

our future production. It would leave producer countries like Brazil or Argentina guessing as to the impact of the collective decision of the American farmers who choose to participate in the Flexible Fallow program from year to year. They have the capacity to bring substantial amounts of land into production in those countries to replace ours in export markets, something we certainly should seek to avoid.

This Flexible Fallow program is a market-responsive proposal. When commodity prices are low, farmers could choose to voluntarily conserve or set aside more land in exchange for a higher loan rate. As prices improve, more land would come back into production.

In August of 1999, the Food and Agriculture Policy Research Institute, FAPRI, released an analysis of the Flexible Fallow program. FAPRI is a well-respected, dual-university research program involving the University of Missouri-Columbia and Iowa State University and joined by a consortium of four other universities.

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Its analysis found that crop farmers' annual net income would increase \$5.4 million over the 2000 through 2008 period.

The FAPRI analysis stated, "Reduced plantings translate into stronger crop prices under the Flexible Fallow scenario. The largest impacts occur in the 2000 to 2002 period as more producers take advantage of the land-tiling provisions."

The Flexible Fallow Program also promotes conservation. The legislation requires the idle land to be devoted to a conservation use. Producers would use management practices designed to enhance soil conservation and wildlife habitat.

This Member is aware of the projected costs or estimated costs of this program. They are not inconsequential, but I believe that the funds made available under this legislation, authorized by it, could be better used if part of those funds were shifted over to the Flexible Fallow Program.

That is a matter of choice, a matter of policy. I happen to think this is the right way to go and as do many of my farmers.

Mr. Chairman, American farmers continue to face enormously difficult times. Producers continue to struggle with plentiful supplies and low prices. While there are no easy answers, there are some steps we can take to help farmers. A lot of that is being done here today as part of this bill.

This Flexible Fallow amendment provides one important alternative. I urge my colleagues to support it.

POINT OF ORDER

Mr. COMBEST. Mr. Chairman, I rise to make a point of order.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman will state it.

Mr. COMBEST. Mr. Chairman, I rise to make a point of order under 302(f) of the Budget Act.

The CHAIRMAN pro tempore. Does any other Member wish to be heard on the point of order?

Mr. BEREUTER. Mr. Chairman, regrettably, I concede the point of order.

The CHAIRMAN pro tempore. The point of order is conceded and sustained based on estimates provided by the Committee on the Budget.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the gentleman from Nebraska (Mr. BEREUTER) if he might know, what would be the administration's position on this amendment, were it not out of order because of budget reasons?

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I would say to the gentleman from Texas, I do not know the answer to that.

Mr. STENHOLM. I thank the gentleman for that answer.

AMENDMENT NO. 9 OFFERED BY MR. BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. BLUMENAUER:

At the end of title IX (page 354, after line 16), insert the following new section:

**SEC. 932. PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.**

(a) PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (e)—

(A) by inserting "PENALTIES.—" after "(e)";

(B) by striking "\$5,000" and inserting "\$15,000"; and

(C) by striking "1 year" and inserting "2 years"; and

(2) in subsection (g)(2)(B), by inserting at the end before the semicolon the following: "or from any State into any foreign country".

(b) EFFECTIVE DATE.—The amendments made by this section take effect 30 days after the date of the enactment of this Act.

In the table of contents, after the item relating to section 931 (page 8, before line 1), insert the following new item:

Sec. 932. Penalties and foreign commerce provisions of the Animal Welfare Act.

Mr. BLUMENAUER. Mr. Chairman, I did want to follow up on the important points raised by the chairman and the ranking member dealing with unintended consequences and other issues that we have in terms of dealing with

activities of animals for fighting purposes.

Mr. Chairman, I offer this amendment to deal with the concerns, legitimate concerns, that have been raised. It would close a loophole in the Animal Welfare Act that allows for the shipment of fighting dogs or birds from the United States to foreign countries, and it increases the penalties for promoting illegal animal fighting venues.

Mr. Chairman, the current penalties are 25 years old and are in dire need of update. It increases the maximum penalties from 1 year and a \$5,000 fine to 2 years and a \$15,000.

For comparison, Mr. Chairman, the Federal law passed last year prohibiting animal crush videos provided for maximum penalties of 5 years and \$250,000 fine; and in most States there are provisions for a maximum of 5 years imprisonment for animal fighting, with some States' penalties as high as 10 years or \$100,000.

With higher penalties, U.S. Attorneys are more likely to prosecute animal fighting violations. When the Federal anti-animal fighting law was enacted in 1976, no State made animal fighting a felony. Today, 46 States have felony provisions for animal fighting. We must increase our quarter-century-old Federal penalties to make them work in today's climate.

Closing the foreign commerce loophole is equally important. I appreciate my colleague's pointing it out. In 1976, Congress added a section to the Animal Welfare Act, section 26, to crack down on dogfighting and cockfighting; but it did not, however, ban shipment of dogs or birds from the United States to foreign countries. This loophole allows shipment of fighting birds to foreign countries that provides a smoke screen behind which illegal cockfighters operate here.

Ironically, Mr. Chairman, the United States prohibits the importing of animals for fighting but still allows the exports of this animal; a practice I believe may well violate international trade rules.

It is also important to note that the provisions of this amendment apply to the practice of dogfighting. As I mentioned previously, this is illegal in all 50 States. The same dire activities to breed the animals for aggressive characteristics, train them, and then place them in a pit to fight, to injure, or die applies as it does to cockfighting. We must not allow these dogs to be bred in the United States for shipment abroad.

Mr. Chairman, cockfighters rear birds for aggressive behavior. We have had the same thing in terms of what happens to the dogs. These practices are a major underground industry. It is time to close all possible loopholes, increase the penalties, and ban shipments of fighting dogs and birds to foreign countries.

The CHAIRMAN pro tempore. The question is on the amendment offered



by the gentleman from Oregon (Mr. BLUMENAUER).

The amendment was agreed to.

AMENDMENT NO. 49 OFFERED BY MR. SHERWOOD  
Mr. SHERWOOD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 49 offered by Mr. SHERWOOD:

At the end of chapter 1 of subtitle C of title I (page 75, after line 17), insert the following new sections:

**SEC. 147. NORTHEAST INTERSTATE DAIRY COMPACT.**

(a) IN GENERAL.—Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking "States" and all that follows through "Vermont" and inserting "States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont";

(2) by striking paragraphs (1), (3), (4), and (7);

(3) by redesignating paragraph (2) as paragraph (1) and, in such paragraph, by striking "Class III-A" and inserting "Class IV";

(4) by inserting after paragraph (1), as so redesignated, the following new paragraphs:

"(2) COMPENSATION OF SPECIAL MILK PROGRAM.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Secretary for the increased cost of any milk and milk products provided under the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772) that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

"(3) ADDITIONAL STATE.—Ohio is the only additional State that may join the Northeast Interstate Dairy Compact."

(5) by redesignating paragraph (5) as paragraph (4) and, in such paragraph, by striking "the projected rate of increase" and all that follows through "Secretary" and inserting "the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code"; and

(6) by redesignating paragraph (6) as paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect as of September 30, 2001.

**SEC. 148. SOUTHERN DAIRY COMPACT.**

(a) IN GENERAL.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia, subject to the following conditions:

(1) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of

the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a "Federal milk marketing order") unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(2) COMPENSATION OF SPECIAL MILK PROGRAM.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Secretary of Agriculture for the increased cost of any milk and milk products provided under the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772) that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(3) ADDITIONAL STATES.—Florida, Nebraska, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(b) COMPACT.—The Southern Dairy Compact is substantially as follows:

**"ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY**  
**"§ 1. Statement of purpose, findings and declaration of policy**

"The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

"The participating states find and declare that the dairy industry is an essential agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors and retailers are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

"The participating states further find that dairy farms are essential and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

"In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order sys-

tem nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

"Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

"By entering into this compact, the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

"Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

"In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

**"ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION**

**"§ 2. Definitions**

"For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

"(1) 'Class I milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section three.

"(2) 'Commission' means the Southern Dairy Compact Commission established by this compact.

"(3) 'Commission marketing order' means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

"(4) 'Compact' means this interstate compact.

"(5) 'Compact over-order price' means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections nine and ten of this compact, which is above the price established in federal marketing orders or by state farm price