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CONGRESSIONAL SCHEDULE  NEW

The House was out of session today for the week-long Memorial Day recess. The Senate met in pro forma session today and will do so next week, as well, to prevent the President from making recess appointments.

The House will reconvene on Tuesday, June 3. No agenda has been announced.

The Senate will hold pro forma sessions on May 27 and 29. On Monday, June 2, it will begin consideration of the Climate Security Act (S. 3036).

BUDGET & APPROPRIATIONS

APPROVAL OF FY09 BUDGET RESOLUTION POSTPONED TO JUNE

Leaders in both chambers have postponed consideration of the conference agreement on the FY09 budget resolution (S. Con. Res. 70) until early June, following the Memorial Day recess.

Once this congressional spending plan is approved by Congress, the House and Senate appropriations committees will begin allocating the FY09 spending total among their respective subcommittees. (The budget resolution is not signed into law by the President, but sets guidelines for congressional tax and spending policies for the fiscal year.)
The conference report assumes $21 billion more in discretionary spending than the President’s FY09 request. A press release on the House Budget Committee Web site indicates that this includes additional funding for “education and innovation,” specifically, for the Department of Education, the National Science Foundation (NSF); and the National Institutes of Health (NIH).

The statement says, in part:

We have under-invested in K-12 education, and we risk falling behind our global competition in reading, math, and science. We are losing the race on new patents and have become a net importer of high technology products. The conference agreement responds with additional investments in education and innovation. The resolution boosts funding for the Department of Education, the National Science Foundation, and the National Institutes of Health. All of these investments will generate economic growth and jobs, help restore our competitive edge, prepare the workforce to compete in the global economy, make college more affordable, improve student achievement, and reverse the Bush administration’s underfunding of education. Specifically, the conference agreement includes:

• significant increases over the President’s budget in discretionary funding for the Department of Education and Head Start in 2009;
• a deficit-neutral education reserve fund for school construction and Higher Ed reauthorization over five years; and
• additional funding for general science, space, and technology programs.

**SCIENCE FUNDING INCLUDED IN SENATE FY08 SUPPLEMENTAL FUNDING BILL**  
*UPDATED*

The Senate on May 22 approved its version of the FY08 war supplemental funding bill (H.R. 2642) with a package of domestic spending that includes $1.2 billion for four science agencies. The domestic spending package—which includes expansion of the GI Bill, extension of unemployment benefits, a delay in seven Medicaid rules proposed by the Administration, and about $10 billion in domestic discretionary spending not requested by the President—was approved as a separate amendment by a veto-proof margin of 75 to 22. The Senate later approved the overall bill by a vote of 70 to 26.

The science funding would provide $400 million for the National Institutes of Health (NIH); $200 million for NASA for return-to-flight activities; $200 million for the National Science Foundation (NSF), with $150 million for research and $50 million for education; and $100 million for science at the Department of Energy, with $55 million for Fusion Energy Sciences and $45 million for High Energy Physics. The remaining $300 million would support environmental remediation through the Department of Energy.

Before approval of the Senate bill, Senate Democrats replaced the version of the bill approved by the Senate Appropriations Committee on May 15 with a version that omitted several policy provisions, including one authored by Senator Patty Murray (D-WA) aimed at reclaiming unused employment-based visas for use by certain skilled workers and those with advanced degrees.

The House will consider the amended supplemental funding bill sometime in early June. The House-approved version of the bill contains much less domestic spending than the Senate version and does not provide extra funding for science. It does include the extension of unemployment benefits and delay in Medicaid regulations, as well as expansion of the GI Bill.
The cost of expanding veterans’ education benefits would be offset by an income surtax on wealthy individuals, a plan that has been rejected by the Senate.

**INNOVATION TASK FORCE THANKS SENATE FOR ADDED SCIENCE FUNDING**

The Task Force on the Future of American Innovation, a coalition of industry and academic groups in which AAU participates, issued a statement on May 22 thanking the Senate for including the funding for NSF and the Department of Energy Office of Science in the FY08 supplemental funding package. The task force urged the House and the President also to approve these funds. The statement said, in part:

“This supplemental funding is essential in the short run, and we are grateful for the support of the Senate. In the long run, the President and Congressional leaders of both parties have pledged support for substantial new investments that would be modest in the context of the overall budget. It is time for them to turn their words into deeds.”

**OTHER CONGRESSIONAL DEVELOPMENTS**

**CONGRESS APPROVES ANOTHER SHORT-TERM HEA EXTENSION**

The House and Senate on May 20 approved another one-month extension of the Higher Education Act (HEA) (S. 3035), to provide negotiators additional time to reach agreement. The extension lasts through June.

Along with some outstanding issues—such as maintenance of effort in higher education funding by state governments—House and Senate negotiations are being delayed by Senator Edward Kennedy’s (D-MA) sudden illness. It is unclear when Senator Kennedy, who is the chairman of the Senate Health, Education, Labor, and Pensions Committee, will return to the Senate.

**DRAFT HEA CONFERENCE LANGUAGE WOULD SIGNIFICANTLY EXPAND FEDERAL REGULATIONS AND REPORTING AND ALLOW FOR FEDERAL REGULATION OF ACCREDITATION**

The higher education community is concerned that draft language in the developing conference agreement for the Higher Education Act (HEA) would significantly expand federal regulations and reporting requirements. As Inside Higher Ed stated on May 13, the bill "could be a nightmare for colleges and the Education Department to carry out."

Chief among the higher education community’s many concerns is accreditation language in the bill that prohibits the Department of Education from regulating accreditation standards for academic achievement, but leaves open the possibility of regulating other standards such as those dealing with faculty and facilities.

AAU stated the association’s concerns in a March 24 letter to conferees, which focused on three areas in the bill: accreditation, reporting and regulatory burden, and college cost requirements.
The House yesterday approved the FY08 Defense authorization bill (H.R. 5658) by a vote of 384 to 23. The Senate will take up its version of the bill (S. 2787) next month. Both bills support the Department’s proposed increase for Defense basic research funding by authorizing at least the $1.7 billion request; the Senate version would add $50 million more. (The Department’s FY09 request for basic research is an increase of $270 million over its FY08 request; the request is $85 million below actual FY08 funding only because it does not include congressional earmarks inserted in the FY08 funding bill.)

During floor consideration, the House approved an amendment by Rep. Shelley Capito (R-WV) that would authorize an additional $3 million for military funerals to be paid for by an equivalent reduction of funding for basic research through the University Research Initiatives. The amendment was included in an en bloc amendment offered by Committee Chairman Ike Skelton (D-MO), which was approved by voice vote.

President Bush has threatened to veto the House bill over a number of provisions, including one that would nullify the President’s executive order directing federal agencies to ignore congressional earmarks that are not in bill text.

The House bill also includes a number of initiatives to integrate social sciences more effectively into the Defense Department’s irregular warfare capability. The measure authorizes $31 million, an increase of $8 million, “to expand research into human, social and cultural behavior and encourages DOD to integrate social scientists more extensively into research program management and operational activities.”

In addition, the bill directs the Government Accountability Office to study the indirect costs of Defense grants and contracts. A comprehensive review of indirect costs is expected to provide Members of Congress with information on the detailed processes that federal agencies use to calculate indirect cost rates and to audit reimbursements. The report is to be completed within one year.

**EXECUTIVE BRANCH**

**COMMERCE DEPARTMENT REQUESTS COMMENTS ON EXPORT POLICY RECOMMENDATIONS**

The Department of Commerce’s Bureau of Industry and Security (BIS) is requesting public comment on two recommendations of the Secretary’s Deemed Export Advisory Committee (DEAC). A Department press release and the Federal Register notice are available [here](#). The deadline for comments is August 18, 2008.

BIS is asking for comments on:

- whether the scope of technologies on the Commerce Control List that are subject to deemed export licensing should be narrowed, and if so, which technologies should be retained on the list; and
- whether a more comprehensive set of criteria should be used to assess country affiliation for foreign nationals with respect to deemed exports.
In February, AAU and COGR sent a letter to the Department responding to recommendations in the DEAC report.

The letter expressed support for the DEAC recommendation to shorten the list of technologies on the Commerce Control List and recommended that technologies on the list “sunset” automatically after one year unless a review demonstrated that they should remain.

The letter also expressed concern about the proposed process for determining if a foreign student or scholar conducting research in the United States needed an export license. AAU and COGR asked that criteria for determining if an individual should be allowed to use a controlled technology be narrow and clear—resting on specific, credible information that the person would disclose the technology or use it to commit or support an attack on the U.S.

The Commerce Department responded to the AAU-COGR letter on April 18.

NIST ISSUES CALL FOR PROPOSALS FOR SCIENCE RESEARCH BUILDINGS

The Department of Commerce's National Institute of Standards and Technology (NIST) is seeking grant proposals for the construction of science research buildings from institutions of higher education and nonprofit organizations. The agency plans to award approximately $29 million for a competitive grant program created by Congress under the FY08 omnibus appropriations bill (P.L. 110-161).

Although the program announcement says that one criterion for selection is “the degree to which the proposed project complements DoC science and technology programs,” NIST officials indicate that this should be construed broadly. It does not mean that universities must have a research or institutional connection to one of the Commerce agencies—such as NIST, the National Oceanic and Atmospheric Administration, or the National Telecommunications and Information Administration. Rather, it means that a prospective building should house research in the broad fields in which these agencies work. These fields are generally in the physical sciences and engineering, but also include the biological sciences.

NIST has issued a news release about the program which links to the program announcement.

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