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Farm lobby fights tax on cow burps

By **Dina Cappiello**
Associated Press

WASHINGTON — One contributor to global warming — bigger than coal mines, landfills and sewage treatment plants — is being left out of efforts by the Obama administration and House Democrats to limit greenhouse gas emissions.

Cow burps. Belching by 170 million cattle, sheep and pigs produces about one-quarter of the methane released in the U.S. each year, according to the Environmental Protection Agency. That makes the hoofed critters the largest source of the heat-trapping gas.

But the gas farm animals pass is exempt from legislation being considered to limit greenhouse gas emissions, in part because of an adept farm lobby campaign that equates government regulation with a cow tax.

The EPA has said it has no plans to regulate the gas, even though it recently included methane among six greenhouse gases it believes are endangering human health and welfare.

The message circulating in Internet chat rooms, Congress and farm co-ops had America's farms facing financial ruin if the EPA required them to purchase air-pollution permits like power plants and factories do.

The cost of such permits amounted to a cow tax, farm groups argued. The Farm Bureau quickly did the math and figured a cost about \$175 for each dairy cow, \$87.50 per head of beef cattle and \$20 for each hog.

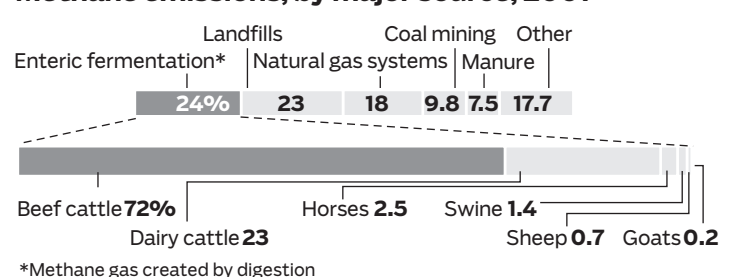
"It really has taken on a life of its own," said Rick Krause, a lobbyist with the American Farm Bureau Federation, which coined the term "cow tax" and spread it to farmers across the country.

"This is something that people understand. All that we have to say is that (cows) are the next step with these proposed permit fees. And people are still talking about it," Krause said.

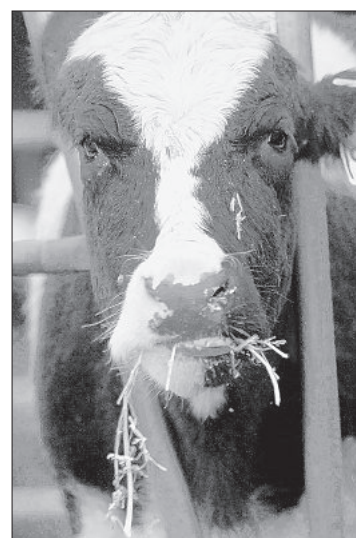
Administration officials and Democratic leaders have tried to assure farm groups they have no intention of regulating cows.

That effort, however, has done little to ease the concern of farmers and their advocates in Congress about the toll that regulating greenhouse gases will have

Methane emissions, by major source, 2007



*Methane gas created by digestion
Associated Press Source: Environmental Protection Agency



Rallying against any 'cow tax,' the farm lobby made sure this methane-belching Holstein can't be treated like an SUV. AP file photo

on agriculture.

Lawmakers and farm groups are now pressing for the legislation to guarantee that farmers will be compensated for steps to reduce greenhouse gases. That could lead to farmers getting paid if their cows pass less gas.

Research has shown that changing cattle diet and boosting efficiency — such as producing the same amount of milk and beef from a smaller herd — can result in less gas, according to Frank M. Mitloehner, an associate professor at the University of California at Davis, who has studied livestock gas for 15 years.

"I don't think livestock should be ignored. Every industry has to play their role," Mitloehner said. But laws designed to cut emissions from smokestacks and tailpipes won't work with cattle, which can't be fitted with pollution-control devices, he said.

"The belching is very hard to

collect," he said. "You cannot capture these gases."

The climate bill specifically excludes enteric fermentation — the fancy term for the gas created by digestion and expelled largely by burping — from the limit it would place on greenhouse gas emissions.

The legislation directs the EPA not to include cow belches among the various sources that could be subject to new performance standards.

EPA administrator Lisa Jackson has called rumors of the cow tax "ridiculous notions" and a "distraction."

On Thursday, Rep. Todd Tiahart (R-Kan.) successfully added an amendment to the spending bill that covers the EPA to block the agency from including biological processes of livestock — including the release of methane — as part of regulating greenhouse gases.

House aides and EPA officials say that controlling such emissions is unworkable. Cow burps make up about 2 percent of all the climate-altering pollution in the U.S.

But allies of farmers in Congress say the reluctance to step into the cow-tax debate has a lot to do with the outcry from the agriculture industry and moderate Democrats from rural states whose votes are needed to pass the bill.

"I think they realized that if you are a Democrat in an agricultural state, a red state, that this is radioactive and I think that is why they have tried scrupulously to reaffirm that they don't have any intention of doing this," said Sen. John Thune (R-S.D.).

Thune is sponsoring a bill that would bar the EPA from requiring farmers to get permits for cattle burps.

Two Views

Climate change bill gets a push

Summer begins today, and along with the temperatures, debate over global warming is heating up.

The Obama administration last week signaled a toughening stance on the issue with the issuance of its first report on climate change. Drawing on previous research, the report places the White House firmly on the side of those who say global warming is an unfolding disaster requiring urgent action.

The Democratic leadership in Congress has already set a goal of voting by summer's end on legislation that would cap greenhouse gas emissions and promote development of alternative energy sources.

Republicans contend that capping emissions will make no difference unless other nations do likewise, and would amount to a tax that would put the U.S. at an economic disadvantage. They call for other measures, such as accelerated construction of nuclear power plants.

Sen. Jim Inhofe of Oklahoma, the top Republican on the Senate Environment and Public Works Committee, told the Tulsa World that the report offered nothing new. The committee's chairwoman, Sen. Barbara Boxer (D-Calif.), said the report adds "urgency to the growing momentum in Congress" for passing a law.

Is the Obama administration on the right course? The Atlanta Journal-Constitution asked two Georgians with informed perspectives on the issue.

Yes

Daniel M. Bodansky, Emily and Ernest Woodruff Chair in International Law, University of Georgia; former U.S. State Department climate change coordinator

The report issued by the U.S. Global Change Research Program confirms that the evidence for global warming is unequivocal. Likely impacts include water shortages in the Southwest; inundation of coastal communities by storm surges and sea-level rise; more frequent heat waves; and threats to agriculture from heat, pests, and floods.

We can't stop climate change altogether. The carbon dioxide we've already emitted commits us to additional warming. But acting now to reduce emissions will avoid digging us into an even deeper hole. The legislation under consideration in Congress, while far from perfect, represents a sensible middle course, which would harness the power of the marketplace to reduce emissions cost-effectively. After eight years of foot-dragging by the Bush administration, it would reassert U.S. leadership on one of the critical issues of the 21st century. The United States cannot solve the problem by itself; China and other major emerging economies will need to limit their emissions as well. But to achieve an international agreement, U.S. leadership is essential.

No

Stan Wise member, Georgia Public Service Commission; past president, National Association of Regulatory Utility Commissioners

President Obama's climate program would raise Georgia's utility rates by \$8.6 billion over 10 years on the hope global temperatures would lower by a fraction of one degree over the next century. Europe instituted climate taxes and the Kyoto Protocol, neither of which has reduced carbon emissions or fossil fuels.

Even Democrats are backing away from the 20 percent renewable mandate by 2020. Nuclear power, biomass or hydropower would not qualify. Consider this: A solar cell in the Southeast will run when it's not dark, hazy or raining, or about 15 percent of the hours in a year. Nuclear plants run an average of 90-plus percent of the hours in a year and produce zero emissions.

Wealth would transfer from Southern and Midwest coal states to the two coasts and outside the country. Asian super-economies will not comply, but they will take our jobs as America is left at a competitive disadvantage.

Compiled and edited by Tom Sabulis, tsabulis@ajc.com

Officials challenge need for act

Voting

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which requires Georgia, eight other states and parts of seven others with a history of discrimination to obtain federal permission before making changes to voting procedures. Under Section 5, a special unit of the Justice Department must review all such changes, from moving a polling site a few blocks down the street to remapping a state's congressional districts.

Thinking back on Selma and the laws that grew from that confrontation, Lewis, the Democratic congressman from Atlanta, recalled last week, "It was the galvanizing moment that brought together the power of the federal government, the president of the United States and the demand of the American people that we do something to make it possible for all of us to participate in the voting process."

Since the Voting Rights Act of 1965 was signed into law, the number of black elected officials nationwide has risen from fewer than 280 to more than 10,000 today. Four of Georgia's 13 members of the U.S. House are black. African-Americans preside as the state's attorney general, its labor commissioner and chief justice of its Supreme Court.

Georgia Republicans, many of whom opposed the 25-year renewal of the Voting Rights Act by Congress in 2006, cite the current political landscape as a reason Georgia voting districts should no longer face federal scrutiny.

Gov. Sonny Perdue felt so strongly, he filed his own legal brief in the current case, urging the justices to overturn Section 5.

"It is indisputable and undisputed that barriers once existed

for black voters in Georgia, both with respect to registration and turnout," said Perdue's brief. "Those barriers, however, clearly do not exist now."

The governor worried that "the Section 5 badge of racism" will loom over Georgia forever. "In short, once a racist state, always a racist state."

Georgia Secretary of State Karen Handel, herself a candidate for the 2010 Republican nomination for governor, took Perdue's arguments a step further.

Section 5, she said last week, was an emergency statute enacted to address problems that existed 44 years ago. She describes it now as "pure politics in its worst form and a ridiculous solution in search of a problem that left the South decades ago."

But Ted Shaw, former president of the NAACP Legal Defense and Educational Fund, said Section 5 is an important deterrent to electoral mischief and a safeguard that ensures changes in voting schemes do not have a discriminatory purpose or effect.

"Because of it, we've gotten to the point of where we are today," said Shaw, now a Columbia University law professor. "Without it, Barack Obama would not be in the White House."

In a March interview with various newspapers, Obama supported continued oversight. "You don't just leave it up to the states to self-correct," he said.

Requiring Justice Department approval of voting changes in the covered states "is not such

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Former president of the NAACP Legal Defense and Educational Fund

a huge hurdle to jump through. It's legitimate to err on the side of caution before you start eliminating that requirement," he said.

Laughlin McDonald, director of the ACLU's voting rights project, said if the provision is declared unconstitutional, voters may still file suit if they believe voting changes are discriminatory. But few plaintiffs will have the financial wherewithal to pursue such litigation, he said.

McDonald cited a recent Georgia case as "Exhibit No. 1" in support of the continued need for Section 5.

In 2007, Handel created a system using a state database to verify voters' identity and citizenship to meet the requirements of the Help America Vote Act.

The Justice Department's civil rights division has rejected the verification procedure, finding it to be "seriously flawed." The system mistakenly flagged thousands of eligible Georgia voters, a disproportionate share of whom were minority voters, Loretta King, acting assistant attorney general, told the state on May 29.

Handel called this decision a political one, noting the Obama administration oversees the Justice Department. (The department's inquiry began under the Bush administration last fall.)

This marked the 172nd time the Justice Department has objected to a change in a Georgia voting procedure since the 1965 act.

Opponents have sought to overturn Section 5 almost since it was enacted. In 1966, a challenge by the state of South Carolina was turned back by the Supreme Court in an 8-1 decision.

"There's been controversy over this from the beginning, but very few people have said Congress lacked the power to require these jurisdictions to get preclearance," said Rick Hasen, a professor at Loyola Law School. "For the Supreme Court to strike down one of the crown jewels of the civil rights movement would be monumental."

The Section 5 challenge before the court involves an obscure utility voting board in Austin,

A law that safeguards a citizen's right to vote

The Voting Rights Act of 1965 has two key provisions:

Section 2 makes it illegal to use any voting practice or procedure that denies or hinders a minority citizen's right to vote. Section 2 is not at issue in the case currently before the U.S. Supreme Court.

Section 5, which is being challenged, requires nine states (Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia) and parts of seven others (California, Florida, Michigan, New Hampshire, New York, North Carolina and South Dakota) to obtain permission — or "preclearance" — from the U.S. Justice Department before making any changes in voting procedures.

Under Section 5, state, county and local governments must demonstrate that the voting change does not have a racially discriminatory purpose and will not leave minority voters worse off.

Texas, that was created two decades after the Voting Rights Act was signed into law. But because it's in Texas, one of the states covered by the act, the board required Justice Department approval when it moved a neighborhood polling place from a resident's garage to a nearby elementary school.

During oral arguments in April, the court's conservative justices were skeptical that the law makes sense in 2009. And Justice Anthony Kennedy, seen as the critical swing vote, also questioned the need for the law.

"There had been unremitting and ingenious defiance," Kennedy said of the Jim Crow era. "Democracy was a shambles. ... That's not true anymore."

Kennedy noted that 30 attorneys in the civil rights division are needed to oversee the "pre-

clearance" process, and he cited congressional testimony that said the states and local jurisdictions have spent \$1 billion over 10 years to comply with the law.

Chief Justice John Roberts compared the enforcement tool to an "elephant whistle" on the grounds that 99.98 percent of all requests to change voting procedures get preclearance.

"You know, I have this whistle to keep away the elephants," he said. "Well, there are no elephants, so it must work."

Roberts added, "I mean, at some point, it begins to look like the idea is that this is going to go on forever."

John Lewis was among those watching and listening in the courtroom. Last week, he acknowledged that the arguments did not go well.

"No one can deny the fact we've made progress," he said. "But that's not the question. That's not the issue. The issue is we need this tool to guard against the possibility of reverting back to our dark past."

Obama has assembled a team of Justice Department lawyers to prepare a response to a possible 5-4 vote overturning Section 5.

In a recent speech in Washington, U.S. Attorney General Eric Holder said that, "no matter how the court resolves the issue," the Justice Department will enforce the nation's voting rights laws.

"Our commitment to equal protection — and to full participation in our nation's elections — will not waver," he said.

Atlanta attorney Lee Parks, an expert on voting rights law, said the high court may not issue a ruling that hands a sweeping victory to either side of the issue.

The court could invalidate the law on narrow grounds, such as the failure by Congress to consider current election data when passing the 25-year extension.

That would open the way for Congress to fix it, he said, by limiting the role of preclearance "to the important stuff, like reapportionment and a citizenship check of which disenfranchised thousands of primarily minority voters this time around."