State of the Union Address

Speaker John Boehner invited President Obama to give his State of the Union Address on **Tuesday January 28, 2014**. "In the coming year, Americans expect Washington to focus on their priorities and to look for common ground in addressing the challenges facing our country. In that spirit, we welcome an opportunity to hear your ideas, particularly for putting Americans back to work," Speaker Boehner wrote in a letter to the President.

FY14 Budget Deal

The Budget Conference Committee announced Tuesday a budget deal that would largely alleviate sequester cuts to research funding and campus-based student aid programs for the next two years.

The Bipartisan Budget Act of 2013 would set overall discretionary spending for FY2014 at $1.012T — about halfway between the Senate budget level of $1.058T and the House budget level of $967B. The agreement would provide $63B in sequester relief over two years, split evenly between defense and non-defense programs (NDD). The deal provides $45B for FY2014, split evenly between defense and nondefense. The $22.5B increase that NDD will receive represents 87% of the FY13 sequester cut. In FY2014, defense discretionary spending would be set at $520.5B, and NDD spending would be set at $491.8B. By comparison, the current CR level is $986B and the FY2014 sequester level is $967B.

For FY2015, the deal adds $18B in funding, again split evenly between defense and NDD, so the cap will rise slightly to $1.014T. Defense discretionary spending would be set at $521.3B, and NDD spending would be set at $492.4B.

The House approved the deal Thursday by a vote of 332-94 with overwhelming bipartisan support from the NYS delegation. The Senate will begin consideration on Tuesday. Assuming the deal passes, the House and Senate Appropriations Committees will have until January 15, to first divide up their new (302(b) allocations) pot of money among the 12 subcommittees and then each subcommittee to come up with its individual bill that will be packaged into an omnibus appropriations bill. It is expected the House will have to act most likely the week of January 6.

Within the parameters of those top-level limits, lawmakers would have the discretion to restore and could increase funding to campus-based financial aid programs and federal research agencies such as the National Institutes of Health and National Science Foundation.

To help pay for the sequester relief, the budget proposal reduces the deficits by $28B over ten years by extending for two years (Fiscal Years 2022 and 2023) sequester cuts to nonexempt mandatory programs. Sequestration expires at the end of FY2021 under the Budget Control Act. There are several higher education programs affected by this:
Vocational rehabilitation State grants  
Iraq and Afghanistan Service Grants  
TEACH Grants  
College access challenge grant program

The budget agreement also calls for Congress to reverse some sequestration cuts without raising taxes or making changes to entitlement programs. Revenue sources include increasing airline security fees and requiring federal workers to kick in more money for their pension plans. In addition, the deal calls for Congress to cut payments to guarantee agencies in the now-defunct Federal Family Educational Loan Program, and changes how certain federal student loan servicers are paid.

As part of the deal, the House attached an amendment addressing a short term Medicare doc fix: Pathway for SGR Reform Act of 2013. The Sustainable Growth Rate (SGR) is a formula that creates yearly spending targets for physician services under Medicare. Due in part to flaws in the SGR policy, Congress has overridden the formula to prevent cuts for over a decade. The amendment prevents a 20.1% cut in reimbursements on January 1, 2014 and replaces it with a 0.5% increase until April 1, 2014.

Another provision of interest relieves safety net providers of Medicaid Disproportionate Share Hospital (DSH) reductions in FY2014 and delays the scheduled FY2015 reduction for a year. As part of the Affordable Care Act, the law calls for a reduction in DSH allotments. The new provision requires annual aggregate reductions in federal DSH funding beginning in FY2016 through FY 2023.

TRANSFER Act

Last week, the House Science, Space, and Technology Committee approved Rep. Collins (R-NY) H.R. 2981, the TRANSFER Act with bipartisan support. The TRANSFER Act accelerates the transition of technology developed at universities, federal laboratories and non-profit research institutions to the private sector. The legislation would allow federal agencies to dedicate a small portion of their Small Business Technology Transfer funds to creating “proof of concept” and other innovative technology transfer programs.

Innovation Act

Last week the House approved the H.R. 3309, the Innovation Act by a vote of 325 to 91. The legislation seeks to reduce abusive patent litigation but contains a number of provisions of concern to SUNY and the higher education community. The community supports the goals of H.R. 3309 but opposed it out of concern that a number of the provisions would seriously undermine the ability of legitimate patent holders to enforce their patent rights. Specific concerns include:

- Extremely broad fee-shifting provisions that apply well beyond patent infringement cases to any civil action involving patents and create a powerful disincentive for universities to enforce their patent rights,
- Joinder provisions that could draw universities into litigation that they have not initiated but which would carry the massive financial risk brought about by the bill’s fee shifting provisions.
The Senate Judiciary Committee will hold a hearing on December 17 on *S. 1720, the Patent Transparency and Improvements Act*. Senate Chairman Patrick Leahy (D-VT) has indicated the Committee is open to modifications to the underlying bill.