



**American Feed Industry Association's Government Action Team**  
**G.A.T. NEWSLETTER**  
*An inside look at industry-related issues before the government*

May 31, 2011

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*The Senate will be on a one week recess over the Memorial Day holiday, returning June 6th while the House will remain in session.*

**Senate Rejects House Budget**

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**House Ag Approps Subcommittee Makes Heavy Cuts to FY2012 Ag, FDA, WIC Budgets**

The Senate this week soundly defeated the House-passed FY2012 budget resolution, with five GOP members siding with Democrats to take down the plan. Controversial on many levels, but particularly because it proposes a major rewrite of Medicare and Medicaid, the House budget package has been slowly losing GOP support since it was first unveiled by House Budget Committee Chair Paul Ryan (R, WI) six weeks ago. Supporters of the House budget resolution argued on the Senate floor that entitlement programs, particularly Medicare and Medicaid, cannot be sustained in their current form and must be modernized. The Senate also rejected President Obama's FY2012 budget plan, with a motion to proceed failing on a 0-97 vote. The GOP repeatedly beat up on Democrats for not coming up with their own budget resolution for floor consideration. A markup by the Senate Budget Committee of a plan by Sen. Kent Conrad (D, ND), panel chair, that would cut \$4 trillion from the

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deficit over 10 years, has been put off indefinitely.

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## **House Ag Approps Subcommittee Makes Heavy Cuts to FY2012 Ag, FDA, WIC Budgets**

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The agriculture/FDA subcommittee of the House Appropriations Committee this week made serious cuts to FY2012 discretionary spending, with FDA sustaining an 11.5% reduction. The bill appropriates about \$125.5 billion, nearly 90% of which is mandatory spending for food stamps and farm program payments. If mandatory spending is included, the bill actually saw a 3% increase. Overall, ag and FDA took a 13.4% cut from FY2011 levels, a 23% drop below President Obama's request, for an overall \$2.6-billion reduction. No action was taken to reduce farm program payouts.

**Food Pyramid  
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For the FDA, the bill would fund the agency at \$3.7 billion including user fees. The spending bill would provide nearly \$800 million to FDA's food center and related activities, more than \$1 billion to the agency's drug center, \$328 million to the biologics center and \$321 million to the device center.

**Activist Groups  
Sue FDA over  
Antibiotics in Feed  
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Consumer Group  
Petitions USDA  
over Antibiotic-  
Resistant  
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And while the Commodity Futures Trading Commission (CFTC) had requested a \$100-million increase to deal with a heavier workload dealing with regulation writing as a result of the Dodd-Frank Wall St. Reform Act, the subcommittee cut the commission's existing spending levels by \$30 million.

**Vilsack, AFBF's  
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Reform**

Rep. Jack Kingston (R, GA), chair of the subcommittee, said "tough choices are necessary to right the ship," and full committee chair Rep. Hal Rogers (R, KY) said the bill represents the committee's commitment to go line by line

**Senators Introduce Bill to Amend P&S Act on “Unfair” Packer Practices**

through the President’s FY2012 budget recommendation to find savings. While full committee ranking member Rep. Norm Dicks (D, WA) said the bill represents “a perfect example of Republican’s commitment to short-sighted budgeting.”

**Approps Bill Carries Bar on GIPSA Rule**

Rep. Rosa DeLauro (D, CT), the former chair of the subcommittee when Democrats controlled the House, was the most outraged at the bill. When it came to cuts in the Women, Infant and Children (WIC) program, which took a 12.4% reduction, DeLauro said, “This breaks a 15-year bipartisan commitment to what we do about women, infants and children. It’s just morally and unconscionably wrong that we’re going to watch women and children go hungry.” She also criticized the bill for “rolling back years of progress” on food safety by cutting FDA funding. The WIC funding also included \$50 million for management information systems; \$75 million for breastfeeding peer counselors; and \$7.5 million for breastfeeding performance awards.

**Stabenow says No FTAs until Worker Aid Renewed; Farm Groups Call for FTAs Now**

The Agricultural Research Service (ARS), which funds nutrition research, would receive \$993 million under this bill, \$140 million below FY 2011 funding and \$145 million below the President's request. Additional details on ARS funding won't be available until next week.

The bill also carries language barring USDA from spending money to administer the Biomass Crop Assistance Program, the Rural Energy for America Program, the Rural Microentrepreneur Program, and the Federal Crop Insurance Act to provide a performance-based incentive premium discounts.

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**White House Lays Out “Regulatory Relief” Plan**

Calling it “immediate steps to significantly reduce

burdens on individuals, small businesses and state and local governments,” White House officials this week laid out what they call the President’s “regulatory relief plan.” Office of Management & Budget (OMB) Director Jack Lew and White House Office of Information & Regulatory Affairs Administrator Cass Sunstein held a conference call May 26, during which they laid out the “results of the president’s retrospective analysis of existing regulation” as announced in an executive order to his administration to identify pending, prospective and existing regulations for the potential such rules have to be “job killers.”

Highlights of the analysis were given during the press briefing and included an OSHA final rule that will remove over 1.9 million hours of redundant reporting requirements, saving up to \$40 million annually; OSHA will also propose a rule to harmonize U.S. hazard classifications and labels with those used by other countries for a \$585 million savings; EPA will propose eliminating redundant requirements for many states to require air pollution vapor recovery systems due to existing automobile pollution control technologies; savings of \$670 million, and the Departments of State and Commerce are developing a series of steps to eliminate unnecessary barriers to exports, including duplicative and unnecessary regulatory requirements.

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### **Bill to Oversee Impact of EPA Regs Approved by House Subcommittee**

A bill to set up an interagency committee to examine how EPA regulation and other Obama Administration rulemakings affect stakeholders, the economy and the environment was approved this week by a House Energy & Commerce Subcommittee. Supporters of the bill said the current EPA regulatory analyses doesn’t focus on the cumulative impact of agency rulemakings “nor did (they)

look at how these rules will affect global competitiveness, jobs in all sectors of the economy and prices that consumers pay for American-made products,” according to Rep. Ed Whitfield (R, KY), chair of the subcommittee. Full committee Chair Fred Upton (D, MI) said the bill doesn’t nullify any EPA regulations, but ensures what he called “a more holistic study” of the economic affect of the agency rules. The full committee has already approved legislation that would remove EPA authority to regulate greenhouse gases. The full House will likely take up the bill this summer.

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## **House Approves Bill to Strip Automatic Funding for Graduate Medical Education Program**

The House passed 234-185 a bill to let Congress strip funding for graduate medical education (GME) in qualified teaching health centers. The health care law set up “direct appropriations,” which does not require annual funding through appropriations bills, for many programs to make it difficult to defund those programs. In an incremental effort to dismantle the health reform law, House Republicans have been trying to convert such funding schemes to authorized appropriations. HR 1216, would revoke the automatic funding for \$220 million to qualified teaching health centers for approved graduate medical residency training programs.

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## **Sunscreen Regulations Bill Introduced In Senate**

The Sun Act, introduced by Sen. Jack Reed (D-RI), would require a proposed FDA rule from 2007 on the sunscreen monograph to take effect within 180 days, unless FDA issues a final rule that includes formulation labelling and testing requirements for ultraviolet B and ultraviolet A

radiation protection. The bill would also mandate a four-star labelling system to rate the strength of the product's protection. Reed has pushed similar legislation in past sessions of Congress with now retired Sen. Chris Dodd (D-CT). Rep. Nita Lowey (D-NY) is expected to re-introduce a similar bill and continue pushing FDA to finalize the monograph. The Environmental Working Group sent a letter to FDA on Monday (May 23) urging the agency to finalize the regulations.

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## **Food Pyramid Headed Down the Garbage Disposal?**

The U.S. Department of Agriculture (USDA) says the new icon replacement for the Food Guide Pyramid will be announced on June 2. Robert Post, deputy director of the USDA Center for Nutrition Policy and Promotion, has told several groups that consumers can look forward to a new, simple, easy-to-understand cue to prompt healthy choices. The release of the icon marks the launch of a massive effort to promote the USDA/HHS dietary guidelines announced January 2010.

"What we learned is it is not just giving information, it is a matter of making people understand there are options and practical ways to apply this to their lifestyle," Post told WebMD. "There will be a 'how-to' that will resonate with individuals. That is the behavioral part that is needed. We need to transcend information -- 'here's what the science says' -- and give people the tools and the opportunities to take action."

There are six how-to messages to guide healthy eating which that the USDA and other agencies and partners will stress one at a time:

- Enjoy your food, but eat less.

- Avoid oversized portions.
- Make half of your plate fruits and vegetables.
- Switch to fat-free or low-fat (1%) milk.
- Compare sodium in foods like soup, bread, and frozen meals, and choose the foods with lower numbers.
- Drink water instead of sugary drinks.

Information on the 2010 dietary guidelines and the current food pyramid program is available at [www.mypyramid.gov](http://www.mypyramid.gov).

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## **Activist Groups Sue FDA over Antibiotics in Feed Regulation; Consumer Group Petitions USDA over Antibiotic-Resistant Salmonella in Ground Meat, Poultry**

Where legislation has failed, consumer, environmental and anti-technology activist groups this week filed suit in a New York District Court to force FDA to severely limit the use of antibiotics in feed and water. The Natural Resources Defense Council (NRDC), the Union of Concerned Scientists (UCS), the Center for Science in the Public Interest (CSPI), the Food Animal Concerns Trust (FACT), and Public Citizen joined in the law suit. “We want the agency to follow its own safety findings,” said NRDC. The groups contend FDA acknowledged as far back as 1977 that low-level antibiotic use in feed could promote resistant bacteria. “We need the FDA to do its job. The agency has known for more than 30 years that mixing human antibiotics into animal feed poses a risk to human health.”

The animal drug industry and production agriculture contend the use of low-level antibiotics in feed is judicious and safe, and points to the fact there is no “smoking gun” study connecting on-farm use of the

products with increased bacterial resistance in humans. In fact, overuse/misuse in human medicine and in hospitals is more directly linked to human resistance than on-farm use, the groups contend.

At the same time, CSPI petitioned USDA to recall or withhold from commerce ground meat and poultry with antibiotic-resistant strains of salmonella. CSPI also wants testing for resistant bacteria in ground meat and poultry, pointing to a number of outbreaks of disease linked to four strains of the bacteria.

The American Meat Institute (AMI) said “attempting to ban bacteria by regulation isn’t feasible. If it were, we would have filed a similar petition years ago,” adding all agricultural products contain some level of bacteria. FDA continues to rework its antimicrobial programs and policies, and is currently considering comments on judicious use of the products, how the definition of “prevention” as a label claim can be redesigned and how the existing Veterinary Feed Directive (VFD) system at FDA can be expanded to ensure greater veterinarian oversight on the use of antibiotics on farm. Because the regulatory and scientific issues of antibiotic use are unresolved, legal experts say the activist suit is premature and will likely face tough sledding in the courts.

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## **Vilsack, AFBF’s Stallman Call for Immigration Reform**

Secretary of Agriculture Tom Vilsack and American Farm Bureau Federation (AFBF) President Bob Stallman this week demonstrated rare agreement when they met on a USDA teleconference to call for full reform of the U.S.’s “broken” immigration system. Vilsack echoed many of the White House’s talking points – border security, holding business accountable for breaking the law and

providing “clear guidance” to other companies – but it was Stallman who made the hard points on the need for recognizing ag needs an “adequate workforce.” Stallman said \$5-9 billion a year in production is dependent on immigrant workers now in the U.S. whether legally or illegally, with California representing the lion’s share at \$3 billion in production reliant upon immigrant labor, many with fraudulent documents. He said most vulnerable are specialty crops, but the livestock sector, especially dairy is also vulnerable.

When asked about E-Verify, an electronic system used to verify a worker’s legal status, Vilsack said the cost of the system on small business is a concern. Stallman added it’s an important but short-term tool, and under the current system there’s no alternative labor supply, meaning the loss of workers currently sustaining production. Stallman said AFBF supports reform of the current guest worker program, but also wants to see innovation, including biometric identifiers that would allow workers to cross into the U.S. to work. A large part of the problem, Stallman said, is that the jobs being done by immigrant labor are jobs “American workers will not do.” Vilsack said there are too many bureaucratic obstacles in USDA to try and fix the situation administratively and full legislative reform is needed.

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## **Senators Introduce Bill to Amend P&S Act on “Unfair” Packer Practices**

A bipartisan bill to amend the Packers & Stockyards Act of 1921 to ensure “full access to the marketplace” and end “anti-competitive forward marketing contracts” for independent producers was introduced this week by Sens. Mike Enzi (R, WY), Tim Johnson (D, SD), Chuck Grassley (R, IA) and Jon Tester (D, MT). The bill is designed to put independent producers on the same

economic footing as packer-owned herds, the authors said. However, the livestock and poultry industry is split on whether the bill is necessary. The National Pork Producers Council (NPPC) said it questions the need for the bill given the U.S. Department of Justice and the USDA have not found irregularities in contracting between packers and producers.

The bill would require marketing agreements to have a firm base price set from an external source to guarantee local prices are not manipulated by packer-owned herds; calls for future forward contracts for livestock – cattle, hogs and lambs – to be traded in public markets when bids are witnessed and producers can make their own bids, and exempts producer-owned co-ops, packers with low volumes and packers who own only one processing plant.

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### **Approps Bill Carries Bar on GIPSA Rule**

The House appropriations subcommittee on agriculture and FDA this week took seriously a letter signed by 147 House members last week and included language in the subcommittee-approved FY2012 ag spending bill language to stop USDA from imposing its pending rules on industry/farmer contracting. The policy language in the spending bill would bar the Grain Inspection Packers & Stockyards Administration (GIPSA) from writing regulations to require meat processors to report and justify their contracting – specifically pricing agreements – with farmers and ranchers.

Opponents of the GIPSA rulemaking, done as a requirement of the 2008 Farm Bill, say USDA has gone well beyond the intent of Congress in its proposed rulemaking. They contend processors would be open to lawsuits and may walk away from any kind of premium

pricing agreements based on liability exposure. Supporters of the rule say there's no such thing as competitive pricing in an industry controlled by four major processors. Rep. Marcy Kaptur (D, OH) said the rule was needed to end "monopolistic companies" from "squeezing" small producers and processors out of the marketplace.

In the House letter to Secretary of Agriculture Tom Vilsack, USDA is admonished to rework a controversial proposed rule that would dramatically alter how processing companies and independent livestock and poultry growers contract with each other. Specifically, the letter told Vilsack "withdrawing the June 22, 2010, proposed rule and reproposing a revised rule once the department completes its economic analysis would allow stakeholders the opportunity they deserve to comment on what we hope will be substantial changes to the proposed rule more consistent with the intent of Congress outlined in the 2008 Farm Bill."

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### **Stabenow says No FTAs until Worker Aid Renewed; Farm Groups Call for FTAs Now**

While Sen. Debbie Stabenow (D, MI), chair of the Senate Agriculture Committee, coordinated a letter from 41 Senators this week to the President telling him not to submit trade agreement legislation until U.S. worker protections are renewed, national crop and livestock groups held a press conference on Capitol Hill calling on the Obama Administration to submit implementing legislation for the Panama, Colombia and Korean free trade agreements immediately. The Senators asked President Obama to work with them on a long-term extension of the Trade Adjustment Assistance (TAA), a program which provides aid to workers whose jobs, hours or wages are affected or lost due to trade

agreements.

Meanwhile, the American Soybean Assn. (ASA) said at an ag press conference, “While we’re sitting on the sidelines, we’re losing significant market share.” The National Council of Farmer Cooperatives (NCFC) said in a separate statement, “With over 95% of consumers living outside the U.S., these agreements are an important step in expanding trade opportunities for American agriculture,” adding the agreements will give farmers, ranchers, agribusiness and co-ops greater access to both commodities and value-added products. The other organizations participating in the press event were the American Farm Bureau Federation, the National Association of Wheat Growers, the National Cattlemen’s Beef Assn., the National Pork Producers Council and the National Corn Growers Assn.

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