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CONGRESSIONAL SCHEDULE

Congress remains in recess. The Senate will return on Monday, September 13, and the House on Tuesday, September 14.

EXECUTIVE BRANCH

VICE PRESIDENT HIGHLIGHTS IMPACT OF RECOVERY AND REINVESTMENT ACT ON INNOVATION

Vice President Biden held a public event at the Eisenhower Executive Office Building on August 24 at which he highlighted the impact of the American Recovery and Reinvestment Act (ARRA) on innovation. The Vice President’s office issued a report detailing investments of ARRA funds in a number of key areas, including alternative energy sources and biomedical research. A number of university researchers who received ARRA grants from the National Institutes of Health were present at the event.

The Vice President’s remarks, as prepared for delivery, can be found here.

A White House press release can be found here.

COGR AND AAU URGE IMPROVED SELECT AGENT REGULATION TO COMBAT BIOTERRORISM NEW
The Council on Governmental Relations (COGR) and AAU today submitted a joint letter to the Centers for Disease Control and Prevention (CDC) expressing support for a proposal to tier the list of Biological Select Agents and Toxins (BSAT) in response to a call for comments by the CDC and the Department of Agriculture (USDA).

The question as to whether to list substances according to their respective bioterrorism risk was incorporated into the biennial review of the BSAT list published in the Federal Register on July 21, 2010. This review is the process by which CDC and USDA decide to add new pathogens or toxins to the list of regulated agents or remove existing ones.

In their letter, the associations urged that the government “construct a tiered list of select agents and toxins that reflects the relative bioterrorism risk of each agent and toxin,” as recommended by the National Research Council and the federal interagency Working Group on Strengthening the Biosecurity of the United States. The letter suggested that such an approach could both increase the efficiency of institutional compliance efforts while strengthening national security, stating, “The implementation of a tiered approach to the select agents and toxins should be complemented with graded security requirements including a reduction in the security requirements for lower tier agents. Such a stratified approach to security requirements will allow organizations and institutions to focus time and resources in those areas that pose the greatest threat.”

The associations also urged caution regarding implementation of a Personnel Reliability Program for BSAT. They cited a report by the National Science Advisory Board on Biosecurity that warns against “promulgation of a formal, national Personnel Reliability Program…” They added that the safety and security of BSAT “is a responsibility that the research community takes seriously and will continue to pursue in close cooperation with the Departments.”

The letter also expressed support for “the President’s call for harmonization and coordination of the oversight of the program across the Federal government.”

DOE SEEKS INPUT ON EDUCATION, TECHNICAL TRAINING EFFORTS NEW

The Department of Energy (DOE) has issued a Request for Information (RFI) seeking public input on its energy education and technical training efforts. The Department is not looking for specific project proposals. The information, according to the RFI, “is intended to assist DOE in further defining the scope and priorities of its education and workforce development activities.” The information “may be used for internal DOE planning and decision-making purposes to align future education and workforce development activities with the Administration's goals for leading the world in science, technology and engineering; building a competitive, low-carbon economy; securing America’s energy future; and creating domestic jobs.”

The original deadline for responding to the RFI has been extended to September 17. The RFI can be accessed here. Instructions at this web page direct the reader to the RFI and provide instructions on how to respond online.

PERAB ISSUES TAX REFORM OPTIONS REPORT NEW
Earlier today The President’s Economic Recovery Advisory Board (PERAB) issued a report on tax reform options. The comprehensive report, entitled The Report on Tax Reform Options: Simplification, Compliance, and Corporate Taxation, does not evaluate proposals or make recommendations for overarching tax reform. Rather, the report includes "options" for policymakers to consider. PERAB is an advisory body of experts that was created by a Presidential Executive Order issued in February 2009.

Among numerous areas of tax policy, the report includes options for consolidation, simplification, repeal, and reduction of existing education tax credits and deductions, including the American Opportunity Tax Credit, the Lifetime Learning Credit, the student loan interest deduction, the tuition deduction, and others.

For example, according to CQ Today Online, one simplification proposal would consolidate the child tax credit, the dependent exemption, the child and dependent care tax credit, the earned income tax credit, and tax breaks for education expenses into a more streamlined system that featured a “work credit” and a “family credit” based on similar rules. CQ notes that the report says the proposal would make tax filing simpler but also reduce the ability of the government to target certain groups for resources.

Also among the proposals is “harmonizing the definitions of qualified educational expenses” that are used in different sections of the tax code. In addition, the report includes options related to itemized tax deductions, such as charitable contributions.

Similar to the “options” documents the Congressional Budget Office and the Joint Committee on Taxation routinely publish, the PERAB report is a resource for the Administration and Members of Congress to identify areas of tax policy that could be addressed in legislation.

In addition to submitting the report to the President, PERAB will submit it to the bipartisan National Commission on Fiscal Responsibility and Reform.

OTHER

COURT IMPOSES PRELIMINARY INJUNCTION ON FEDERAL FUNDING OF EMBRYONIC STEM CELL RESEARCH UPDATED

On August 23, Federal District Court Judge Royce C. Lamberth issued a preliminary injunction prohibiting the federal government from funding human embryonic stem cell (ESC) research. In blocking further implementation of the Administration’s guidelines that permit federal funding of ESC research, Judge Lamberth reiterated an appeals court finding that not only does such funding violate the Dickey-Wicker amendment that is attached each year to the Labor-HHS-Education appropriations bill but also that allowing the new rules to remain in place, even temporarily, would cause irreparable harm to two adult-stem-cell researchers, James L. Sherley of the Boston Biomedical Research Institute and Theresa Deisher of AVM Biotechnology, who are plaintiffs in the case.

The Dickey-Wicker provision bars funding for "research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero research” and has been included in every Labor-HHS-
Education appropriations bill since 1996. Successive administrations have determined that while experiments to create embryonic stem cells might violate Dickey-Wicker, research on stem cells already derived could be legally funded. If the decision is upheld, even the more restrictive Bush Administration policies on embryonic stem cell research could be overturned.

NIH Director Francis Collins held a teleconference on August 24 to provide details of the impact of the ruling, based on an interpretation by the Department of Justice. According to Dr. Collins, ongoing research (totaling around $131 million) that has already been funded will continue, undisturbed, until it reaches the point of renewal. Projects that are in review, even if they have been scored, or that are up for renewal, will be halted immediately, and applications will no longer be reviewed. NIH has also ceased reviewing applications for new embryonic stem cells lines. It remains unclear whether no-cost extensions of existing ESC projects would be allowed.

NIH issued an additional statement by Dr. Collins on August 26. The statement can be found here.

In addition to the problem presented by Dickey-Wicker, AAU is concerned about the findings related to the competitive status of the two adult stem cell researchers serving as plaintiffs in this case. The researchers were granted standing on the basis that they must compete for funds with ESC researchers. Judge Lamberth’s ruling goes a step further by declaring that these researchers suffer irreparable harm due to this competition. (He also determined that blocking federal funding would not do irreparable harm to ESC researchers.) This could have far-reaching – although not immediate – implications for all federally-funded peer-reviewed research, as it could effectively empower any researcher to sue a research agency over “unfair competition.”

As institutions consider what steps they may need to take in light of the injunction, one action suggested by the Council on Governmental Relations is for institutions to gather information about who on their campuses is conducting federally funded ESC research and therefore might be directly affected.

Congress has already expressed an interest in the ruling. Senate HELP Committee Chairman Tom Harkin (D-IA) has stated he will hold a hearing on this issue the week of September 16. The Department of Justice, meanwhile, announced that the Administration would file an appeal to lift the injunction by the end of the week.

Judge Lamberth’s ruling is available at: https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2009cv1575-44.

If you have any questions, please contact Carrie Wolinetz of the AAU staff at carrie_wolinetz@aau.edu.

--AAU and Other Associations Warn of Potential Consequences of Injunction  NEW

AAU, the Association of Public and Land-Grant Universities, the Association of American Medical Colleges, and the Council on Governmental Relations issued a joint statement today warning of the potential impact of the injunction on federal funding of embryonic stem cell research. They cited not only the effect on “potential life-saving research” but also the granting of plaintiff status to two researchers, which they termed “judicial intervention in the peer review process.”
“The notion that competition for research funding should be adjudicated in the courts rather than by expert peer review endangers the merit-based system of funding that makes American science the envy of the world,” they said.