



CFR WEEKLY WRAP-UP

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CONGRESSIONAL SCHEDULE *NEW*

The Senate on Monday will take up a package of three stem cell research bills, with a vote on Tuesday (see item below). Also on the agenda next week is a bill to reauthorize the Water Resources Development Act (S. 728). The House will take up a variety of bills, including a free trade agreement with Oman (H.R. 5684), a bill to prohibit the courts from hearing constitutional challenges to the Pledge of Allegiance (H.R. 2389), and a joint resolution to ban same-sex marriage (H. J. Res. 88).

House Majority Leader John Boehner (R-OH) said earlier this week that he anticipates the House will recess on September 29 and then reconvene the week of November 13 following the election for a lame duck session. Mr. Boehner said the session was likely to stretch into December, possibly until Christmas.

BUDGET & APPROPRIATIONS

SENATE APPROVES FIRST OF ITS FY07 FUNDING BILLS *NEW*

The Senate on July 13 approved the first of its FY07 appropriations bills, the measure funding the Department of Homeland Security (H.R. 5441). The Senate Appropriations Committee has approved eight of its 12 FY07 bills; the panel approved the Commerce-Justice-Science (H.R. 5672) and District of Columbia (S. 3660) bills this week. The four remaining bills are scheduled for full committee mark-up on Thursday, July 20: Defense, Labor-HHS-Education, Military Construction-Veterans Affairs, and Transportation-Treasury. The Labor-HHS-Education and

Military Quality of Life bills will be marked up in their respective subcommittees on Tuesday, July 18.

The House has passed all of its funding bills except the Labor-HHS-Education measure (H.R. 5647). Floor consideration of the bill has been delayed—and could wait until after the November election—in part because a controversial amendment to raise the minimum wage was added during committee mark-up. The Republican leadership is working to address the minimum wage issue separately, but a remaining obstacle is the Republican moderates' insistence on adding an additional \$3 billion to the bill, as promised in the House budget resolution.

SENATE APPROPRIATIONS COMMITTEE APPROVES FUNDING INCREASES FOR NSF AND NASA

The Senate Appropriations Committee on July 13 endorsed the funding increases for the National Science Foundation (NSF) provided in subcommittee on June 11 and voted to provide NASA with an extra \$1 billion in emergency spending.

The committee report expresses the view that the President's American Competitiveness Initiative (ACI) is defined too narrowly. Along with the increased research investments at NSF, the Department of Energy Office of Science, and the National Institute of Standards and Technology (NIST), the ACI should include educational programs at NSF that broaden participation in math and science and the technology outreach programs at NIST.

The report goes on to say, "While these agencies will benefit from the additional funding provided, other aspects of the Federal research and development enterprise that may not require additional funds also have roles to play in the competitiveness of the nation." It cites the examples of NASA and the National Oceanic and Atmospheric Administration. "For the ACI to be a truly transformative endeavor, it must bring to bear the full resources available for promoting competitiveness." The report calls on the White House Office of Science and Technology Policy to report back to the committee by January 26, 2007, on "how all Federal research agencies can play a role in the ACI."

NSF:

The Senate bill would provide NSF with \$5.991 billion, which is \$410 million above the FY06 enacted level and about \$29 million below the Administration's FY07 request and the House-approved level. The \$29 million reduction from the request comes from the NSF salaries and expenses line as well as elimination of funds requested by the Administration for the LC130 aircraft "Judgment Fund."

Within the NSF total, the bill would provide \$4.646 billion for Research and Related Activities (R&RA), \$315 million above FY06 funding. This is \$19.53 million below the President's request, an amount that is transferred from research to education programs.

The committee report recommends \$101.2 million for the Plant Genome Research Program, the requested amount of \$50.74 million for operations of the National Radio Astronomy Observatories, and full funding for NSF's lead role in the National Nanotechnology Initiative. The report also expresses strong support for the FY07 funding request for the NSF Office of International Science and Engineering, which promotes international research collaborations.

For Education and Human Resources, the \$19.53 million transferred from the Research and Related account would give the directorate a total of \$835.75 million, which is \$3 million above the House-approved level, and \$39 million above FY06 funding.

The committee report says that the committee is “fully supportive” of the NSF research funding in the ACI but believes that the “ACI neglects the education work NSF does in support of research across the country. Broadening participation to underrepresented groups, such as women and minorities, in the sciences will only further the goals of the ACI as proposed in the budget request.”

For that reason, the \$19.53 million transferred from the Research and Related account would: add \$10 million to the Experimental Program to Stimulate Competitive Research, for a total of \$110 million; add \$2 million to the Historically Black Colleges and Universities program, for a total of \$32 million; add \$3 million to the Louis Stokes Alliances for Minority Participation program, for a total of \$43 million; and add \$4 million to the STEP/Tech Talent Expansion program, for a total of \$30 million.

For Major Research Equipment and Facilities Construction, the bill would provide \$237 million, which is \$3 million below the request, the same as the House-approved level, and \$46 million above FY06 funding. The \$3 million reduction from the request is a result of not funding the LC130 Judgment Fund.

The committee report says the bill would provide the requested funding for five continuing projects: Atacama Large Millimeter Array at \$47.9 million, EarthScope at \$27.4 million, IceCube Neutrino Observatory at \$28.65 million, the Scientific Ocean Drilling Vessel at \$42.88 million, and South Pole Station modernization at \$9.1 million. The committee report specifies funding for three new projects: the Alaska Region Research Vessel at \$56 million, the Ocean Observatories Initiative at \$13.5 million, and the National Ecological Observatory Network at \$12 million.

NASA

The committee bill would fund NASA at \$16.757 billion, which the committee report says is \$510.6 million above the FY06 enacted level. The figure is \$50 million more than the House-approved level and \$35 million below the Administration’s request.

Within that total, the committee would provide \$10.489 billion for Science, Aeronautics, and Exploration, which the committee report indicates is \$852 million above FY06, \$35 million below the Administration’s request, and \$6.8 million above the House-approved level. The committee bill would fund exploration capabilities at the requested level of \$6.235 billion, which is \$41 million above than the House-approved level.

The committee report does not specify an overall number for science but does specify funding for several science programs. For example, the report expresses strong support for servicing the Hubble Space Telescope and specifies full funding of \$443.4 million for the James Webb telescope and \$73.4 million for the Explorer program. It also calls for NASA to develop a plan to fund the SOFIA mission in FY07 within available funds and adds \$15 million above the request for the NASA Earth Science Applications Program.

The committee report includes more than 70 earmarks for research and education.

For aeronautics research, the bill would provide an extra \$35 million above the Administration's request. That compares to the House bill which would add \$100 million to the request for a total of \$824 million. The House figure is still \$60 million below FY06 funding.

During committee mark-up, Senators Barbara Mikulski (D-MD) and Kay Bailey Hutchison (R-TX) successfully offered an amendment to add \$1 billion in emergency spending to NASA's bottom line. It remains unclear if the amendment will survive in a final bill.

OTHER AGENCIES

The Senate committee's measure also would fund NOAA at \$4.43 billion, which the committee press release says is \$536 million above the enacted level and \$753 million above the Administration's request. The Senate total is more than \$1 billion above the House-approved level of \$3.4 billion. For NIST, the bill would provide \$764 million, which the committee press release indicates is \$11.9 million above the FY06 enacted level, \$182 million above the request, and \$137 million above the House-approved level.

The press release on the bill is available on the Senate Appropriations Committee Web site at: <http://appropriations.senate.gov/hearmarkups/CJSPRFull07.mht>.

OTHER CONGRESSIONAL DEVELOPMENTS

SENATE TO CONSIDER STEM CELL LEGISLATION ON MONDAY AND TUESDAY; AAU URGES SUPPORT FOR H.R. 810 AND THANKS SENATOR FRIST *NEW*

Senate Majority Leader Bill Frist (R-TN) announced earlier this week that the Senate will vote on stem cell legislation on Tuesday, July 18, with 12 hours of debate beginning on Monday, July 17.

Under a unanimous consent agreement, the Fetus Farming Prohibition Act of 2006 (S. 3504), the Alternative Pluripotent Stem Cell Therapies Enhancement Act (S. 2754), and the Stem Cell Research Enhancement Act (H.R. 810) will be debated simultaneously for a total of 12 hours and then each will be subject to an up-or-down vote. Under the agreement, each bill needs 60 votes to pass.

H.R. 810 would broaden the current federal policy on human embryonic stem cell research to authorize federally funded work on cell lines derived from embryos developed from in-vitro fertilization that otherwise would be discarded.

The research community has informed Senators that a vote for H.R. 810, and this bill alone, will be considered a vote to advance human embryonic stem cell research. A vote against H.R. 810 will be considered a vote against research and cures.

The community has indicated that it has no objection to S. 2754, the so-called "alternative" stem cell bill, and S. 3504, a bill to ban "fetus farming." However, these bills would have no real impact, and support for them would not ameliorate the effect of a "no" vote on H.R. 810.

AAU President Robert Berdahl wrote to all members of the Senate on July 12 urging them to vote in favor of H.R. 810 in order "to accelerate the hope and promise of stem cell research and to ensure that the United States maintains its leadership role in the ethical development of new

cures and therapies for all mankind.” The letter is available on the AAU Web site at:
<http://www.aau.edu/research/BerdahlFristLtr071306.pdf>.

President Robert Berdahl also wrote to Senate Majority Leader Bill Frist thanking him for his leadership on the stem cell research issue. A copy of that letter is available at:
<http://www.aau.edu/research/BerdahlFristTY071406.pdf>.

EXECUTIVE BRANCH

PRESIDENT SIGNS HEA EXTENSION BILL

President Bush signed into law on June 30 a bill to extend the Higher Education Act (HEA) through September 30, 2006. The three-month extension (H.R. 5603) was approved by the House on June 14 and by the Senate on June 23. The measure is now Public Law 109-238.

OTHER

ACE ISSUES LEGAL GUIDANCE ON INSTITUTIONS’ CALEA COMPLIANCE *NEW*

The American Council on Education (ACE) has provided legal guidance for colleges and universities regarding compliance with a regulation issued by the Federal Communications Commission (FCC) requiring them to make their computer networks accessible to surveillance by law enforcement.

At issue is the FCC’s regulation expanding application of the Communications Assistance for Law Enforcement Act (CALEA) from telephone networks to computer networks, including those operated by colleges and universities. Institutions had estimated that modifying their computer networks to comply with the regulation by May, 2007 would cost them each millions of dollars.

Last October, ACE filed a lawsuit on behalf of the higher education community challenging the regulation. A federal appellate court last month issued a mixed ruling, reaffirming that CALEA could be extended to computer networks but stating that “private computer networks” could be exempt from CALEA. It was not clear to what extent university networks would be considered private networks.

The ACE guidance concludes that college and university computer systems are private networks if they restrict their networks to campus users, such as students and faculty. Such campus networks would be fully exempt from CALEA if they also meet a second criteria of relying on an outside entity, such as a commercial Internet service provider, to connect their campus traffic to the Internet. Those institutions that operate private networks but also manage their own connections to the Internet, however, are likely to be required to make their systems CALEA-compliant at the points where routers and switches meet the Internet. That retrofitting would likely cost several thousand dollars rather than several million.

Because the ruling did not clarify the definition of a private network, ACE is encouraging institutions to review their own situations with their campus information technology officials, business officers, and attorneys.

The legal guidance and related information is available on the ACE Web site at:
<http://www.acenet.edu/AM/Template.cfm?Section=HENA&CONTENTID=17302&TEMPLATE=/CM/ContentDisplay.cfm>.

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