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CONGRESSIONAL SCHEDULE

The House met in pro forma session today; the Senate did not meet.

When the two chambers return to session on Monday, May 24, they will face ambitious schedules, as congressional leaders try to wrap up several pieces of legislation before the Memorial Day recess, which begins at the end of next week.

The House is expected to take up the bill to extend unemployment benefits and tax cuts (H.R. 4213) (see item below), and may debate the 2011 Defense authorization bill (H.R. 5136). House Majority Leader Steny Hoyer (D-MD) said Thursday that the House also may consider its version of the FY10 supplemental appropriations bill if the Appropriations Committee is able to report it out of committee. CQToday reports that the chamber may consider for a third time the reauthorization of the America COMPETES Act (see item below).

The Senate next week plans to take up the FY10 supplemental appropriations bill (H.R. 4899), which includes $45.4 billion for war spending, Haitian relief, and domestic issues. The measure does not include funding for the Pell Grant shortfall, which was requested by a number of higher education associations and institutions, nor does it include Senator Tom Harkin’s (D-IA) $23 billion education jobs bill (S. 3206). Senator Harkin plans to offer his bill as an amendment on the floor. The Administration strongly supports his measure.

BUDGET & APPROPRIATIONS
DEMOCRATIC LEADERS ANNOUNCE TAX AND BENEFIT EXTENDER PACKAGE
NEW

House and Senate Democratic leaders yesterday announced agreement on a $190-billion tax and benefits package that, among other provisions, would extend unemployment programs and tax benefits, prevent scheduled cuts in Medicare payments to physicians, and provide assistance for a variety of natural disasters.

The American Jobs and Closing Tax Loopholes Act (H.R. 4213) would extend through 2010 the above-the-line deduction for qualified educational expenses, the IRA charitable rollover, and the R&D tax credit. The measure includes an additional $24 billion for the states to help cover Medicaid costs, and would prevent a 20 percent cut in Medicare physician reimbursements rates scheduled for June. The rates would not be reduced through 2013.

Democrats hope to move the package through both the House and Senate next week so that the President can sign it before the end of the month, when the unemployment benefits expire. The House begins debate on the package Monday.

OTHER CONGRESSIONAL ISSUES

HOUSE FAILS TO PASS AMERICA COMPETES ACT UNDER SUSPENSION
UPDATED

The House of Representatives on May 19 failed to pass a revamped version of the America COMPETES Act reauthorization under the expedited procedure of suspension of the rules. The vote was 261 to 148, which was 12 votes short of the two-thirds vote needed for approval. Fifteen Republicans voted in favor of the bill; no Democrats opposed it.

Science and Technology Committee Chairman Bart Gordon (D-TN) said at a Capitol Hill event held that day in his honor and in a written statement that he would continue efforts to pass the bill. “As I’ve said before,” he commented, “this bill is too important to let fall by the wayside.”

News reports say that the House Democratic leadership may bring the bill up again next week.

The research university and business communities strongly support advancing the measure, which would authorize substantial funding increases for the National Science Foundation, the National Institute of Standards and Technology, and science programs at the Department of Energy.

The bill considered May 19 (H.R. 5325) differed from the first version of the legislation (H.R. 5116) in three respects: it reduced the authorization period from five years to three years, which, Chairman Gordon asserted, cut the authorized funding in half; it included all 52 amendments approved during House floor consideration of H.R. 5516; and it incorporated Republican language to ban the use of authorized funds to pay the salary of federal employees disciplined for looking at pornography at work. House S&T Ranking Minority Member Ralph Hall (R-TX) said the new measure still failed to address several Republican concerns.
Last Thursday, H.R. 5116 was nearing completion when the House approved a Republican motion to recommit. The motion would have reduced the authorization period from five to three years, frozen authorized funding levels at their FY10 appropriated levels, and eliminated authorization for a number of new programs, as well as for the Advanced Research Projects Agency-Energy. The motion also included the provision barring salary funds for federal employees viewing pornography. Many Democrats voted for the motion because of the pornography provision. House Democratic leaders then pulled H.R. 5116 from the floor.

A separate issue of concern in the bill for the university research community has been an amendment approved by the House that was offered by House Education and Labor Committee Chairman George Miller (D-CA). The amendment, which is now part of H.R. 5325, links public universities’ response to information requests from their labor unions with their ability to collect facilities and administrative costs for their research grants. The university research community hopes that the provision can be eliminated in the final bill.

**HOUSE JUDICIARY COMMITTEE INTRODUCES SECOND VERSION OF PATENT OFFICE FEE LEGISLATION**

House Judiciary Committee leaders on May 18 introduced a second version of their bill to authorize the U.S. Patent and Trademark Office (PTO) to set fees on patent applications. The new Patent and Trademark Office Funding Stabilization Act expands on an earlier bill by not only giving the office the ability to set fees, but also allowing the office to impose a temporary 15-percent surcharge for all of its fees and preventing collected fees from being diverted to other agencies and programs.

Earlier this week, the original House Judiciary Committee legislation was placed on the House suspension calendar for an expected vote on Tuesday, May 18. The bill was pulled from consideration, however, when the broad coalition of companies, higher education institutions, labor unions, and other groups working in support of the Senate Judiciary Committee’s comprehensive bill (S. 515) raised concern that the House bill would do nothing to prevent increased patent office fees from being diverted to other government purposes and could undermine House-Senate negotiations aimed at reaching agreement on comprehensive patent reform.

The new legislation addresses the concern about fee diversion, and the introductory statement by Committee Chairman John Conyers (D-MI) and Ranking Member Lamar Smith (R-TX) said the bill is not intended as an alternative to comprehensive patent reform legislation. “Ranking Member Smith and I remain optimistic and hopeful about the prospects for passage this Congress of comprehensive patent reform,” Chairman Conyers said in the statement. “We expect to continue to work with our Senate colleagues on the larger bill.”

It is not yet clear how Reps. Conyers and Smith intend to proceed with the new legislation. Members of the broad patent reform coalition, including the higher education associations, agree that the House patent fee bill provides PTO with critically needed authority to set and manage fees. But they believe these provisions should be incorporated into comprehensive patent reform legislation. A press release from the 21st Century Patent Reform Coalition, a member of this broader coalition, expresses this position.
AAU, COGR ADDRESS FDA PROPOSED RULE ON REPORTING FALSIFICATION OF DATA  NEW

AAU and the Council on Governmental Relations (COGR) submitted comments to the Food and Drug Administration (FDA) on May 19 that address the agency’s proposed rule on reporting information on falsification of data.

The associations’ comments responded to an FDA notice of proposed rulemaking issued February 19, in which the agency proposes to modify its regulations regarding how and when institutions must report information on the falsification of data involved in studies that use human or animal subjects. The FDA notice said the proposed rule is “intended to help ensure the validity of data that the agency receives in support of applications and petitions for FDA product approvals and authorization of certain labeling claims and to protect research subjects.”

The associations’ comment letter urges FDA to continue following the broader research misconduct policy established by the Department of Health and Human Services (HHS) through the Public Health Service (PHS) rather than amending its own regulations. “We find the FDA’s rationale for abandoning the HHS/PHS policy insufficient and the consequences for the research community significant enough to urge the FDA to forego the proposed amendment to its regulations,” says the letter. The letter adds:

“Institutions take seriously their responsibility to fully comply with federal policies regarding research misconduct. However, to force institutions to use increasingly scarce resources to address different policies, conduct different types of reviews, and train staff to ensure compliance with different regulatory requirements without an obvious improvement in achieving the goal introduces unnecessary complexity into the process and imposes unreasonable burdens on our institutions.”

HHS RELEASES PROPOSED RULE ON CONFLICTS OF INTEREST IN NIH-FUNDED RESEARCH  NEW

The Department of Health and Human Services (HHS) on May 20 released a Notice of Proposed Rulemaking (NPRM) proposing changes to regulations governing the management of conflicts of interest for research funded through the National Institutes of Health (NIH). Comments are due within 60 days.

The agency stated that the proposed rules are intended to modify existing regulations to expand and add transparency to investigators’ disclosures of significant financial interests; improve regulatory compliance, institutional oversight, and management of investigators’ financial conflicts of interests; and improve NIH’s compliance oversight.

NIH issued a press release on the NPRM that included a link to the Federal Register notice and a replay of a video briefing held May 20 by NIH Director Francis Collins. Senator Charles Grassley (R-IA), a long-time critic of NIH and higher education institutions on conflicts of
interest, said in a statement that the proposed NIH policy “would be an important step in the right direction.”

Last year, AAU and the Association of American Medical Colleges (AAMC) submitted comments on the agency’s Advanced Notice of Proposed Rulemaking on conflicts of interest. AAU will work with AAMC, the Council on Governmental Relations, and other associations to review and submit comments on the revised proposed rules. AAU institutions are also encouraged to submit their own comments.

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