CONGRESSIONAL SCHEDULE NEW

The House met today and rejected a proposed balanced budget amendment to the Constitution (H. J. Res. 2). The vote, 261 to 165, fell short of the two-thirds majority needed for approval. The chamber will be out of session next week for the Thanksgiving holiday.

The Senate today continued consideration of the FY12 Defense Authorization bill (S. 1867), with no roll call votes. As with the House, the Senate will be out of session next week. When the Senate returns on Monday, November 28, the chamber will continue work on S. 1867, with roll call votes expected in the afternoon.

BUDGET & APPROPRIATIONS

With Short Deadline, Deficit Committee Faces Long Odds NEW

With the Joint Select Committee on Deficit Reduction facing a November 23 deadline to report a deficit reduction plan to Congress, news reports indicate that Members of Congress are steeling themselves for the panel to fail to meet its objective. Strong partisan differences remain over how to balance cuts in entitlement programs with higher taxes. Democratic and Republican leaders have begun to tell their colleagues they believe that the deficit panel will fall short of its goal of finding $1.2 trillion in deficit reduction over 10 years, reports Politico, adding that “the 2012 elections may be the only way to resolve the deepening partisan divisions that have prevented Congress time and time again from getting a handle on its finances.” Although House Speaker John Boehner (R-OH) was optimistic earlier this month that a deal would be crafted and
approved by Congress, yesterday he said only, “If it were easy to do, it would’ve been done already.”

If the panel is unable to agree on a deficit reduction plan of at least $1.2 trillion, or if it succeeds and Congress turns down the plan, severe cuts in both defense and domestic programs will be triggered automatically, to take effect in January, 2013. The one-year delay in implementing the sequester would give Congress time to address the deficit in a different way next year. Among other political calculations, waiting to address the issue until after the November elections could allow the looming budget cuts combined with the scheduled expiration of the Bush tax cuts to create pressure for a larger deficit-reduction agreement. In addition, both parties might be calculating that the results of the election could shift the partisan balance of power in Washington in one direction or the other.

BIPARTISAN GROUP URGES DEFICIT PANEL TO “GO BIG” NEW

A bipartisan group of legislators from both the House and Senate held a news conference on Wednesday to urge the Joint Select Committee on Deficit Reduction to “go big” in reaching an agreement on deficit reduction and avoid the mandatory across-the-board spending cuts. The group of Democrats and Republicans said the committee would have significant congressional support for an agreement to cut the deficit by about $4 trillion, reported the Washington Post. Members of what has been called the “go-big coalition” said about 150 lawmakers in both houses support a compromise deficit-reduction plan that would include increases in revenue and cuts to entitlement programs. About 40 members of the group attended the news conference.

CONGRESS APPROVES FY12 “MINIBUS” WITH CR LASTING TO DECEMBER 16 UPDATED

Congress yesterday approved the conference report for the FY12 appropriations “minibus,” approving not just three FY12 appropriations bills but also an attached second continuing resolution (CR) to avoid a government shutdown and fund the rest of the government through December 16, after the current CR expires tonight. The House vote was 298 to 121; the Senate vote was 70 to 30. It was signed into law today. The three FY12 funding bills in the package are Agriculture, Transportation-Housing, and Commerce-Justice-Science.

The spending package provides $128.1 billion in discretionary funding subject to the $1.043 trillion discretionary spending cap approved last August in the Budget Control Act, reports CQ.com. An additional $2.3 billion for emergency relief is not subject to the overall cap. The three FY12 spending bills provide $19.8 billion in discretionary spending for Agriculture, a cut of $391 million from FY11; $52.7 billion for Commerce-Justice-Science, a cut of $387 million; and $55.6 billion for Transportation-Housing, an increase of $183 million.

FY12 MINIBUS INCREASES FUNDING FOR KEY SCIENCE AGENCIES

The conference report for the FY12 appropriations minibus, signed into law today, increases funding for four scientific agencies and directorates included in the Commerce-Justice-Science section of the bill and level-funds the competitive Agriculture Food Research Initiative (AFRI) in the Agriculture section of the bill.

For the National Science Foundation (NSF), the bill provides $7 billion, which not only is an increase of $173 million over FY11 but also is more than either the House or Senate had
provided in their FY12 funding bills. The total includes $5.7 billion for Research and Related Activities, $167 million for Major Research and Facilities Construction, and $829 million for Education and Human Resources.

Within the $17.8 billion approved for NASA, the Science Mission Directorate will receive $5.09 billion, which is $155 million above the FY11 level. The bill includes $529 million for the James Webb Space Telescope, a project which the House bill had not funded. Aeronautics would receive $570 million and Space Technology $575 million.

For other science agencies in Commerce-Justice-Science, the National Institutes of Standards and Technology will see a 12-percent increase over FY11 to $567 million. The National Oceanic and Atmospheric Administration will receive $4.9 billion in FY12, which is $306 million, or seven percent, above the FY11 level. Politico reports that although conferees did not fund the proposed new NOAA Climate Service, they provided “substantial investments in new polar weather satellites.”

The AFRI program, funded in the USDA National Institute for Food and Agriculture, is flat-funded at the FY11 level of $264.47 million. A group of associations and institutions, including AAU, wrote to conferees on November 4 asking them to fund AFRI at the Senate level of $266 million.

**OSTP BUDGET IS CUT SIGNIFICANTLY IN FY12 MINIBUS**

The White House Office of Science and Technology Policy (OSTP) is funded at $4.5 million in the FY12 appropriations minibus. This is $1.5 million below the Senate-approved level, $1.5 million above the House committee-passed level, and well below the FY11 level of $6.6 million.

AAU and the Association of Public and Land-grant Universities (APLU) wrote to House and Senate conferees on November 14 urging them to fund OSTP “as close as possible to the $6 million level of funding included in the Senate’s version of H.R. 2112.” The letter cited the “vital role OSTP plays in the development of scientific and technology policies for the nation.”

**MINIBUS PROVIDES FULL FY12 REQUEST FOR U.S. PATENT OFFICE**

The Commerce Department section of the FY12 funding bill also provides $2.7 billion for the U.S. Patent and Trademark Office (USPTO), which is the full requested level. This amount is $588 million, or 28 percent, above the FY11 level. The funding bill includes language that allows USPTO to keep and use excess fees should actual collections exceed estimates, subject to congressional approval of spending plans.

**SENATE FAILS TO MOVE SECOND MINIBUS; AN OMNIBUS PACKAGE LOOMS UPDATED**

Senate leaders had planned to consider a second FY12 appropriations minibus, but that approach was derailed earlier this week. When it became clear to Senate Democratic leaders that policy and procedural differences would delay consideration of an FY12 funding package combining Energy-Water, Financial Services, and State-Foreign Operations, Majority Leader Harry Reid (D-NV) planned to have the Senate consider the Energy-Water bill alone. But that strategy was abandoned on November 16, reports CQ.com, in part because Republicans introduced several
amendments “designed to stoke” the controversy over Solyndra, the now-bankrupt solar energy company that received significant federal loan guarantees.

It appears increasingly likely that Congress will need an omnibus appropriations package to finish the nine FY12 funding bills that are not part of the three-bill minibus that the House and Senate approved yesterday. The FY12 Defense appropriations bill will be the vehicle to carry the omnibus package, reports CQ.com.

ASSOCIATIONS WRITE TO HOUSE FUNDING PANEL ABOUT PELL GRANT SAVINGS PROPOSALS  NEW

A group of 15 higher education associations, including AAU, sent a letter to members of the House Labor-HHS-Education Appropriations Subcommittee on November 17 expressing concern about the panel’s approach to reducing costs in the Pell Grant program.

The letter offers the associations’ assistance in finding ways to achieve necessary savings and opposes any effort to cut Pell Grant funding by more than the existing $1.3 billion shortfall, as outlined in the draft House bill. The letter adds, “In order to protect the neediest students, any substantive revisions to the Pell Grant formula must be handled in a deliberate and open process under the stewardship of the authorizing committee. Otherwise, there is a real risk of significant, unintended consequences.”

The associations also express opposition to including language in the funding bill that would require the Secretary of Education “to ratably reduce the Pell Grant award when program funds run short,” because this would remove the burden from Congress to find the means to fully fund the grants.

CONGRESS REPEALS THREE-PERCENT WITHHOLDING REQUIREMENT  NEW

The House on November 16 gave final congressional approval to legislation to repeal the three-percent withholding requirement on certain contractor payments, sending the measure to the President, who has said he will sign it. The House vote was 422-0. The measure (H.R. 674), which was approved last week by the Senate, also provides tax incentives for employers to hire previously unemployed military veterans.

The three-percent withholding provision would have required federal agencies, states, and certain local governments to withhold for taxes three percent of nearly all of their contract payments for goods and services. The measure would have applied to state universities; among other issues, this would have created a costly new financial burden for these institutions.

In May, AAU and five other higher education associations submitted a statement for the record to the House Small Business Subcommittee on Contracting and Workforce, enumerating their concerns about the withholding provision. The panel held a May 26 hearing to review problems with the measure.

Lawmakers enacted the provision in 2006 as a means of reducing the amount of business taxes owed but not paid and to provide a revenue offset for the extension of several business and investor tax cuts. Congress delayed implementation of the provision for six years, and the IRS delayed implementation further to 2013. The difficulty in repealing the withholding provision was finding an acceptable revenue offset. To provide the offset, congressional leaders agreed to
expand the amount of Social Security benefits used to calculate income for purposes of eligibility for health programs. Additional information about this issue is available on the Government Withholding Relief Coalition website.

OTHER CONGRESSIONAL ISSUES

HOUSE COMMITTEE MARKS UP “GRANT ACT”  UPDATED

The House Oversight and Government Reform Committee yesterday approved by voice vote legislation that its sponsors say is aimed at creating greater transparency in the awarding of federal grants.

Among other provisions, the Grant Reform and New Transparency Act of 2011 (H.R. 3433), called the “GRANT Act,” would:

- Require all federal executive agencies to use merit-based procedures in awarding grants (with some exceptions);
- Make public the selection procedures for each grant program, including how proposals are evaluated, ranked, and selected;
- Before making an award, assess the adequacy of a grant applicant’s financial management system, internal controls, and reporting and compliance systems;
- Require the Office of Management and Budget (OMB) to create a single, comprehensive website for all federal grant opportunities;
- Require OMB to post within 15 days of an agency’s notification of a grant award such information as a copy of the final grant agreement, a copy of the submitted proposal, the number of proposals received, numerical ranking of the awarded grant proposal if rankings were assigned, the name, title, and employer of all individuals who served as reviewers for the grant program for the six months preceding the award, and the same information about peer reviewers of the awarded grant.

In advance of the markup, AAU and the Association of Public and Land-grant Universities (APLU) urged support of two amendments of particular interest to universities. The first, by Rep. Gerald Connolly (D-VA), would have required that grant abstracts and not full grant information be published on the government-wide website. The amendment was not accepted. A second amendment, by Reps. Christopher Murphy (D-CT) and Elijah Cummings (D-MD), aimed to strike the section requiring disclosure of the name, title, and employer of peer reviewers for a grant program during the six months preceding an award. The amendment was modified by a second-degree amendment that left in place a disclosure requirement but added language to permit federal agencies to disclose a “unique identifier” for peer reviewers rather than their names. It is unclear what constitutes a unique identifier and how federal agencies would implement this section of the bill if it became law.

End of document

Please visit AAU at www.aau.edu and follow us on Twitter @AAUniversities.