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CONGRESSIONAL SCHEDULE

Neither the House nor Senate was in session today.

Next week will be a busy one for both chambers as they try to complete work on several bills before adjourning for the election, including a plan being developed by the Administration to address the meltdown in credit markets. That legislative package is being prepared over the weekend and is expected to have bipartisan support. Although the target date for House and Senate adjournment has been next Friday, September 26, House Speaker Nancy Pelosi (D-CA) told the White House yesterday in a letter that Congress was willing to work beyond Friday to deal with the financial crisis.

Joining the financial legislation at the top of the to-do list is approval of a continuing resolution (CR) to fund government agencies into the new fiscal year that begins on October 1 (see below). Given the seriousness of the financial crisis, it is unclear how much of the rest of the planned agenda will be considered next week in either the House or the Senate.

In the House, the agenda includes consideration of the FY09 Defense authorization bill (S. 3001)—in a “ping-pong” process with the Senate that would avoid a formal conference of the
House and Senate bills by sending amended versions of the bill back and forth until an agreement is reached—as well as possible consideration of a tax-extenders bill (see item below), if the measure is approved by the Senate.

The Senate had planned to take up the tax extenders bill (S. 6049) on Tuesday, which would extend a variety of expired or expiring business tax provisions, provide a variety of incentives for energy conservation and renewable energy, and renew several tax provisions important to college students and their families (see item below). After the tax package, the Senate also could consider the House-passed offshore drilling bill (H.R. 6899), along with a separate offshore drilling proposal by Senator Jeff Bingaman (D-NM) and a drilling package developed by a bipartisan group of 20 Senators. Also possible for consideration is a package of bills (S. 3297), most of which have been blocked from floor consideration by Senator Tom Coburn (R-OK).

**BUDGET & APPROPRIATIONS**

**OUTLINE OF CONTINUING RESOLUTION REMAINS UNCLEAR  NEW**

To avoid a government shutdown on October 1 in the absence of enacted appropriations bills for the new fiscal year, Congress must approve an FY09 continuing resolution (CR). It is unclear what will be included in the package and how long it will run. Earlier in the year, many observers expected the CR to last into January or beyond, placing spending issues in the laps of a new Administration and Congress, but several reports now indicate that the CR may last only into November, triggering a lame duck session following the election.

There have been many rumors but little news about what will be in the CR, including whether funding for some agencies and programs might be funded above their FY08 freeze level. (See two items below on efforts to increase funding for key science agencies.) It appears likely that the FY09 Homeland Security appropriations bill will be the vehicle for moving the CR. Earlier this week, it appeared that appropriators would develop a “security minibus,” consisting of the approved FY09 Defense, Military Construction-VA, and Homeland Security appropriations bills, which would carry the CR. But that plan appears to have changed, at least in part because negotiations on the Defense bill reportedly have broken down.

CongressDaily reports that the CR is expected to include economic stimulus provisions that Congress will not have time to move in a separate bill, such as natural disaster relief, a second extension of unemployment benefits, and low-income energy assistance. CQToday adds that the CR might also include provisions to address the turmoil in financial markets, although congressional leaders might move a separate stimulus bill to address the market issues.

**EXPECTED PELL SHORTFALL AFFECTS MORE THAN STUDENT AID  NEW**

The Department of Education’s budget director has alerted Congress that the Pell Grant program will face a cumulative deficit in FY09 of $6 billion. This shortfall has occurred because a larger-than-expected number of students have qualified for Pell Grants and the grants total exceeds the funding available for the program.

Congress appropriated $14 billion for Pell Grants in FY08, but there has been an historic increase this year in the number of students applying for and receiving the grants.
The options for addressing the shortfall will not be easy. Under rules approved in FY06, Congress cannot simply carry over the Pell Grant shortfall, but must cover its costs. There are three options: find an extra $6 billion, cut the award levels for needy students, or cut funding for other programs within the jurisdiction of the House and Senate Labor-HHS-Education appropriations subcommittees.

Although Congress provided less funding in FY08 than was needed to fund all Pell Grants in this fiscal year, the Labor-HHS-Education subcommittees are still charged with spending the full amount required. This means the two panels will have to deal with the current shortfall in the FY09 appropriations process. It is not clear how that will be accomplished.

The higher education community is working to try to ensure that solutions to the shortfall do not reduce the maximum grant or the amount provided to eligible students, or harm other programs.

**SENATE TAX EXTENDER BILL READY TO MOVE**  

Senate and Finance Committee leaders agreed on September 16 to try to move a major tax bill next week that would extend dozens of expiring tax provisions, including the tuition tax deduction, the IRA charitable rollover, and the research and development tax credit. The package was scheduled for consideration on Tuesday, September 23, but that may be postponed while Congress deals with legislation to address the crisis in financial markets.

The Senate bill—a substitute for the “Renewable Energy and Job Creation Act of 2008” (H.R. 6049) passed earlier this year by the House—would extend these and many other expired or expiring provisions through December 31, 2009. Among other elements, the bill includes extensions of expiring energy tax provisions, tax relief for Gulf Coast hurricane and Midwestern disaster victims, and a one-year extension of the Alternative Minimum Tax (which otherwise would apply to millions of middle-income taxpayers). The Senate Finance Committee has prepared a summary of the measure.

The higher education community sent a letter in July all members of the Senate expressing support for renewal of the higher education provisions.

**AAU CALLS FOR ADDED SCIENCE-AGENCY FUNDING IN FY09 CONTINUING RESOLUTION**

AAU sent letters to House and Senate leaders on September 18 asking them to provide increased funding for six key science agencies in the FY09 continuing resolution (CR). The letter requests that, at a minimum, any FY09 CR “include the emergency FY08 supplemental funding provided for science in the base funding level, and, preferably, provide the better of the FY2009 House or Senate committee-approved levels for key science agencies. This would prevent us from taking a step backwards in the nation’s support of science.”

**HOUSE MEMBERS URGE ADDED SCIENCE FUNDING IN FY09**

A bipartisan group of 29 House Members, led by Rep. Vern Ehlers (R-MI), has sent a letter to House leaders and leaders of the Appropriations Committee urging them to provide increased funding for several science agencies “in any future appropriations bill considered by the 110th Congress.”
The letter, which requests additional funding in FY09 for the National Science Foundation, the Department of Energy Office of Science, and the National Institute of Standards and Technology, notes that Congress has not come close to appropriating the funding levels for these agencies authorized by the America COMPETES Act, which was enacted with wide bipartisan support. The letter adds that funding these agencies at their FY08 enacted levels would fall $2.5 billion short of that authorization. The letter continues:

“An infusion of additional funding in any appropriations vehicle—which it be an economic stimulus package, supplemental appropriations bill, or continuing resolution—would stimulate innovative jobs and inspire the future generation of scientists currently discouraged by the dismal outlook for science.”

**HOUSE AND SENATE DEFENSE APPROPRIATIONS SUBCOMMITTEES WOULD INCREASE 6.1 BASIC RESEARCH **

The FY09 Defense appropriations bills approved by subcommittees in the House and Senate would provide greater funding for 6.1 basic research than the Administration requested.

The Senate bill, approved in subcommittee on September 10, would provide $1.77 billion for basic research. This is $136 million, or 8.3 percent, above the FY08 level of $1.634 billion, and $71.3 million, or 4.2 percent, above the Administration's request of about $1.70 billion.

The House bill, approved in subcommittee on July 30, would provide $1.816 billion for basic research, or $46 million more than the Senate subcommittee-approved level. This is $182 million, or 11.1 percent, above the FY08 level of $1.634 billion, and $117.3 million, or 6.9 percent, above the Administration's request of about $1.70 billion.

A further breakout of the Defense appropriations levels for accounts of interest to research universities, including the University Research Initiative accounts, is available on the AAU Web site.

**Senate Defense Appropriations Subcommittee Bill**

For the broader Science & Technology (S&T) category, the Senate bill would provide $12.26 billion, a cut of $419.7 million, or 3.3 percent, from the FY08 level of $12.68 billion. However, this funding level is $1.49 billion, or 6.8 percent, above the Administration’s request of $11.475 billion. S&T programs include defense-wide and military service funding for 6.1 basic research, 6.2 applied research, and 6.3 advanced technology development.

Within that total, applied research (6.2 programs) would receive $4.619 billion, a $439.1 million, or 8.7-percent, cut from the FY08 level of $5.058 billion, but a $374.2 million, or 8.8-percent, increase over the Administration's request of $4.245 billion. Advanced technology development (6.3 programs) would receive $5.870 billion, a $116.6 million, or 1.9-percent, cut from the FY08 level of $5.987 billion, but a $338.6 million, or 6.1-percent, increase over the Administration's request of $5.532 billion.

The Senate bill breakout for 6.1 basic research and 6.2 applied research across the services is as follows:

- Army 6.1: $412.6 million, a $33.5 million or 8.8-percent increase over FY08;
Army 6.2: $933.2 billion, a $242.1 million or 20.6-percent cut from FY08;
Navy 6.1: $544.8 million, a $47.1 million or 9.5-percent increase over FY08;
Navy 6.2: $758.8 million, a $42.2 million or 5.3-percent cut from FY08;
Air Force 6.1: $458.4 million, a $37.3 million or 8.9-percent increase over FY08;
Air Force 6.2: $1.136 billion, a $33.0 million or 2.8-percent cut from FY08;
Defense-wide 6.1: $354.2 million, a $18.2 million or 5.4-percent increase over FY08; and
Defense-wide 6.2: $1.791 billion, a $120.8 million or 6.3-percent cut from FY08.

The bill would fund the National Defense Education Program at the Administration's requested level of $69 million, an increase of $25 million above the FY08 level of $44.4 million.

Overall, the Senate subcommittee approved $78.64 billion for Defense Research, Development, Test and Evaluation (RDT&E). This is an increase of $1.757 billion, or 2.3 percent, above the FY08 level, but $975.5 million, or 1.2 percent, below the Administration’s FY09 request.

**House Defense Appropriations Subcommittee Bill**

The House Appropriations Defense Subcommittee would provide $12.89 billion for S&T programs, an increase of $623 million above the Senate-approved level. This is an increase of $209.6 million, or 1.7 percent, above the FY08 level of $12.68 billion, and $1.41 billion, or 12.3 percent, above the Administration’s request of $11.475 billion.

The bill includes the same language that was added to the FY08 bill that caps indirect cost reimbursements at 35 percent of the total grant.

As discussed above, the House bill would provide $1.816 billion for 6.1 basic research. Applied research (6.2 programs) would receive $4.89 billion, a $168.5 million, or 3.3-percent, cut from the FY08 level of $5.058 billion, but a $644.8 million, or 15.2-percent, increase over the Administration's request of $4.245 billion. Advanced technology development (6.3 programs) would receive $6.183 billion, a $196.1 million, or 3.3-percent, increase above the FY08 level of $5.987 billion, and a $651.3 million, or 11.8-percent, increase over the Administration's request of $5.532 billion.

The House bill breakout for 6.1 basic research and 6.2 basic research across the services is as follows:

- Army 6.1: $424.8 million, a $45.7 million or 12.1-percent increase over FY08;
- Army 6.2: $1.155 billion, a $20.4 million or 1.7-percent cut from FY08;
- Navy 6.1: $537.8 million, a $40.1 million or 8.1-percent increase over FY08;
- Navy 6.2: $701.1 million, a $99.9 million or 12.5-percent cut from FY08;
- Air Force 6.1: $464.0 million, a $42.9 million or 10.2-percent increase over FY08;
- Air Force 6.2: $1.159 billion, a $10.0 million or 0.9-percent cut from FY08;
- Defense-wide 6.1: $389.3 million, a $53.3 million or 15.8-percent increase over FY08; and
- Defense-wide 6.2: $1.875 billion, a $37.3 million or 1.9-percent cut from FY08.

The bill also would fund the National Defense Education Program at the Administration’s requested level of $69 million, an increase of $25 million above the FY08 level of $44.4 million.

Overall, the House subcommittee approved $79.35 billion for Research, Development, Test and Evaluation (RDT&E). This is an increase of $2.467 billion, or 3.2 percent, above the FY08 level, but $265.1 million, or 0.3 percent, below the Administration’s FY09 request.
OTHER CONGRESSIONAL ISSUES

CONGRESS APPROVES ADA AMENDMENTS ACT OF 2008

On September 17, the House gave final congressional approval to the ADA Amendments Act of 2008 (S. 3406), which reverses several Supreme Court decisions that have narrowed the definition of disability under the original Americans with Disabilities Act (ADA). The measure, which the Senate approved on September 11 by voice vote, now goes to the President for signature. He has indicated that he will sign the measure, despite reservations that it could increase litigation.

Although the House had approved its own version of the bill on June 25 (H.R. 3195), House leaders agreed to take up the Senate-passed bill on the suspension calendar; the House passed the bill today by voice vote.

S. 3406 does not include language from the original House bill which stated that an impairment under ADA need only “materially restrict” a major life activity. (The House language was intended to loosen the current, court-interpreted standard that an impairment must “substantially limit” such an activity.) 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 guards the principle of protecting academic standards, addressing a serious concern of the higher education community.

Otherwise, S. 3406 is quite similar to the original House-passed bill. It would expand eligibility for protection under the law by adding a number of “major life activities” where substantial limitations trigger eligibility. 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.”

PRESIDENT SIGNS “ENSURING CONTINUED ACCESS TO STUDENT LOANS ACT OF 2008”

President Bush, on September 17, signed into law the “Ensuring Continued Access to Student Loans Act of 2008” (H.R. 6889), a one-year extension of the measure that was enacted on May 7 (P.L. 110-227) to blunt the impact of the credit crunch and restore stability to the student loan market by ensuring continued access to federal student loans for all eligible student and parent borrowers.

The law enacted in May increased loan limits for unsubsidized Stafford undergraduate loans, delayed repayment for parent borrowers of PLUS loans, and gave the Secretary of Education authority to purchase loans from private lenders made under the federally guaranteed loan program to free up capital for new loans. The bill also granted the Secretary of Education authority to purchase loans from lenders for the 2008-2009 academic year and to offer lenders access to short-term liquidity.
Under current law, the provisions of P.L. 110-227 expire on July 1, 2009; H.R. 7889 extends them through July 1, 2010.

Many lawmakers support extension of the “temporary” law because students may face uncertainty about the availability of federal guaranteed loans as they plan for the 2009-2010 academic year. Several lenders and groups of loan providers have written to Congress urging passage of the one-year extension.

The House Education and Labor Committee Web site contains additional information about the legislation.

**EXECUTIVE BRANCH**

**BOTH PRESIDENTIAL CAMPAIGNS ANSWER 14 SCIENCE POLICY QUESTIONS**

Both the McCain and Obama presidential campaigns have now provided answers to 14 science policy questions put forward by a group of scientists and engineers called Science Debate 2008. A side-by-side comparison of the candidates’ responses is available on the group’s Web site.

Among the 14 subject areas are research, innovation, energy, stem cell research, scientific integrity, and space.

**INDUSTRY AND ACADEMIC LEADERS URGE A NATIONAL BASIC ENERGY RESEARCH INITIATIVE**

A group of more than 70 business, higher education, and scientific organizations released a petition on September 17 to be sent to the two Presidential campaigns urging the next President to propose and implement “a comprehensive, multi-agency, basic research strategy to address our nation’s energy crisis and future energy security.”

The petition, sponsored by the Energy Sciences Coalition, says that the nation must do far more than just focus on such short-term strategies as expanded oil drilling and renewed clean energy incentives. These “represent only a partial solution to our nation’s long-term energy and environmental challenges. The need for abundant sources of environmentally friendly and affordable energy far exceeds the capacity of currently available technologies. Our energy security and our economic and national security depend on overcoming this gap.”

The petition states that scientific advances are needed “that leapfrog current technologies.”

The petition was released today at a Washington, D.C. press conference organized by The Science Coalition and the Task Force on the Future of American Innovation, in which academic and industry leaders described why it is vital for the nation to launch such a national basic energy research initiative. The speakers were Susan Hockfield, president of the Massachusetts Institute of Technology; Steven Chu, director of the Lawrence Berkeley National Laboratory; Uma Chowdhry, Senior Vice President and Chief S&T Officer for DuPont; and David Bell, President, CEO and Director of Intersil Corporation.

**OTHER**
COLLEGE BOARD STUDY RECOMMENDS CHANGES IN FEDERAL STUDENT AID

A new report released by the College Board on September 18 calls for simplifying the federal student aid system, improving the federal loan process, developing a federal savings program for low-income families, and rewarding states and institutions that support student success.

The report, “Fulfilling the Commitment: Recommendations for Reforming Federal Student Aid in Brief,” was prepared by the College Board’s Rethinking Student Aid Study Group. The panel spent the past two years discussing federal student aid issues with a variety of policy experts, academic researchers, and higher education professionals.

US-AFRICA HIGHER EDUCATION INITIATIVE GEARS UP

The National Association of State Universities and Land-Grant Colleges (NASULGC), in collaboration with the Partnership to Cut Hunger and Poverty in Africa, has launched a new program to strengthen science and technology capacity in African higher education by fostering long-term partnerships between U.S. and African colleges and universities.

Later this fall, the U.S.-Africa Higher Education Initiative will issue a call for proposals for planning grants to develop such collaborations. Using current funding, provided by the Bill & Melinda Gates Foundation and the U.S. Agency for International Development, program sponsors expect to award competitively about 20 planning grants of $50,000 each. Sponsors plan to seek additional funding to expand the program from other foundations, corporations, and Congress.

The initial request for planning proposals will be issued in November, 2008. The first step in the planning process is a five-week “e-consultation,” from September 24 to October 29, 2008, to gather suggestions for shaping this request as well as the long-term structure of the program. The focus of the on-line consultation will be on issues relevant to the future of African higher education, human and institutional capacity building for development, and best practices from past and current African-U.S. higher education collaborations.

The request for proposals is being developed in conjunction with Higher Education for Development, a partnership of higher education associations in which AAU participates that is managed by the American Council on Education.

Those interested in participating in the e-consultation process are asked to register after September 22 on the initiative’s website (www.africa_initiative.com).

AAU LAUNCHES NEW WEB SITE

The new AAU Web site is now online. Still located at www.aau.edu, the new site has a fresh look, is easier to navigate, contains added materials, and provides new features for finding information.

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