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CONGRESSIONAL SCHEDULE  NEW

The House has adjourned sine die and will return for the second session of the 110th Congress on Tuesday, January 15. The Senate will return on January 22. It will adjourn sine die on December 31 and will convene in pro forma session periodically over the holiday in order to block the President from making any recess appointments.

BUDGET & APPROPRIATIONS

CONGRESS CLEARS FY08 OMNIBUS APPROPRIATIONS BILL  UPDATED

The House on December 19 approved the 11-bill omnibus FY08 appropriations package (H.R. 2764) by a vote of 272-142, sending the package on to the President, who is expected to sign it. Congress also approved another continuing resolution (H.J. Res. 72) lasting through December 31, giving the President until then to sign the omnibus into law. The current CR, which funds programs at their FY07 levels, expires today.

The omnibus package—which incorporates all but the already-enacted FY08 Defense appropriations bill—provides $473.5 billion in discretionary spending, which when combined with the $459 billion enacted for Defense, totals approximately the President’s FY08 discretionary spending request. The final package also includes $70 billion for military operations in Iraq and Afghanistan, $3.7 billion in “contingent emergency”
spending for veterans programs—which the President must formally request by January 18 in order to spend—and about $7.5 billion in “emergency” spending for such broadly supported needs as border security, drought aid, and home heating assistance.

Although the congressional budget resolution and appropriations bills approved earlier this year provided $23 billion in additional spending, Democratic leaders were forced to cut that funding in the face of the President’s veto threats and a largely united Republican opposition. For example, the House on November 15 fell two votes short of overriding the President’s veto of the FY08 Labor-HHS-Education appropriations bill (H.R. 3043), which contained $9.8 billion more than the President’s request, including an additional $1.1 billion for the National Institutes of Health (NIH).

--Omnibus Package Fails to Meet Goals of Bipartisan Competitiveness Agenda

The omnibus package is a major disappointment for supporters of university research and education programs. It fails to incorporate most of the funding increases for physical sciences and engineering research and education that were proposed by the President and congressional leaders, and provides no real funding increase for NIH. And because of an across-the-board cut in programs funded in the Labor-HHS-Education bill, several higher education programs would be cut from their FY07 levels. The Pell Grant maximum award would be less than the FY07 level if Congress had not provided an increase earlier this year through mandatory spending in the College Cost Reduction Act.

Each appropriations subcommittee made cuts in its own way. For example, programs covered under the Labor-HHS-Education bill were cut across the board by 1.747 percent. Energy programs in the Energy and Water Development bill were cut by .91 percent, with earmarks in the measure cut by 1.6 percent. In the Commerce-Justice-Science bill, funding was reduced individually by agency: for the National Science Foundation, for example, the budget was simply reduced.

Additional details about agencies’ funding levels are below. A detailed analysis of the NIH budget is provided below in a separate item.

Earmarks. CQToday reports that the package includes 9,893 Member earmarks, which the group Taxpayers for Common Sense has estimated to cost at least $7.4 billion before less-easily identified policy changes and provisions are factored in. AAU staff has learned that the Labor-HHS-Education portion of the bill contains at least $600 million in earmarks, which affected funding for the National Institutes of Health and student aid. Earmarks in the Department of Energy Office of Science cut the increase in funding for competitive research programs to less than three percent.

- **Department of Energy Office of Science.** The agency would receive $4 billion, which is $221 million, or 5.8 percent, above FY07 spending but $380 million below the FY08 request. (The House-passed bill provided $4.514 billion; the Senate bill provided $4.497 billion.) However, the increase includes $125 million in earmarks, leaving an increase of only $97 million, or 2.6 percent, for competitive programs. Moreover, the measure does not fund the President’s $121 million request for the U.S. contribution to the international project aimed at showing that fusion energy can be used to generate electrical power, the International Thermonuclear Experimental Reactor (ITER).
• **National Science Foundation (NSF).** The science agency would receive $6.065 billion in FY08, an increase of about $149 million, or 2.5 percent, over FY07 but $364 million less than the President’s FY08 request. (The total is $444 million below the House bill and $488 million below the Senate bill). Research and Related Accounts would receive $4.821 billion, which is $56.8 million over FY07 but $310 million below the FY08 request. Education and Human Resources would receive $725.6 million, which is $27.6 million above FY07 funding but $52.6 million less than the request.

• **NASA.** The space agency would be funded at $17.3, which is $1.062 billion above the FY07 level and the same as the FY08 request. Within that total, Science would receive $5.6 billion, which is $200 million above FY07 and $61 million above the President’s FY08 request. Aeronautics would receive $625 million, which is $336 below FY07 funding and $81 million above the President’s FY08 request. Exploration systems would receive $3.8 billion, which is about $400 million above FY07 funding and $124 million less than the President’s FY08 request.

• **National Endowment for the Humanities.** The Endowment would receive $145 million in FY08, an increase of $4 million over FY07. The Administration had requested no increase. The research division within the Endowment is funded at $13 million, an increase of $3 million, or 2.5 percent, above FY07. The education division is funded at $12.6 million, an increase of $3 million, or 2.7 percent, above FY07.

• **Department of Education/Student Aid Programs**

  ♦ **Accreditation Regulations.** The bill contains a provision prohibiting the Department of Education from issuing regulations on accreditation until after Congress reauthorizes the Higher Education Act.

  ♦ **Pell Grants.** The omnibus provides a modest increase ($555 million) for the Pell Grant program compared to FY07, but is less than both the House-passed and Senate-passed bills. The modest increase means a cut in the Pell Grant maximum award by $69, bringing the maximum to $4,241 (less than the FY07 level of $4,310). However, because the College Cost Reduction Act provided a mandatory increase of $490, the maximum Pell Grant would increase to $4,731 in FY08. Without the mandatory increase, enactment of this legislation would have meant a drop in the Pell Grant maximum award in FY08.

  ♦ **SEOG, Perkins Loan cancellations, and LEAP funding** would drop below their FY07 levels because of the 1.747 percent across-the-board cut. SEOG is funded at $757.47 million, a reduction of $13.5 million below FY07. Perkins Loan cancellations are funded at $64.3 million, a cut of $1.1 million. LEAP is funded at $63.9 million, a cut of $1.1 million.

  ♦ **Federal Work-Study** funding would increase by $138,000 over FY07, for total funding of about $980.5 million.
TRIO and GEAR UP are level-funded at $828.18 million and $303.42 million, respectively. The across-the-board cut eliminated the increases provided in both the House- and Senate-passed bills.

Graduate Education Programs. The Javits fellowship and Graduate Assistance in Areas of National Need programs are funded below their FY07 levels because of the across-the-board cut. Javits would receive $9.53 million; GAANN would receive $29.54 million.

International Education and Foreign Language programs would receive an increase of about $3 million above FY07, for total funding of $108.98 million. Domestic programs receive a $2.4-million, or 2.7 percent, increase above FY07. Overseas programs receive slightly less than $1 million, or 6.1 percent, above FY07. The Institute for International Public Policy receives a $.1 million, or 4.4 percent, increase above FY07.

REP. EHLERS AND ORGANIZATIONS EXPRESS DISAPPOINTMENT OVER SCIENCE FUNDING

Rep. Vernon Ehlers (R-MI), ranking member of the House Science and Technology Subcommittee on Research and Science Education, issued a statement today saying he was “gravely disappointed “ over the funding levels for NSF, the DOE Office of Science, and the National Institute of Standards and Technology. He said that the modest funding increases for these agencies “essentially evaporate when Congressionally-directed funds, rescissions, and inflation are considered.” He added:

“The scientific agencies and community are scrambling to understand the impacts of the omnibus funding. It is already apparent that several Department of Energy projects and facilities may immediately have to be shut down. It may be years until the real impacts emerge as the repercussions of these funding decisions are felt in our international scientific stature as well as the career decisions of students considering teaching or other science-related fields. We are eating our technological “seed corn” and subsequently sacrificing the pipeline for future discovery and economic development. Despite the research community’s best efforts to explain to Members of Congress why these pressing problems can only be solved by consistent basic research, innovation remains a low priority for those who hold the purse strings.”


Similar statements about the package have been issued by AAU, the Task Force on the Future of American Innovation, and the American Association of the Advancement of Science (AAAS). Those statements can be accessed at:


FY08 OMNIBUS FLAT-FUNDS NIH, ADDRESSES TWO POLICY ISSUES

An analysis by NIH shows that the agency received $29.3 billion in the FY08 omnibus appropriations package, a $328-million or 1.1-percent increase above the FY07 level and $606 million or 2.1 percent above the Administration’s FY08 request. This amounts to a cut of $772 million from the $1.1 billion that was provided in the FY08 Labor-HHS-Education bill (H.R. 3043) that the President vetoed on November 15.

A preliminary analysis by AAU staff suggests that because the FY08 omnibus bill includes $295 for the Global AIDS Fund—a $196 million increase from FY07—and $111 million for the National Children’s Study—an increase of $44 million from FY07—the net increase for NIH is $88 million, or 0.29 percent. This analysis does not factor in other small transfers into and out of NIH accounts from other agencies. But the overall picture is clear: NIH is flat-funded in FY08.

Two policy issues were also addressed in the FY08 omnibus bill: public access to research results and transfers to HRSA and AHRQ for research training. For public access, the omnibus incorporates the same language approved in the House and Senate bills that requires NIH-funded researchers to submit final peer-reviewed and accepted-for-publication manuscripts to NIH’s PubMed Central within 12 months of official publication date. The omnibus also restores authority for HRSA and AHRQ to receive NRSA funding from NIH:

SEC. 221. Of the amounts made available in this Act for the National Institutes of Health, 1 percent of the amount made available for National Research Service Awards (NRSA) shall be made available to the Administrator of the Health Resources and Services Administration to make NRSA awards for research in primary medical care to individuals affiliated with entities who have received grants or contracts under section 747 of the Public Health Service Act, and 1 percent of the amount made available for NRSA shall be made available to the Director of the Agency for Healthcare Research and Quality to make NRSA awards for health service research.

This “fix” was necessary because this funding authority was accidentally deleted in the NIH reauthorization bill signed into law in January. This is only a one-year fix; the Public Health Service Act must still be amended to restore permanently the transfer authority.

OTHER CONGRESSIONAL ISSUES

ENERGY AUTHORIZATION BILL DIFFERENTIATES CAMPUS ELIGIBILITY FOR FACILITIES PROGRAM BY ENDOWMENT SIZE

The energy authorization bill signed into law by the President on December 19 (H.R. 6) includes a provision that would base campus eligibility for a federal program on the size of the institution’s endowment.
The provision is included in a new program that authorizes the Department of Energy (DOE) to make $250 million in grants and $500 million in loans each year to colleges, public schools, and local governments to improve energy efficiency. To be implemented, the new program would need to receive funding in future spending bills.

The grants portion of the program authorizes DOE to make awards of up to $1 million for improving energy efficiency in facilities. At least half of the total grant funding would be awarded to colleges and universities, with the remaining funds awarded to public schools and local governments. All higher education institutions could compete for one-half of the funds designated for higher education. The remaining half of funding designated for higher education would be available only to institutions with endowments below $100 million, evenly split between those with endowments between $50 million and $100 million and those with endowments of $50 million and below. (NOTE: Earlier reports indicated incorrectly that the entire amount allocated for higher education would be available only to institutions with endowments below $100 million.)

The loan program is less restricted. It authorizes loans of up to $500,000 for projects that test new methods for improving energy efficiency and producing sustainable energy. One of the criteria for eligibility is “…consideration of the size of endowment or other financial resources available to the institutional entity.”

HOUSE EDUCATION AND LABOR COMMITTEE FILES HEA REPORT

The House Education and Labor Committee has filed the report on its legislation reauthorizing the Higher Education Act (H.R. 4137) but at this writing, H. Rpt. 110-500 is not yet available online through THOMAS.

GAO ISSUES REPORT ON COLLEGE AFFORDABILITY AND ENROLLMENTS

The Government Accountability Office (GAO) has conducted a study of college costs and student enrollments requested by House Education and Labor Committee Chairman George Miller (D-CA) which shows that the majority of college students attend institutions costing less than $5,000 a year, with only three percent attending institutions costing more than $25,000. The report is entitled, “Higher Education Tuition Continues to Rise, but Patterns Vary by Institution Type, Enrollment and Educational Expenditures.” It is dated November 2007 but was released by the Committee on December 20.

A copy of the report can be found at:

The Committee’s press release on the report can be found at:
http://www.house.gov/apps/list/speech/edlabor_dem/rel122007.html

EXECUTIVE BRANCH
The advisory panel created by the Department of Commerce to reexamine federal policies on deemed export controls has issued a report that, among other recommendations, urges the Secretary of Commerce to simplify regulations that have been placed on university research and foreign-born researchers as a means of protecting sensitive military technologies. The Deemed Export Advisory Committee (DEAC) said that existing regulations should be replaced with a streamlined set of rules for “trusted entities,” that the list of controlled technologies should be reviewed annually, and that previous recommendations for cumbersome and unnecessarily restrictive measures should be rejected.

AAU and the Council on Governmental Relations (COGR) are reviewing the report and will provide additional analysis in January.


Several documents on this issue prepared jointly by AAU and COGR are available on the AAU Web site at: http://www.aau.edu/research/traffic.cfm.

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