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CONGRESSIONAL SCHEDULE NEW

The House was out of session today. The Senate was in session today and failed to invoke cloture on the farm bill and a supplemental appropriations bill for the Iraq and Afghanistan wars. Both houses have now begun their Thanksgiving recess.

The Senate will hold pro forma sessions during the recess and reconvene on Monday, December 3, with no recorded votes scheduled on that day. The House will reconvene on Tuesday, December 4. Neither house has announced a schedule for the week of December 3.

In addition to working to resolve the FY08 appropriations impasse, Congress hopes to make progress on energy legislation, the farm bill, the defense authorization bill, a war supplemental, the SCHIP legislation, a tax bill, the farm bill, and a trade agreement with Peru.

BUDGET & APPROPRIATIONS

LEADERSHIP MOVING TOWARDS AN OMNIBUS APPROPRIATIONS PACKAGE NEW

When the House and Senate return from their two-week Thanksgiving recess, FY2008 will be more than two months old, but only one of the 12 appropriations measures, the Defense bill, will have been enacted into law. The rest of government is operating under the second continuing resolution (CR), which was approved as part of the Defense bill and expires on December 16.

Congress has approved one additional conference report, on the Labor-HHS-Education bill, but that was vetoed by the President, and the House failed to override the veto. The House has approved another two conference reports – Transportation/HUD and Military Construction/Veterans – but the Senate has not yet acted on them. As for the remaining eight bills, the House has passed its version of all of them, but the Senate has acted on only three.
The President has threatened vetoes of nearly all of the domestic spending bills, and it does not appear that the Democratic leadership will be able to muster the votes to override any vetoes at this time. However, there appears to be significant movement toward resolving this impasse. A number of publications have reported that Democratic leaders have proposed to “split the difference” between their overall discretionary funding level and that proposed by the President. New allocations based on this offer have been distributed to subcommittees, according to CongressDaily. Most subcommittees would see a reduction from their original allocations ranging between two percent and three percent. All 11 remaining bills are likely to be rolled into an omnibus package that will be considered after Thanksgiving. While the White House has rejected the offer to split the difference on funding, Roll Call reports that a number of Republicans are urging the Administration to begin negotiating and be willing to move in the direction of the Democratic position.

All sides are reported to be unwilling to let the government shut down, so if the process is not completed by December 16, Congress is likely to approve another CR. Those who follow the appropriations process for a living are advised to do their holiday shopping over the next two weeks.

HOUSE FAILS TO OVERRIDE VETO OF LABOR-HHS-EDUCATION BILL

The House last evening fell two votes short of overriding the President’s veto of the FY08 Labor-HHS-Education appropriations bill (H.R. 3043). The vote was 277-141, with 226 Democrats and 51 Republicans voting to override and 15 Members (seven Democrats and eight Republicans) not voting.

The President vetoed the bill last week because the package exceeded his budget request by $9.8 billion. The agreement would have provided a $1.1 billion increase over FY07 for the National Institutes of Health (NIH) and an extra $127 million to raise the maximum Pell Grant award to $4,925.

According to the CongressDaily report on new subcommittee allocations noted above, the revised allocation for Labor-HHS-Education would be almost $147.2 billion, approximately $3.5 billion below its current level and $6.3 billion more than the President’s request of $140.9 billion. Also as noted above, the bill will be wrapped into an omnibus measure.

OTHER CONGRESSIONAL ISSUES

HOUSE COMMITTEE UNANIMOUSLY APPROVES HEA REAUTHORIZATION BILL

The House Education and Labor Committee on Thursday, November 15, unanimously approved the College Opportunity and Affordability Act of 2007 (H.R. 4137), its bill to reauthorize the Higher Education Act (HEA).

The committee approved the bill on a vote of 45-0 after considering a manager's amendment and nearly 50 others and approving nearly two dozen of them.
Among the amendments approved was one by Rep. Rob Andrews (D-NJ) which eliminated the accreditation provision that affirmed that universities and colleges are responsible for defining the standards by which student achievement is measured. This was essentially the same language that was contained in the Senate HEA reauthorization bill and that AAU and the higher education community support. The amendment to repeal the language was approved by unanimous consent after Chairman George Miller (D-CA) agreed to work with Rep. Andrews on substitute language to be included in the bill when the measure goes to the House floor.

The elimination of this important provision opens the door to alternatives that are likely to be unsatisfactory or harmful to the ability of institutions to continue to set their own standards of student achievement based on their institutional mission. Earlier this year, during the negotiated rulemaking process on accreditation and during consideration of the Senate HEA reauthorization bill, the Department of Education and regional accrediting agencies proposed alternatives that would have given the Department and accrediting agencies power to set the standards for student achievement. AAU and other higher education associations strongly opposed these proposals, and the Senate rejected them.

AAU has expressed its serious concern over the removal of the student achievement provision and has made clear that it is an obstacle to the association’s ultimately supporting the bill.

Several other amendments of interest to research universities were ADOPTED, during the markup, including the following, which were adopted by voice vote:

- Chairman Miller's manager's amendment. Among other issues, it addressed two provisions of particular concern to AAU. It clarified that the 90/10 rule does NOT apply to nonprofit institutions of higher education, and it removed the provision that would have required accrediting agencies to review the information that institutions must provide current and prospective students.

- An amendment by Rep. Tim Bishop (D-NY), Carolyn McCarthy (D-NY), and Yvette Clarke (D-NY), adopted by voice vote, that added a dollar threshold and a three-year timeframe to the trigger mechanism for placement on the Higher Education Price Increase Watch List. Under the amendment, an institution’s tuition could rise at an average of the Higher Education Price Index (HEPI) plus $500 per year over three years before being placed on the watch list. The original bill language would have placed institutions on the watch list if their tuition increases simply beyond the HEPI in any single year.

- An amendment by Rep. Virginia Foxx (R-NC), adopted by voice vote, that would prohibit the Department of Education from creating a student unit-record system.

- An amendment by Rep. Rush Holt (D-NJ), adopted by voice vote, that would establish a new Assistant Secretary for International and Foreign Language Education at the Department of Education.

- An amendment by Rep. Andrews that modified the bill’s reporting requirement for charitable gifts. The amendment narrowed the provision to apply only to gifts from any foreign government or private sector corporation, foundation, or any other entity or individual in excess of $1 million "intended for use directly or indirectly by" programs or centers receiving funds from Title VI international education programs. The original provision would have required institutions to report gifts to the "INSTITUTION" in excess of a $1 million from those sources.
Among the REJECTED amendments were:

- An amendment by Rep. Ric Keller (R-FL) that would have required institutions participating in the Direct Lending Program to make Federal Family Education Loans available to their students. The amendment failed 13-28.

- A Rep. Keller amendment that would have penalized institutions that raised their tuition at a level commensurate with increases in the Federal Pell Grant maximum award. The amendment failed 17-24.

- An amendment by Rep. Mark Souder (R-IN) that would have added a Sense of Congress resolution regarding an Academic Bill of Rights. The amendment failed 19-23.

- An amendment by Rep. Peter Hoekstra (R-MI) that would have established a Title VI advisory board. The amendment failed on a voice vote.

The following amendments were offered and WITHDRAWN:

- A Rep. Hoekstra amendment that would have established "accountability measures" for Title VI programs, including new application and complaint procedures. The amendment contained provisions similar to provisions contained in the Senate HEA reauthorization bill. Rep. Hoekstra agreed to work with Rep. Holt on potential alternative language and on how it might relate to the Committee-approved amendment establishing an Assistant Secretary for International and Foreign Language Education.

- An amendment by Rep. Tom Petri (R-WI) that would have permitted institutions to choose to participate in a traditional reaccreditation process or, alternatively, enroll in a new "Expedited Reaccreditation for Accredited Institutions."

- An amendment by Rep. Michael Castle (R-DE) that would have modified the college cost provisions in the bill to include penalties – loss of funding for certain federal student aid programs – for any institution identified on the HEPI Watch List that did not implement measures identified by the institution's Quality Efficiency Task Force. Chairman Miller called the amendment "tempting." Rep. Castle withdrew the amendment after stating that colleges and universities must do more to control their rising tuitions.

- A Rep. Keller amendment that would have required institutions to disclose the maximum number of academic credits they will accept from another institution. Rep. Keller agreed to withdraw the amendment and to work with Rep. Bishop to address the issue.

A complete list of the amendments adopted by the Committee can be found at: http://edlabor.house.gov/markups/fc20071114.shtml

A list of all the amendments offered by Republicans on the Committee can be found at: http://republicans.edlabor.house.gov/markup_details.aspx?NewsID=333.

The Committee's press release can be found at: http://www.house.gov/apps/list/speech/edlabor_dem/rel111507.html

In the coming week, AAU staff will update the side-by-side summary of the Senate and House HEA reauthorization bills and make it available to the CFR and on the AAU Web site.
The Task Force on the Future of American Innovation, in which AAU participates, sent a letter November 13 on the FY08 appropriations process to the President, the congressional leadership, and leaders of the House and Senate appropriations committees. The letter urges them to resolve their differences over FY08 appropriations and quickly approve increases that both sides support for the National Science Foundation, the National Institute of Standards and Technology, and the Department of Energy Office of Science.