State Association Weekly Washington Report 11.9.17

House Ways & Means Approves GOP Tax Cut Plan; Senate Unveils its Version of Tax Code Fixes

GOP federal tax reform legislation was approved this week by the House Ways & Means Committee on a party line 24-16 vote. The Senate meanwhile, introduced its version of federal tax cuts and fixes, putting a bill out with major differences from its House counterpart.

The House committee action this week demonstrated Republican leadership maintains control of its tax reform effort despite media reports and press releases from both sides of the aisle opposing the plan for either not going far enough on fixing the federal tax code and benefitting the middle class, or going too far, benefitting only big business and too drastically increasing the federal deficit. This week's action clears the bill for the House floor, and Speaker Paul Ryan (R, WI) has said he wants to bring the bill up for a vote next week, but definitely before the Thanksgiving recess.

During four days of committee markup, Ways & Means Committee Chair Kevin Brady (R, TX) kept members under tight control. The expected partisan bickering, name calling and finger pointing was evident, but when the dust settled the only amendments approved to the manager's amendment – the committee chair's version of the bill – were those offered by Brady, and there were only two of changes. All Democrat amendments offered in committee failed on the same 24-16 party line vote.

While most agriculture groups are content with the House GOP bill – it continues immediate expensing, reduces the corporate rate, treats pass-through entities generally well, etc. – one development does not sit well with farmer-owned cooperatives. The House bill would repeal the Domestic Production Activities Deduction, known as Section 199, a move that frustrates the National Council of Farmer Cooperatives (NCFC). Section 199 deductions allow cooperatives to deduct the proceeds earned from products that are manufactured, produced, grown, or extracted and pass those deductions directly back to their farmer=-owners. Brady acknowledged the challenge on Section 199, promising to "protect" farmers during floor action.

On November 9, after all other amendments had been dispensed with, Brady offered his second and final amendment. That action made the bill more palatable to the conservative wing of the House GOP by preserving the adoption tax credit; a provision to help families with disabled children; action to maintain the tax deduction for military families for moving expenses; a new "low tax rate for small businesses" – 9% marginal rate for start-ups, down from the current 15% -- earning less than $75,000, as well as "refinements" to the new 20% corporate rate and the shift from an international tax system – taxing all earnings wherever earned – to a territorial system taxing income in the U.S. The summary of the second Brady amendment can be read here: https://waysandmeansforms.house.gov/uploadedfiles/summary_of_chairman_amendment_2.pdf.

Senate Tax Bill Surprises – As the House tax writing committee was finishing its work on tax cuts/reform, the Senate Finance Committee released its draft tax cut bill, surprising observers with some distinct differences from the House approach. Senate leadership immediately pledged to bring the bill to the floor the week after Thanksgiving. Committee Chair Orrin Hatch (R, UT) stressed the draft bill released this week will be majorly modified during committee markup next week and floor consideration.

While the Senate framework tracks that of the House version – cutting personal taxes – though it retains seven separate brackets, and reducing the corporate tax rate – two major differences in the Senate plan promise a spirited conference committee debate. First, the Senate's proposal would delay reducing the corporate rate to 20% until 2019 as a money saver, rather than immediately upon enactment as the House and President Trump strongly support; second, the Senate bill would kill off completely the deductibility of state and local taxes. The House bill allows some specific state and local tax (SALT) deductions on property taxes, but capped at $10,000. And while the House bill effectively repeals the federal estate tax after 2025, with higher exemptions; the Senate bill does not repeal the tax, does significantly increase individual and married couple exemptions.

House and Senate members from high-tax states confirmed a full repeal of SALT deductions would force significant numbers of Republicans to oppose the overall bill. The Senate bill does retain the current mortgage tax deduction threshold of $1 million, while the House bill cuts that kick-in amount to $500,000.

The Senate bill retains deductions and credits for medical expenses, student loan interest and other expense; the House bill does not.

The formula on how pass-through businesses are taxed is different in the Senate bill, a move praised by the National Federation of Independent Businesses (NFIB). The House this week also made NFIB happy when it modified its proposal to create the 9% marginal rate for the first $75,000 of income for a married "active" owner who earns less than $150,000. The Senate sets a 17.4% deduction for pass-through businesses, based on the Section 199 domestic manufacturing deduction. This lowers the effective tax rate for small business in the top tax bracket to 30%, and would apply to "domestic non-service pass-through income." The House sets a 25% rate for pass-through companies, but would only tax 30% of income at that rate, with the other 70% taxed as wages under the new rate. This would be a blended rate of about 35-38% when all the numbers are crunched.

Conservatives on both sides of Capitol Hill were disappointed neither bill carries language repealing the Obamacare mandate that individuals buy health insurance. Sen. Tom Cotton (R, AR) said killing the individual mandate would save more than $300 billion over 10 years.

Ag Pushes Back on Administration NAFTA Talk; Perdue Announces "Contingency" Plan for Pull-out

President Trump will find out what it's like to be on the receiving end of an angry agriculture if the "pull-out" rhetoric surrounding NAFTA renegotiations leads to a U.S. pull-out of the 23-year-old North American trade deal. The frustration over Trump's negative comments about NAFTA was exacerbated this week when Agriculture Secretary Sonny Perdue announced he's putting together a "contingency plan" should the U.S. government decide to walk away from the treaty as it did from the ag-supported Trans-Pacific Partnership (TPP) agreement.

Meanwhile, a new TV ad urging Trump to "keep NAFTA because NAFTA works" was unveiled by a coalition of NAFTA supporters and business groups, and was paid for by the Trade Leadership Coalition (TLC). The ad is set to run through November 21, in Iowa, South Dakota, Kansas, Missouri, Nebraska, Ohio, Texas, Michigan and Tennessee.

Perdue, considered the protector of U.S. agriculture when it comes to the treaty renegotiations, last weekend told an audience in California – after several farmers reminded the secretary of NAFTA's importance to their state's agriculture – he's reminded Trump of the importance of NAFTA to ag exports. But, he said, the president can be "very bombastic sometimes on things that he believes…but he also has the essence of a good leader who is willing to listen."

However, Perdue said this week that while he's sure NAFTA 2.0 will be successfully negotiated, he's working with the White House and Congress to craft a contingency plan to protect agriculture from the inevitable market impacts if the U.S. withdraws from NAFTA. "We're talking…about some mitigation efforts if that were to occur," Perdue said, acknowledging a pull-out could have "some tragic consequences." "(We're talking) about how we could protect our producers with a (farm) safety net based on prices that may respond negatively to any kind of NAFTA withdrawal." He told reporters "there'll be some nervous bumps in the meantime."

The fifth round of talks among Canada, Mexico and the U.S. are set for November 17 in Mexico City – the last scheduled talks of 2017 – with U.S. proposals to Canada to roll back over the next decade its protectionist supply/price protections for its domestic dairy industry. Mexico sides with the U.S. on the dairy issue, but Canada contends the most recent iteration of the U.S. position is worse than earlier proposals.

A major letter outlining how economically devastating to all aspects of U.S. agriculture a NAFTA pull-out would be was circulating for signatures in Washington, DC, late this week, and a similar letter to all 50 state governors is also in the works. Agriculture broadly fears it may have taken for granted White House support for a strong pro-trade policy, and there's growing frustration and a sense of betrayal that while some rank and file trade personnel in the administration understand what's at stake, that same messaging seems ignored by Trump.

Trump last week again said the U.S. must "get tougher" in renegotiating NAFTA – alluding to a move he's considering to send a formal notice to Capitol Hill of his intent to walk away from the treaty. Nearly 90 national food and agriculture groups sent a six-page letter to Secretary of Commerce Wilbur Ross stating such a move would "result in immediate harm to the general economy…(and) devastate the farm economy." The letter was a reaction to Ross's earlier statement that a U.S. withdrawal from NAFTA and "substantial damage" to U.S. agriculture is "an empty threat," with Ross reasoning that Mexico-Canada trade will simply find another buyer. Mexico said publicly if the White House sends a withdrawal notice to Congress, it will walk away from the negotiating table, putting pressure on Canada to do the same.

Meanwhile, House Agriculture Committee Chair Mike Conaway (R, TX) said congressional leadership is well aware of the devastating effects of a U.S. withdrawal from NAFTA, given Congress must approve any White House move to kill the treaty. He said most of leadership come from districts heavily reliant on trade, and he's making sure ag's voice is part of the discussion. Both Conaway and his committee ranking member Rep. Collin Peterson (D, MN), no big NAFTA fan, said Trump must not "screw up the good parts" of NAFTA during a meeting with industry this week. Conaway acknowledged, however, he's "very concerned" about NAFTA's future.

Said the aggie letter: "Contracts would be cancelled, sales would be lost, able competitors would rush to seize our export markets and litigation would abound even before withdrawal would take effect" if the White House notified Congress of an intent to withdraw from NAFTA. The overall economic impact would be a loss of "at least 50,000 jobs in the U.S. food and agriculture industry, and a drop in GDP of $13 billion in the farm sector alone," the group told Ross.

The letter included several sobering impacts on agriculture of a NAFTA withdrawal. Corn growers would likely see a production drop of 150million bushels a year, cutting $800 million in value, and jacking federal farm program payments by $1.2 billion. U.S. poultry producers export about 16% of total production to Canada, and nearly 70% of turkey exports move north of the border. U.S. exports of high fructose corn syrup to Mexico would drop by $500 million per year, the groups alleged, reporting also that since 1993, exports of U.S.-grown fruits and vegetables have more than tripled to $7.2 billion, accounting for 18% of fruit exports, and 60% of fresh vegetable exports. Beef exports to Canada and Mexico total $1.7 billion, or 27% of total U.S. exports, and dairy shipments to Mexico alone are over $1 billion.

In a television interview last week, Trump said, "I think the chances, ultimately, are good, but right I think my people are going to have to get tougher. And I told them that. I tell my people right now it's going to be very hard, and in my opinion, in order to make a fair deal with NAFTA, you have to terminate the deal and then you have to see where you're going to come, and we will come out."

Perdue said reminded those concerned it's still early in the process, but that a meeting he had last week with the U.S. Special Trade Representative (USTR) Robert Lighthizer and Ross confirmed "all three countries really want a deal at the end of the day."

For the Canadians and Mexicans, Trump's ongoing negative rhetoric surrounding the future of NAFTA forces them to wonder if the administration even wants a modernized trade treaty. One Canadian treaty negotiating veteran said it's unclear "what the game plan is here on the U.S. side." U.S. proposals that are non-starters, including a five-year sunset provision, restrictions on Canadian and Mexican access to U.S. contracts, dispute resolution, auto parts demands, not mention U.S. demands to undo the Canadian dairy pricing system, are "pretty obnoxious," said John Weekes, part of the Canadian team which negotiated the original treaty.

Loss of $2.6 billion, 46,000 Jobs if Grain Trade Disrupted

The gross domestic product would take a hit of almost $2.6 billion and more than 46,000 jobs would be affected if U.S. agriculture trade is interrupted, according to a study released this week by the U.S. Grains Council (USGC) and the National Corn Growers Assn. (NCGA).

U.S. farmers exported more than $19 billion worth of grain and grain products in 2015, according to the study done by Informa Economics. That total had a "ripple effect" of more than $55.5 billion in economic production when indirect benefits were taken into account. Corn exports had the biggest impact, totaling over $8.3 billion in 2015, and exporting underpinned 27,000 farm jobs and generated $836 million in salaries and wages. About $1.3 billion in direct GDP was produced by corn exports, and indirectly the sector supported 130,250 jobs, adding $10.3 billion in GDP.

Iowa, Nebraska, Kansas, Illinois and Texas were the top five grain exporting states, the study found. The most jobs were created in Indiana, Kansas, Texas, Iowa and Illinois.

Clovis Out, Northey Still Blocked, Vaden Gets Hearing, Doud Gets Caught by from Flake

With Dr. Sam Clovis, President Trump's nominee for USDA undersecretary for research, education and economics (REE), formally taking himself out of the running, Clovis is expected to remain as White House liaison to USDA. Meanwhile, Sen. Ted Cruz (R, TX) has not lifted his hold on the nomination of former

Iowa Ag Secretary Bill Northey to be undersecretary for farm production and conservation, and this week another GOP senator made life difficult when Sen. Jeff Flake (R, AZ) put a hold on Senate consideration of economist Gregg Doud to become Office of the U.S. Special Trade Representative (USTR) chief negotiator for agriculture.

In a related development, the Senate Agriculture Committee this week held the confirmation hearing for Stephen Vaden, the Trump pick for USDA general counsel. Vaden is a 2008 graduate of Yale Law School. Vaden has been serving as deputy general counsel since March, a position he took before Agriculture Secretary Sonny Perdue took office. Lawmakers challenged Vaden's former client lists from his days in private practice – some contend he defended state laws which restricted minority group voting access by trying to impose voter ID – and several labor unions oppose his nomination, including the American Federation of Government Employees.

The Clovis job, one he's held since Trump was inaugurated, frustrates some lawmakers who don't like the Iowa economist's views on climate change and other issues, but there's likely very little they can do about save make public noise.

The Northey hold is Cruz's strategy to get a "summit" with the White House to talk about the Renewable Fuel Standard (RFS). Cruz and eight other Senators formally asked Trump for a meeting after Trump acceded to demands from Sen. Charles Grassley (R, IA), Sen. Joni Ernst (R, IA) and others to not only publicly reaffirm White House support for the RFS, but to reject various petroleum industry petitions on RFS point of obligation and the Renewable Identification Number (RIN) markets.

Doud, head of the Commodity Markets Assn., and a former economist with the Senate Agriculture Committee and the National Cattlemen's Beef Assn. (NCBA), is caught in Flake's net as the lawmaker's way to get Trump's attention, as well as that of Commerce Department Secretary Wilbur Ross and USTR Robert Lighthizer, to oppose a U.S. NAFTA rewrite position that would allow southeastern U.S. produce growers to more easily file antidumping complaints against Mexico. Flake says the proposal will hurt western state growers, raise production costs and reduce consumer options. Flake asked Lighthizer to withdraw the produce proposal prior to the November 17 round of NAFTA negotiations.

Trump's Pick to Head Council on Environmental Quality Flips on RFS Opinion

A Texas rancher nominated by President Trump to eventually head the White House Council on Environmental Quality (CEQ) this week told the Senate Environment & Public Works Committee she no longer views federal ethanol policy as "counterproductive, outdated and ethically offensive," but rather now wholeheartedly subscribes to that policy and strongly supports the Renewable Fuel Standard (RFS).

Kathleen Hartnett White, once a senior policy staff member in the Washington, DC office of the National Cattlemen's Beef Assn. (NCBA), wrote a book that was at the center of Senators' questions about her views on climate and energy policy. "Fueling Freedom: Exposing the Mad War on Energy" detailed Hartnett White's previous skepticism about climate change, the RFS, ethanol policy and other energy and environmental issues.

She told Senators she didn't have the most current data, and that once it had been shared with her by the likes of Sen. Deb Fischer (R, NE) and Sen. Joni Ernst (R, IA), she'd reevaluated her opinions. However, both Fischer and Ernst, joined by Sen. Mike Rounds (R, SD), made it clear, some of Hartnett White's previous opinions and statements on the RFS are still troubling.

CEQ oversees White House policy on energy and the environment and it would be the chair's job to advise the president and implement presidential executive orders in those two areas.

Trump Announces U.S.-China Trade Deals Worth "Hundreds of Billions"

During President Trump's stopover in China during his 10-day tour of Asia, he and Department of Commerce Secretary Wilbur Ross announced this week the signing of "approximately a quarter of a trillion dollars in deals" between U.S. companies and Chinese operations.

Included in the list is a memo of understanding leading to two deals signed by ADM with COFCO Group to sell 4 million metric tons of soybeans valued at $1.6 billion. Also announced was a $3.4-billion deal between the U.S. Soybean Export Council (USSEC) and the China Chamber of Commerce for Import & Export of Foodstuffs, Native Produce & Animal Byproducts (CFNA).

Addressing the "imbalance in U.S.-China trade" is a major focus of Trump's talks in China with President Xi, a process begun in April when Xi visited Trump in Florida. The two presidents signed 15 of the most lucrative agreements during a ceremony at the Great Hall of the People in Beijing.

Among other agriculture-related deals inked this week are Caterpillar Inc. and the China Energy Investment Corp.; a deal for Dow Chemical Company, and Stine Seed China and Beijing W. Seed ($10 million). Listed as "non-delegation deals," were a contract between the Montana Stockgrowers and Jindong Century Trade Company worth $200 million, and a Smithfield Food Inc. deal with Jingdong worth $1 billion.

Trump White Moves to Tighten Reins on U.S.-Cuba Relations

Long-expected regulatory tightening on U.S.-Cuban business dealings was released this week by the Departments of Treasury and Commerce, a move by the Trump administration to ensure no U.S. dollars wind up in the hands of the Cuban military or the Castro government.

"We have strengthened our Cuba policies to channel economic activity away from the Cuban military," said Treasury Secretary Steven Mnuchin.

The new rules prohibit U.S. citizens from conducting financial transactions with anyone with ties to the Cuban government or military. There now exists a "Cuba Restricted List," issued by the State Department. Deals done before June 16, when Trump first announced his new policy, as well as U.S.-Cuba travel planned and paid for, will be honored, but no individual "people-to-people" travels is allowed.

Commerce said it won't grant licenses to export goods to any business or individual – or "subentity" – on the Cuba Restricted List, with a few exceptions.

Perdue Pulls Back Obama Proposed Action on Biotech Regulation

Former President Obama's notion of how to modernize federal biotechnology regulation is not the same as that held by the Trump administration, and this week Agriculture Secretary Sonny Perdue announced his intent to "withdraw and reevaluate" an Obama proposal on plant and animal biotechnology regulation.

“It’s critical that our regulatory requirements foster public confidence and empower American agriculture while also providing industry with an efficient and transparent review process that doesn’t restrict innovation,” Perdue said in announcing his action.

The Obama proposal, published January 19, drew a very wide and contradictory set of more than 950 comments from various groups, according to the Animal & Plant Health Inspection Service (APHIS) in its formal Federal Register notice this week.

“We know that this technology is evolving every day, and we need regulations and policies that are flexible and adaptable to these innovations,” Perdue said.

“Some thought our criteria for designating GE organisms as regulated organisms were too expansive, potentially resulting in our regulating a wider range of GE organisms than necessary and thereby increasing, rather than reducing, the regulatory burden for the biotechnology industry,” APHIS said. “Other commenters, however, thought that certain exemptions and exclusions contained in the proposed rule would effectively narrow the scope of our regulatory authority over GE organisms and increase the risk of the unintended presence of GE crop in organic and other non-GE crops.”

Praising the withdrawal were the National Association of Wheat Growers (NAWG), the National Corn Growers Assn. (NCGA), the American Seed Trade Assn. (ASTA), and as expected, the Biotechnology Innovation Organization (BIO). Most said the Obama proposal, which told agencies to cooperate to streamline biotech approvals, help small businesses and increase regulatory transparency, was redundant when it came to certain APHIS authorities, would have been difficult to set up and would have created greater industry uncertainty.

Pesticide Update

Study Show Half of U.S. Food Pesticide Residue Free – When tested, 98% of domestic and imported foods in the U.S. were found to be with allowable federal limits on pesticide residue, and of the samples taken, 49.8% were completely free of pesticide residue, according the annual report covering October 1, 2014-September 30, 2015, and released by FDA this week. Only 15 of 835 domestic samples from 39 states had pesticide residues in excess of legal limits, the report said, less than 2% of domestic foods tested, mostly fruits and vegetables. Of 4,737 samples from 111 countries, 444 or 9.3%, had violative pesticide residue levels, with over 90% generally testing well within legal limits.

EC Rejects Glyphosate License Extension; NCA says No Cancer Link – The tug-of-war over whether the world’s most widely used pesticide causes cancer continued this week with the European Commission rejecting a proposal to renew glyphosate’s license for five years, just as the U.S.’ National Cancer Institute (NCI) published its Agriculture Health Study showing no link between glyphosate exposure and cancer. The EC vote was taken by the Standing Committee on Plants, Animals, Food & Feed, and nine nations, led by France, voted “no” on the license extension. NCI’s report found “no statistically significant associations” with glyphosate and non-Hodgkin’s lymphoma in applicators from Iowa and North Carolina.

WHO Says “No” to Livestock/Poultry Antibiotics for Disease Prevention; USDA Scientist, Industry Scoff

The United Nation’s World Health Organization (WHO) this week called from production livestock and poultry operations to cease routinely using antibiotics to promote growth or prevent disease in healthy animals. USDA's chief scientist Dr. Chavonda Jacobs-Young says the WHO report on which it bases its conclusion "is not in alignment with U.S. policy and is not supported by sound science."

Jacobs-Young also said that while WHO recognizes the role of veterinarians in prudent on-farm antibiotic use, "the WHO guidelines...impose unnecessary and unrealistic constraints on their professional judgment."

Citing increasing antibiotic resistance by humans, WHO called the decreasing number of "medically important" human-use antibiotics "a security threat akin to a sudden and deadly disease outbreak." The agency called for "strong and sustained action across all sectors" …to "keep the world safe."

The Natural Resources Defense Council (NRDC) called the WHO recommendations "a game changer," and companies like Perdue Farms, which market "no antibiotics ever" when it comes to their chickens, also praised the report. The National Pork Producers Council (NPPC) however, said farmers and veterinarians have "a more obligation to their pigs," and that arbitrarily restricting antibiotic use "would be unethical and immoral, leading to animal suffering and possibly death."

"The recommendations erroneously conflate disease prevention with growth promotion in animals," Jacobs-Young said. "The WHO previously requested that the standards for on-farm antibiotic use in animals be update through transparent, consensus, science-based processes of CODEX. However, before the first meeting of CODEX was held, the WHO released these guidelines, which according to language in the guidelines are based on 'low-quality evidence,' and in some cases, 'very low-quality evidence."

The U.S. Codex Office's Intergovernmental Task for on Antimicrobial Resistance held a meeting this week, the latest in a year-long effort to update U.S. policy and guidance. On November 27, it will join with similar efforts among other nations at a meeting in Jeju, South Korea.

WHO reported some nations allow antibiotic use in agriculture for any purpose, and in some countries, approximately 80% of all antibiotic use is in animals. Further, if antibiotics are to be used for disease treatment, their selection should be preceded by testing to determine the most effective antibiotic to use.

The U.S. already prohibits the use of antibiotics in livestock and poultry feed and water for growth promotion or feed efficiency. However, prevention, treatment and control of disease are recognized legitimate uses of the products. They must be used under the direction of a veterinarian and only with a Veterinary Feed Directive (VFD).

Former House Ag Chair Goodlatte Joins Rush to House Exit

Former House Agriculture Committee Chair Rep. Bob Goodlatte (R, VA) announced he will not seek reelection when his 14th term ends in 2018. Now chair of the Judiciary Committee, Goodlatte said his retirement is a "natural stepping-off point." Goodlatte said he hopes to complete his rewrite of the federal H-2A visa program guest agricultural workers before departing.