AGRICULTURE APPROPRIATIONS/Dairy Compacts, cloture

SUBJECT: **Agriculture, Rural Development, and Related Agencies Appropriations Bill for fiscal year 2000 . . . S. 1233. Lott motion to close debate on the Lott motion to recommit with instructions.**

ACTION: CLOTURE MOTION REJECTED, 53-47

SYNOPSIS: As reported, S. 1233, the Agriculture, Rural Development, and Related Agencies Appropriations Bill for fiscal year 2000, will provide $60.710 billion in new budget authority (of which $13.98 billion will be discretionary budget authority, which is the amount provided in fiscal year 1999) for fiscal year 2000. Loan authorizations will total $9.650 billion.

The Lott (for Daschle) amendment would provide $10.8 billion in emergency agricultural assistance and would make various statutory changes to agriculture programs. See vote No. 249 for details and debate.

The Lott motion to recommit with instructions would instruct the Appropriations Committee to report the bill back with the Lott (for Jeffords) amendment No. 1501. That amendment would prohibit the expenditure of any funds to implement the new 1-B milk marketing orders. (Federal milk marketing orders require milk processors to pay a minimum price for milk they purchase from farmers, depending on the purpose for which the milk will be used. Mandated minimum prices for Class I fluid milk (for drinking) vary by region. Currently there are 31 regions. The 1996 Freedom to Farm Bill (also known as the FAIR Act) mandated that the number of regions be reduced to 10 to 14 by April 4, 1999. Processors in a region also are required to pool receipts and to pay all farmers in the region a blended price based on those pooled receipts. The Department of Agriculture assesses farmers and processors to pay for its cost of administering milk marketing orders. The Department has authority to recommend other changes to the marketing order system. The Department has proposed 11 regions and changes (1-B) to the ordering system that will lower the minimum Class I prices for farmers in most regions. The April 4 deadline for the adoption of those changes was moved in last year's omnibus appropriations bill to October 1, 1999. The Department's changes will not go into effect in a region unless approved by two-thirds of that region's dairy farmers. If a region does not approve the changes, it will no longer be subject to Federal regulation.

(See other side)

YEAS (53)		NAYS (47)		NOT VOTING (0)	
Republicans (28 or 51%)	**Democrats (25 or 56%)**	**Republicans (27 or 49%)**	**Democrats (20 or 44%)**	**Republicans (0)**	**Democrats (0)**
Ashcroft		Biden	Abraham	Akaka	
Bond		Boxer	Allard	Baucus	
Bunning		Breaux	Bennett	Bayh	
Chafee		Byrd	Brownback	Bingaman	
Cochran		Cleland	Burns	Bryan	
Collins		Dodd	Campbell	Conrad	
Coverdell		Edwards	Craig	Daschle	
Frist		Feinstein	Crapo	Dorgan	
Gorton		Graham	DeWine	Durbin	
Gregg		Hollings	Domenici	Feingold	
Helms		Kennedy	Enzi	Harkin	
Hutchinson		Kerry	Fitzgerald	Inouye	
Hutchison		Landrieu	Gramm	Johnson	
Inhofe		Leahy	Grams	Kerrey	
Jeffords		Lieberman	Grassley	Kohl	
Lott		Lincoln	Hagel	Lautenberg	
Mack		Mikulski	Hatch	Levin	
Roth		Moynihan	Kyl	Reid	
Santorum		Murray	Lugar	Wellstone	
Sessions		Reed	McCain	Wyden	
Shelby		Robb	McConnell		
Smith, Bob (I)		Rockefeller	Murkowski		
Snowe		Sarbanes	Nickles		
Specter		Schumer	Roberts		
Stevens		Torricelli	Smith, Gordon		
Thompson			Thomas		
Thurmond			Voinovich		
Warner					

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

The Northeast Interstate Dairy Compact permits the New England States to set a higher minimum Class I fluid milk price than set by the milk marketing orders for their region. That compact will expire when the order regions are consolidated (for related debate, see 104th Congress, second session, vote Nos. 10 and 57). Supporters of the Jeffords amendment stated that they offered the amendment in support: of reauthorizing the Northeast Interstate Dairy Compact and allowing additional States, including Pennsylvania and New York, to join it; of requiring the Secretary of Agriculture to revise the proposed new pricing for Class I milk; and in support of forming a new Southern Interstate Dairy Compact.)

On August 2, 1999 Senator Lott sent to the desk, for himself and others, a motion to close debate on the motion to recommit with instructions. Generally, those favoring the motion to close debate favored the motion to recommit; those opposing the motion to close debate opposed the motion to recommit.

NOTE: A three-fifths majority (60) vote is required to invoke cloture. After the vote, the motion to recommit was withdrawn.

Those favoring the motion to invoke cloture contended:

The first point that needs to be made is that this vote is on cloture, not on the substance of the amendment. All we are asking with this vote is that we be given a chance to resolve this issue. The next point that needs to be made is that adoption of this amendment would not throw the current system into chaos. We adopted very similar legislation last year to delay the new milk marketing orders from going into effect without any harm coming from that decision. If we have somehow unartfully crafted the language of this amendment, we can simply fix the problem in conference. On issues of substance there should not be any opposition. There are three basic purposes we have in offering the Jeffords amendment--to stop the proposed 1-B milk marketing orders from going into effect, to reauthorize and expand the Northeast Dairy Compact, and to authorize a Southern Compact. All three proposals are meritorious. On 1-B orders, we note that 61 Senators have already written to the Agriculture Department in opposition to their implementation. Those orders will result in lower minimum milk prices for farmers in nearly every State. Only Minnesota and Wisconsin will have clear gains. The Agriculture Department, before deciding on the "1-B" option, had also considered a "1-A" option, which would have had much fairer results. The Agriculture Department is clearly heading in a direction that is not favored by most Senators, and it should be stopped and sent back to the drawing board. We need orders that are much closer to the 1-A option. As for the compacts, we believe that the experience of the last 2 years has proven that our colleagues' arguments on economics and federalism are wrong. They have their theories; we have the facts. The price of milk in New England has been lower, on average, than the price of milk in other States, including in Minnesota and Wisconsin. Interstate trade in milk, including trade in milk going into New England, has increased rather than decreased. The rate at which dairy farms have been going out of business in New England has finally, and dramatically, slowed. The Compact, in operation, has not cost the taxpayers one cent. The New England States wanted this Compact, and it has worked in practice, so it should be continued. Other States want to join it; they should be allowed. The Southern States have seen this success, and they want to form their own compact; we should let them. Before we may, we must first get cloture on this amendment. We urge our colleagues to join us in invoking cloture.

Those opposing the motion to invoke cloture contended:

The Jeffords amendment has been offered in a desperate, last-ditch effort to save New England's ill-conceived milk cartel from expiring on October 1 of this year. The new milk marketing orders will go into effect on that date, and at the same time the authority for the New England price cartel against farmers in every other State in the country will expire. Other Senators are supportive of this amendment because they want to start a new Southern milk cartel, and yet others are supportive because they want to stop the new Class I milk prices from going into effect. However, the approach taken by this amendment would not achieve any of the intended effects. Instead, the result would be chaos. First, barring funding to implement the new proposed milk marketing orders would not have any effect on the New England cartel--it would still expire on October 1, as required by law. Second, it would not miraculously create new legislative language creating a Southern cartel. Third, it would not prevent the new milk marketing orders from replacing the old, as required by law--it would only prevent any Federal oversight of the new orders. The unresolved legal question that is raised by this approach is whether the new orders would continue without any Federal oversight because day-to-day operations are paid for by producers and processors or whether all regional minimum price mandates would be eliminated. If a processor chose to ignore those mandates and purchased lower-priced milk from a different region, what would the Federal Government do? This amendment would forbid spending any money to prevent such purchases. Our colleagues have basically taken this meat-ax approach rather than pursuing the legislative changes they desire because this bill is an appropriations bill, and legislation is not permitted on appropriations bills. In fact, we just restored the rule that forbids legislation on appropriations bills last week. Less than a week later, our colleagues are pushing this amendment that would basically throw the entire dairy industry into turmoil because it is the only way they can offer an amendment that is in order. Their hope, then, is to use this amendment in a game of brinksmanship in conference to win the legislative changes they want. They hope that by threatening this damage they will be able to gain approval for their cartels and for changes to the proposed Class I pricing.

Even if this amendment were drafted to achieve its intended effects and even if this were a legislative bill to which it would be appropriate to offer this amendment, we would oppose it for economic and federal reasons. On economic reasons, enactment of cartels ends up in inefficient markets and higher prices for consumers. The Northeast Compact has proven no exception. After it was enacted, retail prices immediately jumped in New England, milk production in New England increased by 4 times the national rate in the 6-month period after implementation, and so much surplus milk was produced that the amount converted to powdered milk jumped by 60 percent. In other words, New England farmers made more money, consumers paid more money for milk, and milk production in other regions was lower than it otherwise would have been because of the glut of milk from the Compact States. Our strongest reason for opposing this amendment is that it violates the federal principles upon which this country is based. Congress was given the power to regulate interstate commerce in order to prevent precisely this sort of anti-competitive cartel from forming. Its right to approve interstate compacts has always before been used to promote commerce, such as when it has approved bridge projects between States. The existing dairy compact is the only time it has enacted a compact that is intended to erect barriers to interstate trade. Its sole purpose is to protect New England dairy farmers from lower-priced competition. Why should milk alone have this protection? Suppose Congress decided that Maryland and Virginia should be allowed to form a compact to prevent any internet service provider from offering internet services in either State at a rate below that charged by America On-Line (AOL). They could justify that decision by saying that AOL employs a lot of people in both States, and they do not want competitors driving down prices and forcing layoffs at AOL. That scenario may sound ridiculous to our colleagues, but it is exactly what we have done for dairy producers. The faulty logic in favor of this type of cartel is already spreading--now the South wants to form its own milk cartel. We are adamantly opposed to further pitting region against region. We do not want this principle of factionalism to spread because it undermines the basic principles of union of our country. We thus strongly oppose the motion to invoke cloture.