

## **State Association Weekly Washington Report 1.12.18**

### **Senate Ag Committee Gets Two New Members**

Sen. Deb Fischer (R, NE) and freshman Sen. Tina Smith (D, MN) will join the Senate Agriculture Committee just as panel Chair Sen. Pat Roberts (R, KS) prepares to kick his Farm Bill reauthorization work into high gear.

Fischer has long coveted an ag committee slot, touting her 40 years of work with farm and rural development groups across Nebraska. Roberts said Fischer and her experience will be welcome addition to the committee.

Smith will join Sen. Amy Klobuchar (D, MN) on the panel. Smith replaces Sen. Al Franken (D, MN) who resigned from the Senate in the wake of allegations of sexual misconduct. "I'm hopeful and optimistic we can work together," Smith said of her GOP colleagues in an interview with the *Minneapolis Star Tribune*. "But I'm not naïve about the big differences that divide us."

### **Trump Tells Farm Bureau Convention What It Wants to Hear**

President Trump told the American Farm Bureau Federation's (AFBF) 99<sup>th</sup> annual convention in Nashville this week – the first sitting president to address the world's largest producer group in over 25 years – pretty much what attendees wanted to hear when it comes to trade, deregulation, taxes and the importance of production agriculture to the U.S. economy, earning five standing ovations from the 4,500-person audience during a 40-minute speech.

The president addressed an overwhelmingly pro-administration audience, a subset of the broader base of voters in so-called "fly-over states" critical to his winning the White House in 2016. It wasn't surprising he had his eye on the 2018 midterm elections when he told the assembled farmers, "If the Democrats got their way, they would reinstate every single regulation that we're cutting, and add many more burdensome rules that don't do anything but hamstringing our economy and burden our people and our farmers." He also reminded the audience no Democrat voted in favor of tax reform.

In a relatively brief mention, the president sought to assure farmers and ranchers he understands the importance of trade to farmers and rural economy. He reiterated his goal to review all U.S. trade treaties to ensure they're "fair and reciprocal; reciprocal, that's so important." On NAFTA 2.0, he said his administration is "working very hard to get a better deal for our country, our farmers and our manufacturers." Acknowledging the negotiations have been tough, Trump told *AgriPulse* in an exclusive interview before his speech he's "negotiating tough for farmers" with Canada and Mexico. "I'm not doing it for myself. I'm doing it because the farmers have not been treated well. I think it's going to come out very well for the farmer." The next round of NAFTA 2.0 negotiations begins in Montreal on January 23.

The AFBF audience, while applauding his assurances, are aware the president didn't promise to keep the U.S. in NAFTA. Many in agriculture and business worry previous remarks Trump has made about pulling out of NAFTA, as he pulled the U.S. out of the Trans-Pacific Partnership (TPP), is still a possibility. As recently as late this week, during a White House press briefing on IRS implementation of the new tax bill, Treasury Secretary Steve Mnuchin told a reporter who asked about NAFTA, "We'll renegotiate NAFTA or we'll pull out."

In a Fox TV interview, Agriculture Secretary Sonny Perdue, who accompanied Trump to Nashville, said, “I think the president needs to communicate to the farmers today that he’s all for a fair, free trade deal with NAFTA. He’s a tough negotiator and he wants a good deal for American farmers and the American people.”

Trump’s speech was long on accomplishments important to farmers and ranchers. He touted the recently enacted tax reform bill. “We have signed into law the most significant tax cuts and reforms in American history – a total of \$5.5 trillion in tax cuts, with most of those benefits going to working families, businesses and family farmers,” he said. He singled out immediate expensing of equipment investments as a “sleeper” benefit of the package. He pointed to the doubling of the federal estate tax exemption, saying farmers “will be spared the punishment of the deeply unfair estate tax so you can keep your farms in your families.”

He pointed proudly to his deregulation initiative, saying during the first 11 months of his administration more than 1,500 planned regulatory actions or “assaults” have been cancelled, singling out his action to repeal and replace EPA’s “waters of the U.S. (WOTUS)” final rule – AFBF’s highest regulatory priority during the Obama years – as a primary deregulation accomplishment. “I’m truly proud to report...(the cancellations) are more than any president in the history of the U.S.,” Trump said. “We have cut 22 regulations for every one new regulation.” All agencies and departments have been ordered to cut two existing rules for every new rule, he reminded the AFBF audience.

Trump told the audience he wants to see the 2018 Farm Bill enacted “on time,” and said the bill should include crop insurance, a shift from his FY2018 budget recommendations that included cutting \$29 billion from federal crop insurance over the next 10 years. He also said he’s streamlining “regulations that have blocked cutting-edge biotechnology – setting free our farmers to innovate, thrive and grow because we know our farmers are the future.” On immigration, Trump said “We’re going to end chain migration, we are going to end (the visa) lottery system, and we are going to build a wall.”

Following the speech, with Perdue and Senate Agriculture Committee Chair Pat Roberts (R, KS) looking on, Trump signed two executive orders on increasing rural broadband service. The first order instructs federal agencies to “reduce barriers to capital investment (and) remove obstacles to broadband services.” The second order tells the Interior Department to make microwave towers and other infrastructure on federal land available for broadband use.

### **No White House Decision on NAFTA Until Post Mexican Election in July**

President Trump this week told the *Wall Street Journal* he’ll make no decision on the future of U.S. participation in NAFTA until after the Mexican federal elections in July, saying he hopes NAFTA 2.0 is a reality before Mexico goes to the polls. The president said he’s in “no rush” to end U.S. participation in NAFTA.

Despite that statement, assurances to the American Farm Bureau Federation (AFBF) convention this week and to Senate Agriculture Committee Chair Pat Roberts (R, KS) last week, Trump said again he’ll terminate U.S. participation in the tripartite trade treaty unless the three nations agree on a fair and reciprocal deal – a “Trump deal,” as he called it in the *Journal* report. However, he said the Mexican elections will also figure in his decision. “I’m leaving it a little bit flexible because they have an election coming up,” Trump told the paper.

The next formal round of NAFTA 2.0 negotiations begins January 23, in Montreal, Canada.

Mexican Economy Minister Hdefonso Guajardo was in Washington, DC, January 10-12, for talks with U.S. Special Trade Representative (USTR) Robert Lighthizer, as well as meeting with some Capitol Hill lawmakers. Guajardo is also slated to meet with World Bank officials as part of bank dispute resolution panel on which Mexico sits.

Meanwhile, Canada filed a formal complaint this week with the World Trade Organization (WTO) requesting “consultations” with the U.S. over proceedings the U.S. follows on anti-dumping and countervailing duties, the so-called dispute resolution issue. Canada says the U.S. process is “inconsistent” with WTO agreements. Lighthizer said the claim is baseless.

### **“Technical Corrections” to New Tax Law Coming; First Up, Fix to Co-Op Pass-Through Deduction**

It’s necessary to “dial back” language in the recently enacted federal tax reform law redefining “pass-through” businesses to include farmer-owned cooperatives because the change makes co-ops more attractive customers to independent grain growers as buyers than private companies, whether multinational grain companies or family-owned grain elevators.

The National Council of Farmer Cooperatives (NCFC), which won the tax package concession, and the National Grain & Feed Assn. (NGFA), whose members will most impacted, are working together to find “an equitable solution that preserves the benefits that cooperatives...previously enjoyed under Sec. 199...while addressing any unforeseen impacts on producers’ marketing decisions.”

Critics of the tax package and the speedy process by which it reached enactment just before Christmas say the pass-through redefinition is a classic example of what happens when such complex legislation is being rewritten literally minutes before members are asked to vote.

The usual consequence of enacting such far-reaching legislation is a “technical corrections” package which seeks to fix redundancies, mistakes and other problems with the underlying law. The House Ways & Means Committee and the Senate Finance Committee are already working on such a package, but this week all 16 Ways & Means Democrats circulated a “dear colleague” letter to the full House calling for a measured approach to fixing the tax reform law.

“It would be a mistake...to rush to introduce legislation to change HR 1 given all the uncertainty surrounding the law and its implementation,” they wrote, adding “Rushing proposed fixes will only exacerbate the problems created by the majority, not solve them.” The Democrat tax writers want hearings on proposed fixes, and they want to hear from Trump administration witnesses.

Lawmakers are looking closely at the “unintentional impacts” of the cooperative tax language as it impacts grain sellers and buyers. Sen. John Thune (R, SD), who with Sen. John Hoeven (R, ND) and other ag state Senators negotiated the 11<sup>th</sup>-hour pass-through definition change – the “Sec. 199A deduction” – to “mimick” the lost benefits to cooperatives from repeal of the Sec. 199 manufacturing deduction in the tax package, said he’s got language almost ready to fix the overreach and may actually save the Treasury money. Thune hopes to have final language ready to be attached to the next continuing resolution (CR) Congress considers to keep the government funded and operating, which could be as soon as next week. Using a “must pass” bill, such as the CR is necessary because getting 60 votes in the

Senate on a technical corrections bill would be tough given no Democrat voted for the original tax reform bill.

The *Wall Street Journal* originally reported the snag, explaining it: “Consider a simplified example of a wheat farmer with \$500,000 in annual grain sales and \$80,000 profit. A farmer selling grain to a cooperative could deduct 20% of sales (the new pass-through deduction), wiping out the entire income-tax liability. By contrast, if the farmer sells grain to an independent grain operator, the farmer’s deduction would be limited to 20% of the profit or \$16,000, leaving that farmer with up to \$64,000 in taxable income.”

### **IRS, Treasury Release Guidance on Tax Withholding**

Treasury Secretary Steve Mnuchin this week announced at a White House press briefing the Internal Revenue Service (IRS) has released guidance to employers on how to handle new withholding rates on employee paychecks due to changes in the new tax reform law. The IRS is also telling employers to start using the new withholding rates by February 15.

Mnuchin said Treasury estimates about 90% of workers will see bigger paychecks under the new withholding rates, which incorporate several changes in individual taxes under the new law, including a rejiggering of tax rates, doubling of the standard deduction and elimination of the personal exemption. He also said the new withholding should work with existing W-4 forms filled out by workers, with new W-4s coming later this year applicable to 2019. Also on deck is an update to the withholding calculator the IRS maintains on its website to aid employees who may wish to adjust withholding rates.

“We wanted to make sure that people weren’t overwithheld or underwithheld, so we ran lots of models,” Mnuchin said, responding to critics who allege the administration pressured the IRS to handle withholding so workers see greater take-home pay. He said the guidance is written to ensure there’s no material shift in the number of workers who receive tax refunds.

### **DACA Deal or No Deal?**

President Trump and array of bipartisan lawmakers from both sides of Capitol Hill this week met at the White House to talk immigration reform generally and a solution to the future of legislative authorization of the administrative Deferred Action for Childhood Arrivals (DACA) program. The political group hug ended with participants agreeing to tackle DACA authorization first, and broader immigration reform second, as the president assured meeting attendees, “I want to get this done.”

Within two days of the White House meeting, Sen. Jeff Flake (R, AZ), one of seven bipartisan Senators working with the Trump administration on a DACA fix, as well as broader immigration issues, said the Senate has a solid deal. The White House immediately rejected the deal, saying it doesn’t include stronger language on border security – “the wall” – an end to so-called family “chain immigration,” and an end to the visa “lottery” system.”

The three Republicans and the three Democrats – led by Sen. Dick Durbin (D, IL), the Senate’s number two Democrat – pitched the agreement announced by Flake at a quickly called White House meeting. Durbin said the deal meets all of Trump’s known demands. For its part, the White House said, “We still believe we can get there” on a solution to DACA, which legally protects “dreamer” children brought to

the U.S. as minors by undocumented parents. It's estimated there are about 700,000 "dreamers" in the U.S.

At the same time, congressional leadership received a letter this week from over 100 company chief executives calling the end to legal protection for DACA dreamers a "crisis." They said they want to see a permanent solution to the situation, one which "enables dreamers who are currently living, working and contributing to our communities to continue doing so."

Trump supporters say the Senate deal doesn't go far enough in ending family preferences – "chain immigration" – on U.S. entry. However, Durbin said the six other Senators are working to build support for their deal in both the House and Senate. Democrat leadership has said they want to see a DACA fix as part of the next spending bill approved by Congress, or they may block a spending agreement.

One report quotes GOP staff saying the Senate deal includes language that would create the means by which dreamers could become citizens by meeting several legal requirements. Parents of dreamers would get "renewable legal status," but not citizenship. Also included is a reported \$2.8 billion to be spent for border security, including \$1.6 billion to build the wall on the Mexican-U.S. border, technical surveillance and agent training, with \$1.2 billion slotted for other priorities. The Trump administration has asked for \$18 billion over 10 years to be spent on the wall.

### **Perdue Releases Task Force Report on "Rural Prosperity," Says Farm Bill "Principles" Coming Soon**

The final report of President Trump's task force on rural prosperity, a group chaired by Agriculture Secretary Sonny Perdue, was released this week, calling for increased rural broadband access, increased federal coordination on agriculture regulation and more federally sponsored ag worker training.

In related action, Perdue this week told the American Farm Bureau Federation (AFBF) convention that administration "principles" on how a 2018 Farm Bill should be fashioned will be release "soon," and urged the AFBF members to continue to identify and send to USDA federal regulations which need to be addressed as too onerous or costly. Referring to the Farm Bill principles, Perdue said the listing will be based on what the administration has learned from farmers and ranchers.

The secretary said both agriculture committee chairs have been briefed on the principles, and Senate Agriculture Committee Chair Pat Roberts (R, KS), while not mentioning specifics, said Perdue isn't giving him a blueprint for the Farm Bill, "We're doing that."

"USDA will be right there to provide whatever counsel Congress may request or require," Perdue said. "It's our way of letting Congress know what we've heard from each of you."

The broadband access issue – only 39% of rural citizens have broadband access – was responded to this week by Trump who signed two executive orders designed to increase rural broadband. The orders were signed immediately following his speech to the 99<sup>th</sup> AFBF annual convention, as Perdue and Roberts looked on.

While the report paints a grim picture of life in rural American, it identifies challenges in turning that situation around. One is finding ways to keep young people in rural areas through better educational opportunities and higher-paying jobs. Other report recommendations include a new "commission" to coordinate government regulation, an advisory council with greater local expertise, and a head honcho to run both groups.

The report also says there's a strong need to "promote public confidence in the oversight of the products of biotechnology through clear and transparent public and diplomatic engagement." The report also says trade is important to rural economies, but such trade must be "fair."

### **Senators Want More Money for Aging Waterways System**

As President Trump gets ready to launch his full court press to enact his \$1-trillion infrastructure investment initiative, a bipartisan group of Senators wants to see significant federal investment in the FY2019 spending bill on modernizing the aging locks/dams system on the nation's inland waterways.

"With the expansion of world food and energy needs, the Mississippi River is poised to be more important than ever," 10 Senators wrote to President Trump this week asking for a 10-year spending commitment focused on the Upper Mississippi River system. Calling the river the "country's busiest waterway," the lawmakers said most of the locks and dams were built in the 1930s and need fixing.

The Senators said there's ecological benefits to fixing the system, and with appropriate funding projects could begin within a year. The lawmakers did not specify an amount they want to see spent, mentioning only "sufficient funding."

### **Senate RFS Talks at Impasse: Grassley**

Talks between ag Senators and oil Senators over the future of the Renewable Fuel Standard (RFS) have broken down, said Sen. Charles Grassley (R, IA), and the lawmakers are punting the contentious negotiations to the biofuels and petroleum refining industries.

Grassley said he and Sen. Joni Ernst (R, IA) met with Sen. Ted Cruz (R, TX), who's carrying the political water for the oil and gas industries in his state, but no agreement was reached. Cruz says he wants to see the RFS reinvented, and Renewable Identification Number (RIN) reworked to cap RINs at 10 cents, lowering the cost of the overall program to refiners. He's offered so specific plan to achieve that goal.

Cruz's RIN proposal is a non-starter for the ethanol industry, with ethanol makers calling the impact of a RIN cap "catastrophic," Grassley said. Meanwhile, the Renewable Fuels Assn. (RFA) said it opposes "RFS reform of any kind. The program is working as intended."

It's reported Sens. John Cornyn (R, TX), James Inhofe (R, OK) and John Barrasso (R, WY) are working on a an RFS/RIN reform bill, but details of that plan are unknown. Meanwhile, Cruz's hold on the nomination of former Iowa Ag Secretary Bill Northey to be USDA undersecretary for conservation and farm programs remains in place.

### **CFTC, K-State to Hold First-Ever Commodity Futures Conference**

The Commodity Futures Trading Commission (CFTC) and Kansas State University's Center for Risk Management Education & Research (CRMER) announced this week they'll hold their first-ever joint commodity futures conference April 5-6, in Overland Park, Kansas, at the Sheraton Hotel at the Conference Center.

"Protecting America's Agricultural Markets: An Agricultural Commodity Future Conference" will examine macroeconomic trends and issues affecting U.S. agricultural futures markets and the "importance of these markets for managing risk and protecting participants from manipulation, fraud and other

unlawful activities.” Speakers will come from federal, state and local governments, as well as from agribusiness and academia.

The conference agenda will be released in February, the CFTC said. To register for the meeting go to <http://www.k-state.edu/riskmanagement/conference.html>.

### **USDA’s 94<sup>th</sup> Annual Outlook Conference Opens Registration**

Early bird registration for USDA’s 94<sup>th</sup> Annual Agricultural Outlook Forum ends January 26, for the conference being held February 22-23, at the Crystal Gateway Marriott Hotel in Arlington, Virginia, just across the Potomac River from Washington, DC.

More than 2,000 national and international attendees are expected to participate in at what USDA calls its largest annual meeting. The theme for this year’s forum is “The Roots of Prosperity,” featuring both plenary speakers and 30 informational sessions with more than 80 expert presenters and “a host of agriculture related exhibits.”

The outlook forum program can be found here: <https://www.usda.gov/oce/forum/>, while registration can be found here: [http://www.youreventinfo.org/USDA\\_AgOutlook\\_Forum2018/reginfo.html](http://www.youreventinfo.org/USDA_AgOutlook_Forum2018/reginfo.html).