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CONGRESSIONAL SCHEDULE  NEW

The House is in session today and has approved the FY07 Foreign Operations appropriations bill (H.R. 5522) by a vote of 373-34. The Senate convened this morning, with no roll call votes, and has adjourned.

CQ Today reports that the House next week will consider the FY07 Transportation-Treasury Appropriations bill, as well as the conference report on the FY06 emergency supplemental appropriations bill (H.R. 4939). (See item below.) CongressDaily reports that the chamber also will take up late in the week a draft resolution declaring that the U.S. will complete the mission in Iraq and prevail in the global war on terror. House Majority Leader John Boehner (R-OH)
said he wanted this day-long debate because he believes the House “ought to take a more active role in what's happening in America and what's happening around the world."

The Senate will begin debate Monday on the FY07 Defense Authorization bill (S. 2766), and also next week will consider the conference report on the FY06 supplemental funding bill (H.R. 4939). The chamber also may consider a compromise to scale back the estate tax, after supporters yesterday were unable to garner the 60 votes necessary to pass a full repeal.

BUDGET & APPROPRIATIONS

NEGOTIATORS ON FY06 SUPPLEMENTAL FUNDING BILL REJECT ADDED FUNDING FOR SENATE FY07 BUDGET  UPDATED

House and Senate negotiators yesterday broke an impasse in the conference on the FY06 supplemental funding bill (H.R. 4939, H. Rpt. 109-494) by rejecting an extra $7 billion that Senate negotiators had added to the Senate FY07 discretionary spending cap. The conference report is expected to receive final congressional approval next week.

With the House and Senate unable to pass an FY07 budget resolution, the Senate had added a resolution to the FY06 supplemental funding bill “deeming” the Senate’s FY07 discretionary spending cap at $873 billion, the same as the House level and consistent with the President’s budget. (The House had added its own deeming resolution to the FY07 Interior and Related Agencies appropriations bill.)

During the House-Senate conference on the supplemental funding bill on June 7, Senator Robert Byrd (D-WV) offered an amendment adding $7 billion to the Senate spending cap in the form of an advance appropriation. (That is the same mechanism by which the Specter-Harkin amendment added $7 billion to the Senate version of the budget resolution during floor consideration.)

House conferees, however, did not support that action. CQToday said that House Appropriations Committee Chairman Jerry Lewis (R-CA) expressed concern that mismatched spending levels between the House and Senate could jeopardize appropriators’ ability to move each FY07 appropriations bill through the process separately. Senator Byrd responded that the funding differences between House and Senate appropriations bills created by mismatched deemed spending caps could be resolved in conferences on appropriations bills.

In the end, according to CQToday, Senate Appropriations Committee Chairman Thad Cochran (R-MS) was able to break the impasse by convincing Senate Democratic conferees Mary Landrieu (D-LA) and Daniel Inouye (D-HI) to drop their support for the added funding.

--Gulf Coast Institutions to Receive Some Aid  UPDATED

Inside Higher Ed reports that conferees on the FY06 supplemental funding bill (H.R. 4939) provided Gulf Coast colleges and universities affected by Hurricanes Katrina and Rita with much less financial assistance than they had hoped for: about $50 million in grants awarded to 12 institutions in Louisiana and Mississippi through the Department of Education’s Fund for the Improvement of Postsecondary Education. The Senate version of the supplemental funding bill had included $30 million in grants and about $200 million in bridge loans for those institutions,
as well as enhanced loan assistance for affected Historically Black Colleges and Universities. The publication reports that the bridge loans were dropped from the bill because officials in the Office of Management and Budget “apparently grew concerned about the possibility that institutions would be unable to repay the funds.”


Conferees agreed to include in the conference report on the FY06 supplemental funding bill (H. Rpt. 109-494) a proposal by Rep. Ralph Regula (R-OH), chairman of the House Labor-HHS-Education Appropriations Subcommittee, to repeal the “single holder rule” for student loan consolidation. The repeal would allow borrowers to consolidate their loans with a new lender offering lower interest rates or better repayment terms.

Conferees rebuffed an effort by House Education and the Workforce Chairman Howard “Buck” McKeon (R-CA) to include a provision to raise interest rates on Direct PLUS loans and lower interest rates on private loans to set both at 8.3 percent for a $75 million net savings over five years.

SEVEN REPUBLICAN SENATORS URGE SENATE LEADERS TO ADD $7 BILLION FOR LABOR-HHS-EDUCATION PROGRAMS

Seven Republican Senators on June 7 sent a letter to Senate Majority Leader Bill Frist (R-TN) and Senate Appropriations Committee Chairman Thad Cochran (R-MS) urging them to allocate to the Senate Labor-HHS-Education Appropriations Subcommittee the additional $7 billion approved for the subcommittee’s programs as part of the Senate-passed FY07 budget resolution.

Joining Senator Olympia Snowe (R-ME) in this effort were Senators Lincoln Chafee (R-RI), Norm Coleman (R-MN), Susan Collins (R-ME), Mike DeWine (R-OH), Richard Lugar (R-IN), and Gordon Smith (R-OR).

The letter states, “It is critical that we follow through with the Senate’s action and appropriate the $7 billion that we agreed was needed to help maintain critical services, assure our nation’s economic competitiveness, and improve our quality of life.”

HOUSE MAKES PROGRESS ON FY07 APPROPRIATIONS BILLS  NEW

The House has now approved seven of the 11 FY07 appropriations bills. Appropriations Committee Chairman Jerry Lewis (R-CA) has committed to moving all of the bills through the House before the July 4 recess. The bills approved so far by the House are Agriculture, Energy and Water, Foreign Operations, Homeland Security, Interior, Legislative Branch, and Military Quality of Life. Transportation-Treasury will be on the floor next week.

In addition, the Defense appropriations bill was marked up in subcommittee on June 7 and is scheduled for full committee markup on June 13. The Science-State-Justice funding bill is scheduled for subcommittee markup on June 14, with full committee action on June 20. That bill contains funding for the National Science Foundation and the National Institute of Standards and Technology, for which the President has recommended significant funding increases under the American Competitiveness Initiative.
SENATE APPROPRIATIONS PROCESS READY TO MOVE AHEAD  NEW

Now that the Senate FY07 discretionary spending cap is close to being approved as part of the FY06 supplemental spending bill, the Senate Appropriations Committee can move ahead to allocate spending among its subcommittees. AAU staff have learned that the subcommittee chairmen are expected to meet on Monday, June 12, with Committee Chairman Thad Cochran (R-MS) deciding the allocations sometime during the week.

HOUSE SUBCOMMITTEE APPROVES FY07 LABOR-HHS-EDUCATION BILL WITH $100 INCREASE IN PELL MAXIMUM GRANT  UPDATED

The House Labor-HHS-Education Appropriations Subcommittee on June 7 marked up its FY07 bill, providing a $100 increase in the maximum Pell Grant award but level funding for most other higher education and research programs. The bill is scheduled for full committee markup on Tuesday, June 13.

Overall, the bill is about $600 million above the FY06 comparable level and $4.1 billion above the President’s FY07 request. The measure would provide $28.258 billion for the National Institutes of Health (NIH), which is about $100 million less than the FY06 comparable level but effectively a freeze.

For higher education, the bill would raise the maximum Pell Grant award by $100, from the current $4,050—where it has been since FY03—to $4,150. The measure rejects the Administration’s proposed elimination of the Perkins Loans, GEAR UP, and Leveraging Educational Assistance Partnership (LEAP) programs, instead freezing their funding at FY06 levels. The same is true for the graduate education programs, Javits Fellowships and Graduate Assistance in Areas of National Need, whose funding would be frozen at $9.7 million and $30.1 million, respectively.

An updated AAU chart showing funding levels for higher education programs is available at: http://www.aau.edu/budget/07EdTable.pdf.

HOUSE DEFENSE APPROPRIATIONS PANEL APPROVES FY07 BILL  NEW

The House Defense Appropriations Subcommittee marked up its FY07 bill on June 7, providing Defense Research, Development, Testing and Evaluation (RDT&E) with funding of $75.3 billion. That is an increase of $2.1 billion above the Administration’s request and $4.1 billion above the FY06 level. The bill will be marked up in full committee on Tuesday, June 13.

The subcommittee has not released detailed information on defense science and technology accounts.

The House on June 7 approved by a vote of 389-9 the FY07 appropriations bill for the Department of Homeland Security. The measure includes about $52 million for university programs, the same as the President’s request but $10.4 million below FY06 funding.


An updated AAU chart with funding levels for university programs is available at: [http://www.aau.edu/budget/07DHSTable.pdf](http://www.aau.edu/budget/07DHSTable.pdf).

### OTHER CONGRESSIONAL DEVELOPMENTS

**HOUSE SCIENCE COMMITTEE APPROVES COMPETITIVENESS BILLS**

The House Science Committee on June 7 unanimously approved two authorization bills (H.R. 5358 and H.R. 5356) aimed at advancing U.S. economic competitiveness by strengthening math and science education and research programs. The measures build upon the President’s American Competitiveness Initiative (ACI) and implement key recommendations from several recent reports on U.S. economic competitiveness, including the National Academy of Sciences' report, *Rising Above the Gathering Storm*.

In his opening statement, Chairman Sherwood Boehlert (R-NY) said the provisions contained in the legislation represent “…an intelligent middle-ground between those who want to create scores of new, untested, expensive programs and those who argue that all that’s necessary is to increase overall funding for basic research and leave everything else to chance.” He said he would continue to urge appropriators to provide the funding called for in the ACI and the additional funding called for in these bills. Chairman Boehlert added that he and Ranking Member Bart Gordon (D-TN) were sending a joint letter to key appropriators calling for adequate funding for important science and engineering education programs at NSF.

During the markup, bipartisan manager's amendments were adopted for both bills, melding provisions of the three bills introduced May 11 (H.R. 5356, H.R. 5357, and H.R. 5358) with those introduced earlier in the year by Rep. Gordon (H.R. 4434 and H.R. 4596).

The Science and Mathematics Education for Competitiveness Act (H.R. 5358) builds upon and strengthens existing math, science, and engineering education programs at NSF, several of which the committee wrote into law as part of the 2002 NSF reauthorization act. As amended, the bill targets all education levels—K-12, undergraduate, and graduate—and includes programs to develop and provide teacher training; attract math and science majors to teaching; improve undergraduate math, science, and engineering courses; and expand interdisciplinary graduate work.

The bill specifically rejects the Administration’s plan to phase out NSF’s Math and Science Partnerships program. It renames the program the *School and University Partnership for Science and Mathematics Education* and focuses it more heavily on innovative new programs and training for K-12 math and science teachers. H.R. 5358 also would enhance the *Robert Noyce Teacher Scholarship Program*, which provides scholarships to math and science majors in return for a commitment to teaching, and the *Science, Technology, Engineering, and Mathematics*
Talent Expansion Program, which provides grants to colleges and universities to improve undergraduate science, math, and engineering programs.

The Early Career Research Act (H.R. 5356)—which incorporates the related language of H.R. 5357—would authorize NSF and the Department of Energy Office of Science to provide grant money for young faculty to conduct high-risk research. Some of the work could be supported in part by business. The measure also would expand the NSF program that provides grants to colleges and universities for major research equipment and instrumentation for interdisciplinary work.

It is unclear when these bills will be considered by the full House. Majority staff on the Science Committee hope the bills might eventually be considered on the House suspension calendar. AAU, as well as other higher education associations, scientific societies, and industry groups, will urge House leaders to take up the measures quickly and act on them favorably.

SENATE COMPETITIVENESS BILLS MORE EXPANSIVE THAN HOUSE MEASURES  UPDATED

In strengthening existing research and education programs, the House Science Committee’s competitiveness bills differ from legislation reported by the Senate Commerce Committee (S. 2802) and by the Senate Energy and Natural Resources Committee (S. 2197), which would create several new research and science, technology, engineering, and mathematics (STEM) education programs.

The Senate Commerce Committee approved its competitiveness bill, the “American Innovation and Competitiveness Act of 2006” (S. 2802), on May 18. The bill authorizes a variety of programs and activities, mostly in the National Science Foundation (NSF), NASA, and the National Institute of Standards and Technology (NIST).

The bill 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’s aeronautical research activities. Additionally, the bill would expand and create new research and development and education programs within the National Oceanic and Atmospheric Administration (NOAA).

When the Senate Energy and Natural Resources Committee marked up its own competitiveness legislation, titled Protecting America’s Competitive Edge (PACE) (S. 2197), the panel included a graduate fellowship program in the Department of Energy that is consistent with a recommendation made by AAU in its National Defense Education and Innovation Initiative. The fellowship program was not included in the initial legislation introduced in January by
Committee Chairman Pete Domenici (R-NM) but was added as part of a substitute amendment during the committee markup on April 24.

The committee-approved provision would create a portable graduate fellowship program at the Department of Energy for doctoral students in science and engineering fields “of importance to the mission of the Department.” The language would authorize 100 fellowships in FY07, rising to 1,000 fellowships by FY13. AAU has recommended a graduate fellowship and traineeship program in the Department of Energy Office of Science to support 1,000 students annually.

**HOUSE APPROVES TELECOMMUNICATIONS BILL WITHOUT NET NEUTRALITY PROVISION UPDATED**

The House last night approved the Energy and Commerce Committee’s telecommunications legislation (H.R. 5252) but voted down an amendment aimed at strengthening “net neutrality.” The overall bill passed by a vote of 321-101; the net neutrality amendment failed by a vote of 152-269.

Network neutrality is the concept of ensuring that telephone and cable companies do not use the broadband networks they control to favor or discriminate against particular Internet traffic or content providers in terms of pricing or delivery speed.

Critics have charged that the network neutrality provisions in H.R. 5252 are not sufficient, so four Energy and Commerce Committee Democrats, led by Rep. Edward Markey (D-MA), introduced their own net neutrality legislation (H.R. 5273), as did House Judiciary Committee Chairman James Sensenbrenner (R-WI).

The House Rules Committee allowed Rep. Markey to offer his bill as an amendment to H.R. 5252, but did not allow Rep. Sensenbrenner to offer his measure. The Markey bill would have given the Federal Communications Commission (FCC) authority to bar telephone and cable companies from selectively favoring or discriminating against Internet traffic. Rep. Sensenbrenner’s bill would have accomplished the same goal, but under antitrust law. The Rules Committee also allowed Rep. Lamar Smith (R-TX) to offer a more limited net neutrality amendment, to declare that the telecommunications bill does not “modify, impair, or supersede” antitrust laws. His amendment was approved on the House floor by a vote of 353-68.

*TechDaily* reports that Senate Commerce Committee Chairman Ted Stevens (R-AK) has said that he will alter his telecommunications legislation (S. 2686) to clarify “that the FCC should be involved in net neutrality that affects consumers and the competitive market.” His bill currently requires the FCC to conduct an annual study of how information is transmitted over the Internet and then recommend to Congress what authority the commission would need to address any problems identified.

Senator Stevens has scheduled a committee hearing on his bill for June 13, followed by markup on June 20.

**EXECUTIVE BRANCH**

**NSTC ANNOUNCES GOVERNMENT-WIDE REVIEW OF GUIDANCE ON REGULATORY COMPLIANCE FOR FEDERAL RESEARCH GRANTEES NEW**
The National Science and Technology Council (NSTC) of the White House Office of Science and Technology Policy (OSTP) has announced that it will conduct a review of guidance given to federal grantees about compliance programs at all research funding agencies. The NSTC/OSTP effort makes moot the draft guidance proposed in November of 2005 by the Office of Inspector General (IG) at the Department of Health and Human Services (HHS). Reportedly, several agencies complained to OSTP and the Office of Management and Budget that the HHS IG had overstepped its authority by issuing draft guidance. This prompted OSTP to step in. A comprehensive and thorough review of these issues by OSTP/NSTC is expected.


**DEPARTMENT OF COMMERCE REQUESTS NOMINATIONS FOR EXPORT CONTROLS ADVISORY COMMITTEE**

As discussed in *CFR Weekly Wrap-up, 05-19-06*, the Department of Commerce is creating a Deemed Export Advisory Committee (DEAC) to review the Department’s deemed export licensing policy, with the goal of safeguarding national security while ensuring that the U.S. remains at the leading edge of technological innovation.

The 12-member committee, to be appointed by the Secretary of Commerce, will be divided evenly among representatives from the academic community, industry, and national security and intelligence experts. Those interested in serving on the DEAC are asked to respond to the Department within 60 days of the May 22 announcement of the panel’s creation. Committee members will serve a term of not more than one year and must obtain a security clearance.

Additional information about the advisory committee is available in the May 22 *Federal Register* notice announcing the panel’s creation at: http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=54303532719+3+0+0&WAISaction=retrieve.

**PROPOSED CHANGE IN UNIVERSAL SERVICE FUND WOULD COST UNIVERSITIES MILLIONS**

The Federal Communications Commission (FCC) proposes to change the method of collecting the Universal Service Fee (USF) telephone tax in a way that could cost colleges and universities an additional $320 million to $480 million each year. The FCC currently collects the tax based on a percentage of actual long distance calls made. The proposed plan would switch to charging a flat fee of $1 to $1.50 per telephone number, Web-access line, or other connection.

In a March 16 letter sent to the FCC on behalf of seven associations, including AAU, the American Council on Education (ACE) petitioned the commission not to change the current funding mechanism. The letter included a chart estimating the increase in charges for a representative sample of colleges and universities. For example, among AAU institutions, Rice University, which currently contributes $400, would pay an estimated $10,000 under the new regulations. The University of Washington, currently paying $15,184, would pay $277,800.
A summary of the ACE letter, which contains a link to the full letter, can be found on the ACE Web site at: http://www.acenet.edu/AM/Template.cfm?Section=Search&template=/CM/HTMLDisplay.cfm&ContentID=1259.

The Association for Communications Technology Professionals in Higher Education (ACUTA) and EDUCAUSE also are working on this issue and have proposed alternative funding options. The two organizations submitted a 17-page white paper dated May 31 to the FCC that details the “unique operating conditions of colleges and universities” and urges the FCC to “ensure that these conditions are reflected fully in any reform of the universal service contribution mechanism.” The paper adds:

“We are greatly encouraged that a number of parties – particularly Qwest and BellSouth –have provided explicit reform proposals that reflect the unique challenges faced by colleges and universities. To that end, we are hopeful that this White Paper can facilitate efforts to craft a workable solution to higher education's concerns consistent with the FCC's overall policy goals.”

A copy of the white paper is available on the ACUTA Web site at: http://www.acuta.org/?1495.

An organization called “Keep USF Fair” has additional information about the proposed change on its Web site at: http://keepusffair.org/KeepUSFFair/homepage.html.

**OTHER**

**APPELLATE COURT ISSUES MIXED RULING IN HIGHER EDUCATION CALEA CASE**

The federal appellate court in the District of Columbia has issued a mixed ruling in the higher education community’s lawsuit challenging a regulation issued by the Federal Communications Commission (FCC) to expand application of the Communications Assistance for Law Enforcement Act (CALEA) to colleges and universities. The American Council on Education (ACE), which filed the lawsuit last October on behalf of the higher education community, reports that the court ruled that CALEA applies broadly to the Internet, but reaffirmed that the prior exemption in CALEA for private telephone networks also applies to private computer networks. Since many colleges and universities operate private networks, it appears they will continue to be exempt. However, the decision is complex and ACE’s attorneys are still reviewing it.

An ACE statement on the decision is available at: http://www.acenet.edu/AM/Template.cfm?Section=News_Room&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=16800.

AAU will keep the CFR informed as the legal analysis of the decision continues.

Background

Last October 13, the FCC issued a final rule expanding the application of CALEA from public telephone systems to broadband Internet service providers, including colleges and universities. Under the new rule, broadband service providers would be required to adapt their Internet service equipment within 18 months to permit law enforcement officials to monitor specific communications on their computer networks. On October 24, ACE, acting on behalf of the
higher education community, asked the District of Columbia circuit appeals court to intervene, expressing concern about the complexity of the rule and the high cost that would be incurred if upgrades had to be made all at once and not as part of regular system upgrades.

At the time of the filing, ACE Vice President Sheldon Steinbach told the Washington Post, "In filing suit, we hope to convince the FCC that colleges and universities can provide the same access through alternative approaches without the need to incur the $7 billion expense of revamping our computer network systems. This alternative approach also would make it more efficient for law enforcement. When you evaluate efficiency versus the incredible cost of compliance, we just don't think it makes a lot of sense."


Senator Patrick Leahy (D-VT), the primary sponsor of CALEA when it was enacted in 1994, issued a statement on October 26 calling the FCC’s action to include Internet systems under CALEA “troubling” and “not what Congress intended.” He added, “Congress recognized the unique architecture of the Internet and explicitly excluded it from the scope of CALEA’s surveillance design mandates, and we did that to allow Congress to re-visit the appropriateness of such an extension as the Internet developed. Any extension of CALEA – a law written for the telephone system in 1994 – to the Internet in 2005 would be inconsistent with congressional intent.”


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