
AAU WASHINGTON REPORT

FEDERAL RELATIONS REPORT OF THE ASSOCIATION OF AMERICAN UNIVERSITIES
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02-#2

February 15, 2002

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CONGRESSIONAL SCHEDULE:

CONGRESS IN RECESS THE WEEK OF FEBRUARY 17

Congress reconvened January 23 for the second session of the 107th Congress. As this is being written, the House has recessed for a weeklong Presidents' Day recess. The Senate will begin its recess at the close of business February 15. The Senate is scheduled to return on February 25, the House on February 26.

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BUDGET & APPROPRIATIONS:

PRESIDENT SUBMITS FY2003 BUDGET

President Bush formally presented his FY2003 budget proposals to Congress on February 7. The entire FY2003 budget is available online at: <http://www.whitehouse.gov/omb>

See Attachment 1 for an AAU summary of the budget sections that are of greatest interest to research universities. The document has been posted on the AAU website at <http://www.aau.edu> under "Budget & Appropriations," and is being updated there as additional details become available.

The broad outlines of the President's budget are as follows:

- The President's budget calls for overall spending of \$2.13 trillion in FY2003, an increase of 3.7 percent. Discretionary budget authority (BA) would rise by 9 percent, to \$750 billion.
- The proposed rate of increase in discretionary spending is more than double last year's 4-percent increase. But much of the additional discretionary spending would be allocated to defense and homeland security. The President's budget would increase defense spending by \$45 billion, or 14.5 percent, in FY2003 to \$379 billion, and it would nearly double spending for homeland security, from \$19.5 billion to \$37.7 billion.
- Discretionary spending not related to defense or homeland security would increase by only 2 percent overall, which is about the current rate of inflation.
- Nevertheless, some programs not related to defense or homeland security fare quite well in the President's budget. The budget documents cite 21 "other priority initiatives" that would also receive substantial increases or new funding in FY2003. Many of these initiatives involve social service programs. But also included on the list are completing the doubling of the budget of the National Institutes of Health, and providing a 9-percent increase for federal science and technology spending (which in budget terms, is not the same as federal R&D spending—see below).
- Programs that do not fare so well in the budget include youth job training, fossil energy R&D, and the Corps of Engineers, which would all be cut in real terms.
- Following through on the President's desire to move toward performance-based budgeting, the new budget for the first time formally rates programs on the basis of their effectiveness. Budget proposals for some programs were based to some extent on these ratings, particularly in the case of programs

that rated exceptionally poorly or exceptionally well.

- The President's budget projects a deficit of \$106 billion for the current year, an \$80-billion deficit for FY2003, and a \$14-billion deficit for FY2004. After that, the budget projects a return to surpluses, with an aggregate surplus of \$1 trillion accumulating over the next decade.
- The budget also calls for \$591 billion in new tax cuts over the next 10 years.

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PRESIDENT PROPOSES INCREASES FOR R&D AND FS&T

The President's budget distinguishes between federal R&D spending and federal spending for "Federal Science and Technology" (FS&T). The FS&T designation, which was recommended by the National Academy of Sciences in a 1995 report, is intended to highlight "activities central to the creation of new knowledge and technologies more consistently and accurately than the traditional R&D data."

FS&T includes the full budgets of the National Institutes of Health and the National Science Foundation, Defense basic (6.1) and applied (6.2) research programs, various Energy Department R&D programs, and a variety of research efforts at other agencies. Overall, according to the budget documents, the FS&T designation encompasses "nearly all of federal basic research, over 80 percent of federal applied research, and about half of civilian development." See Attachment 2 for the President's R&D and FS&T proposals. They also are available online at: <http://www.ostp.gov/html/new.html>.

For R&D overall, the President is proposing an increase of \$8.574 billion, or 8 percent, to \$111.756 billion. For FS&T, the President is proposing an increase of \$4.647 billion, or 9 percent, to \$56.987 billion..

The President's budget would increase funding for basic research across the agencies by \$2.003 billion, or 9 percent, to \$25.545 billion. It would increase government-wide funding for applied research by \$2.208 billion, or 9 percent, to \$26.290 billion. Spending on development would rise by \$4.56 billion, or 9 percent, to \$55.520 billion.

The President is proposing R&D and FS&T funding increases in FY2003 for seven agencies.

These increases include a \$3.9-billion, or 17-percent, increase for the National Institutes of Health (NIH) and a \$241-million, or 5-percent, overall increase for the National Science Foundation (NSF). For the Department of Defense, the President is proposing an R&D increase of \$5.373 billion, or 11 percent, but would hold FS&T funding essentially flat at \$4.952 billion. At NASA, R&D funding would increase by 5 percent, to \$10.069 billion, and FS&T funding would increase by 8 percent to \$8.774 billion. R&D at the Department of Energy would fall by 8 percent to \$8.510 billion, while FS&T funding for that agency would fall by 1 percent, to \$5.027 billion.

The President's proposed FY2003 percentage increases or reductions for R&D and FS&T at other agencies are as follows:

- Agriculture Department—R&D, 9-percent decrease; FS&T, 1-percent increase.
- Commerce Department—R&D, 1-percent decrease; FS&T, 9-percent decrease.
- Education Department—R&D, 16-percent increase; FS&T, 14-percent increase.
- Environmental Protection Agency—R&D, 6-percent increase; FS&T, 6-percent increase.
- Interior Department—R&D, 5-percent decrease; FS&T, 5-percent decrease.
- Transportation Department—R&D, 16-percent decrease; FS&T, 16-percent decrease.
- Veterans Affairs—R&D, 6-percent increase; FS&T, 10-percent increase.
- Other Agencies—R&D, 16 percent decrease; FS&T, not applicable.

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R&D BUDGET INCLUDES MULTI-AGENCY PRIORITIES

In addition to agency R&D programs, the President's budget highlights four interagency R&D initiatives. These initiatives are as follows:

- **Anti-terrorism R&D.** The budget does not put a price tag on this initiative. It states that "over the next six months, OMB, OSTP, and the Office of Homeland Security will be

working through the National Science and Technology Council (NSTC) to develop a coordinated, interagency R&D plan for antiterrorism. This budget identifies many antiterrorism R&D priorities The NSTC plan will chart a comprehensive and integrated course for these efforts as well as provide cross-agency budgetary information."

- **Networking and Information Technology.** The budget would provide \$1.9 billion (a 3-percent increase) for the multi-agency Networking and Information Technology Research and Development Program. Areas of emphasis for FY2003 include "network 'trust' (security, reliability, and privacy); high-assurance software and systems; micro- and embedded sensor technologies; revolutionary architectures to reduce the cost, size, and power requirements of high end computing platforms; and social and economic impacts of information technology."
- **Nanotechnology R&D.** The budget would provide \$679 million for the National Nanotechnology Initiative, a 17-percent increase. In FY2003, the initiative will focus on "fundamental nanoscale research through investments in investigator-led activities, centers and networks of excellence, as well as the supporting infrastructure." Priority areas include "research to enable efficient nanoscale manufacturing; innovative nanotechnology solutions for detection of and protection from biological-chemical-radiological-explosive agents; the education and training of a new generation of workers for future industries; and partnerships in the nanotechnology revolution."
- **Climate Change R&D.** The budget requests \$40 million for a new Climate Change Research Initiative (CCRI), and another \$40 million for a new National Climate Change Technology Initiative (NCCTI). The funding for the CCRI would be distributed among five agencies: NOAA, NSF, NASA, DOE, and USDA. The request for the NCCTI is included within the DOE budget. The President is also proposing \$1.7 billion for

the ongoing U.S. Global Change Research Program in FY2003, an increase of 3 percent.

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STUDENT AID BUDGET

FULLY FUNDS PELL GRANTS

The President is proposing an overall total of \$12.768 billion for federal student aid programs in FY2003. Although this constitutes a 4- percent increase over FY2002, the increase goes to the Pell Grant program, with other student aid programs held essentially flat.

See Attachment 3 for the President's proposals for student aid and higher education. The student aid budget also can be accessed online at:

<http://www.ed.gov/offices/OUS/Budget03/Summary/App2/osfap1.html>. The budget for other higher

education programs can be accessed at:

<http://www.ed.gov/offices/OUS/Budget03/Summary/App2/ope1.html>.

More specifically, the President's budget proposes the following student aid amounts for FY2003:

- Pell Grants—The President's budget would provide \$10.863 billion for the Pell Grant program, an increase of \$549 million, or 4 percent. The budget also proposes a FY2002 supplemental appropriation of \$1.276 billion to compensate for the shortfall between the amount needed to raise the Pell Grant maximum to \$4,000 and the amount actually appropriated in FY2002. The budget recommends funding the supplemental appropriation by redirecting resources from "unrequested earmarks and low-priority programs" in the FY2002 Labor/HHS appropriations bill. For future years, the budget calls for the Secretary of Education to use the most recent Pell program cost projections to set the maximum award.
- Graduate Education—The President is proposing to level-fund the Graduate Assistance in Areas of National Need (GAANN) and Jacob K. Javits fellowship programs at \$31 million and \$10 million, respectively.
- Campus-Based Aid—The Federal Work-Study program and Supplemental Educational Opportunities Grants (SEOG) would both be level-funded at \$725 million
- and \$1.011 billion, respectively. Perkins Loan capital contributions would also be level-funded at \$100 million. Funding for Perkins loan cancellations would increase by \$7.5 million, or 12.5 percent, to \$67.5 million.
- TRIO—This program would be level-funded at \$803 million. The performance assessment of TRIO's Student Support Services is positive, saying this component of the program has "had a large impact on four-year college graduation rates and a small but significant impact on students' grades, credits earned, and retention in higher education." But TRIO's Upward Bound component is assessed to be ineffective because it had no overall impact on participants' grades, credits earned, high school graduation rates, or college enrollment rates.
- Leveraging Education Assistance Partnership (LEAP)—The President's budget provides no funding for this program in FY2003 on the grounds that the program has accomplished its objective of stimulating all states to establish need-based postsecondary student grant programs, and that federal incentives for such aid are no longer required.
- International Programs—The budget would increase overall funding for the international education and foreign language studies account by \$4 million, or 4.1 percent, to \$102.5 million. The requests for specific programs are as follows: Domestic programs, \$88 million, an increase of \$2.8 million, or 6.7 percent; Overseas programs, \$13 million, an increase of \$1.2 million, or 10.2 percent; the Institute for International Public Policy, \$1.5 million, which is level funding.

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EARMARKING DEBATE HEATS UP

The R&D chapter of the budget document offers a detailed discussion of academic earmarks, including reiteration of the Administration's strong support of merit review and concerns about the growth of earmarking in recent years. The section is available at: <http://www.ostp.gov/html/R&DEarmarks.pdf>.

On February 6, House Appropriations Committee chairman C.W. Bill Young (R-FL) sent a letter to Office of Management and Budget director Mitchell Daniels saying he had no intention of curbing the practice of earmarking. "All wisdom on the allocation of federal grant funding does not reside in the executive branch," the letter said. "Unless the Constitution is amended, Congress will continue to exercise its discretion over federal funds and will earmark those funds for purposes we deem appropriate."

The *Wall Street Journal* January 22 attributed the growth of earmarking to a variety of factors:

--"Congressional members' fierce appetites [for earmarks] reflect a changed atmosphere at the Capitol: Pork-barrel politics, once treated as something shadowy, like placing a bet with a backroom bookie, today are done upfront – sort of Congress's equivalent of legalized off-track betting."

--"In a bipartisan spirit, the two parties have come to use precise formulas to divide the spoils between them. Staff complain privately that the volume of parochial requests has become a costly distraction from bigger policy issues. But both parties' leaders use the bills as a chance to boost their members' re-election prospects."

--"[The Appropriations Committees used to follow] a set of rules that allowed more scrutiny of amendments to the spending bills as they move through Congress. But in the name of speed, Republicans—fighting President Clinton—streamlined the process in such a way that the leadership of both parties and appropriations committees have remarkable flexibility now to add spending and earmarks—regardless of how the House or Senate previously have voted."

--"Recent years' switches in party control in both the House and Senate, and the narrow majority margins, have institutionalized earmarking for incumbent protection. At the same time, House Republicans' term limits on their chairmen have forced a major rotation of appropriations subcommittee chiefs, who in turn use earmarks to consolidate their new power." See Attachment 4 for the full article.

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SENATE ABANDONS STIMULUS BILL

Senate Majority Leader Tom Daschle (D-SD) February 6 pulled from the floor the Senate's economic stimulus legislation after neither the Republicans nor the Democrats could muster enough votes to pass their own

versions. The chamber did, however, approve a 13-week extension of unemployment benefits.

If broad stimulus legislation is now dead, the political consequences will be significant. Nearly all of the \$80-billion FY2003 deficit projected in the President's budget comes from a proposed \$77-billion expenditure for economic stimulus. Liberal Democrats are expected to argue that a significant portion of this \$77 billion should be used for meeting spending priorities. But conservatives of both parties will argue that a balanced budget for FY2003 is now attainable and that spending should be cut by \$3 billion to do that.

However, balancing the budget will be more difficult than is first apparent. The latest projections from the nonpartisan Congressional Budget Office (CBO) show that without any change in tax and spending patterns, the FY2003 deficit would be a much higher \$14 billion. Yet some of the GOP leadership and staff of the House Budget Committee believe that even the CBO deficit projections are too low because they underestimate spending on unemployment insurance, transportation and other programs.

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TAXES:

FAITH-BASED INITIATIVE REVIVED IN SENATE

The White House and senators of both parties the week of February 4 reached agreement on compromise legislation to implement the President's faith-based initiative. The House passed a faith-based initiative bill last July but the legislation quickly stalled in the Senate.

The White House-Senate compromise will not include controversial provisions that would make it easier for religious groups to compete for government grants. Instead, the legislation will be aimed primarily at increasing public and private support for nonprofit groups that aid the poor.

The package will include two items of interest to higher education: an IRA charitable rollover provision and a charitable deduction for non-itemizers. Both these items (and many other parts of the package) would be temporary and expire at the end of 2003 unless Congress reauthorizes them at that time. The House-passed bill includes both these items, but the House's charitable deduction for non-itemizers is much smaller than the deduction in the Senate package.

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OTHER CONGRESSIONAL DEVELOPMENTS: **BIOTERRORISM LEGISLATION STILL PENDING**

As of this writing, there has been no action to set up a House-Senate conference on bioterrorism legislation.

The Senate passed its bioterrorism bill, S. 1765, by voice vote on December 20 and called for a conference early this year with the House-passed bill, H.R. 3488. No further action has been announced.

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BYRD BLOCKS STUDENT VISA BILL

Senator Robert Byrd (D-WV) is still blocking Senate consideration of the border security/student visa reform bill that passed the House December 19 (H.R. 3525). The Senator is said to have "procedural concerns" about the way the bill was developed. The measure essentially was pre-conferenced with the Senate before the House adopted it, and the Senate was expected to pass it quickly by unanimous consent.

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CLONING BILLS INTRODUCED IN THE SENATE

Bills on both sides of the cloning issue were introduced in the Senate in late January.

Sam Brownback (R-KS) January 28 introduced S. 1899, a bill that would ban both reproductive and therapeutic cloning. The measure has 16 Republican cosponsors.

Senate Labor/HHS appropriations subcommittee chairman Tom Harkin (D-IA) January 31 introduced S. 1893, a bill that would ban reproductive cloning but allow therapeutic cloning to go forward. Cosponsoring the measure were subcommittee ranking member Arlen Specter (R-PA), Barbara Boxer (D-CA), and Harry Reid (D-NV). The bill is substantively the same as S. 1758, a bill introduced last December by Senator Dianne Feinstein (D-Ca), except it does not provide the same level of detail.

Meanwhile, the Coalition for the Advancement of Medical Research (CAMR) announced its support for efforts to prohibit human reproductive cloning but opposed a ban on therapeutic cloning. See Attachment 5 for the CAMR statement.

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SENATE OKAYS RATS, MICE, AND BIRDS AMENDMENT

The Senate February 12 approved a farm bill amendment by Jesse Helms (R-NC) that would codify the current administrative exclusion of rats, mice, and birds from the Animal Welfare Act. On February 7, the American Physiological Society and 17 other societies and associations, including AAU and NASULGC, had sent a letter to all senators urging their support for the Helms amendment. See Attachment 6 for a copy of the

community's letter. The House version of the farm bill does not contain the exemption language.

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HOUSE PASSES COMPUTER SECURITY BILL

The House February 7 approved legislation, H.R. 3394, that would authorize \$880 million over the next five years for R&D related to computer security. The bill, introduced by House Science Committee chairman Sherwood Boehlert (R-NY), would establish research centers and grant programs administered by the National Science Foundation and the National Institute of Standards and Technology. The measure was adopted by a vote of 400-12.

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EXECUTIVE BRANCH: NSF PROPOSES MISCONDUCT REGULATIONS

The National Science Foundation (NSF) January 25 published in the Federal Register (January 25, volume 67, pages 3666-3669) proposed new regulations governing research misconduct by individuals or institutions that are recipients of NSF support.

The proposed new NSF regulations were issued to comply with the government-wide research misconduct policy that was issued by the Office of Science and Technology Policy on December 6, 2000. The regulations adopt the government-wide policy's definition of research misconduct but do not make any other material changes in prior NSF policy. The NSF regulations do make some minor adjustments to the Foundation's internal time frame for the investigative and adjudicative phases of misconduct proceedings.

The comment period on the proposed regulations closes February 25. The Federal Register is available online through the Government Printing Office website at www.access.gpo.gov/su_docs/aces/aces140.html.

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WHITE HOUSE APPOINTS BIOETHICS COUNCIL

The White House January 16 released the names of the members of the President's new Council on Bioethics, chaired by University of Chicago ethicist Leon Kass. See Attachment 7 for the White House press release. The press release and related information on the council can also be found on the White House website: <http://www.whitehouse.gov/news/releases/2002/01/20020116-9.html>.

The council held its first meeting January 17-18 in the capital. Council chairman Kass said the panel's first task would be an examination of the ethical, scientific, and legal issues surrounding human cloning. He said the panel hopes to have recommendations on those issues by

the summer. Kass said the council would not take up the issue of stem cell research until enough time has elapsed to permit an assessment of the viability of the current federal policy of permitting federal funding for limited research. "This council will wait and watch and monitor," he said.

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SEVIS DISCUSSIONS CONTINUE

The American Council on Education (ACE) and several other higher education associations, including AAU, wrote to the Commissioner of the Immigration and Naturalization Service (INS) January 24 supporting prompt implementation of the Student and Exchange Visitor Information System (SEVIS) and pledging to "work cooperatively with your office and the Department of State to accomplish this goal." The letter also made several recommendations for helping ensure timely implementation of this computerized federal program for tracking foreign students. See Attachment 8 for a copy of the letter. The letter also is available on the ACE website at <http://www.acenet.edu>.

The following week, higher education representatives held a meeting with INS officials to discuss SEVIS-related issues. ACE President David Ward reported back that the INS apparently has concluded that while the agency must have SEVIS up and running by January 1, 2003, the law does not require schools to be using it by that date. This would give colleges and universities more time to put the system in place.

In follow-up to the meeting, the higher education community sent INS Commissioner Zigler a second letter February 12. Along with thanking him and his staff for their cooperation, the letter detailed the community's position on two issues that remain unresolved. It suggested that the SEVIS student fee be lower than originally proposed since Congress had appropriated \$36 million to cover the cost of developing SEVIS. And the letter suggested that the SEVIS fee be collected by the State Department at the time a prospective student applies for a visa at a U.S. embassy or consulate. See Attachment 9 for this letter, which is also available on the ACE website at: <http://www.acenet.edu>.

In the meantime, on January 28, the *New York Times* carried a front-page story about delays in implementing SEVIS that seriously misrepresented the tone and content of the higher education community's January 24 letter. The *Times* story said, "colleges that see foreign students as a lucrative market are raising concerns about how the system will be paid for and

operated, and their objections could delay it even further." As evidence of this, the *Times* said the January 24 letter "raised a raft of objections" and "called the planned system unworkable." See Attachment 10 for the *Times* story.

On February 4, the *Times* published three letters rebutting its January 28 article. The letters were by Senator Dianne Feinstein (D-CA), ACE President Ward, and American Association of Community Colleges President George Boggs. See Attachment 11 for copies.

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PRESIDENT PROPOSES WORK-STUDY CHANGES

The President's new citizen service initiative, which he announced during his January 29 State of the Union address, includes a proposal to amend the Higher Education Act to require every college and university to devote 50 percent of its Federal Work Study funds to community service. The proposal also would require that in any given year, at least five percent of the students would work in the homeland security fields of public safety, public health, and emergency preparedness.

As it is currently written, the Higher Education Act simply mandates that each college and university devote at least 7 percent of its Federal Work-Study funds to community service.

A summary of the Work-Study proposal is included on page 26 of an Administration document that describes the citizen service initiative. The summary says the proposal "will include incentives for institutions of higher education to implement these changes, which will occur over time," but it gives no specifics about incentives or the proposed phase-in period. Reportedly, this proposal was developed within the Corporation for National and Community Service without any input from the Education Department. Representatives of the higher education community, including some campus financial aid administrators, are scheduled to discuss the proposal with Corporation officials on February 21.

See Attachment 12 for the proposal. The full Administration document describing the President's citizen service initiative can be found online at www.usafreedomcorps.gov/usafreedomcorps.pdf.

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NSF DIRECTOR FOCUSES ON "SCIENCE AS PATRIOTISM"

In a speech January 30, National Science Foundation Director Rita Colwell said that the events of September 11 showed the important role of science in

bridging international boundaries, educating the public about risk, and increasing the capacity for prediction and prevention of catastrophes. She added that the future effectiveness of science would be determined by stable funding, a balanced research portfolio, and an expanded science and engineering workforce. See Attachment 12 for the speech. It is also available on the NSF website at <http://www.nsf.gov/od/lpa/forum/colwell/start.htm>

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NEW APPOINTMENTS AT NASA

NASA has announced a number of nominations and appointments.

The President announced his intention to nominate Marine Corps Major General Charles Bolden as NASA's deputy administrator. Bolden, a former astronaut, served as an assistant deputy administrator at NASA from 1992-1994. He is currently the commanding general of the 3rd Marine Aircraft Wing.

NASA Administrator Sean O'Keefe announced the appointment of Paul Pastorek as NASA's General Counsel at NASA Headquarters. Pastorek has been a partner in the New Orleans office of a regional law firm.

O'Keefe also announced that two acting assistant administrators have been appointed permanent assistant administrators: Glenn Mahone, who is now assistant administrator for public affairs, and Jeff Bingham, who is assistant administrator for legislative affairs.

O'Keefe named Charles Horner, III, as deputy assistant administrator for legislative affairs. Horner has been serving as principal deputy assistant secretary of the Army for financial management and comptroller.

O'Keefe also selected NASA astronaut Shannon W. Lucid as the agency's next Chief Scientist. Lucid currently serves as spacecraft communicator for the Space Shuttle and the International Space Station.

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CFR:

NEXT MEETING

The next meeting of the AAU Council on Federal Relations will be held Wednesday, March 6, 2002.

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