The House and Senate are in session today as they make the final push to finish must-pass legislation before adjourning for the November elections. On the agenda for the House today is the conference report for the FY07 Homeland Security appropriations bill (H.R. 5441), military tribunal legislation (S. 3930), and possibly the conference report for the Department of Defense authorization bill (H.R. 5122). The Senate this morning voted final approval of the Defense appropriations conference report (H.R. 5631), sending the measure to the President for his signature (see item below). The chamber also will consider legislation to authorize fencing along the U.S.-Mexico border (H.R. 6061) and presumably the conference report for the Homeland Security funding bill.

House GOP leaders have said they expect to finish their work and recess this evening; news reports suggest that the Senate might work into Saturday, but no schedule has been announced.

BUDGET AND APPROPRIATIONS

CONGRESS LEAVES DOMESTIC SPENDING ISSUES TO LAME DUCK SESSION

NEW
As Congress adjourns for the elections having approved only the FY07 Defense and Homeland Security appropriations bills, it leaves for the post-election, lame-duck session tough decisions on how to spread funding among the remaining federal agencies.

Until the lame-duck session, non-Defense, non-Homeland Security agencies and programs will be funded through the continuing resolution (CR) that was added to the Defense funding bill. The CR will sustain that funding through November 17. (The post-election session is scheduled to begin on November 13.) The CR will fund programs at their current FY06 levels or the FY07 level proposed by the House or Senate, whichever is lowest. *CQToday* reports that because neither the House nor the Senate has approved the FY07 Labor-HHS-Education appropriations bill, its funding will continue at the FY06 level.

A major difficulty is that House and Senate appropriators must resolve a $5 billion difference in funding. The House and Senate last March cut back on the President’s request for Defense spending by $4 billion and $9 billion, respectively, in order to increase funding for domestic programs without exceeding the FY07 spending cap. But the Administration threatened to veto a Defense bill that cut more than $4 billion from the request, so congressional leaders agreed to reduce the cut in Defense to the House level. That leaves a $5 billion difference in non-Defense funding.

Complicating the picture is the fact that earlier this year, House and Senate moderate Republicans—with strong support from the research university community—spearheaded efforts to secure an extra $7 billion above the President’s request for the Labor-HHS-Education bill (H.R. 5647), which funds student aid and the National Institutes of Health (NIH).

Last March, 73 Senators voted to support the Specter-Harkin amendment to the Senate budget resolution calling for the additional $7 billion. The Labor-HHS-Education funding bill reported from the Senate Appropriations Committee included an extra $5 billion for the measure. Senators Arlen Specter (R-PA) and Tom Harkin (D-IA) are now collecting signatures for a letter to the Senate leadership urging the additional $2 billion increase. So far, 45 Senators have signed.

In the House, Republican leaders last March promised Republican moderates, led by Rep. Michael Castle (R-DE), that they would find the full $7 billion for the Labor-HHS-Education bill in exchange for their support of the House budget resolution. The bill reported from the House Appropriations Committee provides just $4 billion of that total, so another $3 billion would be needed to meet the agreement. Rep. Castle and 23 other moderate Republicans in the House sent a letter to House Majority Leader John Boehner (R-OH) on September 27 reminding him of the agreement to provide the full $7 billion.

As discussed last week (*CFR Weekly Wrap-up, 09-22-06*), *CQToday* has reported that Rep. Boehner’s response to questions about how he will find the extra $3 billion is, “Cross one bridge at a time.” House Appropriations Committee Chairman Jerry Lewis (R-CA) said he would ask his subcommittees to search for programs that weren’t performing and could be cut. “It’ll be harder in the Senate, but we’ll get there,” he said. The publication added that a senior Republican leadership aide cited across-the-board cuts to other programs as a way to free up funding for the Labor-HHS-Education bill. Such cuts could affect funding for the President’s American Competitiveness Initiative (ACI) and other priorities for research universities.

**DEFENSE CONFERENCE REPORT INCREASES BASIC RESEARCH FUNDING BY 5.6 PERCENT**  
*UPDATED*
The Senate this morning approved the conference report for the FY07 Defense appropriations bill by a unanimous roll call vote, sending the measure to the President for his signature. Along with funding of $47.6 billion, the package provides $70 billion in emergency supplemental funding for military actions in Iraq and Afghanistan.

Although the Defense appropriations conference agreement provides an increase of less than one percent for Department of Defense science and technology (S&T) programs in FY07, the agreement provides a 5.6-percent increase for basic research and a 2.2-percent increase for applied research programs.

Total funding for S&T programs is $13.3 billion, which is $87.4 million, or 0.7 percent, above the FY06 level. 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.

For 6.1 basic research, the conference report provides $1.55 billion, an $83.3 million, or 5.6-percent, increase over FY06 funding and 9.2 percent more than the Administration's request. Within that total, the measure funds the National Defense Education Program/SMART program at $19.5 million, which is $9.4 million or 93.1 percent above FY06 and the same as the Administration's request.

For 6.2 applied research, the conference report provides $5.28 billion, a 2.2-percent increase above FY06 and 18 percent more than the request. Advanced technology development (6.3) receives $6.49 billion, a 1.7-percent reduction from the FY06 funding level, but a 25.3-percent increase over the request.

Funding for the Defense Advanced Research Projects Agency is $3.14 billion, which is $156.7 million, or 5.3 percent, above FY06, but 4.8 percent below the Administration's request.

A further breakout of the appropriations for research accounts of interest to research universities, including the University Research Initiative accounts, is available on the AAU Web site at:
http://www.aau.edu/budget/07DODTable.pdf.
The House and Senate are expected to vote final approval of the conference report for the FY07 Homeland Security appropriations bill (H. R. 5441) before they leave for the pre-election recess.

Research university advocates are pleased that the final package does not include language from the Senate version of the bill that would have limited to three years universities’ participation in the Department of Homeland Security (DHS) university centers program. Instead, the report urges DHS to expand its outreach to colleges and universities and directs the Under Secretary of Science & Technology (S&T) to provide a report on the FY07 goals for the centers program and the outcomes projected for each center over the next three years. An estimated 70 colleges and universities participate in the work of the seven designated centers around the country.

Twenty Senators and 47 House Members wrote to conferees asking them to drop the restriction during conference. Copies of the House and Senate letters are available on the AAU Web site at: http://www.aau.edu/budget/Ltr_DHS_COE_9-6-06.pdf.

The final bill appropriates $31.9 billion overall, or $2.7 billion above the Administration’s FY07 request, along with $1.8 billion in emergency spending for added border security and Coast Guard modernization programs.

The measure includes $973 million for the Department of Homeland Security S&T Directorate. This is $29 million below the Administration’s request but considerably more than either the House- or Senate-approved level ($668 million and $712 million, respectively), and $514 million below the FY06 level.

The S&T total includes $50 million for university programs. This is the same as the Senate-approved level but $2 million below both the House level and the Administration’s FY07 request. FY06 funding was about $62 million.

### OTHER CONGRESSIONAL DEVELOPMENTS

#### HOUSE APPROVES NIH REAUTHORIZATION BILL

The House approved legislation (H.R. 6164) to reauthorize the National Institutes of Health (NIH) on September 26 by a vote of 414-2.

The measure, introduced by House Energy and Commerce Committee Chairman Joe Barton (R-TX), currently has no companion legislation in the Senate. Rep. Barton has said he hopes to see the bill approved by both chambers before Congress adjourns in December. According to CQ Today, however, a spokesman for the Senate Health, Education, Labor, and Pensions Committee says that Chairman Michael Enzi (R-WY) generally supports the goals of the bill but that committee members and other Senators are likely to want considerable time to review it.

More than 50 organizations, including AAU, have endorsed H.R. 6164. The AAU letter to Chairman Barton expressing support for the measure is available at: http://www.aau.edu/research/Ltr_Berdahl_NIHReauthBill_091806.pdf.
Chairman Barton has worked on the reauthorization proposal for the past year, soliciting the views of the NIH leadership and the academic research community. His plan would strengthen the management authority of the NIH director, require development of a comprehensive NIH database to track all research activity in a standardized format, and authorize a five-percent budget increase for the agency each year over the three-year period of the authorization. It would also create a “common” fund to support broad, cross-NIH initiatives. The fund would receive one-half of any new money appropriated to NIH until it reached five percent of the agency’s total budget. Thereafter, the NIH director, in consultation with an advisory council, would recommend to Congress changes to the amount reserved for the common fund.

**SENATORS INTRODUCE BIPARTISAN COMPETITIVENESS BILL**  *UPDATED*

A bipartisan group of Senators, including the majority and minority leaders, on September 26 introduced the National Competitiveness Investment Act (S. 3936), legislation to authorize a variety of programs aimed at bolstering the nation’s economic competitiveness. The measure, which was introduced by Majority Leader Bill Frist (R-TN), Minority Leader Harry Reid (D-NV), and leaders of three key committees, is a legislative response to recommendations offered in such reports as the National Academies’ “Rising Above the Gathering Storm.” The bill has not been considered on the Senate floor this week but may be taken up during the post-election legislative session.

The measure incorporates provisions from the PACE-Energy Act (S. 2197), which has been reported from the Senate Energy and Natural Resources Committee, and the “American Innovation and Competitiveness Act” (S. 2802), which has been reported from the Senate Commerce Committee. Although the Health, Education, Labor and Pensions (HELP) Committee has not considered competitiveness legislation, Committee Chairman Michael Enzi (R-WY) and Ranking Member Edward Kennedy (D-MA) helped shape provisions in the new bill that fall under the panel’s jurisdiction.


As discussed previously (*CFR Weekly Wrap-up, 09-15-06*), although the House and Senate appropriations committees have responded to the President’s American Competitiveness Initiative (ACI) by providing increased funding for basic research and education at the National Science Foundation and the Department of Energy Office of Science, Congress has not approved authorization legislation to create or revise competitiveness-related programs. The House Science Committee reported two bills in June (H.R. 5356 and H.R. 5358), but those have not been considered on the floor. And until this month, several bills had been introduced in the Senate but no process had been announced for how the bill sponsors might work together to move a joint package.

**HOUSE PASSES HEA EXTENSION; SENATE EXPECTED TO FOLLOW SUIT QUICKLY**  *UPDATED*

The House approved an extension of the Higher Education Act (HEA) on September 27 by voice vote. The measure (H.R. 6138) extends the authorization through June 30, 2007. The Senate is expected to follow suit before adjourning this week.
The most recent extension of the law expires on September 30. Although the House approved a five-year reauthorization bill (H.R. 609) on March 30, a companion measure (S. 1614) has not been considered on the Senate floor.

**HOUSE COMMITTEE HOLDS HEARING ON ILLEGAL CAMPUS PEER-TO-PEER FILE SHARING**

The House Education and the Workforce Subcommittee on 21st Century Competitiveness held a hearing September 26 on students’ use of campus computer networks to download music and movies illegally.

Subcommittee Chairman Ric Keller (R-FL) said that illegal campus-based file sharing of movies costs the film industry $500 million a year, and added that the House-passed reauthorization of the Higher Education Act (H.R. 609) would allow universities to use federal funding to acquire technologies to combat illegal file sharing on campuses. William Kirwan, chancellor of the University of Maryland system, said that various associations and universities are working to combat illegal file sharing. He said that the Joint Committee of Higher Education and Entertainment Communities, in which AAU participates, is an excellent vehicle for change. But he added that what is needed to reduce illegal downloading by students is an inexpensive, legal downloading alternative. He noted that the legitimate use of peer-to-peer file sharing is increasing and that the University of Maryland now provides several legal alternatives to unauthorized file sharing.

Full Committee Chairman Howard “Buck” McKeon (R-CA) also participated in the hearing. He said he hoped significant progress could be made in reducing illegal file sharing through voluntary efforts on campus rather than having to resort to federal legislation, which often carries unintended consequences.


**EXECUTIVE BRANCH**

**SECRETARY SPELLINGS OUTLINES PLAN FOR ACTING ON HIGHER EDUCATION COMMISSION RECOMMENDATIONS**

In a speech at the National Press Club on September 26, Secretary of Education Margaret Spellings outlined her action plan for implementing the recommendations of the Commission on the Future of Higher Education. Secretary Spellings outlined five initial action steps, including:

- holding high schools accountable for results by applying No Child Left Behind principles to high schools;
- streamlining the federal student financial aid process by cutting the application time in half and notifying students of their aid eligibility in the spring of their senior year;
- creating a higher education information system with "privacy-protected student-level data;"
- providing matching funds to institutions and states that collect and publicly report student learning outcomes; and
• convening members of the accrediting community in November "to move toward measures that place more emphasis on learning."

She also noted that next year she will convene a summit with representatives from the higher education and business communities, as well as student, parent, and policy organizations, "to discuss the full slate of recommendations, our progress, and specific responsibilities going forward."

During the question-and-answer session following her speech, the Secretary said that she was "very encouraged" by the reaction of the higher education community to the Commission's report and that she was "gratified that higher education will be part of the discussion."


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**NSF NAMES CORA MARRETT ASSISTANT DIRECTOR FOR EDUCATION AND HUMAN RESOURCES NEW**

The National Science Foundation (NSF) has announced that Cora Marrett, Senior Vice President for Academic Affairs at the University of Wisconsin system, will become the agency’s Assistant Director for Education and Human Resources, effective February 1, 2006.

Dr. Marrett, who has held faculty and administrative positions at several institutions including the University of Wisconsin-Madison and the University of North Carolina, also served as NSF’s first Assistant Director for Social and Behavioral Sciences in 1992-1996. She holds a Ph.D. in sociology from the University of Wisconsin-Madison and is a fellow of both the American Association for the Advancement of Science and the American Academy of Arts and Sciences.