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Congress Passes Farm Bill With New Average Crop Revenue Election Program Despite Printing Glitch

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After over three years of planning, public hearings, numerous committee meetings and heated compromise negotiations, the House and Senate passed the 1,768 page "Food, Conservation, and Energy Act of 2008" on May 14 and 15, respectively, with overwhelming margins (H:318-106, S:85-15). On Tuesday (5.20.08), the president vetoed the farm bill. Within hours of the presidential veto, the house voted by a 316-108 vote to override the veto. It appears that the bill will become law despite a printing glitch which was discovered during the veto override voting process.

After the presidential veto, a white house staffer discovered that the 33 page Trade Title was missing from the official copy of the bill that was sent to the president and promptly vetoed on May 20. The omission was purely accidental, but it placed passage of the farm bill in congressional legal limbo. But, on Thursday (5.22.08) the Senate completed the override of the presidential veto with an overwhelming 82 to 13 vote. Some House Republican leaders continued to indicate that the override process had violated the Constitution by pressing forward with the veto override after they discovered that a whole section of the bill on trade policy had been inadvertently dropped from the version vetoed. House Speaker Nancy Pelosi (D-Calif.) said that "The veto override will have the force of law." The House and Senate voted to override the presidential veto of the farm bill without the Trade Title. Congressional leaders indicated that they would take up the farm bill's trade section as a separate bill and pass it after their Memorial Day break.

So, as of this writing (5.27.08), it appears that we will have a farm bill soon, but keep in mind that it will take 3-4 months to interpret this new bill into implementing regulations.

Average Crop Revenue Election (ACRE) Program

It should be noted that specific details of the farm bill passed by Congress are still sketchy. In terms of the commodities title, the bill tweaks (makes minor adjustments to payment rates) but retains the basic commodities provisions (direct, counter-cyclical and loan deficiency payments) and other basic market risk management programs as they were in Farm Bill 2002. The bill adds a new, optional, Average Crop Revenue Election (ACRE) program, beginning with the 2009 crop year. This option (among other parts of the bill) has become quite controversial in the administration. The administration claims that this option could double or triple the level of support that would be provided farmers under the old farm bill.

Producers may elect to participate in the ACRE program instead of the counter-cyclical program. Once selected, the ACRE program becomes permanent for all covered commodities produced on that farm.

Since target prices and loan deficiency payment rates are based on outdated values (in relation to current prices), the ACRE option may be attractive to some farmers, especially farmers in the corn belt. Payments under the ACRE program are based on a two-year history of prices and a five-year history of yields at the state level. This option appears more likely to generate payments than the counter-cyclical (CCP) or the market loan program (LDP) option, since target prices and loan rates are considered outdated. It appears unlikely that grain market prices will drop sufficiently to trigger CCP and LDP payments unless congress eliminates ethanol subsidies, ethanol blender mandates and/or the price of oil drops significantly. As a result, this ACRE option appears attractive to some since it updates revenue triggers based on current prices and yields.

This new ACRE option would generate payments on a crop-specific basis whenever average per-acre revenue at the state level falls below the per-acre state guarantee. To participate in the ACRE program, producers must agree to a 20 percent reduction in direct payments and a 30 percent reduction in loan rates on enrolled farms. In return, producers are eligible for a state-based revenue guarantee, by commodity, equal to 90 percent of the product of a state average yield per acre for the previous five years (after dropping the highest and lowest years) times the national average price for the previous two years for the commodity. If actual state per-acre revenue is less than the guarantee and if a producer suffers an actual revenue loss for the crop on the farm, then the producer will receive an ACRE payment equal to the difference between the state per-acre revenue guarantee and the state actual revenue calculation paid on 83.3 percent (85 percent for 2012) of the acres planted to the covered commodity on the farm.

Highlight Provisions

The new farm bill contains 16 titles with too many details to cover. The $289 billion five-year bill;

- Includes a $10.3 billion increase in domestic and international nutrition programs over 10 years, mostly to help Americans buy food.

- Cuts the tax credit for corn-based ethanol by 12 percent and creates a $1.01/gallon tax credit for ethanol made from cellulose.
- Includes provisions to assist fruit and vegetable farmers and includes the use of fruits and vegetables in the school lunch program.
- Extends dairy programs.
- Urges the government to buy surplus sugar and sell it to ethanol producers for use in a mixture with corn.
- Simplifies the record keeping requirements for the Country Of Origin Labeling (COOL) program.
- Stops allowing farmers to collect subsidies on multiple farm interests (more than two entities).
- Pays farmers for weather-related farm losses from a new $3.8 billion permanent disaster relief fund.