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CONGRESSIONAL SCHEDULE  NEW

Both the House and Senate are out of session, having conducted business earlier today. Both chambers will return for business on Monday, September 8. CongressDaily reports that the Senate approved a “conditional” adjournment resolution from the House that provides for several pro forma sessions until the second week of September. Senate Democratic leaders have used pro forma sessions during extended work periods to keep the President from making recess appointments.

BUDGET & APPROPRIATIONS

CONGRESS MAKES LITTLE PROGRESS ON APPROPRIATIONS  NEW

The House and Senate have made little progress in approving the FY09 appropriations bills largely because of partisan differences over energy policy. With the public upset about high gas prices, Republicans in the House and Senate have sought to offer amendments to lift the moratorium on new offshore oil and gas drilling on a number of bills—particularly appropriations measures. Democratic leaders have worked to avoid such votes, reportedly, to shield vulnerable members from having to vote on the issue and out of concern they could lose the vote.
Late last month, House Appropriations Committee Chairman David Obey (D-WI) suspended committee consideration of the FY09 appropriations bills after committee Republicans tried to offer oil and gas amendments during markup of the FY09 Labor-HHS-Education bill. Likewise, Senate Appropriations Committee Chairman Robert Byrd (D-WV) cancelled a July 24 markup of the second FY08 supplemental bill and two FY09 funding bills for the same reason.

So far, the House Appropriations Committee has approved just five of its 12 bills and the Senate Appropriations Committee has approved nine.

It has been apparent for some months that Democratic leaders were likely to bundle the FY09 funding bills into a continuing resolution (CR) in September. This would avoid individual veto battles with President Bush and tide federal programs over until the new year, when there presumably would be a friendlier presidential administration and a new Congress.

SENATOR BYRD WOULD ADD $1.2 B. FOR SCIENCE AGENCIES IN SECOND FY08 SUPPLEMENTAL FUNDING BILL

Senate Appropriations Committee Chairman Robert Byrd (D-WV) has released details of the second FY08 supplemental funding bill that he plans to take up in September and the $24-billion package includes $1.28 billion for several science agencies. Senator Byrd cancelled markup of the package last week because he said there was no room in the Senate schedule to consider the bill before the August recess and because of concern that Republicans would seek to add amendments to open up offshore oil and gas drilling, as they have sought to do on other appropriations bills.

The supplemental funding package would add $500 million for the National Institutes of Health; $250 million for NASA to shorten the projected five-year gap between retirement of the Space Shuttle and availability of the new space vehicle; $150 million for Department of Energy science programs; $250 million for clean-up of nuclear weapons production plants; $100 million for “energy and cybersecurity;” and $26 million for the Centers for Disease Control for combating infectious diseases.

House Speaker Nancy Pelosi (D-CA) has said she hopes to enact a $50 billion supplemental funding bill before Congress leaves this year.

SENATE FAILS TO APPROVE TAX EXTENDERS BILL  UPDATED

The Senate once again failed to approve a package of popular tax extenders (S. 3335) this week, after Democratic leaders twice failed to achieve the 60 votes needed to proceed on the bill. Among the issues still unresolved between Democrats and Republicans is whether and how to include revenue-raisers to offset some of the tax extenders. Republicans also would like to see some of the expiring provisions, such as the research and development tax credit, extended for a longer period of time or made permanent.

Senate Finance Committee Chairman Max Baucus (D-MT) said the bill will be revisited in September. The House approved its own extender bill (H.R. 6049) on May 21.

A group of 10 higher education associations, including AAU, wrote to all members of the Senate on July 28 urging them to approve the legislation (S. 3335). The measure includes extensions of
the above-the-line deduction for qualified tuition and related expenses and the Individual Retirement Account Charitable Rollover. Both provisions were allowed to expire in 2007.

OTHER CONGRESSIONAL ISSUES

CONGRESS APPROVES HIGHER EDUCATION ACT REAUTHORIZATION

Congress yesterday approved the conference report for the Higher Education Act (HEA) reauthorization bill (H.R. 4137), paving the way for sending the measure to the President. The House vote was 380 to 49, the Senate vote 83 to 8. President Bush is expected to sign the bill, although the White House has criticized the package for creating new programs that are duplicative.

Congress yesterday also cleared an extension of the Higher Education Act (H.R. 3352) to August 15 in order to provide time to complete the paperwork needed to get the reauthorization bill to the President and have it signed. The current extension expired yesterday, July 31.

The conference report and the statement of managers are available on line. Democratic committee chairmen George Miller (D-CA) and Edward Kennedy (D-MA) have issued a joint press release on the bill, and the House Education and Labor Committee has prepared a general summary of its provisions.

AAU will provide a summary and analysis of the 1,100-page bill at a later date.

Of special note during Senate debate on the package, Senator Lamar Alexander (R-TN) discussed the significant number of new regulations and reporting requirements in the package, and suggested that they would do little to improve colleges and universities but would be expensive to administer. He said the greatest threat to the quality of higher education in the United States is not underfunding, but overregulation.

Senator Alexander went on to say:

“The American system of higher education system is far from perfect but it is one thing in our country that works and works well. It is our secret weapon in maintaining our brainpower advantage so we can keep our higher standard of living and keep our jobs from going overseas. The United States not only has the best colleges and universities in the world. We have almost all of them. The rest of the world is busy trying to emulate the American system of higher education, which means creating more autonomy, more choices and competition. Yet here we are cluttering up our secret weapon with the same cumbersome bureaucratic nonsense that has stifled excellence in universities in other parts of the world.”

Conference Committee Wrap-up

Final approval of the measure before the August recess was thrown into doubt on July 28 when Senator Tom Coburn (R-OK) placed a hold on the appointment of Senate conferees to express opposition to the reauthorization bill’s new programs. The Senator released his hold the next day and both chambers appointed conferees.
Conferees voted to approve the final bill by a vote of 40 to 4, with Rep. Virginia Fox (R-NC) and Senators Coburn, Lamar Alexander (R-TN), and Johnny Isakson (R-GA), voting against it.

At issue for Senator Alexander was the provision developed by Rep. John Tierney (D-MA) to penalize states for not maintaining overall funding of higher education. This maintenance-of-effort provision, which has been at the center of conference negotiations, was offered in conference as a separate amendment. It was approved after conferees rejected a second-degree amendment offered by Senator Alexander to allow the provision to take effect only if the federal government provided its promised funding of state special education programs, which CQToday reports it never has come close to doing. The final amendment would penalize offending states by potentially cutting off their access to College Access Challenge Grants, rather than to Leveraging Educational Assistance Partnership grants.

The HEA has not been fully reauthorized since 1998; the current reauthorization process has been underway for the past seven years. Last year Congress enacted the College Cost Reduction Act, which cut interest rates on student loans and subsidies to lenders and raised the maximum Pell Grant.

**HIGHER EDUCATION ASSOCIATIONS SEND HEA LETTER TO MEMBERS OF CONGRESS; AAU ISSUES STATEMENT ON THE BILL**

A group of nine higher education associations, including AAU, sent a letter to all members of the House and Senate on July 30 detailing positive aspects of the bill but noting the significant number of new regulatory and reporting requirements imposed by the bill that will increase administrative and personnel costs on campus.

The letter, spearheaded by the American Council on Education, expresses appreciation for provisions in the bill that aid low-income students and that preserve the non-governmental, peer-reviewed process of accreditation. But the letter also expresses strong concern at the dozens of new regulatory and reporting requirements for colleges and universities. “Complying with these new unfunded mandates will be time-consuming and will inevitably increase administrative and personnel costs on campuses,” said the letter.

AAU Statement on the HEA Reauthorization:

AAU President Robert M. Berdahl yesterday issued a statement about the bill that reinforces several of the points made in the association letter, particularly support of provisions that aid low-income students and preserve non-governmental accreditation, and concerns about the number of new regulations and reporting requirements.

The AAU statement also thanks conferees for including the provision that authorizes a study of all federal regulations with which colleges and universities must comply. The association hopes that the study moves forward this year so that results of the study can be used to inform future policy decisions.

**SENATE SMALL BUSINESS COMMITTEE APPROVES SMALL BUSINESS BILL WITH INCREASED RESEARCH SET-ASIDES**

The Senate Small Business Committee on July 30 approved a bill to reauthorize two small business research programs (S. 3362) that would increase the small business set-aside at several
federal research agencies, including the Departments of Agriculture, Defense and Energy and the National Science Foundation. The measure exempts the National Institutes of Health (NIH) from any increase in the SBIR set-aside.

As part of the reauthorization of the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, the bill would raise the SBIR set-aside at 10 federal agencies with annual extramural research budgets of $100 million or more from the current 2.5 percent to 3.5 percent over 10 years. The measure would double the STTR set-aside at five covered agencies from 0.3 percent to 0.6 percent over six years.

A doubling of the SBIR set-aside that was included in the House reauthorization bill (H.R. 5819) was strongly opposed by House Appropriations Committee Chairman David Obey (D-WI) because of its impact on NIH. The increase was subsequently eliminated for all covered agencies by a floor amendment offered by Rep. Vernon Ehlers (R-MI). (A summary of the House action is in CFR Weekly Wrap-up, 04-25-08.)

The Senate committee-passed bill also would increase the award size for the two programs and incorporates compromise language that would allow companies funded by venture capital to compete for SBIR funds.

Under the compromise language of S. 3362, NIH would be allowed to award up to 18 percent of its SBIR funds to companies majority-owned and controlled by venture capital funds, while other agencies would be allowed to award up to eight percent of their SBIR funds to such companies. NIH Director Elias Zerhouni has expressed support for such a change, as has AAU.

The measure also creates an “NIH Cures Pilot,” a National Academies advisory board “to conduct periodic evaluations of the SBIR program” at all NIH institutes “for the purpose of improving the management of the SBIR program through data-driven assessment.”

The full Senate is unlikely to consider S. 3362 before the August recess. Any conference with the House would likely be complicated because the Senate and House-passed bills are quite different. Current law (PL 110-235) extends the authorizations for SBIR and STTR, which had expired in September of 2006, until March 20, 2009.

EXECUTIVE BRANCH

NSF RELEASES MINERVA-RELATED PROGRAM SOLICITATION

The National Science Foundation (NSF) has released the program solicitation for a university-based, basic research program that the agency is conducting jointly with the Department of Defense (DOD) on the social and behavioral dimensions of national security, conflict, and cooperation. This is part of the Minerva Initiative, which was announced by Secretary of Defense Robert M. Gates at the AAU membership meeting in April.

The Minerva Initiative is being in implemented in two ways: through a broad agency announcement issued by DOD in June whose projects will be managed by the Department, and through programs conducted in partnership between DOD and NSF.

Earlier this month, NSF and DOD signed a memorandum of understanding—discussed in an NSF press release—to develop joint activities, including the type of solicitation of proposals that NSF has just issued. The program, titled, “Social and Behavioral Dimensions of National
Security, Conflict and Cooperation,” expects to provide up to $8 million in grants for “collaborative projects addressing areas of strategic importance to national security policy,” in the form of workshops, small awards, and large awards. Several specific topic areas are listed. All work will be unclassified, with no restrictions on publication. Proposals are to be submitted to NSF.

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