June 10, 2011

CONGRESSIONAL SCHEDULE  NEW

The House met in pro forma session this week but conducted no business. The Senate did not meet today.

Both chambers will meet on Monday, June 13. The House next week will consider the FY12 Military Construction-Veterans Affairs appropriations bill. The Senate will resume consideration of the Economic Development Act reauthorization (S. 782), which, like the small business bill, has become a magnet for unrelated amendments.

BUDGET & APPROPRIATIONS

BIDEN GROUP SPEEDS UP BUDGET TALKS  NEW

In light of worsening economic news, the bipartisan group of lawmakers convened by Vice President Joe Biden to develop a short-term deficit reduction plan has agreed to intensify its negotiations. Until this week, it had seemed likely that a deal would not be struck much before the August 2 deadline set by the Treasury Department for raising the debt ceiling. But the Washington Post reports that lawmakers in both parties now see a quick resolution of the talks “as the best medicine for a shaky economy.” Negotiators have agreed “to pick up the pace of the talks, with three sessions scheduled for next week, in hopes of presenting the framework of an agreement to President Obama and congressional leaders by the end of the month.” Among
potential areas for compromise, the Administration has offered “a plan to limit the value of itemized deductions for the wealthiest households.”

National Journal Daily reports that the group of five Senators working on a longer term deficit reduction package—formerly the Gang of Six until Senator Tom Coburn (R-OK) took a “sabbatical” from the group—continues to meet and discuss budget options. Senators Saxby Chambliss (R-GA) and Mark Warner (D-VA) said the group is shooting to cut the deficit by $4.7 trillion over 10 years through a combination of spending cuts, entitlement program changes, and tax revenue growth. This would exceed the $4 trillion in savings proposed by the President’s fiscal commission, on whose report the Senators’ discussions are based.

Senate Budget Committee Chairman Kent Conrad (D-ND) said this week that his panel might be close to marking up an FY12 budget resolution. He postponed consideration of a package in mid-May after committee Democrats—including Independent Bernard Sanders of Vermont—could not agree on a plan. Republican members have not been involved in the latest negotiations. CQ.com reports that Senator Conrad’s re-crafted proposal would still aim to reduce the deficit by $4 trillion over 10 years, but with fewer spending cuts and more tax increases than his earlier draft.

Meanwhile, since the House passed its own FY12 budget resolution on April 15, the House Appropriations Committee continues marking up its FY12 funding bills based on that blueprint. The panel plans to hold full committee markups of the Defense appropriations bill on June 14, and the Energy and Water bill on June 15.

OTHER CONGRESSIONAL ISSUES

REPRESENTATIVE FOXX INTRODUCES BILL TO REPEAL PENDING STATE AUTHORIZATION AND CREDIT HOUR REGULATIONS NEW

Rep. Virginia Foxx (R-VA), chair of the House Subcommittee on Higher Education and Workforce Training, has introduced legislation (H.R. 2117) to repeal state authorization and credit hour provisions of the program integrity rules published by the Department of Education. The rules are scheduled to go into effect on July 1, 2011. The bill also would prohibit the Secretary of Education from promulgating or enforcing any regulation or rule that defines the term “credit hour” for any purpose under the Higher Education Act.

The two provisions have been strongly opposed by a majority of the higher education community as an unwarranted expansion of federal authority. The state authorization provision is viewed as is a significant intrusion into prerogatives properly reserved to the states. The credit hour provision would establish a federal definition of credit hour, which institutions believe could open the door to federal interference in core academic decisions related to the curriculum.

The full House Education and the Workforce Committee will mark up H.R. 2117 next Wednesday, June 15.

--More than 70 Higher Education Organizations Endorse the Foxx Legislation NEW

A group of more than 70 higher education associations and accreditors, including AAU, today sent Rep. Foxx a letter thanking her for introducing the bill to repeal two problematic provisions of the Department of Education’s program integrity rules (H.R. 2117) and offering support in moving the legislation forward. The letter says:
“We support efforts aimed at curbing abuse and bringing greater integrity to the federal student aid programs. However, given the almost total lack of evidence of a problem in the context of credit hour or state authorization, we see no basis for two regulations that so fundamentally alter the relationships between the federal government, states, accreditors and institutions. Ultimately, we believe these regulations invite inappropriate federal interference in campus-based decisions and will limit student access to high-quality education opportunities.”

SENATE REJECTS AMENDMENT TO DELAY CHANGES IN DEBIT CARD SWIPE FEES

During Senate floor action on June 8, the chamber fell short of the 60 votes needed to approve an amendment to the Economic Development Act reauthorization (S. 782) that would have delayed the regulatory implementation of the debit card swipe fee changes made last year in the Dodd-Frank Act (P.L. 111-203, H.R. 4173). The vote on the amendment, offered by Senators Jon Tester (D-MT) and Bob Corker (R-TN), was 54 to 45 in favor.

Ten higher education associations, including AAU, sent a letter to all Senators on June 7 urging them to reject the Tester amendment. The letter, led by the American Council on Education, said:

“Debit card swipe fees are a hidden expense for students and families paying for college for which they receive no benefit. As a result of the Dodd-Frank Act and the Federal Reserve's proposed rule, we believe colleges and universities will see reduced debit card costs which they will be able to pass on to students through lower costs as well as increased resources for institutional grant aid and student services.”

EXECUTIVE BRANCH

AAU, COGR SUPPORT CHANGES IN “DEFENSE SERVICES” DEFINITION, REQUEST A CLARIFICATION

AAU and the Council on Governmental Relations (COGR) have submitted comments to the State Department on proposed changes in the definition of “defense services” under the International Traffic in Arms Regulations (ITAR). The changes in the definition would reduce the circumstances under which universities must obtain State Department licenses for foreign students and scholars to participate in certain types of research and development activities. Defense services are defense-related technical data and assistance for which the federal government wants to control access by foreign nationals.

The comment letter, submitted on June 9, expresses support for the provisions that would remove from the definition of defense services the “furnishing of public domain data” and “providing assistance (including training) in medical, logistical (other than maintenance), or other administrative support services to or for a foreign person.” The first change would allow foreign scholars to work without a license on certain defense-related projects that rely on published or otherwise publicly available information or information developed through fundamental research; the second change would allow U.S. researchers to collaborate more easily with allied military medical teams on specific battlefield medical treatment processes and procedures.
The associations express concern and ask for clarification on specific terms in a provision regarding work on integration of controlled items into an end item or component that is controlled as a defense article.

OTHER

SUPREME COURT RULES AGAINST STANFORD UNIVERSITY IN TECHNOLOGY TRANSFER CASE

The Supreme Court on June 6 issued its opinion in the Stanford v. Roche technology transfer case, deciding against Stanford University on a 7 to 2 vote. The opinion was written by Chief Justice John Roberts; Justice Stephen Breyer wrote a dissenting opinion, joined by Justice Ruth Ginsberg. This was an important case concerning the interpretation of the Bayh-Dole Act. AAU, in collaboration with allied higher education associations and more than 70 research universities, had submitted an amicus brief in support of Stanford’s position. The U.S. Solicitor General also supported the university position, but in the end, the Court sided with Roche.

AAU is working with outside counsel to analyze the decision and will provide additional information shortly.

The New York Times published an editorial on June 8 that criticized the high court’s decision. After describing the benefits of the Bayh-Dole Act, “The Fair Rewards of Invention” continued:

“Although the decision is based on a literal reading of a poorly drafted initial agreement between Stanford and the researcher, it is likely to have a broader effect. It could change the culture of research universities by requiring them to be far more vigilant in obtaining ironclad assignments from faculty members and monitoring any contracts between researchers and private companies. Relationships between the university and its faculty are likely to become more legalistic and more mercantile.

“By stressing ‘the general rule that rights in an invention belong to the inventor,’ the majority opinion of Chief Justice John Roberts Jr. romanticizes the role of the solo inventor. It fails to acknowledge the Bayh-Dole Act’s importance in fostering collaborative enterprises and its substantial benefit to the American economy.”

--Organizations Issue Joint Statement on Supreme Court’s Decision

Five higher education associations, including AAU, joined with the Biotechnology Industry Organization (BIO) in issuing a joint statement on June 6 that concluded:

“Although BIO and the undersigned higher education associations held different views on the Stanford v. Roche case, the organizations are united in the desire to ensure that the U.S. technology transfer system continues to generate these public benefits through the robust provisions of the Bayh-Dole statute. We are committed to working together in light of the Supreme Court’s decision to ensure the continued vibrancy of public-private partnerships and success of our shared objectives.”

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