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CONGRESSIONAL SCHEDULE  NEW

The House was in recess this week and will return on Monday, May 23. No legislative program has been announced for the week.

The Senate did not meet today. It will meet next on Monday, May 23, when it will consider S. 1038, a bill to extend expiring provisions of the Patriot Act.

BUDGET & APPROPRIATIONS

NEGOTIATORS FACE SETBACKS IN BUDGET DISCUSSIONS; SENATE DEFERS BUDGET RESOLUTION  NEW

The difficulty of negotiating a comprehensive budget agreement was demonstrated again this week, as Senator Tom Coburn (R-OK) announced that he was “taking a break” from the Senate “Gang of Six,” a bipartisan group of Senators who have been working for months on a long-term deficit reduction plan based on recommendations from the Bowles-Simpson fiscal commission. The work of the group has been closely watched, reports National Journal, because any deal its members achieve would likely include significant tax and entitlement changes and would “have bipartisan credibility that gives it a shot at passing both chambers.”

Meanwhile, Roll Call reports that the bipartisan group being convened by Vice President Biden—which aims to reach a shorter-term budget agreement linked to raising the debt ceiling
before August—has agreed to about $150 billion in cuts but “still has a long way to go,” in the words of Senator Jon Kyl (R-AZ). With Senate Budget Committee Chairman Kent Conrad (D-ND) unable to move an FY12 budget through his panel, CQ.com reports that some Senators increasingly are looking to the Biden group to come up with a budget plan that could win approval in both the House and Senate. The Biden plan is reportedly still focused on finding potential savings from the elimination of several subsidies, including the in-school subsidy for graduate and professional students. Signs seem to be pointing to a relatively small increase in the debt ceiling, which would probably force another vote to increase the ceiling before the 2012 election. A deal of any kind is not considered likely until summer, close to the August 2 deadline that Treasury Secretary Tim Geithner has set for raising the debt ceiling.

Senator Conrad, on May 19, announced that his committee would not mark up a budget resolution. He asserted that committee Democrats are “very close to an agreement” but that they decided to “defer” a mark-up because of the ongoing budget negotiations. He said that, as with past budget negotiations, the subsequent budget resolution, with reconciliation instructions, might be needed to implement an agreement.

CQ Today reported earlier that Senate Majority Leader Harry Reid had suggested that this would indeed be the likely process for implementing a budget agreement, since both a budget resolution and a subsequent budget reconciliation bill would require only a majority to pass the Senate, not the 60 votes effectively required to pass most legislation there.

It should be noted that reconciliation instructions, and the following bill, could be a vehicle for reforming a number of entitlement programs, including the Pell Grant program, which is now funded partially by mandatory spending.

**DEPARTMENT OF EDUCATION RELEASES FY11 FUNDING PLAN**

The Department of Education released its FY11 funding plan on May 16, responding to provisions in the FY11 continuing resolution, enacted on April 15. Although the Department’s budget was increased by $4.2 billion overall, discretionary spending for higher education was reduced by $352 million, or 16 percent, from the FY10 level. Within higher education, funding for the Title VI International Education and Fulbright-Hays programs was cut by $50.2 million, or 40 percent, and support for the Fund for the Improvement of Postsecondary Education (FIPSE) was cut by $121.6 million, or 87 percent. The FIPSE reductions included elimination of earmarks and the cancellation of new program competitions for 2011.

Department staff report that campuses should be able to view their revised allocations for campus-based student aid through the eCampus-Based site. Specific questions should be directed to the National Association of Student Financial Aid Administrators (NASFAA).

**OTHER CONGRESSIONAL ISSUES**

**HIGHER EDUCATION ASSOCIATIONS URGE SUPPORT OF PATENT REFORM LEGISLATION UPDATED**

The six higher education associations that have been working together on patent reform, including AAU, sent a detailed memorandum to campus leaders on May 17 urging them to support pending legislation to reform the U.S. patent system.
The memorandum includes a list of ways in which the pending legislation is an improvement over current law for both universities and the patent system generally, along with a comparison of key provisions in the Senate-passed bill (S. 23) and the bill reported by the House Judiciary Committee (H.R. 1249). The House and Senate bills are substantially the same on most key elements, although the associations are continuing to work with House Judiciary Committee staff on two issues of concern in H.R. 1249: prior user rights and supplemental examination.

Along with AAU, the participating associations are the American Council on Education, the Council on Governmental Relations, the Association of American Medical Colleges, the Association of Public and Land-grant Universities, and the Association of University Technology Managers.

The same associations also issued a statement on May 18 in support of the supplemental examination provision included in both S. 23 and H.R. 1249 as introduced. This provision would allow a patent owner voluntarily to disclose additional information to the USPTO that would supplement or correct information considered in the initial examination, strengthening the emerging patents by removing uncertainties that may surround those patents. The statement expresses opposition to an amendment that was offered by Rep. Bob Goodlatte (R-VA), Ranking Member of the Judiciary Subcommittee on Intellectual Property, Competition, and the Internet, and accepted at the Committee’s markup of H.R. 1249. The amendment is intended to prevent supplemental examination from being misused as a way of avoiding a charge of fraud, but supporters of supplemental examination believe the impact of the amendment would not be to detect fraud but instead discourage honest patent owners from using the procedure.

Supplemental examination is one of the last remaining issues to be resolved before H.R. 1249 is voted on by the House, and the associations are working with BIO and other supporters of supplemental examination to eliminate or modify the Goodlatte amendment.

In addition, the associations continue to work with university representatives and House and Senate Judiciary Committee staff on further modifications to the prior user rights provisions of H.R. 1249.

**HOUSE SMALL BUSINESS COMMITTEE APPROVES SBIR BILL**

The House Small Business Committee approved legislation (H.R. 1425) to reauthorize the Small Business Innovation Research and Small Business Technology Transfer programs (SBIR/STTR) on May 11. The bill is likely to go to the House floor in the next few weeks. AAU supports the House bill.

During the markup, the panel modified an amendment authored by Rep. Daniel Lipinski (D-IL) and approved during the bill’s consideration by the House Science and Technology Committee. The amendment would create a pilot program at the National Institutes of Health (NIH) to fund proof-of-concept institutional awards out of existing STTR funds. The Small Business Committee modified the language of the amendment to allow, rather than require, NIH to create a pilot program.

Unlike the Senate version of the bill (S. 493), the House legislation does not increase the set aside for SBIR/STTR programs. The Senate bill failed to achieve cloture after five weeks of debate on the Senate floor largely over unrelated issues, and it is unlikely to be revived in the near future. The program authorizations are set to expire on May 31, 2011, so Congress will likely pass another short-term extension. Senator Mary Landrieu (D-LA), chair of the Senate
Small Business Committee and lead sponsor of the Senate bill, has introduced a bill to extend the programs for one year.

**EXECUTIVE BRANCH**

**CAMPUSES ASKED TO RESPOND TO SURVEY ON REGULATORY BURDEN IN HIGHER EDUCATION**

As part of an effort to identify duplicative, obsolete, and burdensome regulations in higher education, the Advisory Committee on Student Financial Assistance is asking campus senior executives and program administrators to participate in a short survey on regulatory burden.

The goal of the survey, which was developed with advice from the higher education community, is to collect information on the regulatory burden related to the Higher Education Act. Campuses are encouraged to participate in the survey in order to demonstrate to Congress and the Department of Education the strength of support for reform and to provide specific recommendations for streamlining and eliminating burdensome regulations.

The survey—which is web-based, confidential, and anonymous—is now live and can be found at [http://www.studentaidsurvey.org](http://www.studentaidsurvey.org).

The survey is in two forms: a survey of 12 questions for campus senior executives, and a somewhat longer survey for campus program administrators. The senior executive survey is estimated to take 15 minutes to complete; the survey for administrators is estimated to take 25 minutes.

Campus officials are asked to complete and submit the survey by Monday, June 6. The Advisory Committee recognizes that the time frame for responding is short, but says it is necessary in order for the panel to stay on schedule and make its final report to Congress by the end of the year.

**OTHER**

**FED CHAIRMAN SPEAKS ON GOVERNMENT ROLE IN R&D**

Ben S. Bernanke, chairman of the Board of Governors of the Federal Reserve System, delivered a wide-ranging speech on the government role in promoting research and development (R&D) in Washington, D.C. on May 16. As part of a session on the role of innovation in long-term economic growth, the Fed chairman reviewed many examples of how the federal investment in research has enabled the emergence of new technologies in such areas as agriculture, chemicals, health care, and information technology.

“The economic arguments for government support of innovation generally imply that governments should focus particularly on fostering basic, or foundational, research,” he said. Outside of large-scale projects like the space program or atom-smashing facilities, he added, “a more decentralized model that relies on the ideas and initiative of individual researchers or small research groups may be most effective.” The challenge for policymakers, he said, is to “encourage experimentation and a greater diversity of approaches while simultaneously ensuring that an effective peer-review process is in place to guide funding toward high-quality science.”
He added that government support for innovation and R&D is likely to be more effective if it is thought of as a “long-run” investment and that “governments that choose to provide support for R&D are likely to get better results if that support is stable, avoiding a pattern of feast or famine.”

Regarding the scientific and engineering workforce, the chairman said the stable trend in U.S. science and engineering degrees suggests more needs to be done to increase the number of U.S. students studying in these disciplines. And since ensuring a sufficient supply of individuals with science and engineering skills is important to promoting innovation, questions also should be raised about U.S. immigration policy.

**NEW REPORT FINDS FUNDING OF U.S. UNIVERSITY RESEARCH LAGS BEHIND OTHER NATIONS NEW**

The Information Technology & Innovation Foundation (ITIF) issued a report on May 19 entitled “University Research Funding: The United States is Behind and Falling.” The report emphasizes the importance of university-based research to innovation and examines recent funding trends for university research in the U.S. compared to other countries.

Among its findings:

- in 2008, the U.S. ranked 22nd out of 30 countries in government-funded university research and 21st in business-funded university research as a share of GDP;
- from 2000 to 2008, the U.S. ranked 18th in the growth of government-funded university research, with countries such as China, Korea, and the United Kingdom significantly outperforming the U.S.;
- from 2000 to 2008, the U.S. ranked 23rd in the growth of business-funded research, as it actually declined as a share of GDP.

The report concludes:

“Given the importance of university research to the U.S. innovation system, and the primary role that innovation plays in economic growth, competitiveness, and job creation, the data presented here should serve as a wakeup call for U.S. policymakers. We can no longer rest on our laurels and assume that our universities will continue to lead the world, just because they once did. The reason they led was no accident. It had nothing to do with our weather, our geography, or our culture. Instead, it had everything to do with the fact that after World War II, we, before any other nation, dramatically increased federal (and state) support for higher education generally and higher education research specifically.”

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