CONTENTS
CONGRESSIONAL SCHEDULE   NEW
BUDGET & APPROPRIATIONS
The FY11 Appropriations Plan Takes Shape   NEW
House Passes Tax Bill With Some Higher Ed Extenders; Negotiations Continue   NEW
AAU Praises Commitment to Investment in Deficit Commission Report   UPDATED
EXECUTIVE BRANCH
Energy Secretary Calls Chinese Clean-Energy Advances a “Sputnik Moment” for U.S.
President Directs Bioethics Commission to Review Human Subjects Protection Rules
OTHER
Plaintiff’s Employer Sides Against Him in Stem Cell Court Case
Technology Transfer Community Celebrates 30th Anniversary of Bayh-Dole Act

CONGRESSIONAL SCHEDULE   NEW

The Senate is in session today and will meet tomorrow, Saturday, to consider various plans for extending the Bush-era tax cuts. None of the proposals is expected to pass, but there may be an eventual deal on the issue later this month (see item below). Congress is expected to be in session through at least Friday, December 18.

Earlier this week, all 42 Senate Republicans pledged to filibuster all legislation until the FY11 appropriations package and an extension of all tax cuts are considered.

The House met in pro forma session today. No recorded votes are anticipated before next Tuesday, December 7. Along with approval of a longer-term funding package (see item below), the chamber is expected to approve the Senate-passed food safety bill (S. 510). The House may take up the DREAM Act (H.R. 1751, S. 729), which would provide a path to citizenship for some individuals brought to this country illegally by their parents. The House vote on the DREAM Act, which AAU and other higher education associations strongly support, is expected to help Senate Democrats overcome procedural hurdles raised against the bill in the Senate, but National Journal reports that it still “faces long odds for passage” in that chamber.

BUDGET & APPROPRIATIONS
The FY11 Appropriations Plan Takes Shape  NEW

The Senate last night voted final approval of a short-term continuing resolution (CR) that will keep the government funded at current levels through Friday, December 18. The House approved the short-term CR on Wednesday, December 1.

National Journal reports that the House next week will try to pass a continuing resolution (CR) that would extend federal funding for the remainder of FY11 largely at FY10 levels. If approved by the House, the measure will go to the Senate, where Democrats will try to substitute for it an omnibus appropriations package—with all of the 12 still-unapproved FY11 appropriations bills—which is still being drafted by the Senate Appropriations Committee.

The publication adds that the omnibus package could become a legislative vehicle for a potential deal on the extension of the Bush-era tax cuts and other legislative priorities.

House Passes Tax Bill With Some Higher Ed Extenders; Negotiations Continue  NEW

As bipartisan negotiations continue on the Bush-era tax cuts, the House yesterday approved by a mostly partisan 234-188 vote the Middle Class Tax Relief Act of 2010 (H.R. 4853). In addition to permanently extending the current marginal individual income tax rates for families earning $250,000 or less and other Bush-era tax cut provisions, the $1.5 trillion measure would also extend Section 127 employer-provided education benefits, the 2001 improvements to the student loan interest deduction, and Coverdell educational savings accounts.

The measure does not include extension of the IRA charitable rollover or the above-the-line tuition deduction, which expired at the end of 2009. The measure also does not extend the American Opportunity Tax Credit, which expires at the end of this year.

Senate Majority Leader Harry Reid (D-NV) yesterday moved to take up the measure and filed cloture motions on two related amendments: one to extend the tax cuts for Americans who earn less than $250,000 as a couple or $200,00 as an individual, the other to extend the tax cuts for Americans earning less than $1 million a year. As CQToday reported this morning, the vote in the House, along with any potential Senate votes, allows “Democrats a chance to say they voted to extend the tax cuts on income less than $250,000 for couples and $200,000 for individuals, and Republicans can unite in opposition, insisting that the cuts be extended for all income brackets.”

Negotiations are expected to continue, and additional House and Senate action on the expiring tax cuts is anticipated next week. Many analysts believe that the raft of other expired and expiring tax extenders, including higher education-related provisions, will ultimately be included in a final deal on taxes.

AAU Praises Commitment to Investment in Deficit Commission Report  UPDATED
AAU released a statement on December 1 praising the report issued by the National Commission on Fiscal Responsibility and Reform, which calls for a combination of spending cuts and revenue enhancements to reduce the federal deficit, while insuring the nation’s continued ability to make needed investments.

Said the statement, “The report, wisely, recognizes that strengthened investment in the nation’s future, in areas like research and education, must be integral to the nation’s long-term fiscal strategy, even as we take needed dramatic steps to reduce budget deficits and manage our nation’s debt.”

President Berdahl testified before the Commission on these issues on June 30.

ASSOCIATIONS URGE EXTENSION OF HIGHER EDUCATION TAX PROVISIONS

A group of 26 higher education associations, including AAU, wrote to leaders of the House and Senate tax committees on November 30 urging them to extend several expired or expiring higher education-related tax provisions before the end of the year.

The letter, spearheaded by the American Council on Education, expressed strong support for extension of six tax provisions, including the American Opportunity Tax Credit, Section 127 Employer Provided Education Assistance, and the Individual Retirement Account Charitable Rollover (which expired in 2009).

EXECUTIVE BRANCH

ENERGY SECRETARY CALLS CHINESE CLEAN-ENERGY ADVANCES A "SPUTNIK MOMENT" FOR U.S.

Secretary of Energy Steven Chu said in a speech on November 29 that recent advances in clean energy technology by China and other nations present a “Sputnik moment,” for the U.S. The nation must respond, he said, by mobilizing its ingenuity, focus, and strength to create cost-effective, clean energy technologies that can power the country and its economy through the next century.

Secretary Chu cited a number of promising research efforts funded by the Department of Energy and several key technologies in which the U.S. must continue to innovate or fall behind economically. These include high voltage energy transmission, advanced coal technologies, high speed rail, nuclear power, and alternative energy vehicles.

The Sputnik moment refers to the Soviet Union’s launch of the Sputnik satellite in 1957, ahead of the U.S., which spurred major new U.S. investments in scientific research and science education.

PCAST REPORT OFFERS ROADMAP FOR FEDERAL ROLE IN TRANSFORMING U.S. ENERGY SYSTEM
The President’s Council of Advisors on Science and Technology (PCAST) released a report on November 29 that calls for developing a government-wide energy policy to help transform the nation’s energy system over the coming decades. While acknowledging that “the vast majority” of the U.S. energy enterprise is in the private sector, the report provides a roadmap on what government can do to speed energy innovations, encourage scale-up of the best ideas, and reduce barriers to the widespread adoption of existing technologies.

The report, “Accelerating the Pace of Change in Energy Technologies Through an Integrated Federal Energy Policy,” recommends increased federal support for energy research, development, demonstration, and deployment, including establishment of a new training program and a program for multidisciplinary social science research.

**PRESIDENT DIRECTS BIOETHICS COMMISSION TO REVIEW HUMAN SUBJECTS PROTECTION RULES**

President Obama on November 24 sent a memorandum to the Presidential Commission for the Study of Bioethical Issues requesting the commission to conduct a “thorough review of human subjects protection to determine if Federal regulations and international standards adequately guard the health and well-being of participants in scientific studies supported by the Federal Government.”

The request came in response to the discovery that the U.S. Public Health Service in 1946 to 1948 intentionally infected “vulnerable human populations” during a study of sexually transmitted diseases in Guatemala. Given that the research “was clearly unethical,” said the memorandum, “I want to be assured that current rules for research participants protect people from harm or unethical treatment, domestically as well as internationally.”

The President asked the commission, which is chaired by University of Pennsylvania President Amy Gutmann, to convene a panel in January and issue its findings and recommendations within nine months.

**OTHER**

**PLAINTIFF’S EMPLOYER SIDES AGAINST HIM IN STEM CELL COURT CASE**

The employer of one of the plaintiffs in the court case that aims to stop federal funding of human embryonic stem cell (hESC) research has been granted permission by the U.S. Court of Appeals to join the amicus brief opposing the plaintiff’s position. The Boston Biomedical Research Institute was granted permission on November 29 by the U.S. Court of Appeals for the District of Columbia to join in the amicus brief filed in October by the state of Wisconsin, the Genetics Policy Institute, and the Coalition for the Advancement of Research (CAMR), which includes AAU. The amicus brief argues that U.S. District Court judge Royce Lamberth erred in issuing a preliminary injunction halting federally funded hESC research last August while he considered the underlying case.

The U.S. Department of Justice appealed the judge’s decision to the Court of Appeals, which issued a stay of Judge Lamberth’s preliminary injunction, allowing the National Institutes of Health (NIH) to continue funding hESC research. The Court of Appeals will hear oral
arguments on the preliminary injunction on December 6; Judge Lamberth is expected to allow
the Court of Appeals to make a final ruling on the preliminary injunction before he rules on the
underlying case.

The original lawsuit was filed in August 2009, by several plaintiffs, including two adult stem cell
researchers, who argued that the Obama Administration’s new guidelines on hESC research
would cause greater competition for limited federal funding, hindering the researchers’ plans to
seek money for other research. The original plaintiffs also argued that hESC research violates
the Dickey-Wicker appropriations amendment, which prohibits federal funding of the destruction
of human embryos, and that NIH violated the Administrative Paperwork Act in its promulgation
of the stem cell research guidelines.

Judge Lamberth initially threw out the case in October 2009, on the basis that the various
plaintiffs had no legal standing in the case. The two researchers appealed and were granted
standing by the Court of Appeals on June 25 on the basis that they were disadvantaged in their
research on adult stem cells by competition from hESC research funding.

TECHNOLOGY TRANSFER COMMUNITY CELEBRATES 30th ANNIVERSARY OF
BAYH-DOLE ACT

A group of university and industry organizations, including AAU, sponsored a celebration on
December 1 of the 30th anniversary of the Bayh-Dole Act, legislation which transformed
university technology transfer and spurred the nation’s innovation economy by enabling
academic institutions to retain title to inventions their researchers developed using federal
research funds.

Among the speakers at the event, held in Washington, D.C., were the law’s co-author, former
Senator Birch Bayh (D-IN); Deputy Undersecretary of Commerce Sharon Barner; and University
of Maryland System Chancellor Brit Kirwan. Former Senator Robert Dole (R-KS), the law’s
other co-author, was unable to attend the celebration.

Senator Bayh said that enactment of Bayh-Dole—which he said received final congressional
approval by a narrow margin 20 minutes before the end of the 1980 lame-duck congressional
session—teaches the following lessons: that a handful of citizens can change the course of a
nation, and that an idea whose time has come can bridge the partisan divide. “It is up to all of
us,” he said, to constantly educate policymakers about the value of Bayh-Dole to the nation’s
health and welfare. Those who scoff at Bayh-Dole forget their history, he said, noting that
before the law was passed in 1980, less than five percent of the 28,000 inventions held by the
federal government had been commercialized. Since approval of Bayh-Dole, more than 6,500
companies have been formed—including 600 last year during the current recession—and more
than 5,000 new products created. His comments were reinforced by Michael Connor, who
spoke on behalf of Senator Dole.

Eric Garduno, representing House Judiciary Committee Chairman John Conyers (D-MI), added
that the genius of Bayh-Dole is that it aligns inventors, universities, and the private sector in a
common goal. He reminded the group that the House recently approved Chairman Conyers’
resolution praising Bayh-Dole (H.Con.Res. 328).
Chancellor Kirwan said that Bayh-Dole was among the pivotal actions in history that strengthened U.S. research universities by turning them into incubators of innovation. He stressed the importance of universities adopting the best practices for easing the transfer of technology and inventions to the marketplace. He also emphasized the need for the federal government to fully fund its share of research costs borne by universities.

The 30th anniversary celebration was led by the Association of University Technology Managers and co-sponsored by AAU, the Association of Public and Land-grant Universities, the American Council on Education, the Biotechnology Industry Organization, and Venable, LLP.

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