CONTENTS

CONGRESSIONAL SCHEDULE  NEW

BUDGET & APPROPRIATIONS

Length of FY09 CR Remains Unclear  NEW
Senate Subcommittee Approves FY09 Defense Appropriations Bill  NEW

OTHER CONGRESSIONAL ISSUES

Senate Approves ADA Restoration Act; House Likely to Act Next Week  NEW
Grassley-Welch Roundtable Focuses on College Costs and University Endowments  NEW
House Judiciary Committee Chairman Opposes NIH Public-Access Policy  NEW
House Committees Hold Hearings on Basic Energy Research and Climate Change  NEW

OTHER

Associations Hosting September 18 Congressional Briefing on ITER Fusion Energy Experiment  NEW

CONGRESSIONAL SCHEDULE

The Senate was in session today to continue consideration of the FY09 Defense authorization bill (S. 3001); the House is not in session. Both chambers will reconvene on Monday, September 15.

Next week both chambers will debate energy legislation. CQToday reports that after consideration of the Defense authorization bill, Senate Majority Leader Harry Reid (D-NV) plans to bring up draft energy legislation by Senator Jeff Bingaman (D-NM). A bipartisan group of Senators may offer a separate comprehensive energy proposal.

House Democratic leaders unveiled their own energy package on September 11, which they could take to the House floor as early as September 16. CQToday reports that it remains unclear if the Democratic leadership will allow House Republicans to offer their energy bill (H.R. 6566) as an amendment. Republicans have blocked consideration of FY09 appropriations bills in committee and are threatening to block approval of the must-pass FY09 continuing resolution unless the legislation omits a moratorium on new coastal drilling that has been approved regularly for the past 26 years. The Democratic energy package includes authorization for coastal states to allow offshore drilling 50 miles offshore.

Also next week, the House is expected to approve under suspension the Senate-passed version of the Americans With Disabilities Act Restoration Act (S. 3406), discussed below.

BUDGET & APPROPRIATIONS

TIMING OF FY09 CR REMAINS UNCLEAR  NEW
With none of the 12 FY09 appropriations bills cleared by Congress and the new fiscal year looming on October 1, it is clear that a continuing resolution (CR) will be required to sustain funding for federal agencies and programs after September 30. For months, it has seemed likely that Democratic leaders would move a CR that would last into next year and the start of a new Administration and new Congress. There is now some speculation that a CR might run only into November and prompt a post-election, lame-duck session.

House Republicans have threatened to block the CR and even shut down the government if Democratic leaders do not allow consideration of amendments to expand offshore oil and gas exploration. That threat may now be lessened because the energy package developed by the House Democratic leadership includes an offshore drilling provision. The provision may not garner support from Republican Members, but Democratic leaders hope it will keep enough of the House Democrats together to allow approval of the CR.

House Democrats also are working on a second economic stimulus package of as much as $50 billion, which may be unveiled as early as next week.

**SENATE SUBCOMMITTEE APPROVES FY09 DEFENSE APPROPRIATIONS BILL**

The Senate Defense Appropriations Subcommittee marked up its FY09 funding bill on September 10; the House Appropriations Committee plans to mark up its bill sometime next week. The House subcommittee marked up its bill on July 30.

A press release about the Senate subcommittee markup does not specify how the panel would allocate funding for basic and applied research programs funded in the bill. The press release does note that the bill includes $240 million for cancer research, $50 million for a “medical research pot,” and $40 million for a “peer-reviewed psychological health and traumatic brain injury research program.”

Both House and Senate bills would provide more funding for Defense basic research than the Administration’s FY09 request. The House bill would provide $1.8 billion and the Senate $1.77 billion, compared to the request of $1.7 billion. AAU has updated its FY09 DOD appropriations chart and will provide additional analysis soon.

**OTHER CONGRESSIONAL ISSUES**

**SENATE APPROVES ADA RESTORATION ACT; HOUSE LIKELY TO ACT NEXT WEEK**

The Senate on September 11 approved by voice vote the Americans with Disabilities Act Restoration Act (S. 3406). Although the House approved its own version of the bill on June 25 (H.R. 3195), House Majority Leader Steny Hoyer (D-MD) expects the House to approve the Senate bill on September 17 under suspension. The President is likely to sign a final bill.

The Senate bill was introduced on July 31 by Senators Tom Harkin (D-IA) and Orrin Hatch (R-UT); the final bill had 70 cosponsors. The legislation reverses several Supreme Court decisions that have narrowed the definition of disability under the original Act.
The Senate bill does not include House language which states that an impairment under ADA need only “materially restrict” a major life activity. (The House language loosens the current, court-interpreted standard of “substantially limits.”) Rather than modify the language by statute, the Senate bill simply encourages the Equal Employment Opportunity Commission to revise the portion of current regulations that defines the term “substantially limits.”

The Senate bill also spells out that accommodations requested by disabled people, “including academic requirements in postsecondary education,” are not required if they fundamentally alter the nature of the goods and services involved. This is the principle of protecting academic standards that has been of great concern to the higher education community.

Otherwise, S. 3406 is quite similar to the House-passed bill. It would expand the list of “major life activities” that a disability must substantially limit for someone to be eligible for protection under the law. It also would expand the list of the types of mitigating measures that may not be considered in determining whether an individual meets the definition of a “disability” in the first instance. Included on the list are “learned behavioral or adaptive neurological modifications.”

### GRASSLEY-WELCH ROUNDTABLE FOCUSES ON COLLEGE COSTS AND UNIVERSITY ENDOWMENTS

Senator Charles Grassley (R-IA) and Rep. Peter Welch (D-VT) held a roundtable discussion September 8 on university endowments and college affordability with a group of higher education leaders, researchers, higher-education critics, and others.

At the end of the afternoon-long session, Senator Grassley said he hoped that best practices could be developed to ensure that university endowments are spent adequately to ensure student access, but reiterated that he hoped to avoid federal legislation. Rep. Welch, who chaired most of the meeting, said he continued to believe that, given the substantial federal investment in student aid and the continuing rise in tuition prices, it was appropriate to consider a mandatory payout rate for university endowments.

Additional information about the roundtable, including the Web cast, a list of participants, and a reading list, is available online.

Among the university leaders participating in the session was Princeton University President and AAU Vice Chair Shirley Tilghman, who spoke on behalf of AAU. In her prepared remarks, Shirley referred to endowments as the “working capital” that helps U.S. universities maintain their international excellence, including in support of research that fuels innovation and in serving current and future students. She also discussed the danger of imposing payout rates, which would erode the flexibility of institutions to sustain long-term commitments for faculty, programs, and facilities during times of market volatility.

### HOUSE JUDICIARY COMMITTEE CHAIRMAN OPPOSES NIH PUBLIC-ACCESS POLICY

House Judiciary Committee Chairman John Conyers (D-MI) has introduced legislation to overturn the policy of the National Institutes of Health (NIH) on public access to the results of NIH-funded research. Although further action on the bill is considered unlikely this year, its introduction shows that the policy remains controversial.
At a September 11 hearing of the House Judiciary Subcommittee on the Courts, Internet, and Intellectual Property, Chairman Conyers discussed his legislation to overturn the policy (H.R. 6845) and criticized the House Appropriations Committee for not consulting with the Judiciary Committee before adding the public-access mandate to the FY08 funding package. Subcommittee chairman Howard Berman (D-CA) said he saw the merits of both sides of the issue—those who wish to make the results of research available more quickly to the public and scientific publishers who are concerned that the policy will harm journal subscriptions—but he did not express a view on Mr. Conyers’ bill.

The NIH policy, which AAU has endorsed, requires articles that are based on NIH-funded research and accepted for publication on or after April 7, 2008, to be made available freely to the public on the agency’s electronic archive, PubMed Central, within 12 months of publication. The policy was enacted into law by the FY08 omnibus appropriations act (P.L. 110-161).

AAU submitted a letter of support for the NIH policy in advance of the hearing. Information about the hearing, including a Web cast, is available on the House Judiciary Committee Web site.

**HOUSE COMMITTEES HOLD HEARINGS ON BASIC ENERGY RESEARCH AND CLIMATE CHANGE** NEW

Two House panels held hearings on September 10 to review the role of energy research in developing energy applications and addressing global climate change.

The House Science and Technology Energy and Environment Subcommittee, chaired by Rep. Nick Lampson (D-TX), held a September 10 hearing to discuss the importance of basic energy research, including recent initiatives to advance research for specific energy applications. Additional information about the hearing titled, “The Foundation for Developing New Energy Technologies: Basic Energy Research in the DOE Office of Science,” is available on the Committee’s Web site.

The House Select Committee on Energy Independence and Global Warming, chaired by Edward Markey (D-MA), also held a hearing on Wednesday focused on the R&D investments needed to meet America’s future energy and challenges. Among the witnesses were Susan Hockfield, President of the Massachusetts Institute of Technology, and Stephen Forrest, Vice President of Research at the University of Michigan.

Video clips from the hearing, along with the list of witnesses and Rep. Markey’s opening statement, are available on the panel’s Web site.

**OTHER**

**ASSOCIATIONS HOSTING SEPTEMBER 18 CONGRESSIONAL BRIEFING ON ITER FUSION ENERGY EXPERIMENT** NEW

Two engineering societies are hosting a Capitol Hill briefing on Thursday, September 18, to discuss ITER, the international research and development project that aims to demonstrate the scientific and technical feasibility of fusion power. Reps. Rush Holt (D-NJ) and Judy Biggert
(R-IL) will provide opening remarks for the briefing, followed by U.S. ITER director, Dr. Ned Sauthoff, of Oak Ridge National Laboratory.

The luncheon session, which is being hosted by ASME and IEEE-USA in conjunction with the Congressional R&D Caucus, begins at 12:00 p.m. in 2325 Rayburn House Office Building. There is no fee for the lunch, which will be served on a first come, first served basis.

Those interested in attending the briefing are asked to RSVP to Rasheedah Smith at SmithRJ@asme.org with name, title, affiliation, email address, and phone number.

End of document