State Association Weekly Washington Report 2.16.18

Trump Drops FY2019 Budget, Ag Cuts Draw Fire

Even though presidential budget recommendations are considered dead on arrival when they hit Capitol Hill – appropriators don't like being told how to spend federal money so a president's budget reflects more policy preferences than prospects – the White House $4.4-trillion FY2019 budget released this week drew bipartisan criticism. Trump's "bold vision" takes dead aim at slashing major ag programs and it isn't sitting well with national agriculture groups.

Based on the cuts to subsidy programs, crop insurance, food stamps, trade promotion and other **USDA** programs, as well as calls for user fees for various ag-related programs, House and Senate agriculture leadership on both sides of the aisle say they're not taking the Trump recommendations seriously.

Farm groups called the Trump budget everything from "unwarranted and unwise" to "the most caustic, anti-farmer budget request we've seen in many years" to "a clear misalignment of the government's priorities compared to the actual needs of the American public" to "it's harmful and short-sighted and should be rejected by Congress."

House Agriculture Committee Chair Mike Conaway (R, TX) and Senate Agriculture Committee Chair Pat Roberts (R, KS) released a joint statement reiterating their commitment to writing a solid 2018 Farm Bill. "As chairmen of the agriculture committees, the task at hand is produce a farm bill for the benefit of farmers, ranchers, consumers and other stakeholders. This budget, as with every other president's budget before, will not prevent us from doing that job." Senate ag panel ranking member Sen. Debbie Stabenow (D, MI) said the budget numbers released this week "are out of touch with our farmers, families and rural communities. The proposed cuts to both the USDA and the Farm Bill would hurt American agriculture, neglect rural businesses and leave families and seniors behind."

FDA would get $5.8 billion under the Trump recommendations, with half coming from federal spending and the rest from user fees, bringing the agency an increase of $473 million. However, spending on the food and feed programs at the agency would be flat. Implementation of the Food Safety Modernization Act (FSMA) would get about $1 billion, in line with current spending.

Spending at **EPA** takes another major hit from the White House budget, with a recommended 26% cut in spending from FY2017. The administration says this is in line with the agency's goal of downsizing and shifting more program responsibilities to the states, even as agency spending on key state grants to enable them to take on more enforcement would be cut 16% to about $2.9 billion. Direct funding to state and local agencies would be cut 34% to about $152 million. The number of EPA employees would shrink by more than 3,000 if Trump's budget was enacted. The U.S. Army **Corps of Engineers** would see a 22% cut in spending to about $4.8 billion.

At the Commodity Futures Trading Commission **(CFTC)**, the White House would increase spending, but with a user fee hook that doesn't sit well with Roberts. The Trump budget recommends FY2019 spending at $281 million, or about $31.5 million more than the commission's flat budget number of FY2017. However, the White House envisions that increase coming through new user fee authority, and while CFTC Chair Chris Giancarlo wants more program money, he's not signed off on the user fee idea. At a hearing this week, Roberts told Giancarlo the user fee authority means "a tax on farmers and ranchers and I'm not happy with that."

The White House wants to see cuts at USDA that would bring in FY2019 funding at about 16% under FY2017 levels, recommending the ag department be allocated about $19 billion in the base budget, plus about $192 million expected as a result of the new budget deal signed last week.

Trump says his plan, while saving $22 billion over a decade, will "maintain a strong safety net for farmers, while achieving savings by eliminating subsidies to higher income farmers, reducing overly generous crop insurance subsidies to producers and companies, and by eliminating some programs that have no federal purpose."

Major income support programs would take a $26-billion hit over 10 years under the Trump plan, part of a $47-billion cut in USDA spending that includes cuts to federal crop insurance – premium subsidies would slide from 62% to 48%, with corporate "underwriting gains" capped at 12% -- as well as "means testing" various program benefit recipients who have adjusted gross annual incomes of more than $500,000.

Trump wants to bump Conservation Reserve Program (CRP) participation acres, but limit enrollment to whole farm fields, save for grasslands; end signing and practice incentive payments, and cap CRP payments at 80% of local rental rates. The Livestock Forage Program (LFP) would disappear under the Trump budget, saving $4.5 billion over a decade. Conservation spending would be cut another $14 billion over 10 years by eliminating the Conservation Stewardship Program (CSP), and by ending the $12-billion Regional Conservation Partnership Program.

Grain Inspection, Packers & Stockyards Administration (GIPSA) funding would be set at $102.9 million, compared with $97.9 million in FY2017. The Economic Research Service (ERS) would take a 50% budget cut, with ag research would be funded at about $1 billion or $300 million less than currently budgeted. Funding for the Agriculture & Food Research Initiative (AFRI) would stay at $375 million.

President Rolls Out Long-Awaited $1.5-Trillion Infrastructure Initiative

On the heels of his federal tax reform victory, President Trump finally this week rolled out his $1.5-trillion, 10-year infrastructure investment plan, an initiative to build or repair highways, bridges, waterways, rails, airports and urban commuter systems. However, both Republicans and Democrats were less than impressed with plan details or the lack thereof.

"We will build gleaming new roads, bridges, highways, railways and waterways all across our land," Trump said. "And we will do it with American heart and American hands and American grit." The plan also calls for eliminating permit barriers and waiting times, as well as other regulatory impediments "that needlessly get in the way." However, how these projects will be paid for and by whom remains up in the air.

The president publicly resurrected the notion of increasing the federal gasoline tax to help pay for the projects during a bipartisan meeting with lawmakers to talk about infrastructure this week. Trump proposed a 25-cent-a-gallon hike, stunning his own party which has come out against increasing the gas tax. Some said the president's idea is inspired by a call for gas tax increase put out by the U.S. Chamber of Commerce, which said the 25 cents should be spread out over five years. The Department of Transportation, however, said the administration has no official policy on a gas tax increase.

While this week Trump asked Congress for just $200 billion to get the infrastructure ball rolling, the $1.5-trillion price tag continues to worry fiscal conservatives, particularly on the Republican side of the House. For the Democrats, Rep. Pete DeFazio (D, OR), ranking member of the House Transportation & Infrastructure Committee, said in a statement, "This is not a real infrastructure plan – it's simply a scam, an attempt by the administration to privatize critical government functions, and create windfalls for their buddies on Wall Street."

Trump wants Congress to initially authorize and appropriate $200 billion "to spur at least $1.5 trillion in infrastructure investments with partners at the state, local, tribal and private level," the White House said. A major focus will be $50 billion in new investment in rural regions "which has been left behind too long," with "decision-making authority" returned to state and local governments. The spending authority would be given to state governors to spend on priority projects within their states, with some of the money going to "rural performance grants."

Agriculture Secretary Sonny Perdue praised the overall initiative and the dedication of 25% of the funding to rural needs. "No area of the country needs investment in infrastructure more than rural America…states will have the ability to expand broadband access, increase connectivity, rebuild roads and supply affordable utilities. Importantly, states will have the flexibility to choose which projects will best meet their unique needs," Perdue said in a statement.

However, at a separate White House meeting this week on the infrastructure plan, governors and big city mayors made it clear they still want to see broadband money dedicated to that effort so other projects don't overwhelm the federal checkbook. In a separate move, the National Rural Electric Cooperatives Assn. said the federal government should dedicate $2.5 billion to broadband expansion.

$100 billion of the new spending will fund an "Incentives Program" that is supposed to draw additional dedicated funding, and "making federal funding conditional on projects meeting agreed-upon milestones." Another $20 billion will fund the "Transformative Projects Program" to focus on "bold and innovative" projects that may not attract private financing interest, but would benefit state and cities because of the "unique characteristics."

As part of Trump's priority on making the federal project permitting process more efficient – he wants any permit disposed of in two years – lead agencies would be required to complete National Environmental Policy Act (NEPA) reviews within 21 months, and to finalize permits with 90 days of those reviews being completed. As part of that effort, the White House Council on Environmental Quality (CEQ) would be required to update its NEPA regulations.

At the same time, lead agencies would be required to conduct single reviews rather than separating NEPA documents. Private dollars could underwrite NEPA reviews with "appropriate controls for potential conflicts of interest." Section 309 of the Clean Air Act (CAA) would be eliminated, so EPA would no longer be required to review, rate and comment on other agency Environmental Impact Statements (EIS). Limit agencies' comments on other reviews to "their areas of competency and expertise."

Hatch Joins Sec. 199A Fix Effort

Sen. Orrin Hatch (R, UT), chair of the Senate Finance Committee which controls all things tax, has joined the effort to fix the Sec. 199A mistake in last December's tax reform law, a flaw that skews grain marketing away from private companies and elevators to cooperatives.

This week, Rep. David Young (R, IA) and Rep. Rick Crawford (R, AR) circulated a letter for colleagues to sign, urging congressional leadership to prioritize the Sec. 199A repair. The flaw in the new tax law "unfairly distorts the marketplace with the potential to reduce competition, directly harm small and independent businesses and increase consolidation in the agriculture industry."

The National Council of Farmer Cooperatives (NCFC) says it has concerns with some of the proposed solutions due to the "unintended consequences of disadvantaging farmer co-ops in the marketplace." NCFC says it's offered two proposed solutions, but said 10 days ago "our understanding is that they are not yet acceptable to the other side." The National Grain & Feed Assn. (NGFA), reiterating its commitment to finding a fix, told AgriPulse that "considerable progress has been made during the last several weeks…toward reaching an equitable solution."

Hatch said he's committed to finding a solution and shepherding it through the system. He's working with Sens. Chuck Grassley (R, IA) and John Thune (R, SD), and ag committee chair Sen. Pat Roberts (R, KS). House Ways & Means Committee Chair Kevin Brady (R, TX) is also now involved in trying to broker a deal on the provision.

Senate Immigration Effort Fails; House Effort Gets Mounting Opposition

Senate Majority Leader Mitch McConnell (R, KY) was good to his word, spending nearly the entire week on an open immigration reform effort. When the dust settled, four bills of various political stripes, including one by Sen. Charles Grassley (R, IA) endorsed by President Trump, were brought up and four bills failed.

At the same time, a so-called "hardline" immigration reform measure put forward by Rep. Bob Goodlatte (R, VA), chair of the Judiciary Committee, is accumulating opposition. Goodlatte's bill will cut legal immigration by 38% in 2019, says the Cato Institute in Washington, DC, a self-described "libertarian" think tank. The bill also authorizes border wall construction, and makes changes to the new H-2C visa provisions, including giving farmers up to a year to certify their current workers under the new system.

This week the Coalition for the American Dream, which counts technology companies and industry associations among its members, wrote to Goodlatte saying it opposes his bill. The group said the "solution" provided by Goodlatte's bill is inadequate and threatens economic growth. The coalition wants to see a more comprehensive immigration reform approach.

Meanwhile, the push is on, however, to find an immigration bill that can survive the Senate process. None of the bills brought to the floor this week managed to muster 60 votes to invoke cloture.

Congress is up against an early March deadline to authorize a new Deferred Action for Childhood Arrivals (DACA) program to legally protect as many as 1.6 million workers who were brought into the U.S. illegally as minor children.

The failed Grassley measure embodied the four "pillars" of Trump's immigration proposal, including a path to citizenship for all DACA eligible workers, an end to the visa lottery system, an end to so-called "chain immigration," and building a $25-billion wall along the southern U.S. boarder. The move to a final vote on Grassley's bill received just 39 votes, the least of all bills considered.

Bill, Endorsed by 20-Plus Senators, Exempts Farmers, Ranchers from CERCLA Manure Regulation

Legislation to effectively block EPA from regulating manure emissions from farms and ranchers under the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) was introduced this week by a group of more than 20 Senators.

Led by Sen. Deb Fischer (R, NE) and Sen. Joe Donnelly (D, IN), the bill enjoys 10 GOP cosponsors, including Agriculture Committee Chair Pat Roberts (R, KS), and 10 Democrat cosponsors. The bill also affirms the exemption from registered pesticide emissions reporting enjoyed by farmers and already on the books. A hearing in the Senate Environment & Public Works Committee on the bill is set for later this month.

The bill says farmers and ranchers are not subject to CERCLA emissions reporting. Recent federal court actions delayed a shift until May 1, in the long-held EPA stance that farms and ranchers did not fall under CERCLA requirements. The CERCLA requirements, if left standing, would impact every ranch with 200 head of cattle or more, or any pig farm with two swine finishing barns, Roberts aid.

Farmers who tried to comply with the new requirement last fall found a system overwhelmed with the number of reports producers were trying to file.

"The farms and ranches producing our food and fiber should not be regulated as toxic Superfund sites," said the National Association of State Departments of Agriculture (NASDA). The National Cattlemen's Beef Assn. (NCBA), the National Pork Producers Council (NPPC) and the National Milk Producers Federation (NMPF) are "thrilled" with the legislation.

RFS Reforms to be Blocked if Tied to Refinery Bankruptcies

Any legislative attempt to "reform" the Renewable Fuel Standard (RFS) based on allegations the federal fuel blending program is responsible for oil refinery bankruptcies will be blocked by the Renewable Fuel Assn. (RFA) and is members, the group's president said this week.

Bob Dinneen, in talking about the recent bankruptcy of a Philadelphia oil refinery at RFA's annual conference, called the company "the current poster child for the supposed economic harm" laid at the feet of the RFS. The company's financial problems had little to do with ethanol, he said, saying the refinery had old technology and was "captive to more expensive Brent crude oil imports," as well as being victimized by the end to the oil export ban.

Philadelphia Energy Solutions (PES), which filed for bankruptcy on January 22, called Dinneen's statements, and those made by others, "false and misleading."

"PES consistently blends as much ethanol and other biofuels as it customers will allow," the company said in a joint statement with United Steelworkers International. "We simply want to correct the flawed and indefensible Renewable Identification Number (RIN) compliance mechanism that is destroying the independent merchant refining industry."

CFTC to Conduct Another RIN Study, This Time for USDA

After having conducted a study of the Renewable Identification Number (RIN) market for EPA – during which it found no evidence of fraud – the Commodity Futures Trading Commission (CFTC) this week said it's begun a similar effort for USDA, this time reviewing concerns over speculation in the RIN marketplace.

The USDA project comes at the request of Agriculture Secretary Sonny Perdue, and stems at least in part from the ongoing hold on the nomination of former Iowa Agriculture Secretary Bill Northey by Sen. Ted Cruz (R, TX), who contends RIN markets are the root cause of financial troubles and possible bankruptcies in the petroleum industry.

CFTC Chair Chris Giancarlo told the Senate Agriculture Committee the EPA study yielded data which is not of sufficient quality to meet USDA's goals, and couldn't be used to rate market fairness.

FTC Chair Nominee Says He'll Be Diligent on Ag Mergers, Executive Practices

Joseph Simons, President Trump's pick to head the Federal Trade Commission (FTC), said this week that if confirmed, he'll review recent agricultural mergers to ensure the agency did its job correctly, while pledging to go after companies which illegally compete.

During his confirmation hearing before the Senate Commerce Committee, Simons, an anti-trust attorney, said consolidation in agriculture could be the result of less than competitive behavior by some company executives.

"We look at those, too…we would hopefully be able to get an injunction to prohibit those anticompetitive practices, and maybe that would make the market more competitive going forward," he said in response to a question by Sen. John Tester (D, MT). Tester has asked all FTC nominees if they see consolidation in agriculture as a problem, particularly in the meat industry.

The FTC generally has jurisdiction in reviewing mergers involving chemical and other farm input companies.

Trade Notes

Trump Warms to "Reciprocal Tax" on Imports – President Trump this week seemed to be supportive of a so-called "reciprocal tax" on imports from countries charging a similar tax on U.S. goods. He said it could be another tool to address U.S. trade deficits with various nations. He contends other nations tax foreign trade at higher rates than the U.S., "and we're going to charge…those countries that take advantage of the U.S.; some of them are so-called allies, but they are not allies on trade." The White House didn't offer how such a tax would work, but economists cautioned such a tax hits consumers and makes U.S. companies less competitive. To impose such a tax, would mean nearly every treaty negotiated by the U.S. since World War II would have to be rewritten, said one trade expert.

If TPP Not "Dead," White House Should Follow Up – Over 100 national agriculture and food groups this week sent a letter to U.S. Trade Representative (USTR) Robert Lighthizer urging him to take President Trump at his word and begin negotiating trade deals with the individual 11 countries which are part of the Trans-Pacific Partnership (TPP), if not the full coalition itself. The president said last month, "We have agreements with several of them already. We should consider negotiating with the rest of them either individually or perhaps as a group if it in the interests of all." Trump also said he's open to revisiting TPP, from which the U.S. withdrew in early January, if the U.S. could negotiate a "better deal." "American food and agriculture producers and companies are facing significant barriers in these markets that could be addressed with improved rules and higher standards through reengagement with the TPP countries, wrote the Asia-Pacific Market Working Group of the U.S. Food & Agriculture Dialogue for Trade.

Mnuchin "Cautiously Hopeful" on USTR NAFTA Direction -- Treasury Secretary Steve Mnuchin this week told the House Ways & Means Committee during a budget hearing that he's "cautiously hopeful" U.S. Trade Representative Robert Lighthizer is focused on getting a renegotiated NAFTA 2.0 and not withdrawing the U.S. from the 23-year-old treaty. Meanwhile, Sen. Sherrod Brown (D, OH), a member of the Senate Agriculture Committee, said he'd step up to garner Democrat support for ratification of a new and improved NAFTA if the new treaty is beneficial to U.S. workers. Rep. Darin LaHood (R, IL) asked Mnuchin about NAFTA and said the current state of negotiations "causes me a lot of concern." "Our priority is to renegotiate the deal, and as I said, we are actively having discussions on this," Mnuchin said of NAFTA 2.0. Brown said he's told Trump, "If they do a bill that helps workers, I will deliver the Democrat votes on it," and he's confident Lighthizer is working on worker protections.

Amazon to Pay $1.2-Million Fine on Pesticide Sales

EPA said this week Amazon.com will pay $1.2 million in fines stemming from an alleged 4,000 violations of pesticide exposure laws based on its website sale of illegal pesticide products. The on-line retail giant will closely monitor and remove from its website illegal products, many of which were imported pesticide and insecticides not licensed in the U.S.

The illegal products were offered through its website by third party sellers, the company said. For itself, Amazon said regulatory compliance is a top priority and that third party sellers are required to comply with all relevant laws and regulations when posting products on the website.

Amazon immediately removed the products from its website, banned overseas sellers from selling pesticides and increased monitoring for illegal products. In addition, Amazon reimbursed customers over $130,000 on products purchased 2013-2016, and told customers to dispose of the illegal products.

ASA Names Findlay New CEO

Michigan native and former Syngenta executive Ryan Findlay has been named new chief executive officer of the American Soybean Assn. (ASA), replacing long-time ASA CEO Steve Censky, now serving as USDA deputy secretary. Findlay focused on "freedom-to-farm" issues while at Syngenta, and also worked for the Michigan Farm Bureau on farm bills, international trade, climate change and regulatory issues.