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Solicitation of articles: All AALA members are invited to submit articles to the Update. Please include copies of decisions and legislation with the article. To avoid duplication of effort, please notify the Editor of your proposed article.

IN FUTURE ISSUES

- Notes on the Equal Access to Justice Act

Drake announces agreement with USDA Risk Management Agency to support state food policy councils

The Drake University Agricultural Law Center has entered a cooperative agreement with the U.S. Department of Agriculture to support the work of state food policy councils in four states. Professor Neil Hamilton, director of the center, will coordinate the project in cooperation with officials from the Risk Management Agency (RMA) of USDA….

Iowa Gov. Thomas Vilsack created the 21-member Iowa Food Policy Council in April 2000 and appointed Professor Hamilton to chair the effort. The goal of the council is to examine the operation of Iowa's food system and help identify how state and local governments can create opportunities for farmers and consumers.

In addition to the public members—which include farmers, retailers, distributors, hunger advocates and food processors—the Iowa Food Policy Council has representatives from major state agencies. One goal of the council is to expand the market for Iowa-grown food. The council played a key role in helping Iowa receive a $560,000 grant from USDA to provide law-income seniors with coupons to purchase Iowa-grown produce at farmers' markets across the state.

Under the agreement, USDA will provide $200,000 to help support the operation of food policy councils in Iowa, Connecticut, North Carolina, and Utah.

Under the new project, USDA funds will be used to hire staff to support existing councils in Iowa and Connecticut and to help the departments of agriculture in North Carolina and Utah create state food policy councils….

—Reprinted from the Iowa Food Policy Council News, Summer 2001, p. 3.

Editor's note: see accompanying article entitled "Q & A: State food policy councils."

Q & A: State food policy councils

What is a state food policy council?

- It is an officially sanctioned body made up of representatives from various segments of a state or local food system, as well as selected public officials, who are asked to examine the operation of a local food system, and provide ideas or recommendations for how it can be improved;
- It is an initiative which tries to engage representatives of all components of the food system—consumers, farmers, grocers, restaurateurs, food processors, distributors, anti-hunger advocates, educators, government officials—in a common discussion and examination of how the local food system works.

Why have one?

- To broaden the discussion of issues beyond simply agricultural production to involve a more comprehensive, food system wide examination;
- To provide an opportunity for a focused examination of how state and local government actions shape the food system;
- To create a forum in which people involved in all different parts of the food system—and government—can meet to learn more about what each one does and to consider how their actions impact other parts of the system.

What exactly is a food policy?

- A food policy is any decision made or not made by a government or institution: which shapes the type of foods used or available—as well as their cost, or which

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influences the opportunities for farmers and employees, or affects the food choices available to consumers.

Examples of food policies would include:

—the decision by school officials whether to purchase foods raised by local farmers;

—the eligibility standards for when low-income residents may participate in food assistance programs;

—the regulatory requirements placed on someone desiring to open a food-based business;

—and, the food purchasing decisions of institutional buyers as they relate to the use of locally produced items.

What can a food policy council do that is not already being done somewhere in government?

- A food policy council can bring to the table a broader array of interests and voices, many of which are not typically asked to be involved when farm and agricultural policy is discussed.
- A food policy council can examine issues, which often go unexamined, such as the effectiveness of food assistance programs and the causes of hunger in a society.
- A food policy council can employ a more comprehensive approach to analyzing issues, which recognizes the interrelation between different parts of the food system and the need for coordination and integration of actions if policy goals are to be achieved. For example, if a key objective is to increase markets for locally produced food, a council can be a vehicle to consider how the decisions at all levels of a food system—not just farmers or government officials—but also food buyers, wholesalers, retailers, must be considered in the equation.

Who has them and how did they come into existence?

Currently the states of Connecticut and Iowa have official state food policy councils, and North Carolina and Utah are in the process of creating them. The council in Connecticut emerged from efforts led by the non-profit Hartford Food System to examine the causes and solutions to hunger in the city. In Iowa, the council grew out of efforts to create more interest in using local food and from the need to diversify and expand Iowa's food system. The efforts in North Carolina and Utah are part of a cooperative effort between the USDA Risk Management Agency and the Drake University Agricultural law Center to examine how the creation of state food policy councils can improve the functioning of state food systems. In addition, efforts have begun in several other states, including Kentucky, Oklahoma, and Massachusetts, to implement such councils.

Who typically serves on a food policy council?

- Membership on a council is determined by the officials responsible for forming it. The goal is to have broad representation of the issues and interests of people and institutions across the food system. Typical representatives might include: farmers involved in direct marketing of food, consumers, anti-hunger advocates and food bank managers, labor representatives, members of the faith community, food processors, food wholesalers and distributors, food retailers and grocers, chefs and restaurant owners, officials from farm organizations, community gardeners, and academics involved in food policy and law. In addition, the state governmental officials involved with the council include representatives from the state departments of agriculture, economic development, inspections, education, human services, health, and transportation. State legislators and locally elected officials may also be involved.

How is a council created and administered?

- A council is typically created through some official government action, such as the passage of a law, the issuance of an executive order or a proclamation. A council can either be administered as an official part of the state government, or can be administered by a non-profit or educational institution as an advisory body. In Connecticut the non-profit Hartford Food System helps administer the council in cooperation with the state department of agriculture. In Iowa, the Agricultural Law Center at Drake University administers the council in cooperation with the Office of Governor. Funding for the operation of the council may come from private sources, foundation or government grant, or state appropriations.

What are some examples of actions food policy councils have taken?

The food policy idea can be employed at any level of government and there are a number of successful examples of local food policy councils, which operate at the city level. The most well-known examples are in Toronto, Los Angeles, and Hartford. The Community Food Security Coalition, a national organization of hunger and food policy advocates has been an effective advocate for increased attention to community food system issues, and through this work has helped support creation of local food policy councils.

How can I learn more about these issues?

You can learn more about community food security and the operation of food policy councils by going to these web sites: Toronto Food Policy Council –http://www.city.Toronto.on.ca/health/tfpc_index.htm; Community Food Security Coalition-http://www.foodsecurity.org/; Hartfood Food System—www.hartfordfood.org.

To learn more about the Iowa Food Policy Council, call the Agricultural Law Center at Drake University, 515-271-2065.

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House of Representatives passes 10-year farm bill

Anne Hazlett

On Friday, October 5, 2001, the House of Representatives passed a ten-year farm bill, H.R. 2646, by a vote of 291 to 120. Known as the "Farm Security Act of 2001," H.R. 2646 would replace the current Freedom to Farm framework, which expires in September of 2002. H.R. 2646 contains $73.5 billion over ten years in new money for agriculture and nutrition programs.

Passage of H.R. 2646 represents the culmination of over two years of work by the House Agriculture Committee. During the past two years, the Committee, under the leadership of Chairman Combest (R-TX) and ranking minority member Stenholm (D-TX), held more than forty hearings in every region of the country and on Capitol Hill during which producers, commodity groups, trade associations, and related interests delivered their "wish lists" for the future of farm policy. Over the summer, the Committee developed a farm bill proposal that was passed by a voice vote on July 27th after only fifteen hours of debate. This bill was then taken to the House Floor by Chairman Combest on October 3, 2001 where it was debated for several days.

The purpose of this article is to highlight the major provisions of H.R. 2646. It details aspects of the bill relating to commodity support, conservation, trade, nutrition, forestry, rural development, and research issues. It then discusses several factors that could determine the ultimate direction of the farm bill process.

Highlights of H.R. 2646

Commodity programs for wheat, cotton, rice, feed grains, and oilseeds

H.R. 2646 reauthorizes both the current fixed-rate payments, which are decoupled from production, and the marketing loan provisions. In addition, it re-establishes a target price system, which was abandoned in 1996, to provide counter-cyclical support based on market prices.

As to fixed payments, H.R. 2646 expands the current system of Agriculture Market Transition Act ("AMTA") payments to include soybeans and other oilseeds. Producers of oilseeds and other major program crops will receive fixed annual cash payments that are equal to the product of the payment rate, the payment acres, and the payment yield. Note that producers of these commodities need not have been enrolled in the AMTA program from the 1996 Farm Bill in order to be eligible for payments under the new bill. If they were not in AMTA, they must simply have grown one of the program crops between 1998 and 2001.

H.R. 2646 provides that fixed decoupled payments will be made no later than September 30th in fiscal years 2002 through 2011. Producers can receive up to 50 percent of the fixed payments anytime on or after December 1st of a fiscal year. Further, H.R. 2646 raises the payment limit on fixed decoupled payments from $40,000 to $50,000. It also maintains the current flexibility provisions, which allow producers to grow nearly any commodity on contract acreage except fruits and vegetables.

Beyond fixed payments, H.R. 2646 provides for counter-cyclical payments that will be made whenever the "effective price" for a covered commodity is less than an established target price. The legislation sets the target prices at slightly above those established in the 1990 Farm Bill. The effective price is defined as the sum of (1) the higher of the national average market price during the twelve-month marketing year for the commodity or the national average loan rate, and (2) the payment rate for the fixed decoupled payments of the commodity. The payment rate for the counter-cyclical payments is then the difference between the target price and the effective price for the commodity. Like the fixed decoupled payments, eligible producers are paid only on 85 percent of their base acres.

H.R. 2646 establishes a payment limit of $75,000 for counter-cyclical payments. In addition, it authorizes the Secretary of Agriculture ("Secretary") to make a partial payment of up to 40 percent of the projected counter-cyclical payment to producers six months into the marketing year for an eligible crop. Producers then must repay the amount, if any, by which the partial payment eventually exceeds the amount of counter-cyclical payment actually received.

In order to carry out both the fixed decoupled and counter-cyclical payments, H.R. 2646 makes several changes in program implementation. First, the legislation provides for an update of base acres. Producers may choose base acres that reflect the four-year average of acreage planted or prevented from being planted during the 1998 through 2001 crop years. In the alternative, producers may opt to use the base acres that would otherwise have been used to calculate the fiscal year 2002 AMTA payments. In no case will producers be forced to update acres as the Committee recognizes that many farmers opted to switch to non-program crops once the 1996 Farm Bill permitted such flexibility. Regardless of the acres selected, payments made under the fixed decoupled and counter-cyclical programs will be made only on 85 percent of the base acres.

Second, H.R. 2646 clarifies that the Secretary will use payment yields in effect for the 2002 crop. If no payment yield is available because the acreage at issue was not previously enrolled in a relevant commodity program, the Secretary is directed to establish an appropriate yield that takes into account yields applicable to the commodity for similar farms in the area. With respect to soybeans and other oilseeds, payment yields are established by determining the average yield from 1998 to 2001, excluding years where the acreage planted to the crop was zero. The four-year average is then reduced to reflect the increase in yields that has occurred between 1981-1985 and 1998-2001. While the Committee would have liked to update yields to current levels, budgetary constraints dictated that payments continue to be determined based on yields adjusted back to 1985 levels.

Finally, H.R. 2646 retains the current marketing assistance loan program. Current loan rates continue for nearly all crops, except that soybeans are set at $4.92 per bushel to reflect the inclusion of oilseeds in the fixed decoupled payment program. In contrast to other payments, loan eligibility is 100 percent of a producer's current production. H.R. 2646 sets a combined payment limit of $150,000 for loan deficiency payments and marketing loan gains for all crops. It also retains the use of generic commodity certificates. Lastly, H.R. 2646 makes producers on a farm with no production flexibility contract eligible to receive loan deficiency payments on 2001 crops.

Commodity programs for sugar, dairy, peanuts, and fruits and vegetables

In addition to the major program crops, H.R. 2646 reauthorizes the current programs for several other commodities. First, the bill reauthorizes the sugar program, which provides support for sugar beet and sugar cane producers, with several modifications. The bill eliminates marketing assessments on sugar; allows reduced interest rates for price support loans; requires the Department of Agriculture ("USDA") to administer the program at no net cost to the government; provides the Secretary with authority to implement marketing allotments for sugar producers; and authorizes the Commodity Credit Corporation ("CCC") to accept bids from processors for the purchase of sugar inventory. In addition, H.R. 2646 requires the CCC to establish a sugar storage facility loan program.

Second, H.R. 2646 extends the milk price support program through 2011 at $9.90 per hundredweight. It also reauthorizes the Dairy Export Incentive Program through fiscal year 2011. This program assists domestic dairy producers facing competition from products subsidized by other countries, products such as milk powders, butter fat, and cheese. H.R. 2646 further amends the Dairy Promotion and Research Program to enable the National Dairy Promotion and Research Board to assess importers of dairy products in the same manner as domestic producers with respect to the promotion of dairy products. Finally, an amendment offered by Congressman Walsh (R-NY) directs USDA to conduct a comprehensive study of national dairy policy.

Third, H.R. 2646 makes substantial changes to the peanut program. Over the next ten years, the bill eliminates the marketing quota program and replaces the current system with several new support mechanisms. H.R. 2646 first designs a counter-cyclical payment that offers financial assistance to producers when prices drop below

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an established target price. It then adds a fixed decoupled payment that provides peanut producers with compensation similar to the production flexibility contract payments made to the major program commodities such as wheat and corn. H.R. 2646 further offers a marketing assistance loan at $350 per ton. In addition to these supports, the bill includes a buy-out payment to compensate quota owners for the lost value of their asset. These payments will be made in five annual installments.

Fourth, H.R. 2646 retains the prohibition on planting fruits and vegetables on program crop acres. It also grants the Secretary sole decision-making authority to combat outbreaks of plant and animal diseases and invasive pests with emergency funds. H.R. 2646 provides $200 million per year for surplus commodity purchases used to provide food for the needy. In addition, the bill substantially increases the authorization for the Market Access Program, which aids in the creation, expansion, and maintenance of foreign markets for United States agriculture products. It further establishes a technical assistance fund to assist specialty crop producers in addressing export barriers. Finally, H.R. 2646 provides $15 million per year for the Senior Farmers' Market Program—a program administered by the states that gives vouchers and coupons to senior citizens for the purchase of fruits and vegetables at farmers' markets.

Conservation

H.R. 2646 increases the federal investment in soil and water conservation programs by nearly 80 percent above current program levels. For the most part, this money represents increases in funding for existing, rather than new, programs.

The legislation reauthorizes the Conservation Reserve Program ("CRP") with an increase in the maximum enrollment cap from 36.4 million acres to 39.2 million acres. In addition, it modifies several provisions governing program implementation. First, H.R. 2646 makes lands on which ground or surface water would be conserved eligible for enrollment. Second, it permits limited haying and grazing, use of wind turbines, and harvest of biomass on CRP acreage. Third, the legislation replaces the existing priority areas with language directing the Secretary to consider conservation interests in soil erosion, water quality, and wildlife habitat in determining the acceptability of contract offers. Fourth, an amendment offered by Congressman Bereuter (R-NB) requires land to be in production for at least four years to be eligible for the CRP. Fifth, an amendment offered by Congressman Thune (R-SD) makes the farmable wetlands pilot program a permanent part of the CRP and extends eligibility to all states.

As to the Environmental Quality Incentives Program ("EQIP"), H.R. 2646 provides for a six-fold increase in funding to $1.285 billion per year. The legislation retains current law, which earmarks 50 percent of this money to livestock producers. It also removes the prohibition on producers with more than 1,000 animal units from obtaining assistance to construct animal waste management facilities. An amendment offered by Congressman Inslee (D-WA) makes assistance to farmers and ranchers for the assessment and development of on-farm renewable resources, such as biomass production, an allowable expense under the EQIP. Further, it authorizes the Cooperative State Research, Education and Extension Service to provide education and technical assistance with such matters. Finally, in order to assist producers facing water shortage challenges, H.R. 2646 creates a $600 million fund to address ground and surface water conservation issues, including cost sharing for more efficient irrigation systems.

H.R. 2646 reauthorizes the Wetlands Reserve Program ("WRP" through 2011. It also increases the current enrollment cap of 1.075 million acres by providing for an additional 150,000 acres to be enrolled annually.

The bill reauthorizes both the Wildlife Habitat Incentives Program ("WHIP") and Farmland Protection Program ("FPP"). It increases the funding to $50 million annually for each program. The legislation also makes agricultural land that contains historic or archeological resources eligible for the FPP.

In addition to existing programs, H.R. 2646 also creates two new programs. First, it establishes a Grasslands Reserve Program, which authorizes two million acres to be enrolled in ten-, fifteen- and twenty-year contracts or thirty-year and permanent easements. This program is funded at $254 million over ten years. Second, H.R. 2646 creates a Farmland Stewardship Program ("FSP") that will assist producers participating in multiple conservation programs administered by USDA. Eligible programs for the FSP include the WRP, the WHIP, the FPP, and the new Forest Land Enhancement Program. Under the FSP, local conservation districts, state or federal agencies, and non-governmental organizations can enter into farmland stewardship agreements with producers on behalf of the Secretary.

Trade

H.R. 2646 contains a so-called "WTO circuit breaker," which grants the Secretary authority to limit spending on what the World Trade Organization views as trade distorting payments to $19.1 billion, which is the United States' limit under the current agreement. It then makes significant increases in several programs designed to aid in the creation, expansion, and maintenance of foreign markets for United States agricultural products.

First, the legislation reauthorizes the Market Access Program ("MAP") and increases funding to $200 million per year. MAP helps fund generic advertising for United States agricultural products in foreign markets. H.R. 2646 more than doubles MAP funding.

Second, the bill increases funding for Food for Progress ("FFP"). This food aid program provides commodities on credit terms or on a grant basis to developing countries and emerging democracies. In so doing, it also helps domestic producers by removing surpluses from the market. H.R. 2646 increases the transportation cap for FFP from $30 million to $40 million in order to maximize opportunities to ship more commodities. It also increases the limits on funding for administrative costs to $15 million. Beyond funding, the legislation increases limits on the amounts of commodities made available; encourages the President to approve agreements that provide commodities for distribution or sale on a multi-year basis; encourages the Secretary to finalize program agreements and requests before the beginning of each relevant fiscal year; and makes surplus commodities available to developing countries.

Third, H.R. 2646 reauthorizes the Export Enhancement Program at its current funding level of $478 million per year. It also reauthorizes the Dairy Export Incentives Program at the maximum level permitted under the United States' trade obligations.

Fourth, the legislation authorizes the Foreign Market Development Cooperator Program ("FMD") at $37 million per year. In addition, it directs the Secretary to carry out the FMD with a significant emphasis on the importance of exporting value-added agricultural products to emerging markets.

Fifth, H.R. 2646 reauthorizes the Export Credit Guarantee Program while maintaining the current requirement that not less than 35 percent of the export credit guarantees issued be used to promote the export of processed or high-value agricultural products. It also reauthorizes the Food For Peace Program (P.L. 480) with several technical changes including an increase in the minimum level of commodities to be made available from 2.025 to 2.250 million metric tons.

Finally, the bill establishes an export assistance program to address barriers to the export of specialty crops. Specifically, this program will provide direct assistance through public and private sector projects as well as technical assistance to remove, resolve, and mitigate sanitary and phytosanitary barriers to trade. H.R. 2646 authorizes $3 million annually for this effort.

Nutrition

H.R. 2646 reflects a strong commitment to nutrition programs in several ways. First, the bill establishes a $10 million grant program for state agencies to develop and implement simplified application and eligibility determination systems. Such grants are intended to give states more flexibility and efficiency in administering the food stamp program.

Second, H.R. 2646 changes the current quality control programs to use incentives to encourage states to improve their systems. In particular, the bill restructures the sanction provisions for states with high error rates. And, it provides for bonus payments to states with superior administration of certain food stamp rules.

Third, the legislation increases commodity purchases for the Temporary Emergency Food Assistance Program ("TEFAP"). TEFAP

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Farm bill/Cont. from p. 5

provides nutritious domestic food products to needy Americans while at the same time helping producers by taking surplus product off the market. H.R. 2646 provides $400 million in additional funding.

Fourth, H.R. 2646 reauthorizes the program for Community Food Projects. This is a community-based program that is designed to meet the food needs of low-income families, to increase the self-reliance of communities in providing for their own food needs, and to promote comprehensive responses to local food, farm, and nutrition issues. Funding is increased to $7.5 million per year.

Lastly, H.R. 2646 increases the current food stamp deduction from $134 to an amount to be determined by household size. It also authorizes states to provide six months of transitional food stamp benefits for families leaving the Temporary Assistance for Needy Families Program. This provision simplifies the process for administrators and recipients by enabling recipients to receive six months of benefits without having to go through the food stamp re-certification process until they are established in a job.

Forestry

H.R. 2646 combines the existing Forestry Incentives Program and Stewardship Incentives Program into a new Forest Land Enhancement Program ("FLEP"). This program is funded at $20 million per year. It will provide cost-share and technical assistance for the establishment, management, maintenance, enhancement, and restoration of forests on non-industrial private forestlands.

In addition to creating the FLEP, the bill reauthorizes the Renewable Resources Extension Act ("RREA") at $30 million annually and creates a Sustainable Forestry Outreach Initiative within the RREA to provide education to landowners about sustainable forestry practices. Further, H.R. 2646 provides enhanced fire protection by directing the Secretary to coordinate with local communities in implementing rural fire protection and control strategies; creating a Community and Private Land Fire Assistance Program to prevent fires on non-federal lands; and giving the Secretary the authority to enter into stewardship contracts to implement the National Fire Plan on federal lands.

Rural development

H.R. 2646 gives $1.15 billion for rural development initiatives including drinking water assistance, telecommunications loan guarantees, and grants to start farmer-owned, value-added processing facilities. In addition to this money, an amendment offered by Congressman Peterson (R-PA) and Congresswoman Clayton (D-NC) increases funding for rural strategic planning initiatives by $45 million annually, community water assistance grants by $45 million annually, and value-added market development grants by $10 million annually. These increases were offset by a $100 million annual cut in the fixed decoupled payments issued to commodity producers.

Research

H.R. 2646 increases mandatory spending for the Initiative for Future Agriculture and Food Systems by $145 million annually beginning in fiscal year 2004. This initiative covers research on critical issues such as plant and animal genomics, food safety, biobased products, and natural resources management. Further, H.R. 2646 reauthorizes current and existing discretionary research programs.

Miscellaneous

Amendments to H.R. 2646 that were passed or accepted during the floor debate cover a variety of subjects. Amendments of significance include the following:

(1) Downed livestock—an amendment by Congressman Ackerman (R-NY) makes it illegal to buy, sell, transfer, hold, or drag an animal that is rendered non-ambulatory, unless the animal has been euthanized by humane means. This would not apply to animals under veterinary care or entities not regulated by the Grain Inspection, Packers and Stockyards Administration.

(2) Shared appreciation agreements—an amendment by Congressman Watkins (R-OK) suspends foreclosures on property owned by a borrower who has failed to make a payment required under the Consolidated Farm and Rural Development Act until December 31, 2002.

(3) Definition of "catfish" for labeling purposes—an amendment by Congressman Pickering (R-MS) clarifies that the fish *Pangasius Bocourti* cannot be labeled as "catfish" for purposes of the Federal Food, Drug and Cosmetic Act.

(4) Country of origin labeling for fruits and vegetables—an amendment by Congresswoman Bono (R-CA) requires retailers to label perishable agricultural products, both imported and domestic, with country of origin information. Prepared foods are exempt from this requirement.

(5) Concentration—an amendment by Congressman Thune (R-SD) creates an interagency task force on agricultural competition to review the lessening of competition among purchasers of livestock, poultry, and unprocessed agricultural commodities in the United States.

(6) Biotechnology education—an amendment by Congressman Holt (D-NJ) directs USDA to use "such sums as are necessary" to implement a public education campaign with respect to the use of biotechnology in producing food for human consumption.

Looking to the future

Although the House passed H.R. 2646 by a wide margin, the future of farm policy is all but certain. As the Senate Agriculture Committee is expected to begin work on a farm bill mid-October, several potentially dispositive factors loom.

First, early positions asserted by members of the Senate Agriculture Committee reflect deep divisions on the panel with respect to substantive issues as well as timing. For example, at a general party level, Democrats are said to favor slightly higher commodity loan rates for most program crops with a slightly lower soybean loan rate in order to rebalance loan rate levels. *Senate Ag Committee to Take Up Farm Bill*, Sparks Policy Report at 3, Oct. 15, 2001. By contrast, Republicans reportedly are against increasing any loan rates. *Id.*

With respect to individual Senators on the Committee, Senator Harkin (D-IA) has long pushed for more robust conservation spending and commodity support targeted towards smaller producers. *Senate Agriculture Works on Farm Bill as House Backs $73.5 Billion Policy Plan*, Bureau of National Affairs, Oct. 9, 2001. Earlier this session, Senator Harkin introduced the Conservation Security Act under which producers could receive annual payments ranging from $20,000 to $50,000 if they agree to implement specified conservation practices. In order to incorporate this idea into the farm bill, Harkin would have to take money from other areas. In addition, Harkin has expressed interest in writing an energy title to encourage the use of ethanol, soy-diesel, and other biomass fuels. *Senate Ag Panel May See Many Farm Bill Approaches*, Sparks Policy Report at 3, Oct. 16, 2001. Harkin is also thought to favor a five-year farm bill over the ten-year version passed by the House. *Id.*

Senator Lugar (R-IN) shares Harkin's commitment to conservation but is expected to have a major difference of opinion regarding the commodity title. *Next Steps in Farm Bill Process Difficult to Predict*, Sparks Policy Report at 3, Oct. 11, 2001. On October 16th, Lugar unveiled a proposal that would phase out the marketing assistance loan program and end the decoupled AMTA contract payments once the current farm bill expires. Jim Wiesemeyer, *A Lot of Changes, But Does He Have a Lot of Support?*, Oct. 16, 2001, http://www.agweb.com. Lugar would then provide a farm safety net by implementing a farm revenue concept under which farmers would receive vouchers to purchase one or more of several financial protection strategies such as farm revenue insurance coverage. *Id.* Outside the commodity title, Lugar would add a working lands environmental improvement option to the existing EQIP that would provide incentives to producers who implement comprehensive conservation systems going beyond their current level of conservation. *Id.*

Senate Majority Leader Daschle (D-SD) has shown considerable interest in development of the farm bill. Some sources say that while Daschle is not actively working against Harkin, he intends to use the House version as a backup plan if the Senate Agriculture Committee fails to reach agreement. *Senate Ag Panel May See Many Farm Bill Approaches* at 3. But, this view has also been contradicted in a *Congress Daily* report, which quotes a Daschle staffer as stating that Daschle is working with Harkin to oppose the House bill because it spends too much money. *Id.* Regardless of his position on the House bill, Daschle is thought to be

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particularly interested in writing a competition title. Jim Wiesemeyer, *Will President Bush Stop Farm Bill This Year?*, Oct. 15, 2001, http://www.agweb.com.

In addition, Senators Lincoln (D-AR), Cochran (D-MS) and Miller (D-GA) are said to be building a proposal from the House version. *Id.* Outside the Committee, Senator Grassley (R-IA) is also thought to be working on a commodity title.

Beyond the substance of the bill, there are differing views among senators as to the appropriate timing of a new farm bill. The positions taken by several Democrat senators suggest that they clearly want a farm bill this session. *Id.* For example, Senator Dorgan (D-ND) has directed his colleagues to "follow the example of the U.S. House last week and pass a new farm program before Congress adjourns for the year." *Id.* Similarly, Senator Nelson (D-NE) stated: "I think there is a strong desire to have a farm bill this year. If we don't have the money this year, we won't have it next year." Monoson, *Farm Overhaul Bill*. By contrast, Senator Lugar has repeatedly said, in criticizing the House for taking up the farm bill, that this is not an appropriate time to re-write farm policy because the money is not available and funding for the war on terrorism ought to be the highest priority. *Id.*

A second factor that could impact development of the farm bill is an attempt by the House to pass trade promotion authority ("TPA"). Formally known as "fast-track" authority, TPA would allow the Administration to fully negotiate trade agreements, which would then be submitted to Congress for an up or down vote within ninety days. During the week of October 8th, the House Ways and Means Committee approved a bill restoring the president's trade negotiating authority. However, at present the bill is not scheduled for consideration on the House floor.

Some policy watchers believe that the White House and Republican House leadership still need to round up the necessary votes for passage—including those of Chairman Combest and other farm-state lawmakers. Julie Hirschfeld Davis, *Debate Over "Fast Track" Authority Refocused on Domestic Concerns*, CQ Weekly at 2421, Oct. 13, 2001; Jim Wiesemeyer, *House Committee Chairman on Trade Policy, Farm Bill*, Oct. 16, 2001, http://www.agweb.com. Combest originally switched his position regarding TPA last June when the Administration labeled the market loss assistance payments made in 1999, 2000, and 2001 as "amber box" under the WTO. His position was recently reaffirmed when European Union Agriculture Commissioner Franz Fishcler criticized the House farm bill as not fitting with "what the U.S. has been saying in World Trade Organization agricultural negotiations." Wiesemeyer, *House Committee Chairman on Trade Policy*. Fischler warned that if Congress pushes up price-based support and strengthens counter-cyclical policies, it would be putting the United States in the ambiguous position of defending one policy at the WTO agricultural negotiations while supporting another policy in its own programs. In response, Combest stated: "Fischler's statements make you wonder what U.S. negotiators have been saying in agricultural negotiations. It sends up a big red flag to me." *Id.* He then explained: "Philosophically, I think trade is wonderful. I have seen tremendous advantages for agriculture in trade. But, I also have this growing concern— the Bush Administration inherited it, they didn't create it, but the concern continues to grow among other members in Congress— that we see our government is willing to capitulate a lot faster than, say, the European Union or other countries on behalf of farmers. We see trade barriers thrown up that are not defensible." *Id.*

A third factor that may come into play is the issue of dairy compacts. Dairy compacts created some excitement on the House floor when a successful point of order was raised by Chairman Combest against efforts to vote on an amendment that would have authorized the creation of regional compacts and extended the Northeast Dairy Compact, which expired at the end of September. There, House Judiciary Committee Chairman Sensenbrenner (R-WI) stressed that all compacts fall within his committee's jurisdiction, not the Agriculture Committee. Arguably, a farm bill could get hung up on the Senate floor if Members try to attach language providing for reauthorization of the Northeast Dairy Compact or the creation of a new compact in the Southeast.

A final factor to be considered is the role of the Bush Administration. When it became clear that the House was actually going to take up H.R. 2646, the White House seemed adamant that now is not the time for a farm bill debate as the current farm bill does not expire until last next year. However, as the Senate appears to be moving forward, Secretary Veneman has stated that she is working with the Senate "as they draft specific language." Monoson, *Farm Overahul Bill*. According to policy commentators, the White House has been informed that if the Administration wants to play a role in the Senate farm bill debate, officials must reveal how much it is willing to spend and what kinds of policies it will support. *Next Steps in the Farm Bill Process* at 3. If the administration commits to a specific level of funding, some senators may feel less pressure to complete a new farm bill this year.

As in the case of numerous aspects of daily life in America since September 11, 2001, the future of farm policy remains uncertain.

Bibliography/Continued from page 3

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Report on the 22nd Annual Educational Symposium of the American Agricultural Law Association

Approximately 150 educators, attorneys, economists, and students attended the 22nd Agricultural Law Symposium in Colorado Spring, CO, October 12-13, 2001.

Outgoing President of the American Agricultural Law Association, Steven C. Bahls, turned the leadership of the Association over to incoming President, L. Leon Geyer. President-elect is John C. Becker.

Directors retiring after 3 years of service are: Patricia A. Conover, Gary D. Condra, and Gerald A. Harrison. Joining the Board are John C. Becker, Roger A. McEowen, and Amy K. Swanson. Our appreciate is expressed to each of these individuals.

The Distinguished Service Award this year was presented to William P. Babione, outgoing Executive Director of the American Agricultural Law Association.

The 2002 Conference will be held in Indianapolis, Indiana, October 25-26.