CONGRESSIONAL SCHEDULE  NEW

House Democrats Continue Negotiations on FY11 Budget Resolution  NEW
Work Continues on Tax and Benefit Extenders Package  NEW
Student Aid Alliance Weighs in on Pell Grant Shortfall, FY11 Funding
Harkin Bill Would Aid Public Educational Institutions  NEW

OTHER CONGRESSIONAL ISSUES
CBO Issues Report on “Indirect Tax Arbitrage” at Universities

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AAU, COGR Respond to Proposed Rule on Safeguarding Unclassified DOD Information

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New Website Celebrates 30 Years of Bayh-Dole Technology Transfer Act

CONGRESSIONAL SCHEDULE  NEW

The Senate met today to continue consideration of legislation to overhaul the financial regulatory system (S. 3217), with no votes expected. The House met in pro forma session.

The Senate next week will continue work on the financial regulatory bill, which Democrats hope to have passed by next week. CQToday reports that legislation extending several tax and benefit programs is likely to be next up on the legislative agenda (see item below).

The House next week will take up the reauthorization of the America COMPETES Act (H.R. 5116), which sets policy and funding levels over the next five years for the National Science Foundation, the Department of Energy Office of Science, and the National Institute of Standards and Technology. The higher education associations, a group of individual colleges and universities, and the Task Force on the Future of American Innovation have written letters to House leaders and leaders of the House Science and Technology Committee urging swift congressional passage of the bill.

According to CongressDaily, House Majority Leader Steny Hoyer (D-MD) hopes that before the Memorial Day recess, the House will pass the tax and benefit program extension, an FY11 budget resolution, and an FY10 war supplemental appropriations bill.

BUDGET AND APPROPRIATIONS
House Democrats are continuing efforts to reach agreement on overall discretionary spending levels for the FY11 budget resolution. CongressDaily reports that members of the conservative Blue Dog Coalition are still pushing for a two-percent annual cut in non-security discretionary spending for three years, with a freeze for another two. Liberal Democrats oppose those cuts as damaging programs important to constituents.

The Senate Budget Committee approved its version of the FY11 budget resolution on April 22, accommodating the President’s FY11 requests for defense, homeland security, and veterans programs, but proposing a cut of $4 billion below the President’s planned freeze on non-security discretionary spending. The proposed reduction would be taken from the State Department.

As reported previously, Senate Democrats have hoped the Senate could approve the budget resolution before the Memorial Day recess, but they might not take the measure to the Senate floor if House Democrats decide not to move their own version. Congress can take up the FY11 appropriations bills without a budget resolution, but it cannot use the reconciliation process. Reconciliation allows measures affecting taxes and mandatory spending to pass the Senate with a majority vote, rather than the 60 votes needed to overcome a filibuster.

House and Senate Democratic leaders and committee chairs continue efforts to reach final agreement on a massive bill to extend a variety of expired tax benefits and social safety net programs (H.R. 4213). Still at issue is the size of the final package and what revenue-raisers would be used as offsets. The cost of the bill is expected to determine whether benefits and programs are extended for one year or two.

The House passed its version of the bill on December 9; the Senate approved its version on March 10. House Ways and Means Committee Chairman Sander Levin (D-MI) had hoped to hold a formal conference on the bill, reports CQToday, but the House may instead take up the Senate bill and amend it with a House-Senate compromise. Chairman Levin said he hopes to take a compromise bill to the House floor during the next two weeks.

Along with extension of financial and health insurance benefits for the unemployed, the final bill is expected to extend several tax benefits that expired at the end of 2009, including the tuition tax deduction, the research and development tax credit, and the IRA charitable rollover. It also is expected to prevent a scheduled cut in the Sustainable Growth Rate, which affects physicians’ Medicare reimbursement rates, and provide as much as $80 billion for Medicaid assistance to the states.

CongressDaily reports that House Democrats also hope to include infrastructure-related provisions from a separate House-passed small business tax bill (H.R. 4849). These would include an extension of Build America Bonds, a program initiated under the American Recovery and Reinvestment Act that enabled state and local governments to obtain lower-cost financing for capital projects such as schools, public hospitals, and roads.
STUDENT AID ALLIANCE WEIGHS IN ON PELL GRANT SHORTFALL, FY11 FUNDING

The Student Aid Alliance, a coalition in which AAU participates, sent two letters to Capitol Hill this week urging added funding for federal student aid programs. The letters noted that pressure on federal student aid programs has increased significantly as a result of the economic downturn, with workers returning to college to improve their skills and families struggling to keep students in college.

The first letter urges Congress to cover the current $5.5 billion Pell Grant shortfall through an FY10 supplemental appropriations bill rather than the FY11 Labor-HHS-Education appropriations bill. Without supplemental FY10 appropriations, says the letter, appropriators in FY11 will have to pay for the shortfall by reducing FY11 funding for other programs or reducing the Pell Grant maximum award from the $5,550 promised by Congress to $2,840.

The second letter requests significant funding increases for federal student aid programs in FY11, providing detailed recommendations for eight major aid programs. The letter notes, “Since the onset of the economic downturn two years ago, college enrollment has surged, and federal student aid applications have increased by almost 20 percent.”

HARKIN BILL WOULD AID PUBLIC EDUCATIONAL INSTITUTIONS

Senator Tom Harkin (D-IA) last month introduced legislation to provide $23 billion in emergency funding to prevent layoffs at public schools and public institutions of higher education in the wake of states’ crippling budget shortfalls. The Keep Our Educators Working Act (S. 3206) would support compensation, benefits, and other expenses needed to retain existing employees and hire new ones at public educational institutions.

Senate Majority Leader Harry Reid (D-NV) has told Senator Harkin there will be an opportunity for the Senate to consider the measure, which currently has 26 cosponsors.

S. 3206 is modeled on the State Fiscal Stabilization Fund that was established under the American Recovery and Reinvestment Act. The bulk of funds would be awarded to states through a formula that considers each state’s share of individuals age five through 24 and each state’s share of the nation’s total population.

States would be required to use the funds to restore the reductions in state funding for elementary and secondary education and for public institutions of higher education that remain for FY10 and FY11, after including the funds they received for such reductions under the American Recovery and Reinvestment Act of 2009. The $23-billion cost is the same as the level the House approved in its December 2009 jobs legislation.

OTHER CONGRESSIONAL ISSUES

CBO ISSUES REPORT ON “INDIRECT TAX ARBITRAGE” AT UNIVERSITIES
The Congressional Budget Office (CBO) has released a report commissioned by Senator Charles Grassley (R-IA) that suggests universities are issuing tax-exempt bonds for facilities and other capital projects that they could afford to finance without the federal subsidy. The report, issued on April 30, says this practice enables institutions to hold other tax-exempt investments with a return than is higher than the interest they pay on their tax-exempt debt, thus benefitting from of “a form of indirect tax arbitrage.”

The CBO report makes no recommendations for action, but it says that universities’ use of tax-exempt bonds for capital facilities cost the government an estimated $5.5 billion in foregone tax revenues in 2010. A story in Inside Higher Ed provides additional details.

Senator Grassley said in a press statement, “This report raises questions for parents, students, and taxpayers about universities’ issuing bonds and going into debt when they have money in the bank. Issuing bonds costs money on interest and management fees. Does the expense of debt service take money away from student aid or academic service? Do bond issuances occur even as universities raise tuition and build investment assets? These are further issues to explore.”

Additional information about tax issues affecting higher education, including tax-exempt financing, can be found on the AAU website.

EXECUTIVE BRANCH

AAU, COGR RESPOND TO PROPOSED RULE ON SAFEGUARDING UNCLASSIFIED DOD INFORMATION

AAU and the Council on Governmental Relations (COGR) submitted comments to the Defense Acquisition Regulations System (DFARS) on May 3 regarding a proposed rule aimed at strengthening protection of certain unclassified Department of Defense (DOD) information that resides on contractor information systems. The associations’ comments responded to an advance notice of proposed rulemaking published in the Federal Register on March 3.

The proposed rule would expand use of the DFARS 7000 clause, which restricts publication of research results and release of any information pertaining to a project without prior government approval. The two associations have had longstanding concerns that the clause has been inappropriately applied in Defense Department contracts for fundamental research. This has resulted in publication restrictions for universities that have accepted such clauses.

The associations’ comments note that they share the Department’s concern about protecting certain information from unauthorized access and disclosure. “However, we are concerned that, as written, the proposed new policy will lead to indiscriminate application of the requirements by DOD contracting officers. This will contravene stated DOD policy, lead to increased refusal of universities to perform DOD-funded research, and greatly increase burdens for those that do.”
NEW WEBSITE CELEBRATES 30 YEARS OF BAYH-DOLE TECHNOLOGY TRANSFER ACT

A group of four organizations, including AAU, is sponsoring a new website to celebrate the 30th anniversary of the Bayh-Dole Act, the landmark law that transformed technology transfer for federally funded research performed by universities and other nonprofit organizations.

The interactive website—developed by the Association of University Technology Managers in coordination with AAU, the Association of Public and Land-grant Universities, and the Biotechnology Industry Organization—highlights the wide variety of innovations made possible by the Bayh-Dole Act. These include improved medical diagnostics and therapies, better food crops, and energy conservation technologies. The site also features statistics about technology transfer and the history of the Act, and will soon include an economic impact map of the United States.

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