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CONGRESSIONAL SCHEDULE  NEW

The Senate was in session today to continue work on immigration reform legislation (S. 2454). The chamber will reconvene on Monday, April 3, and is expected to spend most of its floor time next week on that measure.

The House is out of session today and also will return on Monday, April 3. It will consider the FY07 budget resolution next week, possibly beginning on Wednesday, April 5. It also might take up legislation to require so-called “527 organizations,” named for their tax code designation, to comply with the Federal Election Campaign Act.

BUDGET & APPROPRIATIONS

HOUSE READIES FOR BUDGET DEBATE NEXT WEEK  NEW

The House Budget Committee reported out its FY07 budget resolution on March 29 on a party-line vote of 22-17. The measure will be on the House floor next week.

The House resolution adheres to the President’s proposed discretionary spending cap of $873 billion but would distribute the funding differently. It does not assume full funding of the President’s American Competitiveness Initiative (ACI), which proposes to increase funding for the National Science Foundation (NSF) by seven percent and the Department of Energy (DOE) Office of Science by 14 percent. Rather, the committee-passed measure assumes $300 million less than the President for Budget Function 250, General Science, Space, and Technology, which
funds NSF, NASA, and the DOE Office of Science. Funding would be increased for the “administration of justice” and "community and regional development" categories.

For the National Institutes of Health (NIH), the measure assumes the Administration’s cuts of more than $1 billion to federal student aid programs.

In addition, the budget resolution proposes much lower entitlement savings than the President’s FY07 budget: $6.8 billion over five years rather than the proposed $65 billion. AAU staff have learned that reconciliation instructions for the Education and the Workforce Committee to cut funding by $1.3 billion over five years are intended to apply to the House-passed pension bill and not to student aid or other education programs.

AAU has issued a statement criticizing the committee-approved budget resolution, which is available on the AAU Web site at: http://www.aau.edu/budget/Memo_Hasselmo_AAUCriticalofHouseFY07_33006.pdf.

As reported previously, the Senate-passed version of the FY07 budget resolution (S. Con. Res. 83) contains an additional $16 billion in spending above the President’s FY07 budget, including an extra $7 billion for health, education, and labor programs. The latter amount, approved as a floor amendment sponsored by Senators Arlen Specter (R-PA) and Tom Harkin (D-IA), would not raise the FY07 spending cap but would increase the advance funding limit for FY08.

**EFFORTS CONTINUE TO INCREASE DOMESTIC DISCRETIONARY SPENDING IN HOUSE BUDGET RESOLUTION UPDATED**

As reported previously, during the House Budget Committee’s consideration of the FY07 budget resolution, the committee rejected an amendment offered by Rep. Rosa DeLauro (D-CT) that was similar to the Senate’s Specter/Harkin amendment. The party-line vote was 14-22.

Rep. Mike Castle (R-DE) and other House Republican moderates also are working to increase funding in the budget resolution for non-defense, non-security discretionary spending. Rep. Castle held a March 28 rally of education and health advocates to say he would urge House leaders to craft a rule for floor consideration of the budget resolution that would allow an up-or-down vote on the Specter/Harkin amendment. That strategy is likely to fail, however, because the House Rules Committee does not allow separate up or down votes on specific amendments to the budget resolution, only on substitute budget resolutions. Rep. Castle may aim to defeat the budget resolution on the floor, rather than the rule.

As reported late last week, 23 House Republican moderates led by Reps. Nancy Johnson (R-CT) and Fred Upton (R-MI) wrote to House Speaker Dennis Hastert (R-IL) urging that the FY07 budget resolution include “a modest 2 percent increase in non-security, non-emergency discretionary appropriations over Fiscal Year 2006.” The letter expressed “strong reservations” about “voting for any budget that would result in real cuts in a number of programs.”

A copy of the Members’ letter is available on the AAU Website, along with an AAU letter thanking them for sending it at: http://www.aau.edu/budget/fy2007.cfm.

*CQToday* reports that House Majority Leader John Boehner (R-OH) has talked to House Republican moderates several times and believes there might be a way to accommodate their demands without increasing the budget cap. Mr. Boehner did not specify how he might accomplish that. In the past, funding has been shifted to domestic programs from defense and
foreign affairs accounts, and then replenished through supplemental emergency spending bills that do not count against the spending cap.

**OTHER CONGRESSIONAL DEVELOPMENTS**

**HOUSE APPROVES HEA REAUTHORIZATION BILL  UPDATED**

The House yesterday approved the College Access and Opportunity Act (H.R.609), which reauthorizes the Higher Education Act (HEA), on a vote of 221-199. Fourteen Democrats crossed party lines to vote in favor of the bill, and 18 Republicans voted against it. The measure did not include student loan and other elements of the HEA that were reauthorized as part of the Deficit Reduction Act signed into law last month (See CFR Weekly Wrap-up, 02-03-06.).

Following approval of H.R. 609, American Council on Education (ACE) President David Ward said in a statement on behalf of the higher education community:

“The bill will make it easier for students to go to college by simplifying the federal financial aid application without overly regulating colleges and universities. We are disappointed that federal budget constraints made it impossible to make further enhancements to the federal student aid programs.

In the past we had significant reservations about several parts of the bill that the House approved today. While some concerns remain, House Education and the Workforce Committee Chairman Howard P. "Buck" McKeon (R-CA) has made a significant number of positive modifications that will help minimize the regulatory impact on colleges and universities. We are grateful that Mr. McKeon was responsive to the concerns expressed by the higher education community.”

Several amendments were considered during House floor action.

The following amendments were approved.

- An amendment by Rep. Louis Gohmert (R-TX) passed on a 418-2 vote. The amendment strikes Sec. 495(a) (1), which would have allowed states to apply to the Secretary of Education to become recognized accreditors. The amendment also further modifies the intrusive college cost provisions contained in the original committee bill. The manager’s amendment had already made some improvements in the legislation (see AAU Memorandum, 03-29-06). The Gohmert amendment incorporates those improvements and also modifies the provision which requires certain institutions to set up a “quality-efficiency task force.” Under the amendment, institutions would need such a task force only if their “affordability index” were within the top five percent of those in the same “class” of institutions. The original standard had been the top 25 percent, and the manager's amendment had set the standard at 10 percent.

- An amendment by Reps. Mark Souder (R-IN) and Tim Bishop (D-NY) passed on a voice vote. The amendment strikes the provision that requires accreditors to confirm that institutions have a transfer of credit policy that is publicly disclosed and does not deny credit based solely on the accreditation of the sending institution. The amendment replaces the stricken provision with language that requires accreditors to confirm that institutions have
transfer of credit policies that are publicly disclosed and that specifically state whether the institution denies credit based solely on the accreditation of the sending institution.

- An amendment by Rep. Judy Biggert (R-IL) passed on a voice vote. The amendment “allows unaccompanied homeless youth to be considered independent students upon verification of their living situation by a McKinney-Vento Act school district liaison, a shelter director, or a financial aid administrator.”

- An amendment by Reps. Mark Kirk (R-IL) and Rick Larsen (D-WA) also passed on a voice vote. The amendment “expresses the sense of Congress that student exchange and language education programs should focus on Chinese and Arabic, in light of the global importance of China and the Middle East.”

- An amendment by Reps. Patrick Kennedy (D-RI) and Ileana Ros-Lehtinen (R-FL) passed on a 380-38 vote. The amendment “makes child and adolescent mental health professionals eligible for loan forgiveness for high need professions under Sec. 421 of the bill.”

The following amendments were defeated.

- An amendment by Steve King (R-IA) was rejected on an 83-337 vote. It would have required “institutions that receive any federal funding whatsoever (including grants and scholarships) to submit to the U.S. Department of Education an annual report answering two questions. First, the report must state whether race, color, or national origin is considered in the student admissions process. If race, color, or nation origin is considered in the student admissions process, then the report must contain a subsequent analysis of how these factors are considered in the process.”

- An amendment by Reps. George Miller (D-CA), Dale Kildee (D-MI), Raul Grijalva (D-AZ), and Robert Scott (D-VA) in the nature of a substitute was defeated on a 200-220 vote. The amendment would have stricken all provisions of H.R. 609 and replaced them with provisions that would have, among other things, lowered student loan interest rates from 6.8 percent to 3.4 percent and provided for year-round Pell grant awards. The substitute bill would have maintained current law on other student aid, graduate education, and international education programs, as well as on provisions pertaining to college costs, accreditation, and transfer of credit.

The text of each of the aforementioned amendments can be found at: [http://www.rules.house.gov/109_2nd/specialrules2nd109/1092ndhr609_2.htm](http://www.rules.house.gov/109_2nd/specialrules2nd109/1092ndhr609_2.htm)

During consideration of the bill, Reps. Howard Berman (D-CA), Steny Hoyer (D-MD), and Buck McKeon (R-CA) engaged in a colloquy regarding illegal file sharing on university campuses. Each Member noted the seriousness of the issue and said universities had a responsibility to discourage illegal file sharing. Rep. McKeon said he intended to include language that addresses this issue in the final HEA conference report.

Reps. Berman and Hoyer had drafted an amendment on this issue, although the Rules Committee did not include it in either of the two rules it approved for debate.

The text of the Berman/Hoyer amendment is as follows:

Insert at the end of section 487 the following:
(e) REQUIREMENTS REGARDING COPYRIGHT LAW.—
Section 487(a) (20 U.S.C. 1094(a)) is further amended by adding at the end the following:
The institution will report annually to the Secretary and the Attorney General, in accordance with such requirements as the Secretary, in consultation with the Attorney General, may impose, on the following:

“(A) Whether the institution has a policy with respect to the use of its information technology system that informs its students of their legal obligations regarding copyright law.

“(B) The enforcement measures the institution uses for violators of its policy with respect to the use of its information technology system, including the number of notifications under subsection (c) of section 512 of title 17, United States Code, and subpoenas under subsection (h) of such section, that the institution has received from copyright owners or persons acting on behalf of copyright owners during the preceding 1-year period.

“(C) Whether the institution uses network filters, a bandwidth management tool, or other technological methods to prevent and prohibit the unauthorized distribution of copyrighted material on its information technology system, including methods or measures used to detect or deter unauthorized distribution of copyrighted material over local area networks of such system.

“(D) Whether the institution offers to its students an online service that is authorized by the relevant copyright owners to allow students to download material without violating copyright laws.”

SENATE CONTINUES WORK ON IMMIGRATION LEGISLATION  UPDATED

The Senate continues its consideration of immigration legislation. The debate began Tuesday with Majority Leader Bill Frist’s (R-TN) own immigration bill (S. 2454), before shifting to the more comprehensive package developed by Judiciary Committee Chairman Arlen Specter (R-PA). The Specter package was offered as a substitute to the Frist bill. Senator Frist had used the threat of moving ahead on his legislation to force the Judiciary Committee to agree on a bill. His goal is to complete Senate action on the measure by the end of next week, before the April recess.

Controversy over the legislation is centered on border security, workplace enforcement, and the treatment of illegal immigrants, and not on the visa issues of concern to the higher education community. For higher education, the Judiciary Committee bill would create a new F-4 student visa category that would make it easier for foreign graduate students studying science and engineering in the United States to remain here to work after graduation. Unlike current law, they would not have to prove they intend to return home after graduation, and could apply for a change in status from a student visa to a green card. The fee for doing so would be $2,000. The bill also would increase the cap on H-1B visas from 65,000 to 115,000 per year and retain the exemption for those with advanced math and science degrees earned in the U.S.

During consideration of the bill in the Judiciary Committee on March 27, the panel rejected an amendment offered by Senator Charles Grassley (R-IA) to increase the overall H-1B visa cap to 200,000 visas per year but eliminate all exemptions, including those for advanced degree holders and for non-profits and universities.

Also during the committee mark-up, Senator Dianne Feinstein (D-CA) expressed interest in striking from the chairman’s mark the provision to create the new F-4 visa category. She
said she was concerned about the increasing number of international students entering the U.S. to study scientific disciplines and the fact that the new category had no cap. She agreed to withdraw the proposal after she was reminded that she had cosponsored S. 2198, the PACE Act, which calls for creation of an F-4 visa. As a compromise, Senator Feinstein offered an amendment to increase the “special adjustment filing fee” for F-4 visa applicants from $1,000 in the chairman’s mark to $2,000. The amendment passed by voice vote.

Last Friday, AAU joined three other higher education associations in writing to members of the Senate Judiciary Committee urging them to retain the chairman’s student and employment-based visa provisions in the final bill. The letter, sent by AAU, the American Council on Education, the National Association of State Universities and Land-Grant Colleges, and NAFSA: Association of International Educators, also supported provisions to provide relief from the H-1B visa cap for highly educated individuals.

The associations’ letter is available at:  
http://www.nafsa.org/_/File/_/letter_to_s_judiciary_comm.pdf

The House approved its own immigration reform measure (H.R. 4437) last December. That bill focuses on workplace enforcement, border security, and creating tough penalties for illegal immigrants and those who assist them.

SENATE APPROVES LOBBYING REFORM BILL   NEW

By a vote of 90-8, the Senate approved a lobbying reform bill (S. 2349) on March 29 that would ban gifts from lobbyists, require more frequent reporting of lobbying activities, block Senators’ secret “holds” on legislation and nominations, and make it more difficult for lawmakers to insert earmarks into legislation. The Senate bill also would require Members of both chambers and high-level executive branch officials to wait two years before lobbying their former colleagues. The measure does not include a ban on Senators traveling on corporate-owned jets, nor does it create an independent office of public integrity.

The earmark provision in the Senate bill would make earmarks added in conference to appropriations or authorization bills subject to a point of order on the Senate floor. Senators sponsoring such earmarks would have to meet a 60-vote threshold to keep them in the bill. Senators also would be required to publicly sponsor each earmark.

The House lobbying reform package (H.R. 4975), introduced by Rules Committee Chairman David Dreier (R-CA), has been referred to five committees, with no action yet scheduled. CQToday reports that the bill would impose a travel moratorium for the rest of this year and require identification of the authors of earmarks in appropriations bills and reports and in conference reports of all types. Lobbyists would be required to provide greater disclosure of their interactions with and gifts to lawmakers.

EXECUTIVE BRANCH

SECRETARY’S HIGHER EDUCATION COMMISSION RELEASES POLICY REPORTS   NEW

The Secretary of Education’s Commission on the Future of Higher Education released a series of issues papers on March 30 intended to assist the panel in preparing its final report. The papers
deal with such issues as accountability, assessment, accreditation, quality assurance, and affordability.

The issue papers are available on the Department of Education Web site at: http://www.ed.gov/about/bdscomm/list/hiedfuture/reports.html.


DEPARTMENT OF LABOR ISSUES PROPOSED RULE ON LABOR CERTIFICATION FOR FOREIGN NATIONALS NEW

The Department of Labor has issued a Notice of Proposed Rulemaking (NPRM) on Labor Certifications for the Permanent Employment of Aliens in the United States. Specifically, the NPRM proposes new limitations and fees for labor certifications for foreign nationals who are eligible to apply for permanent residency status because of their employment specialization. Many of these individuals are conducting research or teaching at U.S. universities.

The NPRM proposes to end the current practice of allowing the substitution of foreign national beneficiaries on permanent labor certification applications. The NPRM also proposes that employers, not the individuals, file and pay the costs associated with permanent labor certification applications. Employers could not be reimbursed by individual beneficiaries for these costs. As a result, universities would have to file and cover the costs for those potential employees who need permanent labor certification.

Institutions may wish to review this proposed rule to determine its impact on their campuses. The comment period closes on April 13, 2006.

The NPRM was published in the Federal Register of February 13, 2006. It is Volume #71, No. 29, page 7656.

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