial page says the compact increases the price of milk by 15 to 20 cents a gallon. The compact commission believes the cost to consumers is likely between 8 and 11 cents per gallon.

The Northeast Dairy Compact is currently the only dairy compact in the United States. But some Southern and Western states want to form their own compacts, and other states want to join the Northeast Dairy Compact.

How Does Sen. Jeffords Keep Vermont's Cows Solvent?

Slate

August 7, 2001

summer of 1999: “Dairy compacts artificially raise the price of Class I milk above the prevailing federal milk marketing order price for the states in the compact region. By a complicated formula, all dairy farmers in the region receive some extra subsidy for the region’s milk processors based on their overall milk production. Of course, this is an incentive for the farmers of the region to produce more milk than the region needs or demands.

“The overproduction of milk in the compact region causes prices to fall in non-compact states...As compacts spread to other regions of the country...the fewer and fewer farmers operating in a free market are squeezed even more by overproduction. The cost to efficient family farms in the Midwest would become unbearable.”

Senator Patrick Leahy, (D-VT) first introduced legislation to give federal approval to the Northeast Dairy Compact in the spring of 1994. The House Judiciary Committee sent the issue to the full House for consideration, but it was never acted upon there – in part because of the bipartisan efforts of opponents like Kohl and Senator Chuck Grassley (R-IA), who wrote to the House committee:

“There is no precedent for this kind of interstate compact. Congress has never approved a compact under which the compact member states were permitted to wall themselves off into a separate economic price-fixing unit, or to dictate the terms at which interstate transactions with non-compact members could occur. Existing compacts deal with such matters as transportation, bridges, water control, and boundary lines; they do not give to compact members the right to engage in economic Balkanization. “

The Senate also declined to take up the bill in 1994.

In 1995, Senator Jeffords, the then-Republican Senator from Vermont, reintroduced the compact bill, and it was included in the Senate version of the 1995 budget in order to secure Northeastern

“The truth is that the actions of this government price-fixing cartel will add about \$25 million a year to our grocery bills. No matter how you slice it, the dairy compact is a raw deal for Massachusetts’s consumers. The heaviest burden of this regressive milk tax falls on the state’s low-income and working-class families...”

**“Northeast Dairy Compact leaves sour taste,”
Massachusetts State Senator Edward Clancy
writing in the Boston Business Journal, May
18, 1998**

Senators' support for that measure. Kohl went to the floor to beg his colleagues not to give up on the hope for a national dairy policy that would benefit all consumers and all farmers: "The Northeast Dairy Compact goes beyond anything ever done in a bill... It is the product of one region's frustration with national policies, and an effort by that region to remove themselves from that national system and establish a regional dairy policy." The conferees on the budget dropped the legislation authorizing the compact.

That victory for free markets and national over regional dairy policy was short-lived. Using his position as the highest ranking Democrat on the Senate committee in charge of drafting the 1996 farm bill, Leahy again inserted a provision creating a Northeast Dairy Compact into the legislation that hit the Senate floor in February of 1996. Kohl and the junior Senator from Wisconsin, Russ Feingold, moved to strike the provision in an unusual 11th hour debate that stretched from sunrise until right before final passage of the massive bill.

"The proposal sets up anticompetitive fences around states in the east, keeping out commerce and putting Wisconsin farmers at a terrible disadvantage," argued Kohl on the Senate floor. The final vote was 50-46 in favor of the Kohl-Feingold amendment. "This was a hard-fought issue of basic fairness, and I am pleased that we derailed this anticompetitive cartel," Kohl said after the vote.

But the fight was far from over. In less than three weeks, a House-Senate conference committee on the farm bill had cut a backroom deal with Democratic Senators from the Northeast: Support the Republican's "Freedom to Farm bill" -- at that time seen as a conservative-led attempt to shrink the federal government's role in farming -- and you'll get your dairy compact. When the farm bill returned to the Senate for final consideration, this time with no opportunity for amendment, Kohl and Feingold opposed it vigorously.

"I am outraged that the House-Senate conference committee included a provision that (creates) the Northeast Dairy Compact. We fought that fight on the Senate floor and defeated the compact on merit. The compact was killed through the democratic process. Now, in a backroom deal, it's slipped back in. That's not how the country's best interests are served," Kohl said.

"That was a tough loss," Kohl remembers. "We had consumers on our side. We had facts on our side. We had precedent, free-market economic theory, constitutional

law, and – most importantly – the votes on our side. But it would be three years before we would get another real chance to convince Washington that this divisive regional price fixing cartel was terrible, destructive, and unfair policy.”

“The Administration is dead wrong and this decision will not stand. The compact is not only bad dairy policy, it’s bad consumer policy, and it violates the Constitution. This is a misguided result of a back room deal that should have never seen the light of day.”

Herb Kohl, reacting to news that Agriculture Secretary Dan Glickman approved the establishment of the Northeast Dairy Compact through 1999.

National Cheese Exchange

Even after the Northeast Dairy Compact became law, Kohl did not give up his efforts to repeal it. “We visited the White House, lobbied our colleagues, held hearings, commissioned studies, did everything we could to build the case against the compact so we could make sure we drove a stake through its heart next chance we got.”

And while preparing for that final run at the compact, Kohl pursued other avenues to assure Wisconsin dairy farmers a fair and reasonable price for their milk. He continued to press for milk market order reform (see above). He won a commitment from Secretary Glickman in December of 1996 to take actions – including increasing dairy exports and donations of dairy commodities under U.S. food aid programs – to stabilize dairy prices, at that time in free fall. He made sure Wisconsin could participate fully in the Dairy Options Pilot Program, a USDA initiative that helps farmers participate in the future markets in order to manage risk.

And he sought to delink cheese prices from the trading that went on at the tiny National Cheese Exchange in Green Bay, Wisconsin. “This was yet another example of how distorted the markets for dairy products were in the 1990s. The NCE traded just one-fifth of 1 percent of all bulk cheese, yet the prices set in those transactions determined prices in virtually all bulk cheese contracts. And there were some very big players dominating the NCE. We couldn’t help but worry that prices were, at best, inaccurate and inefficient and, at worst, manipulated by one or two huge processors – and not to the advantage of the farmers.”

“We must find a price discovery mechanism that is credible, that is more reflective of supply and demand, and that offers less potential for manipulation...”

Senator Herb Kohl
March 13, 1997

As early as 1991, Kohl secured funding for the Food Systems Research Group at the University of Madison-Wisconsin to investigate the NCE and its effect on dairy prices. On March 19, 1996, the group issued its report: “In sum, our analysis of business motives, trading conduct on the NCE, an in-depth analysis of Kraft’s conduct on and off the NCE, and a quantitative analysis of NCE prices indicate that the National Cheese Exchange was not an effectively competitive price discovery mechanism...As currently organized, the Exchange appears to facilitate market manipulation.”

Kohl’s suspicions were validated: “I am disappointed, but not surprised. The report suggests that the [National Cheese Exchange] is fatally flawed

and ought to be completely eliminated in favor of a market with less potential for large sellers to manipulate cheese prices.” The release of the report served as a launching point for a national discussion of the reform of cheese pricing.

Worried that USDA would hold off addressing the problems raised in the report until they presented their milk marketing reform proposals in 1999, Kohl and Sen. Russ Feingold (D-WI) introduced the National Cheese Exchange Oversight and Improvement Act on February 11, 1997. Said Kohl of the legislation: “Ultimately, what we need to do is find an alternative price discovery mechanism that more accurately reflects market conditions and is less subject to manipulation. But in the short term, we need to delink the National Cheese Exchange from the farmers’ milk prices, and we need to do that as soon as possible.”

By May, Agriculture Secretary Glickman responded, announcing that prices would no longer hinge on the operations of the NCE, but instead would be based on price information gleaned from a weekly survey of over 80 percent of the manufacturing plants actually processing bulk cheese: “The new cheese price series... will significantly contribute to improved market information for the dairy industry,” Glickman said, “while allowing the current longer term process of reforming federal milk marketing orders, including possible replacement of the BFP, to continue without disruption.”

Dairy Trade

“I came to Congress supporting free trade for dairy products, though I admit I had no idea we would spend so much time fighting against tariffs and trade barriers between the states – which is exactly what dairy compacts represented. But that doesn’t mean we ignored the opportunities for Wisconsin farmers in foreign markets,” Kohl explains.

In the late 1990s, concerned about unfair treatment of dairy products by Canada and the potential for further damage to dairy exports in upcoming GATT talks, Kohl pulled together House and Senate staff from the Northeast and Midwest and from the committees with jurisdiction over trade and agriculture. The result was a joint request from the Vermont and Wisconsin delegations to the USDA and the USTR to begin coordinating on dairy trade strategy.

Around the same time, Senator Kohl took a lead role in raising questions about the potential anti-competitive nature of some state trading enterprises. The biggest of these, the New Zealand Dairy Board, used its monopoly-power to undercut American dairy exports overseas and get a higher price for their own imports into America. Through opinion columns in the national press and rigorous questioning of USDA officials at hearings, Kohl and his allies focused the administration’s attention on negotiating the best deal for dairy exports during future trade negotiations. Further, through his position on the Appropriations Committee, Kohl ensured that the USDA program assisting dairy farmers who wanted to sell overseas remained robust.

Wisconsin Dairy Exports Grow to \$250 Million in 2011

USDA estimates that the value of Wisconsin dairy exports in 2011 was nearly \$250 million. This was up \$20 million over 2010 and about \$10 million more than the previous high in 2008. Wisconsin dairy exports in 2011 were nearly five times what they were in 2004.

Wisconsin’s principal dairy exports coincide with the state’s dairy manufacturing mix. Wisconsin is the leading state in cheese production and cheese was its largest dairy export at \$105 million. Cheese production yields whey, which was second in export value at \$95 million.

Wisconsin ranked fifth among states in 2011 dairy exports.

**The Babcock Institute
August 2012**

The Death of Dairy Compacts

After the passage of the 1996 Farm Bill, Senator Kohl and his Midwestern allies beat back a number of attempts to extend the compact's authorization or expand it to Southern and Western states. On April 29, 1999, in response to these proposals, Kohl introduced the bipartisan "Dairy Fairness Act" to repeal the compact ahead of its expiration date in October of 1999.

"The supporters of the compact seem determined to preserve the unfair advantages their dairy farmers now enjoy," Kohl said. "In doing so, they ignore what would benefit dairy farmers and consumers all across the country. The price of milk should be set by the market, not by compacts or its distance from Eau Claire. We will fight all efforts to legitimize dairy compacts. And we will fight for the right of competitive dairy farmers – like those in Wisconsin – to make an honest living selling their products at an honest price."

In June of 1999, Kohl blocked the efforts of Senators Patrick Leahy and James Jeffords to add an amendment extending and expanding the Northeast Dairy Compact during the Appropriations Committee mark-up of the FY2000 Agricultural Appropriations bill. Kohl worked for months lining up the support of consumer groups and fellow Senators – efforts that culminated in a letter signed by 41 Senators vowing to support a filibuster if the compact amendment was included in the bill (41 votes guarantee that a filibuster cannot be stopped).

I do not believe there is much I can teach my colleagues on most political issues. However today we are asked to put into our conference report some dairy policy changes that are as complicated as they are destructive to my state and to sound national economic policy. We are not the agriculture authorizing committee, so there is no reason our members would know the ins and outs of dairy pricing laws. But if we are going to change those laws in this committee, I think it is only fair that we establish a full record on the impact of those changes.

But before we get into the terrible national economic implications of this amendment, let me make an emotional appeal. Do not do this to Wisconsin. Do not do this to the Upper Midwest.

Wisconsin is the dairy state. We have thousands of farms. We have thousands more residents who make their living buying and selling dairy products, farm equipment, barns, feed, even the early morning coffee served to the farmers who come to town straight from their milking barns each morning.

This amendment threatens that, but more than that. We have towns that would cease to be towns were our herds sold off, our tractors silenced. We have fairs that would close after a hundred summers of operation – schools where fathers and grandfathers attended before, that would empty of farm children – volunteer fire departments that would lose volunteers – generations of cheesemakers that would stop making cheese this generation.

Do you know that the only producer of Limburger cheese in the nation is in Wisconsin? Do you know that Wisconsin produces over 200 varieties of cheeses, second only to France? You ought to know that before you decide to cripple our dairy industry. You ought to at least know what you are killing.

This amendment does not just strike at an industry in my state. It strikes at the heart and soul of Wisconsin.

Senator Herb Kohl
Remarks prepared for closed House-Senate
Appropriations Committee mark-up
September 1999

“With Washington cutting money for welfare, food stamps and other poverty programs, this is no time to impose needless costs on the poor. It will be hard for Mr. Glickman to admit he erred when he approved the cartel. But it would be even harder on parents to pay more for their children's milk...”

New York Times
March 15, 1997

Kohl then notified the chairman and ranking member of the Appropriations Committee that he and his allies planned to filibuster the Agriculture Appropriations bill in committee if an attempt were made to add a compact amendment there. He prepared 70 amendments to offer if a filibuster were necessary and, with the help of Sen. Orrin Hatch (R-UT), chairman of the Senate Judiciary Committee which has jurisdiction over compact law, and Sen. Richard Lugar (R-IN), the chairman of the Senate Agriculture Committee, sought assurances from each Appropriations Committee member that he or she would resist Leahy’s attempts to offer a compact amendment.

“That did the trick,” Kohl recalls. “Leahy didn’t dare offer the amendment in Committee. I like to think this marked the point when we finally convinced a critical mass of Senators of just how unfair a national dairy policy based on regional favoritism really was. Unfortunately, our efforts didn’t end compacts – it just drove their supporters back into the backrooms where they cut another political deal to keep their price-fixing cartel alive.”

But Kohl did have a few months to savor the fruits of his labor: a dawning understanding in Congress that the only sensible dairy policy was a national dairy policy. In October, Kohl saw the Senate approve an Agricultural Appropriations bill that included no new or expanded regional compacts but instead a national program providing emergency aid for dairy farmers experiencing yet another year of low milk prices. As he noted upon the bill’s passage: “This year, what isn’t in the bill is just as crucial to our state and to fair national policy as what is. We have more hurdles ahead, but it is my hope, the more we make our voices heard, the

“Pressured by the dairy industry, the government maintains a Depression-era formula that makes some cows (and their owners) more equal than others, depending on where they live. Millions of consumers and taxpayers pay the price; higher milk costs for themselves, higher taxes for government-bought milk for schools and other programs.”

USA Today
March 2, 1998

more lawmakers will recognize the need to abolish compacts.” Passage of this bill saw budget hawk groups like the National Taxpayers Union and farm groups like the National Farmers Union join the consumer groups already supporting Kohl’s call for an end to compacts.

The anti-compact movement’s new momentum ground to a halt in November of 1999 when the Republican leadership, just days before Congress adjourned for the 1999 elections, slipped into a massive final budget bill a provision extending the life of the compact until September 30, 2001. Kohl immediately vowed to do everything in his power to stop the legislation that, according to reports, Republicans included to help Sen. Jeffords in a close re-election bid.

“Alarmed by the potential harm both to middle-class consumers and low-income families, various groups are protesting the new bill. Nutrition and consumer groups, government-spending watchdogs and milk processors and retailers all have lined up against the concept. Congress should reject this attempt to extend the counterproductive intrusion on the workings of the free market.

“Let the milk cartel die.”

Philadelphia Inquirer
June 15, 1999

“I was not elected to the United States Senate to stand by and watch back-room deals fly through this institution without a debate or a vote, leaving Wisconsin without a voice and without hope,” announced Kohl. “It is for that reason that I have objected – and will continue to object – to legislation moving through the Senate.”

Kohl continued: “This is a path that is dangerous and wrong for my state and the country. I can understand that Senators may not be concerned about the effect on Wisconsin’s dairy industry. I cannot understand that Senators would accept this as sound national policy. I apologize to everyone who is caught up in this fight. It is not a fight that I have chosen – it is a fight that the Republican leadership of the Congress has chosen to pick with me and the people of my state. I have no guarantee that I will win – but I will fight.”

"The state should not have allowed New York's dairy farmers to join a regional milk cartel. This sour stuff will keep the wholesale price of milk artificially high, forcing processors and retailers to pass the cost on to consumers. The hit will fall hardest on the poorest parents who buy milk for their children. And it's not clear how much it will help the small farm owners most in need."

Newsday

January 5, 1999

"We took it down to the wire," Kohl remembers. "We were mere hours away from shutting down the whole government -- sending home federal workers, closing national parks, stopping social security checks, military pay. And still the Northeastern Senators would not relent. Just as they had for years disadvantaged Wisconsin farmers so their farmers could get a sweet deal, now they were willing to shutter the entire government rather than give that deal up, regardless of the harm and chaos that might cause. Well, I wasn't. I could not agree to a course that was ruinous to the nation even though it might right serious wrongs done to my state. I let the budget go through, but not without assurances from everyone involved that this would be the last we would hear of compacts."

Majority Leader Sen. Trent Lott (R-MS) took the floor: "While this legislation is going to pass, we should not stop at this point. We should

look for a better way to do this. We should look for a way to get away from compacts and a way to get away from the type of government controls we now have...I am committed here today to work with those who believe we should not be doing this to find a way to do it better. I know the Senators on the other side will fight tenaciously against that, but I want the record to reflect my true feelings on this and reflect my commitment that we are not going to leave it on this line."

Minority Leader Sen. Tom Daschle (D-SD) followed: "I do not support compacts. I do not support the Northeast Dairy Compact. I do not believe it is good economic policy. I think the process that allowed the Northeast Dairy Compact to be inserted in the budget process was flawed and wrong and unfair. This isn't the way we ought to deal with complex and extraordinarily important economic policy affecting not hundreds or thousands but millions of rural Americans. I oppose compacts in any form, but I especially oppose them when they are loaded into a bill without the opportunity of a good debate, without the opportunity of votes, without the opportunity of amendment. We will come back to this issue. We must revisit this question. We must

find a way by which to assure that all views are taken into account, and all sections of the country are treated fairly. It is one thing to throw things and to stomp up and down and to cause all kinds of havoc. Anyone can do that. But it takes courage, it takes character, it takes class to say, look, in spite of the fact that we were not treated fairly, we are going to work with you to assure that people in other circumstances will be treated more fairly.”

And finally, the powerful ranking member of the Senate Appropriations Committee, Sen. Robert C. Byrd: “As ranking member of the Senate Appropriations Committee, let me say a few words. I would like to say more about this man from Wisconsin but time constraints will not allow me to do that.

“He is the Stonewall Jackson of Wisconsin. He stands like a stone wall. If I had the voice of Jove, I would shout from the ends of the earth. Yet I would not be able to move this man, Herb Kohl, when he takes a determined stand. He has been talking with me time and time again about this issue that is so important to him and the people of Wisconsin. He has been absolutely indefatigable; he has been unshakable, and I salute him. He has stood up for the people of Wisconsin. That is what I like about him. He stands for principle. He stands for his people.

“The people of Wisconsin have a real treasure in Herb Kohl, and I have a real treasure in Herb Kohl as a friend. I want him to know that at any future time when this issue comes up, he knows the number of my office, the number on my telephone. I will be glad to see him, talk with him, and help him in his fight.”

“Kohl’s determined struggle was not a failure. Efforts to expand the worst components of the current system were stymied, a broader coalition in support of reform has been developed, and even the worst players in the Senate GOP leadership have acknowledged publicly that the time has come to make changes. The fight for a better milk pricing system continues and a fair resolution for Wisconsin’s farmers is more likely as a result of Kohl’s determined work.”

**“Herb Kohl’s Good Fight,” The Capital Times
November 24, 1999**

“New England consumers owe thanks to senators from the Midwest and West, particularly Wisconsin, for successfully fighting expansion of this OPEC for milk...It was particularly regressive policy in that the burden fell most heavily on the poor...All of New England will be well rid of this bad law.”

Boston Herald editorial anticipating expiration of the Northeast Dairy Compact, August 6, 2001

“We lost the battle, but we won the war,” Kohl explains. “The compact was extended but not expanded. And though we had to keep our coalition together to fight off attempts over the next two years to further extend the compact or add states to it, the leaders kept their promises – even after Senator Jeffords switched parties and made Senator Daschle the majority leader in an attempt to get him to change his position on compacts. He kept his promise. The Northeast Dairy Compact closed for good on September 30, 2001. And by that time, Congress had moved toward a truly national dairy policy – one that treated all dairy farmers the same – and that is all we wanted from day one.”

MILC: The Birth of National Dairy Policy

Even in the heat of the regional conflict over dairy compacts, Senator Kohl was seeking national solutions to the milk price collapse that plagued farmers everywhere. In the fall of 1998, he made sure that a portion of the emergency farm payments passed by Congress was set aside for dairy farmers and targeted to small and medium-sized family operations rather than the factory farms with many thousands of cows. One year later, he pressed Agriculture Secretary Dan Glickman to release those funds and led the effort to replenish the emergency relief coffers for fiscal year 2000, moves that garnered Kohl the National Farmers Union 1999 Presidential Award for Leadership.

By the year 2000, Kohl and the senior Democrat on the House Appropriations Committee, Rep. Dave Obey (D-WI), had moved to institutionalize their program to provide a national safety net for dairy farmers in times of high prices. “We had two goals,” remembers Kohl. “One was to make sure that every dairy farmer who wanted to could participate in the program, and we did that by capping payments at production levels equal to the output of about 150 cows. That meant that every farm would get something, but the largest operations wouldn’t deplete the fund. Second, we based the payments on market conditions – the national price of milk – and not on regional considerations. So no matter where you farmed, when milk prices were extremely low, you got some help.”

In the fiscal year 2001 Agriculture Appropriations bill, Senator Kohl continued to hone the market-based, national dairy program he and Obey created. Taking to the Senate floor to thank Sen. Thad Cochran (R-MS), Chairman of the Appropriations Committee, for his help in instituting the dairy initiative, Kohl told his colleagues: "This bill responds quickly and adequately to the very real crisis that has hit the dairy industry across this nation. Last December, milk prices dropped unexpectedly and dramatically. Today, the base price farmers receive for their milk is \$9.46. The average base price for 1998 was \$14.21, and the average for 1999 was \$12.43.

"Those cold numbers cannot express the hard damage that has been done to dairy farmers and their families throughout my state, and throughout the nation. They add up to families that have stopped milking after generations, and rural towns that are collapsing as farms disappear. America's dairyland is in real danger of becoming a wasteland. And today with this bill, the Senate has responded with emergency payments to the small farmers hardest hit by this disaster. I am proud of this institution for putting aside regional differences and interests, and for seeing this provision as--not just helping Wisconsin farmers, or Vermont farmers, or Pennsylvanian farmers--but as helping American families."

As the senior Democrat on the Agriculture Appropriations Subcommittee, Kohl was positioned to continue to develop his national dairy market loss program on a year-by-year, ad hoc basis. But he had fought too hard against

Wisconsin's dairy families are operating under enormous economic strain – and they need to know we stand with them.

Family farming has been a part of Wisconsin's rich agriculture tradition for generations. Today's dairy producers are struggling to balance low prices against high production costs to simply keep their farms and families solvent. I understand this struggle, and continue fighting to help them through these hardships.

Last year during consideration of the 2008 Farm Bill, I fought to extend the expiring Milk Income Loss Contract (MILC) program. The MILC program provides critical support to farmers when milk prices are low. When the market recovers and prices go up, the government spends nothing. And unlike dairy compacts, the MILC program provides fair benefits to farmers all over the country, without pitting the interests of one region against another.

I also pressed to include a 'feed cost adjuster' in the revised MILC program to bolster support when feed costs spike. MILC support from February to April ranged from \$1.50 to \$2.00 per hundredweight, with the 'feed cost adjuster' contributing 9 to 17 cents of additional support. While those payments don't fully insulate dairy farmers from economic turmoil, they have over the years meant the difference between bankruptcy and survival for thousands of family-sized dairy operations in our state.

As we press forward with a broad-based economic recovery program for the nation, I remain committed to making sure that rural Wisconsin and her dairy industry enjoy better times ahead

"Dairy Month"

Senator Herb Kohl

June 2009

capricious, regional dairy compacts and skewed milk marketing orders to feel comfortable with such an ephemeral solution. So he sought out a Republican cosponsor – in this case the conservative Sen. Rick Santorum (R-PA), a member of the Republican leadership -- and introduced the National Dairy Farmers’ Fairness Act in the 106th and 107th Congresses.

“For too long, regional politics have plagued efforts to achieve a fair and equitable national dairy policy that benefits our farmers,” remarked Santorum. “As a result, milk pricing has become complex and burdensome. Given that dairy farmers have been receiving their lowest price for their milk in more than 20 years, we feel that Congress needs to step to the plate and offer a fair and reasonable solution, sooner rather than later.”

The legislation, modeled on the initiative Kohl and Obey had developed, established a sliding scale for emergency payments based on the previous year’s price of milk. The aid would be targeted to the smallest family farms, though all farms, regardless of size would get some help.

As the Northeast Dairy Compact expired at the end of 2001 and debate began on the 2002 Farm Bill, Senators from the compact states joined Kohl to push for a dairy program based on the National Dairy Farmers’ Fairness Act. In making a case for the new safety net to the House and Senate conferees shaping the final bill, Kohl argued: “I plead with the committee not to return to the days of bitter regional wars over compacts and other special dairy deals. Let this farm bill be remembered as the legislation that marked the beginning of national and fair dairy policy in this country.”

The conferees agreed. On October 15, 2002 the first direct payments to Wisconsin dairy farmers under the Milk Income loss Contract, or “MILC,” went out.

In 2004, Kohl joined with Senator Norm Coleman (R-MN) to extend the life of the MILC program, then slated to expire in late 2005. “The MILC Program has literally been a lifeline for thousands of Wisconsin farmers,” said Kohl while introducing the bill. “Without a doubt, we have prevented scores of agriculture bankruptcies this Spring because this program was in place when milk prices hit

*“I know Herb Kohl
has fought hard for
Wisconsin farmers.
He’s helping to keep
our way of life alive.”*

**Ron Thieding
Dairy Farmer
Loganville, WI**

historic lows.”

In September of 2004, Kohl won bipartisan approval for the extension in the Appropriations Committee, but by October, there were reports that the White House was in opposition. When President George W. Bush planned an October 7th campaign stop in Wausau, Wisconsin, located in dairy-rich Marathon County, Kohl saw his opportunity. He called on the president to get behind MILC: “Without his endorsement, this safety net will unravel,” explained Kohl at the time. That same day, Bush announced his support.

But even that was not enough to keep the House Republican leadership from stripping the program from the final Agriculture Appropriations bill at the end of 2004. Undeterred, Kohl introduced the extension of MILC on the first day of the 109th Congress. Within a month, Kohl’s bill had received the bipartisan support of nearly one-third of the Senate and the renewed endorsement of the President, who included the measure in his fiscal year 2006 budget submitted to Congress.



Northeast and Midwest legislators, former adversaries in the regional dairy wars over compacts, raise a milk toast to their newfound shared support for the national MILC program.

Kohl and his bipartisan coalition worked relentlessly to include the extension of MILC in the contentious budget that moved its way through Congress in 2005 and early 2006. In November of 2005, Kohl argued on the Senate floor for the countercyclical program: "It is targeted. It is fair. It is essential." The Senate listened. The extension was included in the budget reconciliation bill cleared through the Senate in December of 2005 and the House in February of 2006.

Kohl and his allies did not have long to celebrate winning dairy a spot among federal farm programs on equal footing other important American commodities. They quickly had to turn their attention to refining and continuing MILC in the 2007 Farm Bill.

As the debate over the legislation dragged into 2008, Kohl expanded the coalition of Senators working on MILC and won inclusion of a provision in the Senate bill that extended the life of the program; retained its focus on the small and medium farms that make up over 90 percent of dairy operations in Wisconsin; and added a new feature, a so-called "feed cost adjuster," which would factor in feed costs when triggering payments for farmers. "The end result is a better safety net for dairy producers in Wisconsin," Kohl said. "These changes restore and strengthen the original MILC program."

The MILC reforms survived the Senate-House Farm Bill conference negotiations and a presidential veto override vote to become law in May of 2008.

The 2012 Farm Bill

The 2008 addition of a "feed cost adjuster" to the MILC program was driven by new challenges confronting dairy producers. Even in months with relatively strong dairy prices, many producers struggled against dramatically shrinking margins due to increased feed and energy costs. Farmers found themselves worrying not just about dairy prices, but also unprecedented volatility in feed and fuel costs.

This new reality prompted soul searching among dairy producers and dairy organizations nationwide. And it coincided with growing concern about the cost of direct farm subsidy payments in general. The push for a "dairy margin protection" in lieu of direct federal payments became the central organizing element for dairy organizations in the 2012 farm bill.

This voluntary approach would allow farmers to pay an administrative fee and sign up for margin protection 'insurance'. When margins shrink below a set level, producers would get a check to help tide them over until margins improve. And producers who want the protection of better margins would be able to 'buy up' for additional protection.

Wisconsin is America's Dairyland

Wisconsin's future is linked to our dairy industry. With almost 12,000 family-owned dairy farms, hundreds of feed and supply companies, 1.2 million cows, 1,290 licensed cheesemakers and 412 licensed dairy plants; Wisconsin's dairy industry is a cornerstone of the state economy.

In Wisconsin, dairying is a way of life. From the words 'America's Dairyland' on our vehicle license plates to the foam cheese hats on our heads, Wisconsin's love of dairy runs deep. From processors that know cheese to dairy producers that know cows, and a dairy infrastructure that is second to none, Wisconsin is positioned to serve as the nation's center of dairy excellence for decades to come.

"Welcome to Wisconsin"

Wisconsin Department of Agriculture, Trade and Consumer Protection

Ever vigilant, Senator Kohl weighed in on March 22, 2012 with suggestions for making this approach work better for the majority of Wisconsin dairy producers. In a letter to the Chair and Ranking member of the Senate Agriculture Committee he noted, "...we believe that the proposal can be improved to ensure that the safety net meets the unique economic needs of the nation's small-and-medium-scale dairy farmers." He urged them, "to include...lower premiums for the first 4 million pounds of production in order to make higher levels of margin protection more affordable for all dairy farmers, but particularly those farmers with approximately 200 cows or fewer, representing roughly 90 percent of the nation's dairy farms."

That framework was subsequently embedded in the dairy section of the 2012 Farm Bill which passed the Senate on June 21, 2012 by a bipartisan vote of 64 to 35. The

bill overall was estimated to save taxpayers \$23 billion over 10 years. Summing up his role in the negotiations, Cap Times columnist Margaret Krome wrote: "Sen. Herb Kohl showed it's possible to exercise fiscal restraint while advancing a positive agenda, voting in the interests of Wisconsin's agriculture."

Dairy Promotion

Kohl's persistent and ultimately successful efforts to straighten out the inefficient and unfair market for dairy products garnered headlines and attention. But while he waged these very public battles, he also worked quietly to make sure Wisconsin farmers had every advantage in marketing their goods.

Shortly after taking office, Kohl began to look into concerns that the milk from cows treated with Bovine Growth Hormone (BGH), also known as Bovine somatotropin (BST) -- a hormone injected into dairy herds to increase production -- might increase consumers' risks of developing cancer. "This was primarily a health issue, but it also had an impact on dairy sales," Kohl recalls. "Consumers deserved good information on the milk they were buying for their families -- and farmers needed a clear way to market and sell the product consumers wanted, which increasingly was BGH-free milk."

In 1989, Kohl first involved the FDA in the issue, calling on them to seek an

With more outlets for raw milk including 1,200 licensed cheesemakers and over 200 dairy processing facilities producing cheese and other dairy products; Wisconsin's dairy business climate is incredibly strong, with an infrastructure unmatched world-wide.

State milk production, in excess of 24 billion pounds, is second in the U.S. and 13 percent of the nation's milk supply. Wisconsin's world-renowned cheese industry uses more than 90 percent of Wisconsin's fresh milk, producing more than 2 billion pounds of cheese as the nation's top cheese state. Wisconsin milk is crafted into over 600 different varieties, types and styles of cheese and state cheesemakers have earned more competitive awards than other state.

The number of processing facilities continues to grow as Wisconsin has welcomed 6 new specialty dairy plant openings and another 14 major expansions in the past year. In total, 43 new processing plants have opened and more than 92 have expanded since 2004.

Wisconsin's mailbox milk prices (reported monthly by USDA) consistently exceed mailbox prices in Western and Southwestern states. Plus Wisconsin meets or exceeds the mailbox milk prices throughout the Midwest. Solid competition for milk, a constant demand for more milk, and premiums for high quality, high solids milk make Wisconsin a reliable market to invest in modern dairy production.

"Welcome to Wisconsin"

Wisconsin Department of Agriculture, Trade and Consumer Protection

independent analysis of human safety data prior to approval of products using BGH. That same year, he successfully urged the University of Wisconsin-Madison not to allow commercial sale of BST herds prior to the results of the independent analysis of FDA data. With the election of Sen. Russ Feingold as the junior Senator from Wisconsin in 1993, Kohl gained a staunch ally in his efforts, and today, shoppers can find clearly labeled, BGH-free milk in almost any grocery store.

In the 1990s, Kohl worked to make sure that the government-sponsored, but farmer-funded National Dairy Promotion Board's advertising efforts were directed by dairy farmer's themselves – and not the Secretary of Agriculture or large cooperatives using bloc voting to influence the agenda. Kohl also was a long-time advocate of the University of Wisconsin Extension's Dairy Industry Revitalization Program that provides support and mentoring to beginning dairy farmers, dairy modernization summits, design and management options for low-cost retrofit milking parlors, and other similar business development activities.

Kohl explains: "Dairy farming is an integral part of Wisconsin's identity -- a way of life for so many of our citizens and a touchstone for so many more. But if the industry is to survive and thrive, we must never forget that it is also a business. And as such, part of my job is to make sure our dairy farmers have the tools they need to innovate and stay competitive in a changing, growing, and international market."

The shining example of Kohl's approach is the Dairy Value Added Initiative developed to help restore and reinvigorate Wisconsin's dairy sector through modernization of dairy farms, increased production of higher-value products, increased recognition of Wisconsin's dairy products in consumer markets, enhanced supply chain management and innovative dairy partnerships. Collaborators in this effort include the non-profit Dairy Business Innovation Center, the University of Wisconsin, Extension Service, Wisconsin Milk Marketing Board, Wisconsin State Department of Commerce, and the Wisconsin Technical College System.

Kohl's initiative took shape in the Dairy Business Innovation Center. A September 2012 article in the Milwaukee Journal Sentinel describes its impressive record: "Since its launch eight years ago, the Dairy Business Innovation Center and its team of 20 consultants have assisted more than 200 dairy entrepreneurs, coordinated more than 120 projects to increase market share for Wisconsin dairy products and assisted with seven plant relocations...The center contributed to 43 new dairy

processing plants opening in Wisconsin, and another 92 expanding operations in the past eight years. Wisconsin today produces 552 million pounds of specialty cheeses - double the amount produced 10 years ago and 21% of the state's total cheese production. A record 90 of the state's 129 cheese plants craft at least one type of specialty cheese - up from 77 plants five years ago.

“Sixty-four cheese plants have opened since the Dairy Business Innovation Center started, and 43 cheese varieties have been developed. There also has been a \$1.2 billion reinvestment in Wisconsin cheese plants, and Wisconsin cheeses continue to win the bulk of competition awards.”

Says Kohl: “What I liked about this program was that it didn’t just hand out money to support businesses that were struggling to compete with the huge cheese processors out West. Instead, we helped these small dairies transition to a much more lucrative market - the one for artisan cheeses - where they could increase their margins while continuing to do what families in Wisconsin have done for generations: make great cheese.”

Wisconsin Cheeses are recognized for their excellence in national and international competitions throughout the year. Recently, Wisconsin Cheeses celebrated an unprecedented achievement at the Judging and Competition of the American Cheese Society. Extra Aged Pleasant Ridge Reserve captured the Best of Show ribbon, marking the third time Pleasant Ridge has earned this top award, the only cheese in the history of the judging to do so. In fact, no other cheese has earned it twice! And the success didn't stop there—Wisconsin captured one-third of all awards, earning 98 ribbons.

Wisconsin Milk Marketing Board website
<http://www.eatwisconsincheese.com/>

Research

In a 2001 Senate Agriculture Appropriations Subcommittee hearing, Kohl explained his criteria for funding dairy research projects: he was not interested in theoretical flights of fancy, but wanted to promote studies that “provide farmers with tools which can help raise farm income and help farmers withstand the misfortunes of nature and disrupted markets.”

One of the most devastating “misfortunes of nature” for the dairy farmer is Johne’s disease, an incurable bacterial disease of the intestinal tract that has affected dairy herds in Wisconsin and throughout the country. Kohl has over many years directed funds to WI DATCP to research ways to prevent the disease. And Kohl developed a program for cattle owners to voluntarily test their animals for the disease.

Jerry Kozak, President and CEO of the National Milk Producers Federation, explains the importance of the latter measure: “Johne's disease is a persistent problem for the cattle industry, and although many states have various education and testing programs, the federal government has yet to create a program providing some minimal national guidelines for dairy producers. This legislation would provide a framework to get the U.S. Department of Agriculture involved in working with state veterinary officials, and ultimately farmers, in dealing with Johne’s disease.”

Kohl also turned his attention to helping dairy farmers use their lands in the most efficient and sustainable manner. He long championed the USDA Agriculture Research Service Dairy Forage Research Center. Headquartered on the campus of University of Wisconsin-Madison and with field offices in Prairie du Sac and Marshfield, the center’s mission is to “develop knowledge and tools to enhance sustainable and competitive dairy forage systems that protect the environment, promote animal health, and ensure a safe, healthy food supply.”

At the U.S. Dairy Forage Research center we are:

- 1. Designing forages that lose less protein when harvested and stored;*
- 2. improving methods for harvesting and storing forages to capture and retain more nutrients;*
- 3. determining how the cow best utilizes those valuable nutrients in forages;*
- 4. reducing the amount of nutrients, such as nitrogen and phosphorous, that are lost to the environment;*
- 5. Transferring our knowledge of forages and ruminal fermentation to the emerging bioenergy field.*

USDA Agricultural Research Service

And he sponsored studies to help Wisconsin farmers understand their opportunities in markets in emerging economies, like China and India, where demand for U.S. food products is increasing. The University of Wisconsin-Madison Department of Agriculture and Applied Economics Food System Research Group studies the best ways for agricultural producers, large and small, to enter foreign markets. And the University of Wisconsin Babcock Institute for International Dairy Research and Development states as its mission “to link the dairy industry of Wisconsin and the United States with dairy industries around the world to improve the quality of life and foster market development. We seek to transform emerging dairy industries and strengthen the US dairy industry through international partnership, training, and research.”

“The academic side of agriculture may seem dry to some,” remarks Kohl. “But it is difficult to overstate how important the best information about diseases, grazing methods, and market conditions is to successful dairying.”