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Congress Out for Memorial Day Next; Senate May Scrap All, Part of August Recess

Home time is always important in an election year. Congress will go on Memorial Day recess for all of next week, returning the week of June 4. The next major recess will be for a week in honor of July 4, as the House and Senate schedules fill up as the month-long August recess approaches.

However, this week word out of the Senate is that Majority Leader Mitch McConnell (R, KY) will announce he intends to sharply cut back the August recess, with some GOP sources saying he may scrap it altogether. Word is McConnell and the White House, with an eye on the November midterm elections, are frustrated by the slow pace of spending legislation and approvals for the President's nominations. McConnell has reportedly talked with Minority Leader Chuck Schumer (D, NY) about cutting at least some weeks off the August hiatus.

"I'll have more to say definitively about that the week after next, but I've said to all the press corps and the members up here I wouldn't buy any nonrefundable tickets," McConnell quipped on a television news show this week.

No discussion in the House so far on any similar calendar actions or reactions.

House Farm Bill Goes for Round Two June 22; Senate Eying June 6 for Markup

After what House Speaker Paul Ryan (R, WI) called the "regrettable" defeat of the House Farm Bill last week, Ryan and his team tucked into the floor rule for an unrelated bill a deadline of June 22 for the full chamber to "reconsider" its vote on the omnibus farm program legislation. Reconsideration allows for the bill to be brought back to the floor and re-voted, and the original deadline was May 22.

That June 22 date doesn't necessarily mean the vote will be taken that day. Agriculture Committee Chair Mike Conaway (R, TX) told reporters this week the Farm Bill to be voted on in June will be the same bill considered during the first vote, though a committee spokesperson said a vote on the same Farm Bill is expected, but "conversations (about bill content) are ongoing."

Committee ranking member Rep. Collin Peterson (D, MN), who led the Democrat revolt against the committee's Farm Bill before and during committee markup and later on the House floor in protest of recipient work requirements under the Supplemental Nutrition Assistance Program (SNAP), told

reporters last week he's got a scheme to fix the on-going battle over food stamp program changes, but that Conaway needs to come to Peterson and ask for his help. "If they listen to me, I can deliver a lot of Democrat votes," Peterson said. The former committee chair, who would get his old job back if the Democrats regain control of the House in November, said he wants to see a bill done this year, because regardless of which party controls the House in the next Congress, the job will be tougher.

Conaway this week said the ag legislation will not be reconsidered until after leadership reaches an agreement with GOP conservatives on how to proceed with immigration reform floor votes.

It now appears the Senate's version of the 2018 Farm Bill will be released just prior to a tentatively scheduled June 6 markup, and Senate Majority Leader Mitch McConnell (R, KY) told his caucus members this week to expect up to three weeks of floor time on whatever the Senate Agriculture Committee finally hammers together during markup.

Farm Bill stakeholders, pleased it now appears the House and Senate Farm Bills are moving on similar timelines, say it will still be a major challenge to get both bills through respective floor action, successfully conclude reconciliation of the two versions in conference committee, and then get both chambers to approve the conference product and get a presidential signature before September 30 when current law expires. If the end-of-September deadline is missed, Congress will have to enact a one-year extension to keep most current farm programs operating.

A preview of what's to come in Senate Farm Bill development and a prospective conference with the House came as shots were taken this week at the House bill by Sen. Charles Grassley (R, IA), a long-time champion of tighter payment limitations for farm income support payments. Grassley said this week he's working to ensure the Senate version closes so-called "subsidy loopholes," targeting the 2014 law's payment limitation and a very loose definition of "actively engaged" when it comes to which individuals who qualify to receive payments.

Grassley requested and the Government Accountability Office (GAO) this week reported USDA shelled out about \$2.7 billion in support payments to 95,417 individuals in 2015, with payments limited to \$125,000 per year per eligible individual who can demonstrate they're "actively engaged" in farm operations. However, because "actively engaged" is defined so broadly – Grassley calls it a "glaring loophole" in the law – one rice/corn/soybean farm received \$3.7 million, with 25 individuals qualifying for payments because of "active personal management," according to GAO.

As in previous farm bill battles, Grassley said he's working with Agriculture Committee Chair Pat Roberts (R, KS) and ranking member Sen. Debbie Stabenow (D, MI) to redefine the payment qualification, though admits because the House bill does not address the issue, his battle is uphill. Rep. Mark Meadows (R, NC), chair of the conservative House Freedom Caucus, lost a battle in the House Rules Committee to get the Grassley fix made in order for floor action, but lost. Conaway has said that if the amendment had been, "we would have fought that off had they brought it to the floor." Meadows said his amendment was important, but it is "not the litmus test for supporting the bill."

Ryan and Conaway knew going to the floor they could only afford 20 GOP defections on the bill and still get a party-line approval. However, on May 18, 30 Republicans broke ranks with their caucus, joining all Democrats in voting against the bill, defeating the measure 198-213. While media reports generally blamed stiff-backed conservative GOP members for voting "nay" because Ryan would not bring up a controversial immigration reform bill before considering the Farm Bill, the vote count shows 13 conservatives voted against the bill, two didn't vote, and 17 moderate Republicans voted

against the bill because “it wasn’t conservative enough,” and because of controversial language requiring some federal food stamp recipients to work or be in work training for 20 hours per week. It was the “workfare” language that forced Conaway to move the bill through committee on a straight party line vote as all ag panel Democrats walked away from the bill.

House Leaders Negotiating Immigration Floor Votes with Freedom Caucus, Fate of Farm Bill in Play

House leaders are negotiating with the conservative Freedom Caucus over a floor vote on a controversial immigration reform bill authored by Rep. Bob Goodlatte (R, VA), and at least another vote on an evolving immigration package more appealing to moderate GOP and Democrat lawmakers. Just as with the failed Farm Bill, June 22 is the target date for action.

The Goodlatte immigration vote will be conducted before any action on the Farm Bill, said House Majority Whip Steve Scalise (R, LA) this week.

The Goodlatte bill, co-authored by Homeland Security Committee Chair Michael McCaul (R, TX) and being tinkered with to obviate some concerns, includes provisions on funding President Trump’s border wall with Mexico, security and enforcement, so-called “chain immigration,” limits on legal immigration, mandate the use of E-Verify, supplant temporary agricultural work visas with a new program that allows seasonal workers to remain in the U.S. year-round, and a plan for authorizing the Deferred Action for Childhood Arrivals (DACA), giving legal protection to immigrants who were brought illegally to the U.S. as minor children. DACA-eligible immigrants would have three-year renewals of their work permits.

It’s unlikely, however, a Goodlatte-type bill can generate Democrat support, or even find a champion in the Senate, observers said this week.

However, a group of moderate Republicans, led by Rep. Jeff Denham (R, CA), have signed on to a discharge petition supported by Democrats to force out of committee four other versions of immigration reform legislation. This so-called “queen of the hill” option would make whichever bill gets the most votes the final action of the full chamber.

While House leaders want to cut a deal on bringing a single alternative to Goodlatte to the floor, Denham, for one, believes the best chance to attract both Democrat and moderate Republicans is for a bill far narrower than that pushed by Goodlatte and the Freedom Caucus, one that fixes DACA permanently while funding border security measures. Denham also contends that to kill the discharge petition, whichever compromise bill gets the greenlight will have to move under the same rule for floor action as the Goodlatte bill, an option which, for now, has been rejected by the Freedom Caucus because it’s “trickier,” allowing members to vote “nay” on Goodlatte knowing they can vote in favor of the other bill.

Rep. Mark Meadows (R, NC) chair of the 35-40-member Freedom Caucus says House leadership will not allow Denham his combined rule, and will let Goodlatte’s bill move alone “because we all want to pass a Farm Bill, myself included. We’ve made it very clear that we’ve got enough votes to help them get the Farm Bill across the finish line.

Administration Says It's Moving to Simplify H-2A Visas for Ag, "Incentivize" E-Verify Use

While offering few details of how it will happen, the White House this week said it's going to make it easier for farms and ranches to get H-2A visas for seasonal farm workers, make USDA the lead for visa applications, while providing incentives for more producers to use the federal E-Verify program to check immigrant worker legal status.

The plan is to get the visa program changes in place by the 2020 crop year, according to farm groups briefed by the administration on the proposed rulemaking. E-Verify is a federal program over which many producers are ambivalent, with some states mandating employers use the computerized citizenship verification system. However, the administration plan wouldn't mandate E-Verify.

Ag groups have told the White House and Congress the H-2A visa program is broken and must be fixed. Rep. Bob Goodlatte (R, VA) has an immigration reform bill he wants to see get a floor vote that would replace the current visa program with a reinvented program. He called the H-2A program "expensive, flawed, plagued with red tape and isn't available to farms that require year-round labor. A permanent legislative solution is needed to address the farm labor crisis."

"When President Trump addressed the American Farm Bureau Federation (AFBF) in January...he reminded the audience that his commitment to our farmers has been clear," said Agriculture Secretary Sonny Perdue, Secretary of State Mike Pompeo, Secretary of Labor Alexander Acosta and Secretary of Homeland Security Kirstjen Nielsen said in a joint statement this week. "In keep with that commitment, our departments are working in coordination to propose streamlining, simplifying and improving the H-2A temporary agricultural visa program – reducing cumbersome bureaucracy and ensuring adequate protections for U.S. workers."

The four secretaries talked about the need for a program "deepens our confidence in the program as a source of legal and verified labor for agriculture," while protecting U.S. workers, but also said that in addition to simplifying the H-2A program, they plan "to incentivize farmers' use of the E-Verify program to ensure their workforce is authorized to work in the U.S."

Trump Signs Dodd-Frank Regulatory Roll-back Bill; Rural Banks Seen Benefiting

Rural banks will be one of the chief beneficiaries of legislation to relax some regulations mandated by Dodd-Frank, as the Economic Growth, Regulatory Relief & Consumer Protection Act was approved by the House this week on a near party line vote and signed by President Trump. The bill effectively overhauls many of the restrictions placed on the financial industry in the wake of the 2008 financial crisis.

A House-Senate tug-of-war over Trump's campaign pledge to "dismantle" Dodd-Frank wound up with the House having to surrender its push for more sweeping reinvention of the law because such an approach would not survive a Senate filibuster. For now, said one staffer, most of Dodd-Frank remains in place for the big banks, and the real benefits of the House-approved bill go to smaller institutions

Exempt under the new law are regional banks with less than \$250 billion in assets, up significantly from the original regulatory threshold of \$50 billion. However, if deemed at risk, the Federal Reserve will be able to apply many of the standards to smaller banks and credit unions.

The bill, which was born in the Senate Banking Committee and approved by that chamber in March, allows regional and rural banks and credit unions to come out from under heavy Federal Reserve oversight, said supporters of the legislation, and also exempts many smaller institutions from lending and data reporting regulations, capital requirements, removes mortgage lending limits, and allows firms with less than \$10 billion in assets to ignore the "Volcker rule," a regulation that prohibits banks from making "high risk" trades with bank assets.

House WRDA on Floor After Recess

The House version of the Water Resources Development Act (WRDA) could be on the floor as early as the first week in June, according to Transportation & Infrastructure Committee Chair Bill Schuster (R, PA) this week. The bill, significantly narrower than the Senate-approved version, funds locks, dams, ports, flood protection and other waterways projects.

The House bill, because it is narrowly focused, is expected to get quick approval, setting up a likely contentious conference committee with the Senate's much-broader version. Schuster downplayed the differences. "I'm sure they've got stuff in there we might like and I'm sure they've got stuff in there we don't like, so we'll have to work that out," he said. Among items Schuster says his committee "will take a look at" is a system whereby some Corps projects become "ripe" by getting approval from Corps engineers, as well as expanding the Water Infrastructure Finance & Innovation Act to fund projects in smaller communities.

The House version focuses on the U.S. Army Corps of Engineers, authorizing Corps reports on needed projects since the last WRDA reauthorization in 2016. The projects, proposed by states and local authorities, must show national economic and environmental importance. The bill also authorizes a similar process for projects identified in 2017 and 2018.

China Trade Tensions Reemerge

On word last week the much-feared tariff trade war between the U.S. and China was “on hold” after high level bilateral negotiations, markets rallied. This week, markets tanked a bit after President Trump appeared to be less optimistic than seven days before.

While neither side has made noises about imposing up to \$150 billion in new tariffs on the other, Trump effectively said this week he wasn’t satisfied by the progress made so far, and told watchers to not expect over-night success in restructuring the U.S.-China trade relationship. “Our trade deal with China is moving along nicely, but in the end we will probably have to use a different structure than that this will be too hard to get done and to verify results after completion,” the president tweeted.

Trump wants China to formally commit to up to \$200 billion in additional purchases from the U.S. by 2020, to erase the U.S. trade deficit with the world’s second largest economy. His demands include more than doubling Chinese imports of U.S. ag products from the current \$20 billion a year to nearly \$45 billion annually. Ag Secretary Sonny Perdue said USDA’s Foreign Agriculture Service (FAS) is involved in the talks, but it would take up to five years for China to hit that goal. U.S. energy exports would be in for a significant boost as well.

However, tariffs on Chinese goods weren’t rule out as “negotiating” or “enforcement” tools, the White House said. Tariffs on Chinese imports of U.S. pork, wine almonds, oranges and other commodities are still in place in retaliation for the U.S.’s 25% tariff on imported steel. While the Chinese are back in the U.S. soybean market after a brief exit, the government is threatening to hit soybeans with a 25% tariff.

NAFTA 2.0 Talks Continue as Trump Changes Tone

President Trump is all in favor of a full-blown NAFTA 2.0, a completed treaty he can submit to Congress for approval, not a “skinny NAFTA” that could be implemented administratively, said Treasury Secretary Steve Mnuchin this week to various news outlets.

Mnuchin called a scaled-back NAFTA rewrite – some refer to it as “NAFA lite” – as an “alternative the president can consider.” The notion of a scaled-back treaty has gained air time as seriously contentious issues have slowed negotiations to a snail’s pace, forcing the U.S. to miss its May 17 deadline for getting approval paperwork to Congress. So far, reports indicate about nine of the 30 NAFTA chapters have been finalized, along with various annexes. Remaining issues include Canadian dairy protections, automobile rules of origin, dispute resolution and the U.S. demand for a five-year sunset provision.

Mnuchin said it’s too soon to give up on a completed treaty. “The president is more determined to have a good deal than he’s worried about any deadline,” he said. “I think there’s a desire on all three parties to get this deal done. We’ll see where we are in the next few weeks.” And just as a reminder, 32 GOP Senators sent Trump a letter last week warning him not to try and force congressional approval of a new NAFTA treaty by threatening to withdraw from the existing pact.

“In our view, a take-it-or-leave-it strategy would have negative unintended effects that jeopardize American jobs and economic growth. When discussing NAFTA modernization legislation with Congress, we ask the Administration to employ a strategy of that emphasizes collaboration rather than conflict,” the lawmakers wrote.

House Ways & Means Committee Chair Kevin Brady (R, TX) said this week he hopes talks on modernizing the 24-year-old treaty continue in good faith “whether that means a vote in Congress this year or next.”

Quest for an RFS/RIN Solution Marred by Leaked EPA RFS Intent

The White House held yet another meeting this week among administration, USDA and EPA officials, and the win-win solution demanded by President Trump appears to be year-round sales of E15 in exchange for allowing exported ethanol to qualify for Renewable Identification Numbers (RIN), a reduction in the number of EPA hardship waivers to small refiners and reallocation of “lost gallons” based on those waivers.

That so-called solution, however, was overshadowed by the industry leaking EPA’s proposed Renewable Fuel Standard (RFS) levels for 2019-2020. The reported RFS mandate – the Office of Management & Budget (OMB) can recommend changes during its review of EPA’s draft rulemaking, and the agency could tweak the numbers pre-proposal as well – will include an increase of 500 million gallons of advanced biofuels to be blended with gasoline, reported Politico this week based on information from “refining and ethanol sources.” Overall, the total RFS will hit 19.8 billion gallons, up from 19.3 billion this year, with conventional ethanol’s RFS remaining at 15 billion gallons as required by law; biodiesel’s RFS will stay at 2.1 billion gallons. Other “advanced biofuels” include renewable diesel and cellulosic ethanol.

The White House meeting, attended by USDA Deputy Secretary Steve Censky, EPA Deputy Administrator Andrew Wheeler and Department of Energy Deputy Secretary Dan Brouillette continued to try and finalize a deal to modify the RFS/RIN programs. Details of that meeting are expected next week.

Senate Bill Would Exempt Livestock Haulers on HOS, Eases ELD Compliance

A bill to exempt livestock haulers from federal hours-of-service (HOS) rules until they’re 300 air miles away from their starting point – or 150 miles from their return – while allowing drivers to take breaks at any time during their haul without counting against their HOS, and extending allowable driving time from 11 to 18 hours, was introduced this week by Sens. Ben Sasse (R, NE) and a bipartisan group of 10 Senators.

Both the National Cattlemen’s Beef Assn. (NCBA) and U.S. Cattlemen’s Assn. (USCA) endorsed the bill saying the legislation will benefit both animal welfare and highway safety.

“Our ranchers and haulers are professionals who make the well-being of livestock their top priority and that includes safe transportation. The Department of Transportation’s (DOT) regulations endanger livestock during hot summers and cold winters – which Nebraskans know well – causing significant stress on the animals and concern for the drivers,” Sasse said in a statement.

The bill comes from industry concerns over DOT mandates on the use of electronic logging devices (ELDs) which track HOS for drivers. Cattlemen and haulers are concerned because animal welfare problems can arise because the driving rules mandate a 10-hour break after 11 hours of driving. Livestock haulers are temporarily exempted from HOS until October.

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