CONGRESSIONAL SCHEDULE  NEW

Neither the House nor the Senate met today. Both chambers will reconvene on Monday, June 20: the Senate in session with no roll call votes, the House in pro forma session.

When the House reconvenes next week, the chamber is expected to take up patent reform legislation (H.R. 1249 – see item below), the Department of Defense FY12 appropriations bill (see also below), and possibly the reauthorization of the Federal Aviation Administration and legislation dealing with the military action in Libya.

When the Senate reconvenes next week, it is expected to resume consideration of the reauthorization of the Economic Development Act (S. 782).

BUDGET & APPROPRIATIONS

BUDGET NEGOTIATIONS CONTINUE BEHIND THE SCENES  NEW

The bipartisan group of lawmakers convened by Vice President Joe Biden to develop a short-term deficit reduction plan appears to have intensified its negotiations. The members plan to continue to meet three times each week, as they did this week, and participants say they hope to have an agreement to present to their respective caucuses by July 1, in advance of the July 4 recess. The Treasury Department has set an August 2 deadline for raising the debt ceiling.
In the Senate, Budget Committee Chairman Kent Conrad (D-ND) continues to modify his FY12 budget resolution in order to gain support from committee Democrats. He postponed consideration of a package in mid-May after committee Democrats—including Independent Bernard Sanders of Vermont—could not agree on a plan. The chairman needs every Democratic vote to get the measure to the Senate floor because no Republicans on the committee are likely to support the package.

CQ.com reports that Senator Conrad’s re-crafted proposal would still aim to reduce the deficit by $4 trillion over 10 years, but with an equal amount of spending cuts and tax increases. The cuts would reduce funding for domestic and defense discretionary spending and mandatory spending, and the savings also include reduced interest payments on the debt resulting from the deficit-reduction measures. The tax increases reportedly would come largely from reducing or eliminating tax loopholes. Among those that seem likely for targeting are tax breaks for the oil and gas industry.

An indication of the changing debate in Washington over tax benefits is the fact that the Senate this week approved an amendment to the Economic Development Act that would eliminate the tax credit for blending ethanol in gasoline that expires at the end of the year. Although the overall bill is not likely to pass, Politico reports that the vote opens up the discussion about reducing or eliminating other tax preferences. “I think we’re looking at everything now,” said Senator Mike Johanns (R-NE). “Trying to figure out what to do with the budget has caused us all to come to grips with some things we’ve supported in the past, all of us.”

Meanwhile, since the House passed its own FY12 budget resolution on April 15, the House is moving its FY12 funding bills based on that blueprint. The full chamber this week approved the Military Construction-Veterans and Agriculture bills, which join the already-approved Homeland Security bill. The Appropriations Committee also marked up the Defense and the Energy and Water appropriations bills this week (see items below).

The Senate Appropriations Committee has held hearings on its FY12 spending bills but remains unable to move the legislation. Without a Senate-passed FY12 budget resolution, the panel lacks a top-line discretionary spending number that would allow it to allocate funding among its 12 subcommittees.

**HOUSE APPROPRIATIONS COMMITTEE APPROVES FY12 ENERGY AND WATER BILL**

The House Appropriations Committee on June 15 approved the FY12 Energy and Water funding bill, with no significant changes from subcommittee to the accounts of particular interest to research universities. The vote was 26 to 20.

The bill provides $4.8 billion for the Department of Energy (DOE) Office of Science and $100 million for the Advanced Research Projects Agency-Energy (ARPA-E). Office of Science funding is cut by $42 million from the FY11 level and ARPA-E funding is cut by $80 million from the FY11 level. An amendment offered by Rep. Adam Schiff (D-CA) to sustain ARPA-E funding at its FY11 level of $180 million was defeated by voice vote.

The bill would fund Basic Energy Sciences (BES) at $1.69 billion, an increase of $10 million from the FY11 level. It would increase funding for Advanced Scientific Computing (up $5 million to $427 million); for Fusion (up $30.5 million to $406 million); and High Energy Physics (up $1.8 million to $797 million). However, the bill would cut Biological and Environmental
Sciences by $64.7 million to $547 million, with the cut aimed at medical, climate, and atmospheric research.

The newly proposed energy innovation hubs for critical materials energy and battery and energy storage were funded at $20 million each, the same as the FY12 request. Taking the biggest hit was Energy Efficiency and Renewable Energy (EERE), which was funded at $1.3 billion, a cut of $500 million from its FY11 level.

The committee report raises the issue of transparency and metrics, focusing first on Office of Science management and oversight and then on grant performance in the Basic Energy Sciences program (BES). The more general language on overall Office of Science management and oversight says, “Within the Office of Science, the Committee has little insight into the success or failure of billions of dollars in basic science grants, a deficit of information which this report begins to address. The Committee will continue to work with the Department, and with outside entities that can provide additional perspective, to improve management and oversight (page 8 of the report).”

The report later says that the funding model for the energy innovation hubs and the energy frontier research centers has an “inherent advantage over incumbent research models: a higher level of transparency making clear the award, recipient, term length and the purpose of each center.” It contrasts that model with the awarding of general research grants through the BES program. “While the Committee strongly supports the Basic Energy Sciences research areas, it is difficult to measure the performance of these activities and to understand their demands on out-year funding. As a first step towards increased accountability within that program, this report directs the Department to perform an evaluation of Basic Energy Science research activities and to terminate the lowest-performing awards. The Committee urges the Department to propose means by which it can further increase the transparency of these activities and hold them accountable for high performance (page 78).”

**HOUSE DOD APPROPRIATIONS BILL WOULD INCREASE BASIC RESEARCH FUNDING**

The FY12 Defense appropriations bill approved June 14 by the House Appropriations Committee would increase funding for Defense 6.1 basic research above both the FY11 level and the Administration’s FY12 request. The bill number is H.R. 2219, but at this writing, the report has not yet been filed.

The measure would provide $2.099 billion for 6.1 basic research, which is $151.4 million, or 7.8 percent, above the FY11 estimated level of $1.947 billion, and $20 million, or 1.0 percent, above the Administration’s request of about $2.079 billion.

For the broader Science & Technology (S&T) category, the bill would provide $12.195 billion, an increase of $255.4 million, or 2.1 percent, above the FY11 level of $11.939 billion, but $52.2 million, or 0.4 percent, below the Administration’s request of $12.247 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 $4.672 billion, a $218.8 million, or 4.9-percent, increase over the FY11 level of $4.453 billion, and $15.5 million, or 0.3 percent, below the Administration’s request of $4.687 billion. Advanced technology development (6.3 programs) would receive $5.425 billion, a $114.8 million, or 2.1-percent, cut from the FY11
level of $5.539 billion, and $56.7 million, or 1.0-percent, below the Administration's request of $5.481 billion.

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

- Army 6.1: $456.9 million, a $53.6 million, or 13.3-percent, increase over FY11;
- Army 6.2: $876.3 million, a $29.4 million, or 3.5-percent, increase over FY11;
- Navy 6.1: $597.4 million, a $41.0 million, or 7.4-percent, increase over FY11;
- Navy 6.2: $783.8 million, a $65.1 million, or 9.1-percent, increase over FY11;
- Air Force 6.1: $518.8 million, a $18.3 million, or 3.7-percent, increase over FY11;
- Air Force 6.2: $1.137 billion, a $60.7 million, or 5.1-percent, cut below FY11;
- Defense-wide 6.1: $525.3 million, a $38.4 million, or 7.9-percent, increase over FY11; and
- Defense-wide 6.2: $3.198 billion, a $268.5 million, or 7.7-percent, cut below FY11.

The bill would fund the National Defense Education Program at $86.6 million, a cut of $7.7 million, or 8.2 percent, below FY11, and $15 million, or 14.8 percent, below the Administration's requested level of $101.6 million. The report includes no language about NDEP, but its table indicates the cut is due to “excessive growth.”

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:

“…DARPA’s mission is to maintain the technological superiority of the U.S. military and prevent technological surprise from harming our national security by sponsoring revolutionary, high-payoff research bridging the gap between fundamental discoveries and their military use…Corporate strategies have greatly improved the efficiency of DARPA’s financial execution and ability to obligate funds. The Committee has determined that these efficiencies will result in cost reductions of $100,000,000 in fiscal year 2012. Therefore, the Director of DARPA shall 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 each detailed reduction.”

AAU has prepared a more detailed breakout of the Defense appropriations levels for accounts of interest to research universities, including the University Research Initiative accounts. Additional information about the legislation, including the draft bill and report, is available on the House Appropriations Committee website.

BIPARTISAN GROUP OF 41 SENATORS URGES FY12 FUNDING SUPPORT FOR NIH

A bipartisan group of 41 Senators, including seven Republicans, sent a letter to Senate appropriators on June 10 urging them to “maintain a strong commitment to funding” for the National Institutes of Health (NIH) in FY12.

The letter, co-authored by Senators Bob Casey (D-PA) and Richard Burr (R-NC), asks for sustained support of NIH because the research the agency supports offers the best hope for treating or curing many debilitating diseases, as well as for containing health care costs associated with the aging of the Baby Boomer generation. NIH-funded research, the letter states,
also has yielded an “unprecedented number of scientific advances” that have not only improved health but contributed significantly to the nation’s economic growth.

**OTHER CONGRESSIONAL ISSUES**

**PATENT REFORM DELAYED IN THE HOUSE OVER USPTO FUNDING PROVISION**

*UPDATED*

Although House leaders had planned to take up patent reform (H.R. 1249) on the House floor this week, consideration has been delayed until at least next week over the provision, Section 22, which would allow the U.S. Patent and Trademark Office (USPTO) to retain all of the patent fees it collects in a revolving fund. The funding provision, aimed at reducing the USPTO’s backlog of patent applications, is key to sustaining broad-based support for the reform bill, but House Budget Committee Chairman Paul Ryan (R-WI) and House appropriators have announced they oppose allowing the USPTO to retain its patent fees.

CQ.com reports that House Judiciary Committee Chairman Lamar Smith (R-TX) is working to craft a compromise “that ensures the patent office gets more money while respecting the authority of congressional appropriators.” But it is unclear if a compromise acceptable to House appropriators and Chairman Ryan would be acceptable to Senate leaders and to the broad patent reform community.

--Coalitions Work to Strengthen Support for House Patent Reform Bill  *UPDATED*

Meanwhile, patent reform advocates continue to press for House passage of the bill. Under the aegis of the Coalition for 21st Century Patent Reform, representatives from universities and businesses will come to Washington on Monday, June 20, for a lobby day on behalf of the bill. Information about this effort was sent to the CFR on June 16.

In addition, on June 15, the six higher education associations that have been working together on patent reform, including AAU, sent a letter to all Members of the House expressing strong support for the bill:

“H.R. 1249 reforms current U.S. patent law through carefully crafted provisions that effectively balance the interests of the various sectors of the patent community and substantially improve the patent system overall, strengthening the nation’s innovative capacity and economic competitiveness. We urge you to support this important legislation.”

And on June 13, a group of more than 150 associations and institutions, including AAU and many AAU university members, sent a letter to House leaders expressing strong support for Section 22, the USPTO revolving fund provision. The Coalition’s letter said:

“Although each of our organizations has varying views on the reforms contained in H.R. 1249, we unanimously support Section 22 and believe that it is the cornerstone of any patent reform legislation.” Without the ability to prevent patent fees from being diverted to other federal activities, adds the letter, “the ability of the USPTO to plan long-term and build the agency our innovation economy demands will be frustrated, and the job-stifling patent application backlog will continue.”
The House Education and the Workforce Committee approved legislation (H.R. 2117) on June 15 to repeal two Department of Education regulations that have proved problematic for colleges and universities. The vote was 27 to 11, with 22 Republicans and five Democrats supporting the bill. CQ.com reports that H.R. 2117 has not been scheduled for House floor action. It adds, “If the chamber takes it up, it is likely to pass, but the legislation has less-certain prospects in the Democratic Senate.”

The bill, introduced by Rep. Virginia Foxx (R-NC), would repeal state authorization and credit hour provisions of the program integrity rules published by the Department of Education, which are scheduled to go into effect on July 1, 2011. H.R. 2117 also would prohibit the Secretary of Education from promulgating or enforcing any regulation or rule that defines the term “credit hour” for any purpose under the Higher Education Act.

The two provisions have been strongly opposed by a majority of the higher education community as an unwarranted expansion of federal authority. The state authorization provision is viewed as a significant intrusion into prerogatives properly reserved to the states. The credit hour provision would establish a federal definition of credit hour, which institutions believe could open the door to federal interference in core academic decisions related to the curriculum.

As reported previously, a group of more than 70 higher education associations and accreditors, including AAU, sent a letter to Rep. Foxx on June 10 thanking her for introducing the bill. The letter stated:

“We support efforts aimed at curbing abuse and bringing greater integrity to the federal student aid programs. However, given the almost total lack of evidence of a problem in the context of credit hour or state authorization, we see no basis for two regulations that so fundamentally alter the relationships between the federal government, states, accreditors and institutions. Ultimately, we believe these regulations invite inappropriate federal interference in campus-based decisions and will limit student access to high-quality education opportunities.”

AAU ISSUES STATEMENT OPPOSING GREAT APE PROTECTION AND COST SAVINGS BILL

AAU has issued a statement that describes how scientists use chimpanzees for life-saving research for both humans and primates and explains why the association opposes the Great Ape Protection and Cost Saving Act (S. 810, H.R. 1513), which would ban all research using chimpanzees. The statement, which was issued in response to requests for additional background on the issue, says:

“Chimpanzees are a unique and invaluable resource for ethically conducted biomedical research, particularly translational research through which scientific discoveries are advanced into treatments and cures. The research community and AAU are committed to ensuring that such research not only conforms with ethical, legal, and safety regulations but also maintains the highest standards of animal care and health. This bill would halt or delay ongoing research on devastating diseases for which no other
animal model exists and could harm research that directly benefits chimpanzees and other great apes.”

EXECUTIVE BRANCH

ADVISORY GROUP ISSUES REPORT ON SELECT BIOLOGICAL AGENTS AND TOXINS

A federal advisory group has issued a report on the regulation of biological select agents and toxins, which makes a number of recommendations for improving management of these materials, including creating a new “Tier I” designation for highest-risk select agents and toxins, and reducing the number of select agents and toxins on the current list. The report also calls for improving the process for ensuring the “suitability and reliability” of personnel with access to high-risk materials, and for a more frequent vetting of foreign nationals requesting access to such materials. Additionally, the report recommends enhanced standards for ensuring physical and cyber security.

While the report by the Federal Experts Security Advisory Panel does not in and of itself constitute policy changes, the executive order that created the panel requires the group’s recommendations to be considered in the next round of revisions to the select agent regulations, which is expected to begin this fall.

The Advisory Panel says it released the report now to give the affected communities time to consider the impact of its recommendations and to prepare for the public comment period this fall as part of the regulatory revision process.

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