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SPECIAL FARM BILL EDITION

Ladies & Gentlemen, We Have a 2018 Farm Bill

The Senate this week voted 87-13, followed in short order by the House voting 369-47, to overwhelmingly approve the 2018 Farm Bill conference report and send the 800-page, \$867-billion omnibus farm program package to President Trump. The president is expected to receive the bill before week's end and sign it early next week.

The five-year legislation is up for renewal in 2023.

Earlier this week Trump said nice things about the House-Senate compromise bill, a product that took nearly two years to craft, adding, "We think the Farm Bill is in very good shape. Our farmers are well taken care of. Again, that'll be quite bipartisan."

Rep. Collin Peterson (D, MN), currently ranking member on the House Agriculture Committee – who was instrumental this week delivering Democrat votes for the bill – who will move into the chair in the 116th Congress, wasted no time after the House vote to send a warning to Trump's USDA.

"We're going to spend a lot of time looking at how they (USDA) implement this bill," he said. The Minnesota lawmaker outed special interests who didn't get all they wanted in the final bill and who would work to get USDA to write new program rules their way. "These same lobbyists who lost up here go down there and try to change what we did. I'm going to fight," Peterson vowed.

The National Corn Growers Assn. (NCGA) spoke for several national commodity groups when NCGA President Lynn Chrisp said in a statement, "To put it bluntly, the farm economy stinks. Between depressed commodity prices, record low farm incomes, and tariffs and trade uncertainty, farmers are facing difficult decisions. Getting the Farm Bill passed and signed into law is one less thing they need to worry about."

Agriculture Secretary Sonny Perdue said in a statement: "(T)he 2019 (sic) Farm Bill is good news because it provides a strong safety net for farmers and ranchers who need the dependability and certainty this legislation affords...While I feel there were missed opportunities in forest management and in improving work requirements for certain SNAP (food stamp) recipients, this bill does include several helpful provisions and we will continue to build upon these...I commend Congress for bringing the Farm Bill across the finish line and am encouraging President Trump to sign it."

In his floor speech supporting the conference report, House Agriculture Committee Chair Mike Conaway (R, TX), said of the GOP decision to relent on most entitlement program reforms

leadership tried to pack into the bill, “Ultimately, I had to make a decision between making as many inroads on reform in these areas as I could OR allow farmers and ranchers to be held hostage. Faced with that choice, I chose the route of getting this Farm Bill done.”

Not everyone was as pragmatic. “There is not a single significant conservative win to be found in the entire 800-page monstrosity,” said one obviously unhappy conservative group lobbyist who appeared at a meeting to complain about the bill.

Continuing their chorus of Senate bipartisanship, Senate Agriculture Committee Chair Pat Roberts (R, KS) and ranking panel member Sen. Debbie Stabenow (D, MI) said this week in a joint statement, “This swift legislative action taken by both chambers represents our commitment to provide certainty and predictability to farmers, families and rural America. We look forward to having this good bill signed into law.”

Trump’s signature will end anxiety in several quarters that a final Farm Bill would not see the president’s desk this month. If the conference report had not been approved by both chambers, it would have forced both chambers to approve a one-year extension of current law, and effectively restart the legislative process next year in the new Congress, at least on the House version of the bill.

In the House, the conference report was approved by the widest majority ever for a Farm Bill, but only after a squeaker vote stripped out of the Farm Bill floor debate rule unrelated language to block for the rest of the year a vote on any war powers resolution related to U.S. involvement in Yemen. The subsequent lopsided bipartisan votes were testament to a seriously sagging rural economy, a broadened program base in the bill meaning more competition for available federal dollars, as well as how politically unpalatable writing a new bill next year is as an option to lawmakers.

The House and Senate bills have been in typical conference committee mode for nearly eight months, with policy and spending spats over food stamps, conservation, program eligibility, research and forestry programs hammered out slowly. However, when House conferees agreed to drop bill language expanding work/training requirements for federal food stamp program participants significant progress was made relatively quickly in negotiating the remainder of the bill. Ultimately, the end product resembles the Senate version much more than the House bill.

Nevertheless, Peterson said, “After a rocky start, I’m just proud to be able to turn a partisan bill into a bipartisan bill. That’s the way Congress is supposed to work.” Peterson referred to the partisan revolt he led in the ag committee last spring when the GOP food stamp work language was unveiled, and all Democrats voted against the committee bill. He also referred to the narrow two-vote margin by which the full chamber approved the original House bill.

When the dust settled this week, Conaway summed it up, saying, “Team effort. Both parties, both sides, I think are happy with it.”

What’s “New,” Different the New Farm Bill?

Rep. Collin Peterson (D, MN) calls it “a status quo kind of bill” – conferees dumped just about every

controversial provision in either the House or Senate versions – and stakeholders agree the eventual compromise Farm Bill package approved by Congress this week does very little to upend existing federal farm programs.

However, as benign as that sounds, Congress cannot leave a good law alone, so the following represent just some of the changes, tweaks and additions to USDA's arsenal of farm programs:

In the commodity title, farmers will be allowed to adjust their yields under both the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) payment programs, new authority that is expected to particularly benefit wheat producers. Producers will also be able to switch between ARC and PLC next year, with the same option in 2021-2023. Under current law, producers were stuck with their program choice for the life of the Farm Bill. Crop prices guaranteed in nonrecourse marketing loans are raised.

The definition of "family operation" to qualify for program payments is broadened to include first cousins, nieces and nephews as "actively engaged" and eligible to receive program checks. Payments are capped at \$125,000 a year per individual and \$250,000 a year per couple. Producers earning more than \$900,000 annually in adjusted gross income from eligible crops (AGI) can't get payments, the same as the current AGI cap.

Failure to adopt tighter qualification language from the Senate bill sponsored by Sen. Charles Grassley (R, IA) was enough for the veteran Iowa lawmaker to vote against the final conference report.

"This bill represents an open-ended spigot of taxpayer subsidies in Title I. To say I'm disappointed the bill makes more subsidies available to the wealthiest farmers and many non-farmers is a severe understatement," Grassley said on the Senate floor. "Today we have a Farm Bill that is intentionally written to have the largest farmers receive unlimited subsidies from the federal government. There is no other way to characterize what the conference committee has done."

His opponents argued Grassley's push for tighter qualifications and a lower AGI cap ignores the realities of modern farming where consolidation creates larger operations, but still run by single families.

The federal crop insurance program was left mostly untouched save for instructions to USDA's Risk Management Agency (RMA) to develop policy protections for fruits, vegetables, barley and hops growers. The language championed by the Senate increases access for veterans, beginning farmers and fruit and vegetable growers, and more than doubles disaster assistance coverage for crops not eligible for insurance.

The dairy Margin Protection Program (MPP) – now renamed Dairy Margin Coverage (DMC) – saw costs lowered for smaller producers so they can buy more insurance that pays them the difference between feed costs and milk prices. Other risk management programs heretofore open only to cattle and swine producers are now generally dairy eligible. Peterson told his colleagues on the floor that in Minnesota and Wisconsin, an average of two dairies per day go out of business, saying of the dairy program fixes in the bill, "I am proud to put my name on this program."

The bill includes \$300-million in mandatory spending for animal disease programs, including a first-

ever vaccine bank, at a time when FMD, avian influenza and African Swine Fever (ASF) are serious threats to domestic producers. The Animal Agriculture Coalition (AAC) and the National Association of State Departments of Agriculture (NASDA) praised inclusion of the animal health spending package. The money will be used for research, vaccine development and emergency response to disease break-outs. Industry said the spending “is a good start and will help ensure the industry is better prepared now.”

The Conservation Reserve Program (CRP) is capped at 27 million acres, three million more than the current level. Environmental review requirements on certain activities, including clearing diseased trees from enrolled lands, are waived. Two million acres would be reserved for grasslands, and rental rates paid to farmers would be adjusted to 90% of the county rate for continuous sign-ups and 85% for general sign-ups. There is also greater flexibility granted when it comes to haying and grazing on CRP acres. While the House would have done away with the program, the Conservation Stewardship Program (CSP) is preserved, but with \$800 million less to spend on its programs. Any grasslands not planted to row crops since 2009 and ineligible for program payments, could be enrolled in the CSP at an \$18/acre rate if the land stays undeveloped. EQIP remains, receiving the lion’s share of money cut from CSP and will be funded at \$2.025 billion by 2023. Dumped from the final product were nearly 40 amendments from both chambers’ bills which environmental groups and Democrats said would hurt the environment.

The energy title survived the conference process – the House would have killed the title to use its funding elsewhere – but funding for its various programs is significantly reduced. The Biobased Markets Program gets \$3 million a year; the Biorefinery Assistance Program is funded at \$50 million in 2019, but cut to \$25 million in 2020; the Bioenergy Program for Advanced Biofuels receives \$7 million for development of alternative feedstocks for advanced biofuels, i.e. biodiesel, renewable diesel and cellulosic ethanol, and the Rural Energy for America Program gets \$50 million a year.

Reinvented and the beneficiary of budgeting magic is USDA’s export promotion, authorizing \$255 million over the next five years for the newly created Agricultural Trade Promotion & Facilitation (ATPF) program. It’s this program which eliminates the nagging problem of having to shut down discretionary spending programs below \$50 million in baseline funding if Congress deadlocks on overall spending. The Market Access Program (MAP) is funded at a minimum of \$200 million annually, while the Foreign Market Development (FMD) gets at least \$34.5 million. The bill funds the Emerging Markets Program (EMP) at no more than \$8 million, the Technical Assistance for Specialty Crop (TASC) at \$9 million and creates a Priority Trade Fund (PTF) at \$3.5 million a year. USDA has authority to reallocate gross funding among the four programs. Any funds in MAP, FMD, EMP and/or TASC unobligated one year after the fiscal year in which they are first made available go to the PTF. These provisions could allow MAP and FMD to receive additional funding. The conference report also authorizes MAP and FMD funds to be used under certain limitations in Cuba, while allowing appropriators to fund MAP/FMD administrative costs separately from program funding, effectively increasing funding to both programs.

Agricultural research, which has received paltry increases in recent short-term funding bills, is a major beneficiary of the approved Farm Bill, says Sen. Debbie Stabenow (D, MI), ag committee ranking member. The bill authorizes \$185 million in public-private research spending through the Foundation for Food & Agriculture Research (FFAR), with the effort expected to generate \$4 billion in returns to the ag economy.

Gone from the nutrition title is the controversial House language that would have extended

work/training requirements to a greater percentage of federal food stamp requirements. The conference adopted Senate language leaving current work requirements intact, but tightens certain program language to make programs more fraud-proof, while creating an interstate data system to prevent multiple states from allowing food stamp benefits to the same individual. The bill also does away with state performance bonuses. GOP supporters of the original food stamp work/training language got some minor changes to the program in the form of slight increases in funding for work/training programs run by the states, with recipients getting more support when they're actively enrolled in the programs. USDA will also shortly publish a rule that significantly tightens how states are granted work/training requirement waivers, a way to make the program tougher without congressional approval. However, ag committee member Rep. Jim McGovern (D, MA) said Democrats will watch closely how USDA approaches tightening the state work/training waiver process and any other changes it may try to make to the food stamp program.

The conference report dropped language designed to exempt "certain agricultural retailers from Labor Department safety rules for facilities handling hazardous chemicals," *Politico* reports. The OSHA limiting rules in question were put in place after a 2013 explosion in Texas killed 15 people and the Obama administration ordered a review of the then extant retailer exclusion. The White House tried to limit the retailer exemption, but was thwarted by industry in federal court. The House Farm Bill version carried language that would have made the retailer exemption permanent, while stopping any future administration from trying to limit it.

Much to the relief of Senate Majority Leader Mitch McConnell (R, KY) – a member of the ag committee, but generally not active – is the inclusion in the report of first-ever language legalizing the growing of industrial hemp. While hemp plants are related to marijuana plants, the language simply removes banking, water rights and crop insurance barriers to growing the raw material used in making rope, some health foods, paper, cardboard, carpets and other consumer products. It has nothing to do with federally legalizing recreational or medicinal uses of marijuana. "My provision in the farm bill will not only legalize domestic hemp, but it will also allow (state) departments of agriculture to be responsible its oversight," McConnell tweeted this week. It's McConnell's hope hemp will replace tobacco in Kentucky as a major cash crop, generating as much as \$20 million a year for state farmers.

Mental health assistance is included in the Farm Bill for the first time, with creation of the Farm & Ranch Stress Assistance Network to support mental health professionals in rural communities. About \$10 million a year could be spent to help bring down increasing suicide rates in agriculture communities when the farm economy tanks. Funding for rural high-speed internet is boosted from \$25 million a year to a whopping \$350 million a year. A further benefit to rural communities, the secretary is required to nominate a new undersecretary for rural development, a job Secretary Perdue eliminated as part of his department reorganization.

Sen. Debbie Stabenow (D, MI) successfully went to bat for "urban agriculture" adding a new program to the USDA roster designed to help rooftop and indoor gardeners and such compete for department grants. The hard-won language establishes an Office of Urban Agriculture & Innovative Production, with a USDA director of urban agriculture. Part of this section is designed to help USDA lead a federal effort to reduce food waste, with the Office of Chief Economist now in charge of that effort. All spending is discretionary meaning appropriators must decide if the programs are funded each year.

About \$5 billion is authorized over the life of the bill to help USDA enforce standards against

fraudulent organic imports, while reauthorizing the Organic Agriculture Research & Extension Initiative at \$50 million a year by 2023.

The bill authorizes \$75 million in mandatory funding to eradicate feral swine, mitigating what USDA estimates is about \$2 billion damage done by wild hogs each year.

The Humane Society of the U.S. (HSUS) and the Humane Society Legislative Fund (HSLF) were able to get in the bill language essentially restating it's federally illegal to stage animal fights by ensuring the federal prohibition extends to U.S. territories and protectorates. The bill also makes it illegal to raise, slaughter or sell dog and cat meat in the U.S. The conference also authorized \$3 million a year for the federal government to pay the cost under an existing Department of Health & Human Services (HHS) program for domestic abuse victims to bring pets with them when they leave toxic relationships and "identify and secure" animal-friendly housing.

Dumped from final conference report – just as it was during the 2014 Farm Bill conference committee deliberations – was House language authored by Rep. Steve King (R, IA) that he said would prohibit states from enacting laws that negatively impact farmers and ranchers in other states, unless the state law is identical to federal law. King targeted laws in California and Massachusetts which ban the sale of animal products, including eggs, not raised under the same cage-free standards set in the two states. King's language carried a definition of "agricultural products" that was too broad, analysts said, and would have voided not just the targeted on-farm production laws, but state laws impacting the environment, food safety, etc.

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