

NEDLT Newsletter

From the Desk of Bob Gray

• **New Administration and Congress Work on Economic Recovery Plan**

As we head toward 2009 the new incoming Administration and the 111th Congress are readying a huge Economic Stimulus Package that will be acted on early next year. Right now the plan is for Congress to go into session right after all the new members are sworn in on January 6th. Between that time and President-Elect Obama's inauguration on January 20th, Congress will have completed work on the economic recovery bill and have it ready for the President to sign immediately after he is sworn in.

Right now the price tag on the Bill is \$500 billion although that could increase as more items are added. A big portion of this package will be for infrastructure repair for roads, bridges, schools, waste water treatment plants, airports, etc.

In addition the bill will include monies to help states pay the costs of Medicaid for low income people and provide dollars for the development of renewable sources of energy which would include efforts to create "green jobs". A number of Members of Congress also want to include the President-Elect's proposed middle class tax cuts in this economic recovery bill. This, of course, could quickly push up the total cost of the bill.

We will also see what provisions for agriculture are included in the stimulus bill.

• **U.S. Government Accountability Office Releases Numbers on Adjusted Gross Income Caps for Commodity Assistance**

Last week the GAO released a report which documents the number of individuals who received farm commodity program payments that exceeded the Adjusted Gross Income (AGI) caps for commodity assistance. According to the GAO 2,702 individuals during the four year period of 2003 to 2006 collected \$49 million in commodity program payments despite having incomes that should have made them ineligible.

Under the 2002 Farm Bill those individuals with \$2.5 million in adjusted gross income – this is pushed to \$5 million for married couples – who did not earn at least 75% of their income from farming were not eligible to receive commodity or conservation payments.

In the new 2008 Farm Bill the AGI cap was tightened to include individuals with more than \$500,000 in non-farm income (\$1 million for married couples) thereby precluding eligibility for any commodity and disaster payments. Those individuals with more than \$750,000 in farm income (\$1.5 million for married couples) would also be ineligible for direct commodity payments but could still get other crop payments. According to the GAO if these new rules in the 2008 Farm Bill had been in place in 2006 about 23,506 individuals would have technically been ineligible for payments.

In addition the GAO reported that the owner of a sports franchise and an insurance company owner and several individuals who live in foreign countries received large federal farm

commodity payments. USDA says it does not have the staff to adequately monitor all individuals who receive commodity payments nor does it have access to IRS tax returns. The new Administration is clearly interested in pursuing this matter further.

• **USDA Releases Final MILC Payment Rules**

This week USDA's Farm Service Agency released the final rule on the Milk Income Loss Contract (MILC) payment program. The new rule which goes into effect immediately includes the "feed adjustor" provision that was inserted in the program during the consideration of the Farm Bill last spring.

As you will recall, the "feed adjustor" provision requires that USDA calculate on a monthly basis the cost of corn, soybeans and alfalfa hay and adjust the MILC trigger price accordingly to reflect changes in feed costs to dairy farmers. The MILC trigger price of \$16.94 per hundredweight on Class I milk was set so low that it would have had little effect on MILC payments to dairy producers when farm milk prices decreased. Now feed costs have to be taken into account.

In addition the payment cap on annual production was increased from 2.4 million pounds (equivalent to a 130 cow herd) to 2.985 million pounds (equivalent to a 165 cow herd). Also the payment utilization rate was increased from 34% to 45%. As farm milk prices drop, MILC payments are expected to be made this coming winter and spring.

• **Chambliss Wins Georgia Run-off**

Senator Saxby Chambliss (R) won the Georgia run-off race yesterday quite handily as he got about 58% of the vote. The run-off race between Chambliss and Democrat Jim Martin was necessary because Georgia law requires the winner to get 51% of the vote and since there were three candidates running in the November 4th election, no one got to that magic number. The importance of this win means that there will not be a 60 Democrat Super Majority in the Senate which would have given the majority a "filibuster-proof" advantage. There is one other Senate race in Minnesota that is yet to be decided between Republican incumbent Norm Coleman and Democratic challenger Al Franken.

It appears by the vote count at this point that Coleman will win by the slimmest of margins, perhaps by less than 200 votes. If this does turn out to be the case, then the final count in the Senate will be 58 Democrats to 42 Republicans.

• **What About the "Cow Tax"?**

To some degree this is a tempest in a teapot but let me tell you I have been around long enough to take these things very seriously. What I am talking about is an EPA proposed rule on "Regulating Greenhouse Gas Emissions under the Clean Air Act." If taken to its most extreme point, EPA's efforts to establish a permit program to regulate all types of greenhouse gases that contribute to global warming could result in having dairy producers pay X number of dollars for every animal on their operation as part of the permit process. It would certainly be ugly and would cost dairy and other livestock producers an inordinate amount of money just to comply with the regulations.

Comments were due to EPA on this proposed rule last Friday. Many farm and livestock organizations submitted comments to EPA, including NCFC, NMPF, the National Pork Producers Council and the United Egg Producers.

What was correctly pointed out in the comments to EPA is that there are already is an air

emission monitoring study underway by EPA. The dairy portion of this study was funded by the check-off promotion program. The purpose of this two-year study which is yet to be completed will measure air emissions from barns and holding areas as well as manure storage lagoons. The substances that are being monitored under this study include ammonia, hydrogen sulfide and particulate matter.

The comments to EPA also pointed out successes to include the fact that from 1990 to 2005 greenhouse gas emissions from animal agriculture have remained nearly constant and that there are ongoing efforts being made by the industry to reduce these emissions. The completion of the air emission study will hopefully provided us with some hard data that will clearly help.

The use of the Clean Air Act as an authority for regulating greenhouse gas emissions is not the best approach. So we will have to watch the development of these proposed rules very closely.

• **Keep an Eye on the 2009 Legislative Agenda**

- ❖ In addition to agricultural issues that will be in the legislative mix next year, including food safety and trade deals, we will have an important stake in tax and health care legislation. Both of these issues are of high priority to the Obama Administration and they will be on the top of the list of legislation that will be considered early next year.
- ❖ Those of us in agriculture will have to keep close track of how a new tax bill will effect farm businesses in general and specifically dairy producers. As you know the tax issue was a major point of debate in the Presidential race. With 47 million Americans needing health coverage according to the current information available, there will be a major health care package considered by Congress next year. The question is how will these changes effect health care plans that our cooperatives have in place for their members as well as individual plans. So we will be tracking a lot of legislation next year.

❖ **New E-Verify rules Are Out**

Last Friday the federal government published the new E-Verify system rules in the Federal Register. Finalizing these rules has been in the works for the past several months.

The E-Verify system is a program that allows private businesses to electronically verify the eligibility of their employees to the federal government in order to avoid the prospect of being fined for having undocumented workers. In the past it has been voluntary.

The new rules will make it mandatory for all businesses who are federal contractors and subcontractors. The new mandatory system will go into effect on January 15, 2009. The new rule requires federal contractors to agree through language inserted into their federal contracts to use E-Verify to confirm employment eligibility to all persons hired during a contract term and to confirm employment eligibility of federal contractor's current employees who perform contract services for the federal government within the U.S.

What does this mean for the dairy industry since federal contracts for school lunch programs and related services are part of many dairy cooperatives business activities?

Efforts are currently underway to fully analyze the new rules and provide answers to the many questions that will arise as they go into effect in January.

❖ **The Future of Agricultural Immigration Reform in the 111th Congress**

Since this issue will not go away it will work its way up the ladder on the legislative agenda next year. It will not be on the top of the list but perhaps by next fall or certainly by the beginning of 2010, Congress will have to deal with the problem. President-Elect Obama is on record supporting comprehensive immigration reform. However there are no specifics yet as to what the new Administration's efforts will look like.

In addition litigation still continues on the Social Security No-Match Letters that have been proposed by the Department of Homeland Security. The best bet is that this litigation will not be resolved until some time later this winter or early next spring.

I already discussed the new E-Verify system rules that will go into effect in January. However, keep in mind that the authority for the E-Verify program expires on March 6, 2009. Will the next Congress and the new Administration let it expire and/or downplay the new rules on federal requirements to participate in the program if you contract or subcontract with the federal government? Don't yet know the answer to that.

And lastly and most importantly, will the new Administration have ICE officials back off on the intensity of their raids in the future? Recently House Speaker Nancy Pelosi characterized these raids as ineffective and "over the top" in terms of the severity in which employers and employees are treated by the ICE agents (i.e., see the Mike Zimmerman story in last week's edition). All of these issues will start to play out after the first of the year.

• **EPA Increases Renewable Fuel Standard**

At the end of last week the Environmental Protection Agency issued a notice that it is adjusting the renewable fuel standard upward from 9 billion gallons of U.S. motor fuel to 11.1 billion gallons that must be derived from renewable resources. Right now, of course, most all U.S. renewable fuel is from ethanol. The Energy Independence Act that was passed by Congress in 2007 requires that by 2022 36 billion gallons of total U.S. fuel will be required to come from renewable sources. This requirement states that 22 billion gallons of his total should come from "next generation bio-fuels", in other words from sources other than corn-based ethanol. EPA's notice on raising the level from 9 to 11.1 billion gallons has had little effect on corn prices.

• **Will dairy producers see lower feed costs?**

A very good question... Although corn and soybean prices have dropped considerably in the past few months the cost of 16% dairy ration in our region still runs between \$233 and \$266 per ton. So as pointed out in last week's update, we are seeing weakening farm milk prices and high feed prices – a very bad combination. Feed prices in the Northeast are expected to start to ease somewhat after the first of the year. They certainly need to as farm blend prices for milk are expected to be in the range of \$14.50 to \$15.00 per cwt from February to May according to projections by a number of the region's economists.