December 2, 2011

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CONGRESSIONAL SCHEDULE  NEW

The Senate was not in session today. The House approved legislation to change the way federal agencies analyze and develop new regulations and guidance (H.R. 3010). Both chambers will reconvene on Monday, December 5.

CQ.com reports that next week’s schedule for both chambers is in flux “as lawmakers work behind the scenes to reach agreement on year-end spending and tax measures.” When the Senate reconvenes next week, it is scheduled to consider judicial nominations. It may also return to consideration of the FY12 Energy and Water appropriations bill (H.R. 2354), CQ.com says, “if leaders of the Appropriations subcommittee reach agreement on limiting amendments.”

The House next week is expected to consider additional bills on federal regulatory activities, including one requiring congressional approval of major regulations (H.R. 10) and another blocking the Environmental Protection Agency from revising standards on air particulates (H.R. 1633).

BUDGET & APPROPRIATIONS

STATUS OF REMAINING FY12 FUNDING BILLS REMAINS UNCLEAR  NEW
Congressional action on the nine remaining FY12 appropriations bills remains unclear, following a week of no news but considerable outside speculation. While it appears that negotiations will continue over the weekend on an omnibus package, time is running short. Meanwhile, as noted above, the Senate may take up the FY12 Energy and Water appropriations bill. While congressional leaders want to complete the appropriations process this year, there is some speculation that Congress might be forced to approve another continuing resolution (CR) to extend funding beyond the December 16 expiration of the current CR to February of next year.

OTHER CONGRESSIONAL ISSUES

AAU, APLU, COGR EXPRESS CONCERNS ABOUT GRANT ACT

AAU, the Association of Public and Land-grant Universities (APLU), and the Council on Governmental Relations (COGR) wrote to several House leaders on November 28 to express concerns about the Grant Reform and New Transparency (GRANT) Act of 2011 (H.R. 3433), a bill reported from the House Committee on Oversight and Government Reform on November 17. The letter says that while the associations appreciate that Committee staff accepted some of their recommended changes to earlier drafts of the bill, they would nevertheless oppose the measure if it is considered by the full House in its current form.

The sponsors of H.R. 3433 say the bill is needed to create greater transparency in the federal grants process. But the university research community remains concerned that requiring certain types of grant and proposal information be made public on a government-wide website, as required by the legislation, would compromise the intellectual capital of investigators and their institutions, duplicate some existing regulations, and jeopardize confidential aspects of the peer review process. The associations’ letter offers recommendations about these and other provisions, while also expressing strong doubt about the need for the legislation.

SENATE ADDS SBIR REAUTHORIZATION TO DEFENSE AUTHORIZATION BILL

During Senate consideration of the National Defense Authorization Act (S. 1867) on November 29, the chamber agreed to amend the bill with the Senate version of the reauthorization of small business research programs. The amendment, which was offered by Senator Olympia Snowe (R-ME) and approved by unanimous consent, would reauthorize the programs for eight years. AAU has opposed the Senate’s Small Business Innovative Research/Small Business Technology Transfer reauthorization bill (S. 493) because it would increase the small business set-aside for research funding at the major federal research agencies, thus reducing funding for peer-reviewed basic and applied research. AAU supports the House version of the bill (H.R. 1425), which does not change the set-aside.

House negotiators were hopeful that they could reach an agreement with the Senate that could be substituted for the Snowe amendment, but they were unable to do so. The House Science Committee remains strongly opposed to the Senate version of the bill and continues to negotiate. It is not yet clear if the negotiations will continue in the context of Defense bill or if House Members will try to move a separate vehicle.

HOUSE APPROVES BIPARTISAN HIGH-SKILL IMMIGRANT BILL
The House on November 29 approved the “Fairness for High-Skilled Immigrants Act” (H.R. 3012), a bill aimed at addressing the significant backlog in the employment-based green card system. The vote was 389 to 15. The bill would remove the current per-country cap on employment-based green cards and move to a first-come, first-served system. Under the current system, 140,000 employment-based green cards are made available each year, but each country is limited to seven percent of the total. This creates a disadvantage for individuals from such populous countries as India and China, who often must wait decades to receive a green card. Along with removing the per-country cap for employment-based green cards, the bill would raise the family-based, per-country cap limit from seven percent to 15 percent.

While the vote on H.R. 3012 reflected broad bipartisan support in the House, some concerns have been raised about the bill in the Senate. Senate Judiciary Committee Ranking Member Charles Grassley (R-IA) placed a hold on H.R. 3012 on November 30, saying in a floor statement, “I have concerns about the impact of this bill on future immigration flows, and am concerned that it does nothing to better protect Americans at home who seek high-skilled jobs during this time of record high unemployment.”

The CompeteAmerica coalition, a group of corporations, universities, research institutions, and associations in which AAU participates, strongly supports H.R. 3012.

HOUSE HEARING FOCUSES ON CONTROLLING COLLEGE COSTS, REDUCING TUITION

The House Subcommittee on Higher Education and Workforce Training held a hearing on November 30 to examine the causes of rising college tuition and to “learn innovative ways some institutions are lowering costs.” A media advisory for the hearing acknowledged the role of state budget cuts and rising employee benefits costs in tuition increases, adding, “Higher education institutions must find ways to offer high-quality education in a more cost-effective manner, and state governments must improve their systems for supporting students and schools.”

Jane Wellman, executive director of the Delta Cost Project, said in her testimony that tuitions are continuing to rise “because of cost-shifting – tuitions are going up in part to replace revenues from state/local appropriations or because of declines in gifts of endowment earnings.” She and Jamie Merisotis, president of the Lumina Foundation, said that despite these declining revenues, there are signs that higher education institutions are increasing instructional productivity and that models of delivery and business efficiencies are being used to generate savings to graduate more students.

EXECUTIVE BRANCH

AAU, APLU SUBMIT COMMENTS ON PROPOSED REGULATIONS ON SELECT AGENTS AND TOXINS

AAU and APLU submitted comments today on two notices of proposed rulemaking regarding the regulation of possession, use, and transfer of select agents and toxins (SAT). These are the dangerous pathogens and toxins deemed to be potential bioterrorism threats that are jointly regulated by the Centers for Disease Control and Prevention (CDC) and the Department of Agriculture (USDA).
The associations’ comments reiterate their commitment to strengthening the nation’s biosecurity and applaud the agencies’ efforts to solicit feedback on improving the SAT program. But they also express concern about some specifics of the proposed regulatory changes.

In previous comments, AAU and COGR called for a tiering system to regulate SAT that would be calibrated to the level of risk of their misuse. While CDC and USDA now propose to categorize the highest-risk SAT in a new Tier 1 level associated with higher security procedures, AAU and APLU state that “the lack of commensurate reduction of controls for agents on the list which pose the lowest level of risk for deliberate misuse is disappointing.” They add, “This additional burden may deter universities from engaging in research involving SAT, to the detriment of our nation’s health and security.” In addition, ambiguities in the proposed regulations—such as with minimum security standards, required security plans, and rules for transferring SAT—would “create a burdensome standard that will be difficult for institutions to meet.” Moreover, they raise objections to the decision to retain the current inventory system of counting vials because vials are “inappropriate measures of biological agents that replicate autonomously and can be transferred with no appreciable volume change.” The associations acknowledge that a more rigorous inventory system might be of value for the more dangerous Tier 1 agents.

Finally, the associations comment on a number of proposals related to personnel. While applauding some language clarifications regarding those applying to work with SAT, AAU and APLU question restricting access by any individual convicted of a “crime punishable for a term exceeding 1 year.” They point out there are any number of non-violent crimes, unrelated to terrorist activities, which might carry a sentence greater than a year. The letter also supports development of criteria to appropriately vet the criminal backgrounds of foreign nationals applying for access to SAT, noting that lack of due process in some nations or punishment for conduct that would be allowable in the U.S. might unfairly disqualify foreign nationals.

Finally, the associations express support for the best practices for personnel reliability described in the National Science Advisory Board on Biosecurity report, Guidance for Enhancing Personnel Reliability and Strengthening the Culture of Responsibility. They caution against adoption of unproven measures, such as psychological screening tools. The final rule is expected by the end of 2012.

ADVISORY PANEL CALLS FOR STREAMLINING SOME HIGHER EDUCATION REGULATIONS

The advisory panel that advises Congress and the Department of Education on student financial aid issues, on November 29, released its final report on how federal higher education regulations can be streamlined, improved, or eliminated. In the report, which was required by the Higher Education Opportunity Act (HEA) of 2008, the Advisory Committee on Student Financial Assistance urged Congress and the Department to streamline 15 regulations identified by campus administrators as among the most burdensome. These include proration of loan limits, reporting timeframes, and reporting volume and scope. (The full list of 15 regulations for streamlining is on page 16 of the report.)

The Committee developed its recommendations based on hearings, review panels, and a confidential, web-based survey of campus administrators and executives. Among its findings:

“The overarching finding is that the higher education community perceives the regulations under the HEA to be unnecessarily burdensome. More important, the
majority view is that the specific regulations cited in the study can be improved without adverse effects on program integrity or student success. This view includes, as well, a strong sense that certain components of the overall, one-size-fits-all system of regulation under the HEA require improvement. Perhaps most important, the majority opinion is that improvements to individual regulations and the system will not only lower regulatory burden without adverse effects, but generate savings that can be used to expand student access and persistence.

NIH TO IMPLEMENT UPDATED ANIMAL PROTECTION REGULATIONS NEW

NIH announced in the Federal Register on December 1 that it will adopt the 8th Edition of the Guide for the Care and Use of Laboratory Animals, which delineates NIH policies on the humane use of animals in NIH-funded research. The website of the NIH Office of Laboratory Animal Welfare includes a set of frequently-asked questions and a series of position statements to provide guidance and address concerns about implementing the new requirements. The position statements are open for comments and requests for clarification until January 29, 2012.

According to the Federal Register announcement:

“Effective January 1, 2012, institutions that receive Public Health Service (PHS) support for animal activities must base their animal care and use programs on the 8th Edition of the Guide and must complete at least one semi-annual program review and facilities inspection using the 8th Edition of the Guide as the basis for evaluation by December 31, 2012. It is not required that all necessary changes be completed by December 31, 2012, but rather that an evaluation must be conducted and a plan and schedule for implementation of the standards in the 8th Edition of the Guide must be developed by December 31, 2012.”

This is in line with a recommendation that AAU, COGR, and the Association of American Medical Colleges made in responding to a request for comments on adoption and implementation of the guide.

OTHER

CAPITOL HILL LUNCHEON WILL DISCUSS NIH ROLE IN FIGHTING INFECTIOUS DISEASES NEW

A group of 15 associations, including AAU, will hold a Capitol Hill luncheon briefing next Monday that will address the role of NIH in fighting infectious diseases. The session will be held on Monday, December 5, from 12:00 to 1:00 p.m. in Room B-338, Rayburn House Office Building. Organizations are asked to encourage congressional staff to attend this widely attended event. Positive RSVPs only should be sent to Hayzell Gollop at hgollopp@aamc.org.

The featured speaker will be Anthony Fauci, MD, director of the National Institute of Allergy and Infectious Diseases at NIH. The event is part of a continuing series of congressional briefings on how the nation’s investment in NIH is fostering important scientific discoveries.

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