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CONGRESSIONAL SCHEDULE  NEW

The House and Senate are out of session for the August recess.

Both chambers will reconvene on Monday, September 10. At that time, the Senate will consider a judicial nomination and a veterans jobs bill (S. 3457). House leaders have not announced the legislative program for September.

BUDGET & APPROPRIATIONS

HOUSE AND SENATE LEADERS AGREE ON SIX-MONTH CONTINUING RESOLUTION

Senate Majority Leader Harry Reid (D-NV) and House Speaker John Boehner (R-OH) announced on July 31 that they and President Obama have agreed on a plan to fund the government for the first six months of the new fiscal year, thus avoiding a pre-election battle over spending for FY13, which begins on October 1. The continuing resolution (CR) would fund the government through March 2013 at the overall discretionary spending level approved in last year’s Budget Control Act. This level has been used by the Senate for the FY13 appropriations process, but the House has used a figure $19 billion below that level.
Since the CR is still being drafted and the Congressional Budget Office needs time to review it, Congress will wait until September to vote on the bill.

**OMB ISSUES NONCOMMITAL MEMORANDUM TO FEDERAL AGENCIES ON SEQUESTER PLANNING**

Acting Office of Management and Budget (OMB) Director Jeffrey Zients issued a memorandum to federal agency heads on July 31 that described some of the issues raised by the across-the-board cuts in defense and domestic discretionary spending that are required in early January under the Budget Control Act. Congress has passed—and the President has agreed to sign—legislation to require OMB to specify how it would implement the budget cuts required by the sequester (H.R. 5872). However, the memorandum told agency leaders that the President “is confident” that Congress will act to avoid the sequester and that planning for the sequester would “necessarily divert scarce resources from other important agency activities.” It stated that OMB officials will hold discussions with agency leaders and their staffs about how the cuts would apply to their agency accounts and which agency programs would be exempt from the sequester. The memo added that while more significant preparations might be needed in the longer term, agencies should continue their normal spending and operations “since more than 5 months remain for Congress to act.”

--OMB Director Describes Some Effects of Sequester on Nondefense Programs  *NEW*

At a contentious hearing held by the House Armed Services Committee on August 1 to discuss the effects of the budget sequester on defense programs, Acting OMB Director Jeffrey Zients told Members that rather than calling on OMB to delineate how it would implement the across-the-board cuts, Congress should prevent the sequester from being implemented. He and Deputy Defense Secretary Ashton Carter said that sequestration was never intended to take place and that the across-the-board cuts would cause lasting damage to investments that make America great, including science and innovation, the National Institutes of Health (NIH), and the military.

Mr. Zients’s written testimony also included the impact of the across-the-board cuts on the nondefense discretionary portion of the budget. His statement addressed the effects on children’s health and education, NIH research on cancer and childhood diseases, and the “basic services that Americans expect from their government.”

Dr. Carter’s written testimony said that the sequester “would also inevitably lead to universal disruption of DoD’s investment programs. Under current rules that govern the sequester process, every one of our more than 2,500 procurement programs, research projects, and military construction projects would each be indiscriminately reduced.”

**SENATE APPROPRIATIONS COMMITTEE APPROVES FY13 DEFENSE FUNDING BILL  *UPDATED***

The Senate Appropriations Committee on August 2 unanimously approved its FY13 Defense appropriations bill (H.R. 5856). The committee report—which is not yet posted on the
committee website—provides the following breakdown for 6.1 basic research and 6.2 applied research funding by service and defense-wide:

- **Army:** The bill funds 6.1 basic research at $444 million, the same as the Administration's request. It provides $966.7 million for 6.2 applied research, or about $47 million more than the Administration's request of $874.7 million.

- **Navy:** For 6.1 basic research, the bill provides $615 million, a $10 million increase from the Administration's request of $605 million. The increase is allocated to nanotechnology research. For 6.2 applied research, the bill provides $870.3 million, which is $80 million more than the Administration's request of $790.3 million.

- **Air Force:** The bill provides $516 million for 6.1 basic research, the same as the Administration's request. For 6.2 applied research, it provides $1.098 billion, a cut of $10.8 million from the Administration's request of $1.109 billion.

- **Defense-wide:** For 6.1 basic research, the measure provides $551.7 million, a $4.4 million increase over the Administration's budget request. For 6.2 applied research, it provides $1.6 billion, which is $40 million above the Administration's request of $1.7 billion.

The committee-approved bill also includes $309 million for 6.1 basic research at the Defense Advanced Research Projects Agency, the same as the Administration's request.

### COMMUNITY LETTER OPPOSES HOUSE BILL’S PROHIBITION ON NIH-FUNDED ECONOMIC RESEARCH

AAU joined nearly 100 organizations and universities on July 30 in sending House leaders a letter opposing language in the House version of the FY13 Labor-HHS-Education appropriations bill that would prohibit NIH from supporting “any economic research programs, projects or activities.” Reiterating the importance of peer review in making NIH funding decisions, the letter highlighted a number of important areas funded by NIH that would fall under the restriction. The bill was approved in subcommittee on July 18, but the full House Appropriations Committee is not expected to revisit the legislation before the end of the year.

### ASSOCIATIONS URGE EXTENSION OF HIGHER EDUCATION TAX INCENTIVES

A group of nine higher education associations, including AAU, wrote to leaders of the House and Senate tax committees on August 1 urging them to extend expired or expiring higher education tax incentives. “It is essential that these tax provisions be extended this year to help make higher education accessible for millions of Americans and to ensure our nation will have the educated citizenry the future requires,” the associations said.

The letter, organized by the American Council on Education, expressed strong support for extending the following six provisions:

- American Opportunity Tax Credit,
- Above-the-line deduction for qualified tuition and related expenses (tuition deduction)
• Employer-Provided Educational Assistance (Sec. 127) benefits,
• Expanded Student Loan Interest Deduction,
• Expanded Coverdell Education Savings Accounts, and
• Individual Retirement Account (IRA) Charitable Rollover.

SENATE FINANCE COMMITTEE APPROVES TAX EXTENDER PACKAGE  NEW

The Senate Finance Committee on August 2 approved legislation to extend a large number of the expired or expiring tax breaks for businesses and individuals. The bill was approved by a vote of 19 to 5, with five Republicans voting against approval.

Based on a committee summary of the bill, The “Family and Business Tax Cut Certainty Act of 2012” includes two-year extensions of the above-the-line deduction for qualified tuition-related expenses, the R&D tax credit, and the IRA Charitable Rollover.

As noted in the higher education associations’ letter above, the other higher education tax provisions were included in the Democrats’ broader tax bill (S. 3412). That measure, which would extend the Bush-era tax cuts for those with incomes of up to $200,000 for individuals and $250,000 for couples, was approved by the Senate on July 25 and defeated in the House on August 1. A resolution of the tax issues is unlikely until after the November elections.

OTHER CONGRESSIONAL ISSUES

HOUSE MEMBERS URGE NIH DIRECTOR TO IMPLEMENT PROOF-OF-CONCEPT PROGRAM

A bipartisan group of 11 House Members wrote to National Institutes of Health (NIH) Director Francis Collins on July 27 expressing strong support for the NIH proof-of-concept pilot program authorized last year as part of the small business research reauthorization. The pilot program, which was approved as an amendment offered by Rep. Daniel Lipinski (D-IL), allows NIH to award competitive grants of up to $1 million to universities to support researchers exploring the potential commercialization and licensing of their discoveries. AAU supported Rep. Lipinski’s amendment.

SENATE COMMITTEE APPROVES GREAT APE PROTECTION ACT

The Senate Environment and Public Works Committee on July 25 approved the Great Ape Protection and Cost Savings Act (S. 810) by voice vote. The bill prohibits “invasive” research on chimpanzees, bonobos, gorillas, orangutans, and gibbons. It defines such research as that which “may cause death, injury, pain, distress, fear, or trauma,” including drug testing, restraining, tranquilizing, anesthetizing, and social deprivation. AAU’s opposition to the bill was cited by Ranking Member James Inhofe (R-OK) during markup of the legislation.

The committee adopted an amendment offered by Chairwoman Barbara Boxer (D-CA) and Senator Benjamin L. Cardin (D-MD) to give the Department of Health and Human Services authority to use great apes in research in the future under certain conditions. The HHS Secretary
would have to find that such research was necessary to combat unforeseen diseases and then establish a task force to review and approve that decision. The House companion bill (H.R. 1513) has been referred to the House Energy and Commerce Subcommittee on Health.

EXECUTIVE BRANCH

DEPARTMENT OF EDUCATION DROPS STATE AUTHORIZATION REQUIREMENT FOR DISTANCE EDUCATION

The Department of Education announced on July 27 that it will no longer enforce a requirement that distance education programs obtain permission to operate in each state in which they enroll at least one student. This “state authorization” requirement was part of the “program integrity” rules the Department issued in October 2010. The Department announced the state authorization change quietly in a Dear Colleague letter to institutions. The letter noted that institutions would still need to obtain permission to operate in their home states and comply with their home states’ applicable requirements.

The state authorization requirement has been controversial since it was issued. Over the past year, Members of the House have sought to overturn the regulation through legislation and for-profit colleges have challenged it in court.

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