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CONGRESSIONAL SCHEDULE  NEW

The Senate met today, with no roll call votes. The chamber will reconvene on Monday, February 7, to resume consideration of the Federal Aviation Administration reauthorization bill (S. 223). (See next item below.)

The House was out of session this week and will reconvene on Tuesday, February 8, with recorded votes expected that evening. The legislative program has not been announced.

BUDGET & APPROPRIATIONS

HOUSE LEADERS’ FY11 BUDGET PLAN WOULD MAKE SIGNIFICANT CUTS  NEW

House Republican leaders yesterday announced their plans for appropriations for the remainder of FY11. Because Congress was unable to approve a full-year appropriations package for FY11 last year, the federal government has been funded at largely FY10 levels through a continuing resolution (CR) that expires on March 4.
House Budget Committee Chairman Paul Ryan (R-WI) yesterday announced that the proposed discretionary spending cap for FY11 would be $1.055 trillion, which his fact sheet says is $74 billion below the President’s FY11 budget request and $35 billion below the FY10 level. However, because the cap would provide $8 billion above the FY10 level for security spending, non-security spending would actually be cut by $43 billion, or 9.3 percent, from its FY10 level. (NOTE: Politico reports that based on an estimate of current FY11 spending by the Congressional Budget Office, the net reduction would be $32 billion, and the cut in non-security spending would be about $40 billion. Either way, the cuts would be significant.)

Later in the day, House Appropriations Committee Chairman Harold Rogers (R-KY) released a statement and chart showing the spending limits assigned to each of the 12 House appropriations subcommittees. The Chairman said in his statement that the committee would “produce legislation that will represent the largest series of spending reductions in the history of Congress.” He added, “These cuts will not be easy, they will be broad and deep, they will affect every Congressional district, but they are necessary and long overdue.”

The proposed funding reductions in the House leadership plans are based on the full fiscal year. Because they would be implemented over the less than seven remaining months of FY11, however, the percentage reduction over that period would be considerably larger than they appear in the chart.

The Committee for Education Funding reports that Chairman Rogers’ chart underestimates by nearly $6 billion the cuts that would be made in the Labor-HHS-Education bill because the chart uses FY10 enacted levels instead of funding levels in the short-term FY11 continuing resolution (CR). Although the FY11 CR is funding most federal programs at their FY10 levels, Congress made other adjustments, including adding $5.67 billion to ensure a full maximum award for the Pell Grant program. Thus, the Congressional Budget Office estimates current spending levels in the Labor-HHS-Education bill at $169.35 billion, or $5.76 billion more than the amount shown in the Chairman’s chart. This means that the cut in funding from the CR to the Chairman’s plan would be $12.33 billion or 7.3 percent, rather than the $6.56 billion, four-percent cut shown in the chart.

House leaders expect to begin floor consideration of the FY11 funding bill the week of February 14; President Obama’s FY12 budget will be released on Monday, February 14.

SENATORS LOOK FOR BIPARTISAN DEFICIT-REDUCTION ALTERNATIVES NEW

Politico reports that even as the House moves forward with its FY11 budget plan, a bipartisan group of Senators is working on a 10-year deficit reduction plan that would include not only discretionary spending cuts but also tax and entitlement reform.

AAU, APLU URGE SUSTAINED RESEARCH AND STUDENT AID FUNDING IN FY11 NEW

AAU and the Association of Public and Land-grant Universities (APLU) sent a letter to House and Senate leaders today urging them to provide sustained growth in basic scientific research and
federal student aid programs in FY11. “If our nation is to create new industries and generate new jobs, then status quo funding or spending cuts to the nation’s science, engineering, and education enterprise are not the right choice for our country,” said the letter.

**SENATE APPROPRIATIONS COMMITTEE ANNOUNCES SUBCOMMITTEE MEMBERS NEW**

The Senate Appropriations Committee today announced the Democratic and Republican members of its 12 subcommittees. As noted in the Committee press release, the panel now has 16 Democrats and 14 Republicans, including seven new members.

**SENATE VOTES TO UPHOLD HEALTH CARE LAW, ELIMINATE 1099 REQUIREMENT NEW**

The Senate on February 2 voted down a Republican effort to repeal the health care law. The party-line vote on repeal was 47 to 51. The vote came during consideration of the Federal Aviation Administration reauthorization act (S. 223) and followed the January 9 House vote to repeal the law.

The Senate did agree, by a vote of 81 to 17, to repeal the health care law’s new 1099 tax reporting requirement, which has been widely opposed by businesses—and organizations like universities—as unduly burdensome. However, because the expanded reporting requirement is an important source of revenue for the health care law, the Senate repeal amendment includes language directing the federal government to cut $44 billion in unobligated funds to offset the revenue reduction. The amendment, offered by Senator Debbie Stabenow (D-MI), would exempt the Defense and Veterans Affairs departments and the Social Security Administration from the rescissions. Politico reports that the House seems unlikely to “move on the legislation immediately,” though the Ways and Means Committee plans to consider its own 1099 repeal “soon.”

**OTHER CONGRESSIONAL ISSUES**

**SENATE JUDICIARY COMMITTEE APPROVES PATENT REFORM BILL NEW**

The Senate Judiciary Committee on February 3 unanimously approved comprehensive patent reform legislation (S. 23). The provisions in the Patent Reform Act of 2011 of particular interest to the university community are identical to those in last year’s bill, which the community supported.

S. 23 was introduced on January 25 by Committee Chairman Patrick Leahy (D-VT), Ranking Member Charles M. Grassley (R-IA), and current member and former chairman Orrin Hatch (R-UT), as well as six other cosponsors.

The bill is intended to speed the examination and approval process for inventors by improving funding of the U.S. Patent and Trademark Office and by eliminating subjective elements of current patent law that increase the cost and reduce the predictability of patent infringement
litigation. The bill also is intended to raise the quality and validity of patents by providing early alternatives to court action for reviewing patents.

In the interest of building bicameral support for the bill, the Judiciary Committee included additional technical and other changes to S. 23 in amendments approved in the markup.

One such amendment, by Senator Dianne Feinstein (D-CA), removed a patent infringement provision that had been one of several issues between Senate and House lawmakers. As introduced, the bill included changes to the criteria for determining what constitutes “willful” patent infringement. Senator Feinstein’s amendment restored the prior language on willful infringement.

EXECUTIVE BRANCH

PROPOSED RULES COULD REQUIRE UNIVERSITY TRUSTEES AND EMPLOYEES TO REGISTER WITH SEC

Proposed rules issued by the U.S. Securities and Exchange Commission (SEC) on January 6 to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203) could affect some university employees and board members. Individuals covered by the proposed rules would be subject to significant disclosure requirements, including making public financial and employment information.

An analysis by the National Association of College and University Business Officers notes that the proposed rules would establish a process for individuals and firms that act as “municipal advisors” to register with the SEC and the Municipal Securities Rulemaking Board if they provide “advice” to the municipal entity on: the issuance of municipal securities, entering into swap transactions, or investment strategies relating to state or municipal funds. The proposed rules, however, do not define what constitutes “advice.”

Moreover, the proposed rules raise the specter that appointed board members of a municipal bond issuer or other municipal entity that invests governmental funds—such as a public college or university—may be required to register as municipal advisors. Although not specifically discussed, the proposed rules also could be interpreted to require that trustees and certain employees of conduit borrowers of municipal bond proceeds (including independent colleges and universities) register if they provide “advice” to such borrowers relating to the issuance of the municipal security or a related swap transaction, or investment strategy relating to the municipal bond proceeds.

Individuals covered by the new definition of “municipal advisor” would be subject to new disclosure requirements, including financial and employment disclosures. The information gathered would be publicly available.

AAU is working with several higher education associations and outside counsel to respond to the request for comments, which are due on February 22.

OTHER
Those interested in attending this year’s National Humanities Alliance 2011 meeting and humanities advocacy day are encouraged to register for the meeting before the February 6 deadline. The events will take place March 7-8 in Washington, DC at The George Washington University’s Marvin Center and on Capitol Hill.

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