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CONGRESSIONAL SCHEDULE  NEW

The House and Senate are both in session today. The House is considering the FY07 Military Quality of Life-Veterans Affairs appropriations bill (H.R. 5385). The Senate continues work on comprehensive immigration legislation.

The House next week will continue to work through the appropriations process, with three additional bills expected on the floor: Agriculture, Energy and Water, and Homeland Security. CQToday reports that the chamber also may consider energy legislation to address public concerns about high gasoline prices. This could include bills on fuel-economy standards, opening up the Arctic National Wildlife Refuge to oil and gas exploration, and accelerating regulatory review of refinery construction or expansion.

The Senate will continue to work on immigration legislation. Senate Majority Leader Bill Frist (R-TN) has said he hopes to finish debate and approve a final bill before the Memorial Day recess. Also possible for floor consideration is the FY06 supplemental appropriations bill (H.R.
BUDGET & APPROPRIATIONS

HOUSE PASSES FY07 BUDGET RESOLUTION WITH AGREEMENT FOR MORE LABOR-HHS-EDUCATION FUNDING

The House approved its FY07 budget resolution (H.Con.Res. 376) early in the morning of May 18 by a vote of 218-210. The vote capped weeks of struggle by the House Republican leadership to address intraparty disagreements among conservatives, moderates, and appropriators over budget rules and spending for domestic programs. Twelve Republicans and all of the Democrats voted against the measure.

Included in the package is an agreement worked out with House Republican moderates to find an additional $3.1 billion for programs in the Labor-HHS-Education appropriations bill on top of the $4.1 billion that House Appropriations Committee Chairman Jerry Lewis (R-CA) has already agreed to provide the subcommittee over and above the President’s request. The additional $7.2 billion would allow funding for programs in the subcommittee’s jurisdiction at approximately FY06 levels plus two-percent for inflation. The President had proposed to cut those programs by $4 billion from their FY06 levels.

Rather than raise the budget resolution’s discretionary cap of $873 billion, the $3.1 billion in additional funding would have to be paid for by savings in other discretionary or mandatory programs. CQToday reports that the deal assumes that at least $1 billion of the $3.1 billion would come from unspent Iraq reconstruction funds. Rep. Michael Castle (R-DE) and other moderates have received assurances from House leadership that the additional $2.1 billion would not come from cutting programs such as Medicare, Medicaid, food stamps, or other programs for the needy.

Following approval of the budget resolution, the House has moved ahead with floor consideration of the FY07 appropriations bills, beginning with Interior-Environment (H.R. 5386), which was approved on May 18, and Military Quality of Life-Veterans Affairs (H.R. 5384), which is on the House floor today.

HOUSE ADDS $10 MILLION FOR NEH AND NEA

During House consideration of the FY07 Interior-Environment appropriations bill (H.R. 5386) on May 18, the chamber approved an amendment offered by a bipartisan group of Members to add $10 million to the budgets of the National Endowment for the Humanities (NEH) and the National Endowment for the Arts (NEA). The extra funding, approved by voice vote, would be split evenly between the two endowments.

The funding bill reported from committee had provided $141 million for NEH, the same as both the President’s request and FY06 funding. If the increase voted today is sustained, the FY07 budget for NEH will be $146 million.

HOUSE PANEL FULLY FUNDS DOE OFFICE OF SCIENCE
PORTION OF PRESIDENT’S ACI

The House Appropriations Committee on May 17 approved the FY07 Energy and Water appropriations bill with full funding for the Department of Energy Office of Science portion of President Bush’s American Competitiveness Initiative (ACI). The measure is scheduled for House floor consideration next week.

The committee endorsed the $4.132 billion for the Office of Science that had been approved in subcommittee on May 11, accommodating the 14-percent budget increase requested by the Administration as well as an extra $30 million to cover Member earmarks. The added funding for earmarks ensures that they are over and above, and therefore have no impact on, full funding of ACI. The Administration has said it might not request full funding for ACI in future years if Congress earmarks the funds in FY07.

The press release from the markup is available on the House Appropriations Committee Web site at:

The Task Force on the Future of American Innovation, a business-academic coalition in which AAU plays an active role, yesterday issued a statement praising the House Appropriations Committee for fully funding the DOE portion of the ACI. The Task Force—which includes representatives from business, scientific, and university organizations, as well as individual businesses and universities—commended the committee, and particularly Energy and Water Appropriations Subcommittee Chairman David Hobson (R-OH) and Ranking Member Peter Visclosky (D-IN), for “taking the first big step toward enactment of the President’s American Competitiveness Initiative.”

A copy of the Task Force statement is available at:
http://www.aau.edu/budget/Task_Force_Praises_DOE_Research_Funding-5-17-06.pdf

HOUSE COMMITTEE INCREASES FUNDING FOR HOMELAND SECURITY

The House Appropriations Committee approved the FY07 Homeland Security appropriations bill on May 17 at the level approved at the subcommittee level: $32.08 billion, or $1.07 billion more than the President’s request and $1.8 billion above the FY06 level.

As previously reported, following the subcommittee markup on May 11, the panel’s chairman, Harold Rogers (R-KY), said the subcommittee was not hesitating to give the department "spankings and punishment." He said the spending plan “would withhold $1.3 billion in funding until the department submits strategic plans and financial information for several programs. For example, almost $500 million would be withheld from the science and technology directorate until the department ‘provides an expenditure plan to back up its poor budget justification and improve its financial management systems.’”

The committee press release does not specify how much funding would be provided for science and technology accounts or for university centers. However, other sources indicate that the Office of University Programs would receive $51.97 million, which is the same as the President’s request and $10 million below FY06 funding.
Because the Administration’s request for the Office of University Programs was below the FY06 level, the Department indicated that it would not hold a competition in FY07 for the DHS scholars and fellows program. AAU sent a letter to House appropriators and authorizers on May 11 urging them to restore funding for the University Program line in order to conduct the competition. The letter expressed concern that what has been termed a temporary suspension of the program could become permanent.

The AAU letter is available at: http://www.aau.edu/budget/Ltr_Rogers_Sabo_DHSFellows_5-11-06.pdf.


OTHER CONGRESSIONAL DEVELOPMENTS

SENATE COMMERCE COMMITTEE APPROVES COMPETITIVENESS BILL

UPDATED AND CORRECTED

(NOTE: The version of this story in CFR Update #43 inadvertently omitted the last two subsections of the Hutchison/Lautenberg compromise discussed below.)

The Senate Commerce Committee on May 18 approved by a unanimous vote the “American Innovation and Competitiveness Act of 2006” (S. 2802). The bill, which authorizes a variety of programs and activities, mostly in the National Science Foundation (NSF), NASA, and the National Institute of Standards and Technology (NIST), is the committee’s effort to address competitiveness recommendations made in several recent reports.

S. 2802 would establish a President’s Council on Innovation and Competitiveness to develop an agenda for promoting innovation in the public and private sectors. The measure also would authorize the President’s request for NSF funding in FY07 and beyond, authorize the Foundation to create 2,500 new graduate research fellowships and traineeships, and establish a clearinghouse to share best practices on professional masters degree programs. Among the amendments accepted during markup was one offered by Ranking Democrat Daniel Inouye (D-HI) that would authorize NSF to make grants to community colleges for starting technical apprenticeship programs for women and to initiate a mentoring program for women high school, college, and graduate students in the sciences with mentors in industry.

S. 2802 also would require NASA to establish a basic research executive council to oversee the distribution and management of programs and resources in support of basic research activities and establish an aeronautics institute for research to manage the agency aeronautical research activities. The bill also would expand and create new research and development and education programs within the National Oceanic and Atmospheric Administration (NOAA).

CQToday reports that Presidential Science Advisor John Marburger has written to the committee expressing concern that the bill would create many new programs that either duplicate existing programs or “put the government in the position of competing with private investment,” and that the measure includes “excessive” authorization levels.
In approving the bill, the committee agreed to a modified version of an amendment by Senator Kay Bailey Hutchison (R-TX) that ensures that the bill will not prohibit the National Science Foundation (NSF) from funding important social, behavioral, and other non-physical science and engineering programs.

During markup, Senator Hutchison planned to offer an amendment to Section 307 that effectively could have barred most or all NSF support of the biological sciences, social and behavioral sciences, and other sciences not related to the physical sciences and engineering. In response to Senator Hutchison’s amendment, Senator Frank Lautenberg (D-NJ) proposed to offer an amendment to delete Section 307 from the bill entirely.

Prior to the markup, Senators Hutchison and Lautenberg agreed on compromise language that encourages NSF to give priority to grants and awards in certain areas such as physical sciences and engineering but also specifically gives the Foundation flexibility to fund other areas of research it deems consistent with its core mission.

The specific language contained in the compromise follows:

SEC. 307. MEETING CRITICAL NATIONAL SCIENCE NEEDS.

(a) IN GENERAL.—In addition to any other criteria, the Director of the National Science Foundation shall include consideration of the degree to which awards and research activities may assist in meeting critical national needs in innovation, competitiveness, the physical and natural sciences, technology, engineering, and mathematics.

(b) PRIORITY TREATMENT.—Proposed research activities, and grants funded under the Foundation’s Research and Related Activities Account, which can be expected to make contributions in physical and natural sciences, technology, engineering, and mathematics, and other research that underpins these areas, or that enhances competitiveness or innovation in the United States, shall be given priority in the selection of awards and in the allocation of Foundation resources.

(c) APPLICATION OF PRIORITY TREATMENT TO OTHER PROGRAMS.—This requirement shall be applied to other fellowship, grant or award programs authorized in this title.

(d) LIMITATION.—Nothing in this section shall be construed to restrict or bias the grant selection process against funding other areas of research deemed by the Foundation to be consistent with its mandate, nor to change the core mission of the Foundation.


SENATE CONTINUES IMMIGRATION DEBATE  NEW

The Senate continues to debate immigration policy reform (S. 2611). CQToday reported on Wednesday that a bipartisan group had fought off amendments “aimed at altering the scope of the bill in ways that could have severely jeopardized the prospect of enacting an immigration overhaul this year.” The publication characterized the Senate bill as blending stepped-up border security and interior enforcement with a temporary guest worker program and a path to earned
citizenship for most of the 11-12 million illegal immigrants. The House-passed bill (H.R. 4437) focuses solely on border enforcement and interior security, with no temporary worker program or path to citizenship for illegal immigrants.

The Wall Street Journal reported on May 17 that even as the Senate makes progress on its bill, negotiations with the House will be difficult. The publication writes that a final deal is likely to wait until the expected lame duck session after the November elections, when the White House may have its best opportunity to strike a deal.

The Senate bill, developed by Senate Judiciary Committee Chairman Arlen Specter (R-PA), includes visa provisions of interest to higher education. The bill would create a new F-4 visa category to 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.

**HOUSE JUDICIARY COMMITTEE DENIED REFERRAL OF TELECOMMUNICATIONS BILL** NEW

The House Judiciary Committee has been denied referral of the major telecommunications policy bill (H.R. 5252) approved April 24 by the House Energy and Commerce Committee. CongressDaily reports, however, that House Speaker Dennis Hastert (R-IL) is working to involve Judiciary Committee Chairman James Sensenbrenner (R-WI) in the process.

Rep. Sensenbrenner had requested referral of the bill, in part, because of dissatisfaction with provisions in the measure regarding “net neutrality,” which refers to requiring telephone and cable companies to operate their high-speed networks in a non-discriminatory manner that gives equal treatment to similar types of Internet traffic. The Commerce committee bill codifies four net neutrality principles approved last year by the Federal Communications Commission (FCC) but provides for minimal enforcement of them. A number of organizations, including AAU and other higher education associations, have expressed concern that the provisions do not prohibit network operators from giving preferential treatment to their own Internet services over the services provided by universities and others.

A copy of the AAU letter sent March 29 to Energy and Commerce Committee leaders on this issue is available on the AAU Web site at: [http://www.aau.edu/intellect/Ltr_Barton_Dingell_3-29-06.pdf](http://www.aau.edu/intellect/Ltr_Barton_Dingell_3-29-06.pdf).

Meanwhile, Rep. Sensenbrenner and Judiciary Committee Ranking Member John Conyers (D-MI) have introduced their own net neutrality bill, the “Internet Freedom and Nondiscrimination Act of 2006” (H.R. 5417). A committee press release says the bill would require network providers to interconnect with facilities of other network providers on a reasonable and nondiscriminatory basis; act in a nondiscriminatory manner with non-affiliated providers of content, services, and applications; and refrain from interfering in users’ ability to access lawful content, services, and applications.

H.R. 5252 was originally scheduled for floor action the week of April 24, but the Judiciary Committee’s request for referral delayed consideration while the request was reviewed. *CongressDaily* reports that the bill is unlikely to come to the floor next week, so it probably will not be considered until at least the week of June 5, when Congress returns from the weeklong Memorial Day recess.

**Stevens Delays Communications Bill Markup to Address Net Neutrality and Other Provisions**  
*UPDATED*

As reported previously, the telecommunications bill (S. 2686) introduced by Senate Commerce Committee Chairman Ted Stevens (R-AK) would address net neutrality by simply requiring the FCC to conduct an annual study of how information is transmitted over the Internet and then recommending to Congress what authority the commission would need to address any issues. However, *CQToday* reports that Senator Stevens has postponed markup of the bill from June 8 to June 20 in order to address committee members’ concerns about net neutrality and about a proposal in the bill that local governments fear will strip them of a meaningful role in the video franchising process. The publication reports that Senators Olympia Snowe (R-ME) and Byron Dorgan (D-ND) still plan to introduce net neutrality legislation.

**EXECUTIVE BRANCH**

**COMMERCE DEPARTMENT ANNOUNCES EXPORT ADVISORY COMMITTEE**  
*UPDATED*

The Department of Commerce has announced that it intends to establish a Deemed Export Advisory Committee. The *Federal Register* notice was made available today publicly in hard copy and will be available electronically on Monday, May 22. A copy of the notice is available on the AAU Web site at: [http://www.aau.edu/research/FedReg_DeemedExportNotice_5-22-06.pdf](http://www.aau.edu/research/FedReg_DeemedExportNotice_5-22-06.pdf).

The Deemed Export Advisory Committee will be tasked with reviewing the Department’s deemed export licensing policy with the goal of safeguarding national security while ensuring that the United States continues to be at the leading edge of technological innovation. The panel is expected to have a diverse membership consisting of representatives from academia and business, national security and intelligence experts, and others.

Creation of the advisory committee will delay any new proposed rule on deemed export controls that might have been issued in response to the recommendations contained in the Commerce Department Inspector General’s report of March 2004. The Department is not expected to issue another proposed rule until after the new advisory committee conducts its review and submits its recommendations to the Commerce Secretary.

In a May 16 statement anticipating the Department of Commerce announcement, AAU Interim President John Vaughn, joined by the co-chairs of AAU’s Export Controls Task Force—Yale University President Richard Levin and Carnegie Mellon University President Jared Cohen—said the association was encouraged by the Department’s proposed action. AAU commended agency officials, particularly Undersecretary David McCormick, for his leadership in undertaking a “deliberative and non-prejudicial process” for determining how to address the Commerce IG’s recommendations.
NIH FACT SHEETS DETAIL PUBLIC BENEFITS OF NIH-FUNDED RESEARCH

The National Institutes of Health (NIH) has published on its Web site 10 fact sheets that describe how NIH-funded research benefits the public. The fact sheets include examples of breakthroughs achieved from doubling the agency’s budget, improvements in health treatment options, and specific advances in treating such diseases and medical conditions as Parkinson’s disease, stroke, heart disease, and arthritis.

The fact sheets can be accessed directly on the NIH Web site at: http://www.nih.gov/about/researchresultsforthepublic/index.htm.

They also can be accessed from the AAU Web page on benefits from federally funded research at: http://www.aau.edu/research/benefits.cfm.

OTHER

HIGHER EDUCATION ASSOCIATIONS URGE SUPPORT FOR GULF COAST INSTITUTIONS IN FY06 SUPPLEMENTAL FUNDING BILL

Eight higher education associations, including AAU, have written to House and Senate conferees on the FY06 supplemental appropriations bill (H.R. 4939) urging them to retain in the final bill the Senate provisions affecting Gulf Coast colleges and universities affected by Hurricane Katrina. The three provisions are $30 million in grant aid for those institutions, $200 million in bridge loans for rebuilding efforts, and enhanced loan assistance for affected Historically Black Colleges and Universities.


SUPREME COURT DECISION AIDS UNIVERSITY PATENT HOLDERS

The Supreme Court on May 15 handed down a unanimous decision in the e-Bay vs. MercExchange patent infringement case that is very good news for universities. Essentially, the Court ruled that when an inventor, such as a university, chooses to license a patent to others rather than market it directly, the inventor should not be prevented from securing an injunction against a company that is infringing its patent.

When e-Bay was sued for patent infringement by MercExchange, a patent acquisition company, e-Bay argued that a patent owner should be active in the respective market as a condition of being granted an injunction. AAU and the National Association of State Universities and Land-Grant Colleges (NASULGC) filed a brief on the case March 10 arguing that the proposal would be harmful to university technology transfer because universities generally license their patents and are rarely active in commercial markets. In its decision, the Court stated: “For example,
some patent holders, such as university researchers or self-made inventors, might reasonably prefer to license their patents, rather than undertake efforts to secure the financing necessary to bring their works to market themselves...[W]e see no basis for categorically denying them the opportunity to do so.”

The AAU/NASULGC amicus brief is available on the AAU Web site at: http://www.aau.edu/intellect/AmBrf_AAUNASULGC_EBAYvMercExchg_31006.pdf.

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