



# California Association of Wheat Growers

## Newsletter

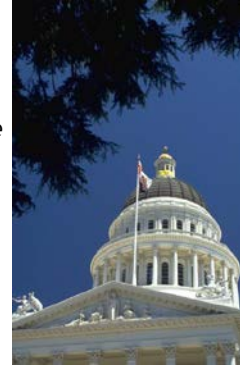
March 31, 2017

Thank you for your commitment to  
the future of agriculture and our membership.

### California Legislative Update

*By Dennis Albiani, Legislative Advocate*

#### Governor Brown and Legislative Leaders Announce Gas and Diesel Tax Increase



Gov. Jerry Brown and Democratic legislative leaders announced a **\$5.2 billion road-funding package** Wednesday that would raise gas taxes and user fees on motorists, setting off a major political struggle to pass it in the Legislature. The legislative leaders have announced the Assembly will vote on the package on Wednesday night while the Senate will vote on Thursday April 6.

The package would raise gas and diesel excise taxes. For the gas tax, the base excise tax of 18 cents would increase to 30 cents on Nov. 1. In addition, the plan would set the variable gas excise tax at 17.3 cents a gallon starting July 1, 2019, and adjust it for inflation. The current variable rate is 9.8 cents, a rate set to increase to 11.7 cents July 1. Also, the package would create several tiers of "transportation improvement" charges linked to vehicle values beginning on Jan. 1, 2018. Those with vehicles worth up to \$4,999 would pay \$25, for example, while those with a vehicle worth \$60,000 and up would pay \$175.

The package will significantly increase the gas and diesel taxes and could impact the costs for on road farm and ag processors use. It is reported that the proposal will retain the exemption for off road diesel used on farm and to transport to first point of processing. According to the Governor's office the transportation deal includes the following expenditures and tax increases.

- \$7.3 billion by increasing diesel excise tax 20 cents
- \$3.5 billion by increasing diesel sales tax to 5.75 percent
- \$24.4 billion by increasing gasoline excise tax 12 cents

- \$16.3 billion from an annual transportation improvement fee based on a vehicle's value
- \$200 million from an annual \$100 Zero Emission Vehicle fee commencing in 2020.
- \$706 million in General Fund loan repayments.

Fix Local Streets and Transportation Infrastructure (50 percent):

- \$15 billion in "Fix-It-First" local road repairs, including fixing potholes
- \$7.5 billion to improve local public transportation
- \$2 billion to support local "self-help" communities that are making their own investments in transportation improvements
- \$1 billion to improve infrastructure that promotes walking and bicycling
- \$825 million for the State Transportation Improvement Program local contribution
- \$250 million in local transportation planning grants.

Fix State Highways and Transportation Infrastructure (50 percent):

1. \$15 billion in "Fix-it-First" highway repairs, including smoother pavement
2. \$4 billion in bridge and culvert repairs
3. \$3 billion to improve trade corridors
4. \$2.5 billion to reduce congestion on major commute corridors
5. \$1.4 billion in other transportation investments, including \$275 million for highway and intercity-transit improvements.

Below is a link to SB 1 legislation and the Governor's press announcement.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB1](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1)

<https://www.gov.ca.gov/home.php>

### **Neonics Labeling Bill Moves Out of Committee**

Legislation that would require retail labeling of neonicotinoids and bans their non-commercial use **passed out of Senate Environmental Quality Committee** this week on a 5-2 party line vote.

Specifically the bill requires, on and after July 1, 2018, labeling of commercially available seeds and plants sold at retail establishments, excluding noxious weed seeds and plants, that have been treated with a neonicotinoid pesticide. Defines "neonicotinoid" as imidacloprid, nithiazine, acetamiprid, clothianidin, dinotefuran, thiacloprid, thiamethoxam, or any other chemical designated by DPR as belonging to the neonicotinoid class of chemicals and prohibits the use of noncommercial neonicotinoids in California as of January 1, 2019.

The bill will now head to the Senate floor where it will be eligible for consideration next week. It will then be sent to the Assembly where it will be referred to appropriate committees. There is a large coalition of agricultural entities currently opposing the legislation but working on amendments to present to the author.

## **Federal Policy Update**

### **Perdue Gets Committee Approval, Gillibrand Won't Support, Floor Vote Remains Elusive**

Former Georgia Gov. Sonny Perdue, President Trump's nominee to be secretary of agriculture, sailed through his confirmation hearing last week, and this week his nomination was just as easily approved by the full Senate Agriculture Committee on a voice vote taken just off the Senate floor during regular business. However, when the full Senate will vote on Perdue's nomination and why committee member Sen. Kirsten Gillibrand (D, NY) decided to vocally oppose Perdue during the voice voting process is still unclear.



The final Perdue vote could come at any time next week if Democrats cooperate, but most floor time is expected to be taken up by the tough, partisan debate over the nomination of Judge Neil Gorsuch to replace the late Justice Antonin Scalia on the U.S. Supreme Court. Senate Majority Leader Mitch McConnell (R, KY) all but guaranteed this week Gorsuch will be confirmed by April 7, after which the Senate recesses for a two-week spring/Easter break. "We are optimistic that Democrats will not be successful in keeping a good man from joining the Supreme Court real soon," McConnell said.

Insiders speculate McConnell is willing to use the so-called "nuclear option" to ram the Gorsuch vote through the process by changing Senate floor rules with a simple majority vote. In this case McConnell aims at shifting the rules governing filibusters, used to prolong debate and block final votes. Currently a filibuster is ended with a 60-vote "supermajority," but McConnell could use his 52-vote GOP majority, change the rule so that filibusters are ended with a simple 51-vote majority vote which invokes cloture - an end to floor debate - and moves the Senate to approve or reject the Gorsuch nomination, again by a simple majority vote.

According to reports, Gillibrand's outspoken opposition to Perdue's committee approval was a surprise to most on the ag committee, including panel Chair Pat Roberts (R, KS), who had hoped for a unanimous vote. Gillibrand's 11th-hour concerns were also surprising given committee ranking member Sen. Debbie Stabenow (D, MI) publicly announced her support and intent to vote for Perdue following his confirmation hearing, and Gillibrand said nothing specific to her concerns during Perdue's hearing.

Gillibrand, Senate partner to Minority Leader Chuck Schumer (D, NY), said in a statement after the successful voice vote she was "worried about his record on nutrition assistance," alleging while Perdue was governor, "many families in his state did not have access to the assistance they needed." She also later referenced

concerns about requiring employment to qualify for food stamps. She said food stamps is a big issue in New York, and one of the main reasons she's on the ag committee. The statement was surprising to some because Gillibrand asked Perdue during his confirmation hearing if he supported federal food stamps. Perdue said he did.

If Gillibrand votes against Perdue on the floor, it will be the first time since 1986 that an agriculture secretary nominee has not received a unanimous Senate vote. In that year, former Secretary Richard Lyng's nomination received two "nay votes," according to reports,

### **Senate HELP Panel Narrowly Approves Acosta Nomination for Labor Secretary**

Law school dean R. Alexander Acosta, President Trump's nominee to be secretary of labor, saw his nomination this week approved by the Senate Health, Education, Labor & Pensions (HELP) Committee on a narrow 12-11 party line vote. Acosta got the labor secretary nod when Trump's original pick, fast food executive Andrew Puzder withdrew his name from consideration.

Acosta, a Cuban American former Justice Department civil rights division lawyer, and a former member of the National Labor Relations Board (NLRB), has been dean of Florida International University law school since 2009.

Democrats, led by committee ranking member Sen. Patty Murray (D, WA), said they opposed Acosta's nomination because he hasn't demonstrated a willingness to push back on Trump administration labor policies. Questions about workplace rules asked during his confirmation hearing, Murray said, were evaded, and Acosta wouldn't give his opinion on Obama administration labor rules on overtime pay, new requirements on retirement advisors and worker protection rules.

Committee Chair Lamar Alexander (R, TN) called Acosta' career "impressive," and said, "We're fortunate to have a presidential nominee...who understands how a good-paying job is critical to helping workers realize the American dream. He's been confirmed by the Senate three times, and I expect we'll confirm him a fourth."

With Acosta's committee approval, and agriculture committee near-unanimous endorsement of former Georgia Gov. Sonny Perdue's nomination to be secretary of agriculture, only the nomination of Robert Lighthizer to be U.S. Special Trade Representative (USTR) needs committee approval.

### **House Ag Subcommittee Talks ARC, PLC**

National farm groups of both political stripes joined with program crop producer organizations this week in telling a House Agriculture Committee subcommittee during a hearing on the 2018 Farm Bill they want to see both the Agriculture Risk Program (ARC) and the Price Loss Coverage (PLC) income support programs retained. The

groups said they want the programs "made more effective and fairer to all farmers," but stopped short on providing specific recommendations on how to hit that mark.

The American Farm Bureau Federation (AFBF), National Farmers Union (NFU), and the commodity groups representing soybeans, corn, canola, barley, wheat and sunflowers, also told the subcommittee PLC and ARC should be programmed off base acres, not planted acres. Cotton, peanuts and rice groups also worked with the commodity crowd, but don't yet have policy supporting the joint statement.

Most of the discussion centered on recommendations for broad changes, but hedged by witnesses who said "options are under study." General concerns centered on disparities in county payments, a need for a new method of providing yield data, moving up the ARC payment dates to the same fiscal year in which the crop is grown, increases in the PLC reference price to reflect the cost production, etc.

ARC and PLC cost the federal government \$7.8 billion for the 2015 crop year, one reason why the conservative think tank the Heritage Foundation wants to see both programs repealed. Heritage says PLC and ARC "insulate farmers from market forces by guaranteeing against lower-than-expected revenue and against price changes, going way beyond any concept of a safety net."

Farm bill hearings scheduled for next week include a second run on April 4, at how commodity programs are working before the Subcommittee on General Commodities & Risk Management; an April 4 hearing before the Subcommittee on Commodity Exchanges, Energy & Credit to look at farm bill credit programs, and the rescheduled April 5 hearing before the full committee on "agriculture and tax reform opportunities for rural America."

## **EPA Items**

Science Underlying EPA Decisions Needs Public Disclosure: House - A bill that would require EPA to make available to the public all science and data underlying human health and environmental regulatory decisions was approved this week by the full House on a 228-194 vote. "The days of 'trust me' science are over," said Rep. Lamar Smith (R, TX), chair of the Science, Space & Technology Committee. Opponents of the bill argued on the floor the requirement will impede EPA's ability to do research based on confidential medical information, and risks privacy violations by exposing personal patient data. The bill now heads to the Senate.

**EPA Rejects Enviro Petition on Chlorpyrifos Dangers; Lawsuit Likely** - Saying that despite several years of study the science of the issue is "unresolved," EPA this week rejected a petition by environmental groups demanding the agency ban the pesticide chlorpyrifos. The agency said it will take up questions raised by the petition - including allegations of neurotoxicity in children - in a broader review of the chemical set to be completed in 2022, but that the petition, supported by the Obama EPA, moved the agency outside the rules set by Congress for such chemical reviews. "Because that process was breached, we said 'no;' we denied the petition. Process is going to be respected," said Scott Pruitt, agency administrator,

adding the action is part of the new direction of the agency, namely to restore the rulemaking process "to its rightful place, and work with the states." The Natural Resources Defense Council (NRDC) and the Pesticide Action Network (PAN), which filed the petition, say they'll return to federal court to force the agency to ban the chemical's uses, arguing the law requires the agency to take extra precautions with the safety of children when it permits pesticides. "The court said the time for study is over," said Earthjustice attorneys.

**CAFO FOIA Information Release Deal Finalized** - EPA and agriculture groups have reached a formal agreement on how much information related to regulated farming and ranching can be released under the Freedom of Information Act (FOIA). The agreement, approved by a federal judge this week, was signed by the American Farm Bureau Federation (AFBF) and the National Pork Producers Council (NPPC). EPA agreed only the city, county and zip code of a concentrated animal feeding operation (CAFO) in certain states included in FOIA requests will be released, as well as the status of permits under the Clean Water Act (CWA). The settlement brings to a close litigation brought by AFBF and NPPC back in 2013, when extensive personal information on more than 100,000 producers in 29 states was released to activist groups by the agency in response to an FOIA request by activist groups. The agency was set to release information on farmers and ranchers in six more states when the producer groups sued to stop the action, arguing the releases are a violation of producers' right to privacy and potentially exposed producers to activist violence. The U.S. Court of Appeals for the 8th Circuit sided with the farmers last September.

**WOTUS Reverse Set for Late 2017; Keep Federal Case Moving, says AFBF** - While the White House predicts EPA's new "waters of the U.S. (WOTUS)" rulemaking - replacing the current rule blocked by a federal court - will be on track by the end of the year, the American Farm Bureau Federation (AFBF) and other plaintiffs want their original WOTUS legal challenge to be heard by the U.S. Supreme Court. Critics of EPA's aggressive rulemaking timeline say it's optimistic at best, and if held to could put the new rulemaking at risk of court challenge down the road. Administrator Scott Pruitt told staff he wants to see an initial draft rewrite by the summer, according to reports, a schedule one report called "mind-boggling." As for the Supreme Court challenge to WOTUS, the Department of Justice (DOJ) has asked the court to hold an abeyance briefings on the court action, predicated on whether challenges to the rule should be heard in federal district court or federal appeals court. The 6th District Court of Appeals said it should hear the cases, but the Supreme Court agreed with a petition filed by the National Association of Manufacturers (NAM) and will review the appeals court decision.

### **FDA Commissioner Nominee Gottlieb Gets April 5 Hearing after Submitting Finances Plan**

Dr. Scott Gottlieb, President Trump's nominee to head FDA, will appear before the Senate Health, Education, Labor & Pensions (HELP) Committee April 5, the committee announced this week.

The hearing was scheduled after Gottlieb, who's a consultant or board member to more than 20 drug companies since leaving the Bush Administration where he served as FDA

deputy commissioner for medical and scientific affairs, presented plans this week to the committee to recuse himself for one year from any agency decisions impacting those pharmaceutical firms. He will also immediately resign from boards and consultancies, divest holdings in those companies, and resign from an investment firm and a venture capital investment company, he told the committee.

While expected to be confirmed by the HELP Committee, Gottlieb's confirmation hearing will likely focus on his finances, as well as how he'll go about implementing the newly enacted 21st Century Cures Act, a new law designed to foster and protect technologies underlying drug and medical device development, disease treatments and cures, as well as the agency's ongoing implementation of the Food Safety Modernization Act (FSMA).

Gottlieb, a physician, also sits as a resident fellow at the American Enterprise Institute (AEI) where he's written extensively on drug and medical device issues.

### **Big Company Compliance Date on FSMA Transport Rule Set for April 6**

Large firms - companies with more than 500 employees - must be in compliance with FDA's sanitary transportation of human and animal food rule by April 6, the American Feed Industry Assn. (AFIA) reported this week. The rule is part of implementation of the Food Safety Modernization Act (FSMA).

The rule applies to shippers, receivers, loaders and carriers engaged in transport of human or animal food by motor or rail carrier in the U.S. Transport by air or ship is not covered by the rule. AFIA points out that carriers responsible for sanitary conditions under a written contract, must provide training to personnel engaged in transportation operations. That training must provide "awareness of the potential for food safety problems that could occur, basic sanitary practices to address potential problems and carrier responsibilities under the rule," AFIA reported to its members. FDA plans to develop an online course to help companies meet the training requirements.

### **Trade Notes**

**NAFTA Talks are Test for White House** - Whether its renegotiations or "tweaks" to the North American Free Trade Agreement (NAFTA), President Trump's actions and statements on NAFTA will have big impact on how successful the U.S. will be in other bilateral trade deals, Rep. Kevin Brady (R, TX), chair of the House Ways & Means Committee, told Politico this week. "Clearly the trade world will be micro-examining every comment related to NAFTA," Brady told the Capitol Hill newspaper. Brady acknowledged Trump is taking a whole new approach to trade than other presidents, but praised Secretary of Commerce Wilbur Ross and Peter Navarro, head of the White House National Trade Council, for seeking advice from Congress on what's working for the U.S. when it comes to NAFTA, what's not working, and how does the agreement need to change moving into the 21st century.

**Vietnam told U.S. Wants "Deeper" Trade Relations** - Federal trade negotiators say stronger and deeper trade ties between the U.S. and Vietnam would benefit both nations, even though the U.S. no longer involved in the Trans-Pacific Partnership (TPP). Following a two-day meeting in Hanoi, the U.S. Trade Representative's office said, "The U.S. urged Vietnam to promptly address bilateral issues, including those related to agriculture and food safety, intellectual property, digital trade, financial services, customs, industrial goods, transparency and good governance, as well as wildlife tracking." All of the areas are specific components of TPP. For its part, Vietnam let USTR know its actions to improve labor reforms, and "welcomed the resumption of talks and efforts to deepen bilateral trade ties."

## **National Association of Wheat Growers**

### **Wheat Farmers, Researchers Hit the Hill to Discuss Research Dollars**



Last week, members of the National Wheat Improvement Committee visited the Agricultural Research Service (ARS) and hit the Hill to talk with elected officials about the importance of federal investments into wheat research. NWIC is comprised of wheat farmers and wheat researchers from across the country, and we had 20 representatives in town reaching nearly 50 Congressional offices, including the House and Senate Agriculture Appropriations Subcommittee staffs as well as House and Senate Agriculture Committee staffs.

Congress is in the midst of completing work on a final FY 2017 spending bill and also starting the process of writing bills for FY 2018. The NWIC discussed funding needs for both bills, and emphasized the unique nature of wheat research being relatively dependent upon public investments. Of priority for the NWIC is to pursue fully authorized funding of \$10 million for the U.S. Wheat and Barley Scab Initiative, at least level funding or increases for the Hatch Act and Smith-Lever formula fund programs and the Agriculture and Food Research Initiative (AFRI) competitive grant program, additional funds for the Small Grains Genomic Initiative, additional funding for the ARS Wheat Regional Nursery Programs, and resources for researching the causes of low Falling Numbers (FN) and to develop a better and more consistent test for FN. We anticipate that the Agriculture Appropriations Subcommittees will soon be holding FY 2018 hearings to begin the process of writing those spending bills, and NWIC encourages growers to contact their Members of Congress to support these important programs.

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