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Tax Reform Vote on Christmas Eve?

In yet another indication of the political importance of enacting some form of federal tax reform to Republican leaders in Congress, House Speaker Paul Ryan (R, WI) this week confirmed what others only whisper about, namely he'll keep the House in session through Christmas if some form of tax legislation isn't approved.

"We're going to keep people here for Christmas if we have to," Ryan said in a speech to the Heritage Foundation in Washington, DC. "I don't care. We have to get this done." The good news is that so far, Ryan said, the House "is actually on track timeline-wise."

Ryan's comment drew groans from industry and agriculture lobbyists who know the longer Congress is in session, the more mischief can be done.

The calendar will depend on whether the Senate can pass its FY2018 budget resolution next week, the House having approved its version of the nonbinding budget plan last week. Once both chambers have approved their respective budget resolutions – both carrying the same "instructions" on tax reform – the House Ways & Means Committee will release its tax cut bill and move to markup. Then the House moves the tax package to the floor, and if the stars align, approves the package and moves it to the Senate by early November.

The stickler is the likelihood the House and Senate will approve different versions of the tax package, forcing a conference committee to reconcile differences, and the Christmas threat applies to the final vote on conference agreement between the two chambers.

Trump Attacks NAFTA Again as 4th Round of Talks Begin

President Trump this week unleashed yet another salvo of attacks on NAFTA just as the fourth round of renegotiations began outside Washington, DC. The ongoing presidential criticism of the 23-year-old \$1-trillion tripartite trade treaty has fueled pessimism within agriculture and general industry that a NAFTA 2.0 can be crafted.

Agriculture Secretary Sonny Perdue last week said this latest round of talks, originally set to run October 11-15, but extended until October 17, will focus heavily on agricultural issues, including dairy pricing/supply management in Canada, U.S. wine access to Canada and wheat and produce issues with Mexico and Canada.

Another demonstration of industry/agriculture nervousness about the White House's "rollercoaster ride" on trade policy saw more than 100 lobbyists for agriculture and business groups target more than 250 House members this week in a fly-in effort led by the U.S. Chamber of Commerce. The Chamber effort was supported by the American Farm Bureau Federation (AFBF) and the National Pork Producers Council (NPPC), along with the Business Roundtable, the National Association of Manufacturers (NAM), the National Foreign Trade Council (NFTC) and the Coalition of Service Industries (CSI).

Some members of Congress from both sides of the aisle and both sides of Capitol Hill have begun calling for hearings on the economic impact on farmers, ranchers and consumers if NAFTA were to be terminated.

Adding a little drama to the beginning of the talks was the arrival in Washington, DC, of Canadian Prime Minister Justin Trudeau. Trudeau and his Foreign Minister Chrystia Freeland met with the House Ways & Means Committee, then Trudeau moved on to the White House for talks with Trump. At a press briefing following their talks, Trump said the NAFTA talks are “tough” and that right now, the odds of a deal among the three nations are 50-50. “Perhaps we’ll make a deal with one, but not the other,” Trump said. Freeland told a Canadian television audience last weekend the Trump administration is the most protectionist since the 1930s.

“It’s possible we won’t be able to make a deal and it’s possible we will. We’ll see if we can do the kind of changes we need,” the president said. “We have to protect our workers.”

House Agriculture Committee Chair Mike Conaway (R, TX) and three panel members returned from the third round of talks in Ottawa last weekend, warning U.S. agriculture pursuing changes with certain Canadian programs, such as dairy, will run into problems as Canadians have embraced dairy supply/pricing protections as part of the “civic good.”

The week began with a meeting in Mexico City of more than 100 U.S. business leaders with their Mexican counterparts. The business group is concerned the Trump administration may be intentionally sandbagging the NAFTA talks by dumping a series of “poison pill” proposals on the table. Attending the meeting were Mexican Foreign Minister Luis Videgaray and Finance Minister Jose Antonio Meade.

Tom Donohoe, president of the U.S. Chamber, reportedly told the meeting the Chamber is going to prevent Trump from “tearing up” NAFTA. Donohoe said there are several U.S. proposals in question, including a five-year sunset provision, killing off a government-investor dispute resolution section of the treaty, blocking Canadian and Mexican access to U.S. government procurement contracts, and a White House proposal to force car manufacturers to source more parts in North America.

Donohoe also called out the administration for insisting NAFTA 2.0 result in reducing the U.S. trade deficit with Canada and Mexico. Canada has already said that U.S. priority is immaterial to the success of the treaty, and Donohoe said, “It’s the wrong focus and is impossible to achieve without crippling the economy.”

Following the U.S.-Mexican business leader meeting, *Forbes Magazine* released October 10, an interview with Trump in which he flat out said NAFTA must be “terminated.” I happen to think that NAFTA will be terminated if we’re going to make it good. Otherwise, I believe you can’t negotiate a good deal,” Trump told Forbes. He patted himself on the back for withdrawing the U.S. from the Trans-Pacific Partnership (TPP) treaty with 11 Pacific Rim nations, and reaffirmed his preference for bilateral trade pacts.

Mexico warned that if the U.S. pulls out of NAFTA – action only Congress, not the president can take – the economic impact will be felt most by U.S. farmers, ranchers and manufacturers who rely the most on exports. The New York Times reported this week that if NAFTA were to disappear, farmers would be hit with a 25% tariff on beef sent to Mexico, along with a 45% tariff on turkeys and some dairy products, and a 75% tariff on chicken, potatoes and high-fructose corn syrup. The Mexican government also warned killing NAFTA could irreparably damage U.S.-Mexican-Canadian relations.

Trade Angst Spawns New Grass Roots Group to Support Trade Deals

Fearing the powers that be are losing sight of the importance of trade to farmers, ranchers and rural economies, the American Farm Bureau Federation (AFBF) this week announced the launch of Farmers for Free Trade (FFT), a grassroots effort to support and protect U.S. trade treaties.

Capitalizing on the reputations and influence of former Sen. Richard Lugar (R, IN), a former Senate Agriculture Committee chair, and Sen. Max Baucus (D, MT), a member of the ag panel and who served as U.S. ambassador to China for three years under President Obama, the group plans to rally support from towns and communities in all 50 states to focus greater attention on the importance of trade to agriculture broadly. The group intends to name leaders in each state to coordinate efforts to engage with state and local government officials, economic development groups and the media.

The group contends the Trump administration's trade policy is "frustrating to agriculture," and that the new White House moved too quickly to withdraw the U.S. from the Trans-Pacific Partnership (TPP), followed by the president blasting NAFTA and other multilateral trade treaties, putting at risk literally trillions of dollars in agricultural trade benefits.

Lugar said, "There needs to be a change because incomes are going down, sales are going down and this is a desperate opportunity that must be seized." "We're hurting ourselves, especially for agriculture," said Baucus who said he's seen other nations work much harder than the U.S. in promoting agriculture products to foreign markets.

"We're going to drive home that the threats to export markets like Mexico, Canada and South Korea are threats to states like Kansas, Kentucky and Washington," said Sara Lilygren, who heads the FFT board of directors. Lilygren is the former executive vice president for corporate affairs for Tyson Foods, and once served as a director of the U.S.-Mexico Chamber of Commerce. She also was senior vice president of the American Meat Institute (AMI), now the North American Meat Institute (NAMI)

AFIA, NGFA Support Codex Office Move at USDA, Offer Recommendations on Future Actions

The American Feed Industry Assn. (AFIA) and the National Grain & Feed Assn. (NGFA) this week, responding in separate submissions to a USDA request for public comment, formally told Agriculture Secretary Sonny Perdue's they support his decision to move the U.S. Codex Office within the department from the Food Safety & Inspection Service (FSIS) to the new program area overseen by Under Secretary for Trade & Foreign Agriculture Affairs (TFAA) Ted McKinney.

The Codex Office move has proven controversial, and the AFIA-NGFA support is the exception rather than the rule. Perdue maintains the international food trade standards setting group more logically belongs within USDA international program area, not within its domestic food safety program. However, critics contend the move to the new trade program area risks politicizing food safety and trade standard setting.

"We expect to see several benefits with the move of the U.S. Codex Office into TFAA," wrote AFIA President & CEO Joel Newman. "AFIA supports the continued focus on the importance of agricultural trade and the role of international standards brought about by Codex. Specifically, the move will elevate the level of engagement and political resources available by our government for the issues being considered through the Codex Alimentarius Commission."

NGFA said it supports Perdue's reorganization decision on Codex, but strongly urged Perdue to maintain the Codex office as a stand-alone operation reporting directly to the under secretary for trade, not be incorporated within the Foreign Agriculture Service (FAS). AFIA concurred, adding priority should be given to the Codex office's staff and leadership and the composition of the technical delegations to Codex committees and task forces are maintained, including adequate involvement in and support during the transition and consistent technical operations throughout and following the transition.

AFIA told the department that USDA leadership must ensure U.S. Codex policy remains clearly committed to advancing science-based standards that enhance global food safety capacity and facilitate trade—consistent with Codex's dual mandate. "Science-based standards are a cornerstone of a rules-based trading system. Promoting science-based standards while also enhancing trade opportunities are not mutually exclusive," Newman said.

"We recommend that USDA leadership conduct outreach with the members of the U.S. Codex Policy Committee and stakeholders throughout the transition, including maintaining a strong connection with FSIS," Newman wrote. "The interagency partners at FDA, Department of State, EPA, Department of Commerce and the U.S. Trade Representative's office (USTR) are integral to the Codex activities... (these agencies) must feel comfortable this move will not impact the ongoing interagency collaboration."

NGFA also offered strong support to Perdue's decision to move the Federal Grain Inspection Service (FGIS) from Grain Inspection Packers & Stockyards Administration (GIPSA) to USDA's Agricultural Marketing Service (AMS), maintaining FGIS services as separate from other program area services. The group also praised the "realigning" of Farm Service Agency (FSA) grain warehouse functions within AMS.

'Cooperative Alliance' with OSHA Struck by NGFA

OSHA and the National Grain & Feed Assn. (NGFA) this week announced a two-year alliance to pursue protecting the safety and health of workers in the grain handling industry by preventing hazard exposures, including grain bin entry, machine guarding, falls, heat, combustible dust, equipment accidents, respiratory protection and lockout/tagout.

The alliance is one of several OSHA has created with various industry sectors. Through its formal Alliance program (www.osha.gov/dcsp/alliances/index.html), the agency works with unions, consulates, trade and professional organizations, faith and community-based organizations, businesses and education institutions. The alliances are created to develop compliance assistance tools and resources to educate workers and employers about rights and responsibilities.

Participants in the NGFA alliance will share with OSHA and industry safety and health professionals recommended practices and shared approaches for recognizing and preventing grain handling hazards, as well as supporting and promoting Grain Industry Stand-up, a program focusing on engulfment prevention, OSHA said in a statement announcing the alliance.

"Grain handling operations pose numerous hazards that can cause serious, sometimes fatal injuries," said Deputy Assistant Secretary of Labor for Occupation Safety & Health Loren Sweatt. "We look forward to working with NGFA to find ways to reduce exposures to hazards and promote workplace safety."

House Approves \$36.5-Billion Hurricane, Disaster Package; Calls Aid Bill a ‘Down Payment’

The full House this week overwhelmingly approved a \$36.5-billion emergency funding bill aimed at providing aid to the victims of nearly a dozen federally designated natural disasters, including historic California wildfires and a string of hurricanes which ripped through Texas and Florida, and devastated Puerto Rico.

President Trump last week sent to Capitol Hill his initial request for almost \$30 billion in disaster aid to help recovery efforts, then upped the ante this week by requesting an additional \$5.9 billion. House Minority Leader Nancy Pelosi (D, CA) called for up to \$1 billion to aid victims of historic wildfires ravaging her state. Not included in the package was a \$5-billion targeted aid bundle by Florida to aid specialty crop, horticulture, livestock and other ag sectors hit by Hurricane Maria.

This week’s package is the second approved by the House in five weeks. Congress has already enacted a \$15-billion aid package for states like Texas and Florida. The White House also signaled it may return to Congress with a third or fourth disaster aid spending request, while several House members called the aid package just a “down payment” on further assistance.

The original formal request from the Office of Management & Budget (OMB) includes \$18.7 billion for FEMA’s disaster relief effort; \$4.9 billion in loans to the Puerto Rican government to help pay first responders and other government emergency assistance employees, \$576.5 million for the California wildfires, as well as blazes in other western states, and to replenish funding in the USDA U.S. Forestry Service’s firefighting fund, and \$16 billion for the National Flood Insurance Program.

House Agriculture Committee Chair Mike Conaway (R, TX) praised the inclusion of firefighting money “so we won’t be, in fact, robbing Peter to pay Paul” when it comes to the escalating cost of fire suppression. House Appropriations Committee Chair Rodney Frelinghuysen (R, NJ) called for chamber support for the request, but cautioned this request “certainly won’t be enough to address the needs of all individuals affected.”

Support for the package was generally bipartisan, despite conservative budget hawks’ talk of disappointment the emergency spending is not offset with spending cuts elsewhere. To that end, 69 Republicans voted against the package, citing either deficit control or a lack of offsetting spending cuts, as well as requirements on transparency in how the money is spent.

Rep. Nita Lowey (D, NY), ranking member of the House appropriations panel, called on her committee to add funding for the Community Development Block Grants; coastline rebuilding, along with roads, transit systems, airports, ports and other infrastructure; small business loans, and military installation repair.

Giancarlo says One-Year Delay in Swaps Rule Registration Likely

A one-year postponement in new registration rules for swaps dealers will be requested by newly minted CFTC Chair Christopher Giancarlo told the House Agriculture Committee this week. He referred to the so-called “de Minimis” threshold for being required to register as a swaps dealer, that threshold dropping from \$8 billion to \$3 billion under the new rule.

“The goal is to get the right result, not a rushed result,” he said. Giancarlo said the delay, to be proposed during the first half of 2018, is necessary to give the new CFTC time to review the rule. Currently, the commission has two vacancies and two new commissioners.

Giancarlo is no fan of the \$3-billion “de Minimis” threshold. He contends dropping the threshold to that level forces utilities, agribusinesses and refiners to reduce trading to stay under \$3 billion. He was seconded by Rep. David Scott (D, GA) who told his colleagues the new threshold would “raise the cost of providing the hedges that are so important to risk management.”

Senate Agriculture Committee Chair Pat Roberts (R, KS) greeted Giancarlo’s testimony with support. He said it would hurt community banks and ag cooperatives to “remove market liquidity from agriculture and energy markets.”

New CFTC Commissioners Brian Quintenz and Ross Benham aren’t sure the delay is needed, citing the previous delays imposed by the commission. Benham said in a statement, “Instead of kicking this critical issue into the future again, the commission should take further action now or let the current rule take effect.”

Water Group Wants Farm Bill to Protect Water Sources from Runoff

The 2018 Farm Bill now under construction should carry new authorities and funding to protect drinking water sources from agricultural chemical runoff, the American Water Works Assn. (AWWA) said this week. The group represents drinking water utilities.

The group cited the unsuccessful Des Moines Water Works’ challenge to upstream counties over farm runoff, as well as the shutdown of the Toledo, Ohio, water system in 2014 due to an algal bloom as examples of water sources overloaded with nutrients from runoff, and want to see a “collaboration” between water utilities and farmers to protect water sources.

“Water utilities and farmers are eager to collaborate on projects that protect public health and the environment, reduce the cost of water treatment and help farmers succeed,” AWWA said. “There’s an opportunity through the Farm Bill to encourage partnerships that allow farmers to meet their production goals while protecting our nation’s drinking water.”

AWWA said USDA conservation programs have been effective generally, they’ve been “underutilized” in protecting water sources. The group is recommending “robust overall funding” for the conservation title; an emphasis on protecting water to protect public health; opportunities for the Natural Resources Conservation Service (NCRS) to set priority activities with water systems in each state; increase “benefits” for farmers who use practices that protect downstream water quality, and ensure at least 10% of conservation program funds are focused on protecting drinking water.

Lock 52 57-Mile Backup is Poster Child for Trump Infrastructure Promises

Supporters of President Trump’s \$1-trillion infrastructure improvement plan are pointing at a massive tie-up at Lock 52 on the Ohio River as evidence the federal and public-private investment program Trump has promised can’t come fast enough. Trump visited the lock in June promising investment in modernization.

Grain and coal shipments are reportedly part of a 57-mile back on the river up because the lock's mechanical and physical infrastructure is deemed too decrepit to handle the volume in high water. Involved so far are 564 barges and 51 towboats which need to pass through the lock. The U.S. Army Corps of Engineers said it's likely going to take several more days for water levels to drop.

Built in the 1920s-1940s, the waterway system is experiencing delays that have increased 700% in the last 10 years, according to the Waterways Council. Twenty-six projects are awaiting funding, including the Olmsted Locks & Dam project, which began in 1988, was to have been completed in 1998 at a cost of \$775 million. That project is now slated to finally be completed next summer at a cost of \$3 billion.

A University of Tennessee study estimates the closure of a single major lock on the Mississippi River would rack up \$933 million in losses.

House Subcommittee Rail Infrastructure Hearing Collects Improvement Needs

As part of preparation for eventual action on President Trump's infrastructure improvement proposal, railroads and transportation labor representatives this week told a House subcommittee what's needed to improve federal investment in rail infrastructure.

The House Transportation & Infrastructure Committee's subcommittee on railroads, pipelines and hazardous materials told witnesses the panel needed to hear ways to improve existing federal spending on the Railroad Rehabilitation and Improvement Financing program and rail grant programs.

"Stakeholders provide unique opinions on best ways to improve our infrastructure through enhanced safety, reliability and efficiency," said subcommittee Chair Jeff Denham (R, CA). "They can discuss expansion opportunities for these programs and offer ways to leverage investments and promote public-private partnerships."

Testifying were the Association of American Railroads (AAR), the American Short Line & Regional Railroad Assn. (ASLRRA), the Railway Supply Institute (RSI) and the Transportation Trades Department of the AFL-CIO.

AAR pushed for policy to encourage private investment in the rail system to benefit freight rail, saying, "In 2014, America's major freight railroads supported 1.5 million jobs, \$274 billion in economic output and \$88 billion in wages," saying rails must be allowed to reinvest in their networks. AAR wants to see "balanced economic regulations," rehabilitation of the High Trust Fund, promotion of public-private partnerships, regulatory flexibility allowing rails to develop and improve infrastructure safety and performance, and use of a new user-pay model that addresses "modal inequalities."

Concurring in large part with AAR, RSI also called for sensible tax reform and balanced regulation, praising the Trump administration's "effort to scrutinize existing and proposed regulations." ASLRRA stressed the need to find projects that will attract private capital to rural communities. Examples given were the Transportation Investment Generating Economic Recovery (TIGER) and the Infrastructure for Rebuilding America (INFRA) grant programs. Rural set-aside programs benefiting short line rails are also needed, the group said. The group also stressed the "most economical and effective way to maximize investment in our portion of the national rail system" is the 45G short line railroad rehabilitation tax credit.

Trump Nominates Andrew Wheeler to be EPA Deputy Administrator

If the Senate concurs, Andrew Wheeler, a former Senate staffer and lobbyist, will become EPA's deputy administrator after President Trump sent his name to Capitol Hill last week.

Wheeler is a former staffer to Sen. James Inhofe (R, OK), when he was chair of the Senate Environment & Public Works Committee. Inhofe is an outspoken critic of EPA, and praised the Wheeler nomination, saying, "There is no one more qualified than Andrew Wheeler to help (Administrator) Scott Pruitt restore EPA to its proper size and scope."

Prior to joining Inhofe, Wheeler worked in EPA's toxics office, and after his stint in the Senate he joined a Washington, DC, consulting firm and worked with Murray Energy Corp., Energy Fuels Resources, Inc., among others. He cancelled his lobbying registration in August.

Supreme Court Seems Taken with Ag, Industry WOTUS Jurisdiction Arguments

General industry and several agriculture groups got their moment in the sun this week as they presented oral arguments before the U.S. Supreme Court to allow federal district courts, not appeals courts, to handle all legal challenges to the controversial EPA "waters of the U.S. (WOTUS)" final rule, according to reports.

The case does not go to the justification for the WOTUS rule, but only to whether federal district courts or appeals courts should hear the court challenges brought against the agency rulemaking. Parties to the case is a coalition of groups led by the National Association of Manufacturers (NAM), but including the American Farm Bureau Federation (AFBF); 30 states opposed to WOTUS represented by the Ohio Solicitor General Eric Murphy, and the federal government, represented by an attorney attached to the federal Solicitor General's office.

WOTUS opponents contend the Clean Water Act (CWA) language clearly designates federal district courts as the appropriate venues to hear WOTUS challenges. The justices, during questioning, focused on the language as well when it comes to where challenges must be heard. Chief Justice John Roberts wondered about the practical impact of permitting district courts to hear the challenges – the so-called "efficiency issue" – because "you could have dozens (of district courts) engaged in the same activity."

The National Cattlemen's Beef Assn. (NCBA) environmental counsel, Scott Yager, told Agri-Pulse "it went really well," contending the questions asked by both liberal and conservative members of the high court is "pointing to us winning this issue." If the justices are unanimous in their opinion, then the decision could come down in a matter of weeks, Yager said. If not, it would likely be January or February before a decision is known.

FDA Begins Ag Biotech 'Outreach' to Consumers

FDA announced this week it will hold two meetings – in Charlotte, North Carolina, and San Francisco – to kick off its Agricultural Biotechnology Education & Outreach Initiative. Congress gave the agency \$3 million to partner with USDA to teach the public about ag biotechnology and the benefits of food and animal feed derived from the technology.

The Charlotte meeting will be held November 7, from 8 a.m. to 1 p.m., at the Omni Charlotte Hotel, 132 East Trade Street. The San Francisco meeting will be held November 14, from 8 a.m. to 1 p.m., at the San Francisco Marriott Marquis Hotel, 780 Mission Street.

These first meetings will provide the public with “an opportunity to share information, experiences and suggestions” to help inform the development of the education program.

Webcasts will be provided for those who cannot attend. General questions about the meeting can be directed to Juanita Yates at juanita.yates@FDA.hhs.gov. To register for the meetings by email, mail or fax, contact Simone Katz at 240-449-8427 or simone.katz@strategic.results.com.