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CONGRESSIONAL SCHEDULE  NEW

Both the House and Senate met briefly today but held no recorded votes.

The Senate will return to session on Monday, September 27, and continue consideration of a bill to use the tax code to crack down on outsourcing of U.S. jobs (S. 3816). Opposition to the bill from Republicans and some Democrats is expected to prevent supporters from garnering the 60 votes needed to move ahead on the bill. Up for consideration as early as Tuesday, September 28, will be the FY11 continuing resolution (CR) that is needed to fund government activities until Congress reconvenes in November and can approve longer-term funding (see item below).

House Majority Leader Steny Hoyer (D-MD) said yesterday that the House will return on Wednesday, September 29. The chamber is expected to consider several bills under suspension, and House Democrats also may bring up legislation aimed at creating jobs and helping manufacturers, including a bill to establish a loan guarantee program for home construction (H.R. 5409).

Both chambers are expected to adjourn for the midterm elections on Friday, October 1.
House and Senate Democratic leaders are preparing a continuing resolution to keep the government operating after September 30, when Fiscal Year 2010 ends. None of the 12 FY11 appropriations bills has been approved. CQToday reports that the Senate will take up the measure first, probably on Tuesday.

The publication adds that in light of Republican opposition to added spending, the measure is likely to be a “bare bones” extension of FY10 funding levels. Earlier this week, Senator Tom Harkin (D-IA) said he was working to include extra funding in the CR to address the shortfall in the Pell Grant program.

SENATE DOD APPROPRIATIONS BILL WOULD INCREASE BASIC RESEARCH FUNDING

The FY11 Defense appropriations bill (S. 3800, S.Rpt. 111-195) approved last week by the Senate Appropriations Committee would provide increased funding for 6.1 basic research over the FY10 appropriation and the Administration’s FY11 budget request.

The measure, approved in subcommittee on September 14 and in full committee on September 16, would provide $2.056 billion for basic research. This is $182.8 million, or 9.8 percent, above the FY10 level of $1.874 billion, and $57.5 million, or 2.9 percent, above the Administration's request of about $1.999 billion.

For the broader Science & Technology (S&T) category, the Senate bill would provide $12.874 billion, a cut of $582 million, or 4.3 percent, from the FY10 level of $13.456 billion. However, this is $1.041 billion, or 8.8 percent, above the Administration’s request of $11.833 billion. S&T programs include defense-wide and military service funding for 6.1 basic research, 6.2 applied research, and 6.3 advanced technology development.

Within this total, applied research (6.2 programs) would receive $4.930 billion, a $108.4 million, or 2.2-percent, cut from the FY10 level of $5.038 billion, but a $454.1 million, or 10.1-percent, increase over the Administration's request of $4.476 billion. Advanced technology development (6.3 programs) would receive $5.888 billion, a $656.4 million, or 10-percent, cut from the FY10 level of $6.544 billion, but a $529.3 million, or 9.9-percent, increase over the Administration's request of $5.359 billion.

The Senate bill breakout for 6.1 basic research and 6.2 applied research across the services is as follows:

- Army 6.1: $470.8 million, a $39.0 million or 9.0-percent increase over FY10;
- Army 6.2: $1.163 billion, a $173.7 million or 13.0 percent cut from FY10;
- Navy 6.1: $568.6 million, a $19.2 million or 3.5-percent increase over FY10;
- Navy 6.2: $787.9 million, a $69.1 million or 9.6-percent increase over FY10;
- Air Force 6.1: $519.6 million, a $36.8 million or 7.6-percent increase over FY10;
- Air Force 6.2: $1.265 billion, a $43.6 million or 3.6-percent increase over FY10;
- Defense-wide 6.1: $497.3 million, a $87.7 million or 21.4-percent increase over FY10; and
- Defense-wide 6.2: $1.714 billion, a $47.4 million or 2.7-percent cut from FY10.

The bill would fund the National Defense Education Program at $95.3 million, an increase of $16 million or 20.2 percent above FY10, but $14.6 million or 13.3 percent below the Administration's requested level of $109.9 million.

For the Defense Advanced Research Projects Agency (DARPA), neither the bill nor its report provides an overall funding figure. The bill’s accompanying report states:

“The fiscal year 2011 budget request for DARPA is $3,103,271,000, an increase of $112,000,000 over the fiscal year 2010 appropriated amount. The Committee recognizes the many changes being implemented at DARPA, and recommends the full $287,600,000 requested for fiscal year 2011 new starts, which is roughly twice the approved amount for new starts in fiscal year 2010. The Committee also recommends full funding of $226,900,000 to continue new starts that were initiated during fiscal year 2010. Further, the Committee fully funds the Agency’s top priorities, such as Global Integrated Intelligence, Surveillance and Reconnaissance programs, and transfers $40,000,000 to DARPA from the Joint Improvised Explosive Device Defeat Organization [JIEDDO] to accelerate efforts in the area of wide area surveillance development for theater operations. The Committee recommends adjustments to programs that have been restructured or descoped, are experiencing delays or lack transition partners. In addition, program elements with excessive growth that is not sustained in DARPA’s out year program are reduced without prejudice against specific projects. Therefore, the Director, DARPA is directed to provide to the congressional defense committees, not later than 60 days after enactment of this act, a report detailing by program element and project the application of undistributed reductions. The Committee recommends no rescission of prior year funds.”

For the Minerva program, the bill’s report notes:

“The budget request includes $21,600,000 for Minerva, an increase of $9,100,000 over the amount appropriated in fiscal year 2010, to expand the Department’s understanding of social, cultural and behavioral forces that shape various regions of the world. The Committee notes that this request includes $5,000,000 which is twice the amount appropriated in fiscal year 2010, to expand Minerva chairs at Defense education institutions. The Committee believes that this new component of the Minerva program has the potential to build significant in-house expertise in the social sciences that directly impacts the Warfighter, and fully supports this increase. However, the Committee remains concerned about funding long-term academic research projects and does not support transferring funds to non-Department of Defense agencies.”

A further breakout of the Defense appropriations levels for accounts of interest to research universities, including the University Research Initiative accounts, is available on the AAU website.

OTHER CONGRESSIONAL ISSUES

SENATE FAILS TO MOVE DOD AUTHORIZATION BILL FOR NOW  UPDATED
Senate Democratic leaders on September 21 fell short of the 60 votes they needed to proceed to consideration of the Defense authorization bill (S. 3454), delaying a final vote on the bill until after the November election. Along with postponing Democratic hopes of repealing the “don’t ask, don’t tell” policy on gays in the military, the vote also pushed off consideration of the Development, Relief and Education for Alien Minors (DREAM) Act, legislation to provide a path to citizenship for undocumented minors brought to the U.S. by their parents. Democrats had planned to offer the bill as an amendment during floor consideration.

The Hill reports that President Obama suggested in an interview on September 22 that he would not try to implement immigration reform through regulations or other administrative policies. The President said it was important for immigration reform to go through Congress, and he called on Republicans to join him in passing legislation.

--Twenty-Six Associations Urge Congressional Approval of DREAM Act

A group of 26 higher education associations, including AAU, sent a letter to Senate leaders on September 17 urging them to approve the DREAM Act this year.

Spearheaded by the American Council on Education, the letter asked Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) to pass the bill as a means of helping undocumented young people who came to this country because of the actions of their parents to chart a path toward citizenship. Among other provisions, the bill would return to the states the ability, but not the obligation, to decide whether to extend in-state tuition to undocumented students. The letter notes, “The DREAM Act is an important tool for achieving our national goal of returning the United States to world leadership in higher education attainment. It has been estimated that 65,000 DREAM-eligible students graduate from American high schools each year.”

HOUSE VOTES FINAL APPROVAL OF SMALL BUSINESS BILL WITH CELL PHONE PROVISION  NEW

The House on September 23 approved the Senate-passed version of the Small Business Jobs Act (H.R. 5297), sending the measure to the President, who is expected to sign the bill on Monday. The bill includes the MOBILE Cell Phone Act (S. 144), which removes cellular phones, smartphones, and other mobile communication devices from the application of IRS-listed property rules. This change will relieve employers—including colleges and universities—and their employees of costly record-keeping requirements.

According to CTIA-The Wireless Association, approval of the legislation “means individuals who have a business-provided mobile device are no longer required to record: (1) the amount of such expense or other items; (2) the time and place of the use of the property; (3) the business purpose of the expense; and (4) the business relationship to the taxpayer of the persons using the property.”

AAU and other higher education organizations support this change in the law.
VICE PRESIDENT BIDEN MEETS WITH HIGHER EDUCATION LEADERS TO DISCUSS ARRA BENEFITS

Vice President Joe Biden and White House Science Advisor John Holdren met with a group of university presidents and association leaders at the White House on September 21 to discuss research and education activities made possible by the American Recovery and Reinvestment Act (ARRA).

As reported by the Chronicle of Higher Education, the Vice President said research spending was “among the most critical parts” of the stimulus funding, and he promised a continued federal commitment to research. Mr. Biden said it was up to Washington to provide the “vision” and “seed money” to help universities “change the world.” He added, “The rest of the world gets this, and we can’t afford to lag behind.”

Joining the Vice President and Dr. Holdren at the event were six leading research university presidents, AAU President Robert Berdahl, and Association of Public and Land-grant College (APLU) President Peter McPherson. The university presidents and chancellors participating were France Cordova of Purdue University, Ronald Daniels of The Johns Hopkins University, Amy Gutmann of the University of Pennsylvania, Bernard Machen of the University of Florida, Elson Floyd of Washington State University, and Mark Yudof of the University of California.

A video of the portion of the meeting open to the press is available on the White House website.

NATIONAL ACADEMIES PANEL RELEASES FOLLOW-UP TO “GATHERING STORM” REPORT UPDATED

Members of Congress and leaders of the National Academies on September 23 released a follow-up to the Academies’ landmark 2005 report, “Rising Above the Gathering Storm,” and urged passage of the America COMPETES Act reauthorization.

Presenting the findings of the new report, “Rising Above the Gathering Storm, Revisited: Rapidly Approaching Category 5,” was Gathering Storm committee chairman Norman Augustine. On hand to comment were Senators Jeff Bingaman (D-NM) and Lamar Alexander (R-TN) and Reps. Bart Gordon (D-TN), Rush Holt (D-NJ), and Frank Wolf (R-VA), as well as National Academy of Sciences president Ralph Cicerone, National Academy of Engineering president Charles Vest, AAU President Robert Berdahl, and Council on Competitiveness President Deborah Wince-Smith.

The House Science and Technology Committee plans to hold a hearing on issues raised by the new report on Wednesday, September 29. Witnesses will include Mr. Augustine; Craig Barrett, former CEO of Intel Corporation; Charles Holliday, chair of the National Research Council committee studying the future of research universities (see item below); and C.D. (Dan) Mote, Jr., president emeritus of the University of Maryland, College Park.
The Gathering Storm report warned that the U.S. faces a difficult future if it does not make the investments in research and education necessary to spur innovation and compete for high-quality jobs in a global economy. The report helped prompt Congress to pass the America COMPETES Act—which authorized significant funding increases for the National Science Foundation, the Department of Energy Office of Science, and the National Institute of Standards and Technology.

The new report examines U.S. progress in confronting its competitiveness challenges. It calls for Congress to reauthorize the America COMPETES Act, which will soon expire, and to make significant, sustained new investments in education and research.

AAU PRESIDENT SPEAKS TO NATIONAL ACADEMIES PANEL ON ITS RESEARCH UNIVERSITY STUDY

AAU President Robert Berdahl on September 22 provided remarks and participated in a discussion with the National Research Council (NRC) committee that is studying the future of U.S. research universities. He was joined by APLU President Peter McPherson.

Dr. Berdahl’s remarks to the committee built on the presentation he gave November 16 to the committee’s oversight group, the Board on Higher Education and Workforce, in which he discussed the need to revitalize the government-research university partnership. He said that AAU shortly would submit to the committee a white paper that expands on his oral statement.

JUSTICE DEPARTMENT, PLAINTIFFS OPPOSE UC PARTICIPATION IN STEM CELL CASE UPDATED

Both the Department of Justice and the plaintiffs in the ongoing lawsuit on federal funding of human embryonic stem cell research (hESC) expressed opposition this week to the University of California’s (UC) request to join the case. Their latest briefs were submitted in response to a motion filed by UC earlier this week requesting that the university system be allowed to intervene in the case, on the grounds that it is the single largest grantee of NIH funds for hESC research and thus is substantially affected by a prohibition on federal funding. The Justice Department and the plaintiffs argued in their briefs before the D.C. Circuit Court of Appeals that UC’s interests were adequately represented by the government; the plaintiffs also said UC should have filed previously.

Also earlier in the week, the Justice Department filed a brief responding to a motion filed by the plaintiffs in opposition to the Court of Appeals’ emergency stay of the preliminary injunction banning federal funding of hESC research. The emergency stay has allowed the National Institutes of Health (NIH) to resume funding for hESC projects until at least September 27, when the appeals court will hear oral arguments in the case. The preliminary injunction was imposed by Federal District Court Judge Royce Lamberth on August 23; the emergency stay was issued on September 9.

In its reply to the plaintiffs’ motion, the government disputes the plaintiffs’ claim that hESC research violates the Dickey-Wicker amendment, noting that federal funding of hESC research has been taking place since 2002 and there has been ample congressional language supporting
this activity. The brief concludes with a request to continue the stay, pending a ruling by the Circuit Court on the Justice Department’s appeal of the preliminary injunction.

The University of California’s motion for intervention argues that as the single largest grantee for hESC research it would be substantially affected by the ban, noting that UCLA and UC San Diego together account for 30 NIH hESC grants, totaling more than $16 million. If the motion to become an intervenor appellant is successful, UC will essentially be able to act as a defendant and file briefs and motions relevant to the case. However, it seems unlikely that the appeals court will grant the motion, in light of both the plaintiffs’ and the government’s opposition.

The UC motion also addresses the issue of standing of the plaintiffs, arguing against the federal district court’s ruling that the adult stem cell researchers involved in the case were competitively disadvantaged by funding of hESC research.

**SCIENTIFIC GROUPS TO HOLD PUBLIC DISCUSSION SERIES ON SCIENCE AND GLOBAL ISSUES**

Three scientific groups are sponsoring a series of four public “conversations” this fall on issues of science and society related to global challenges. The sessions will feature “candid conversations with leading scientists, economists, and politicians” about the issues of meeting global energy demand; reducing the risk of nuclear terrorism; reacting to the BP oil spill; and the outlook for climate and energy policy in the new Congress.

Sponsored by the American Association for the Advancement of Science (AAAS), the American Chemical Society, and the Georgetown University Program on Science in the Public Interest, the sessions will be held October 4, October 18, November 1, and November 15.

Each program will run from 6:00 to 7:30 p.m. in the main AAAS auditorium at 1200 New York Avenue, NW, in Washington, D.C. A reception will precede each session at 5:00 p.m.

Additional details about the series are available on the AAAS[website](http://www.aaas.org).

**AAU PRESIDENT ROBERT BERDAHL ANNOUNCES RETIREMENT**

Robert M. Berdahl announced on September 23 that he will retire as president of AAU effective May 1, 2011, when his current contract expires. He has been president of AAU since May, 2006.

Dr. Berdahl said yesterday in a message to the 63 AAU presidents and chancellors that he was “extremely grateful for the opportunity to have served as president of AAU.” He added, “My only regret is that the calendar tells me that it is time to retire.”

A press release about the announcement is available on the AAU[website](http://www.aau.edu).

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