Friday, October 3, 2008

CONTENTS
CONGRESSIONAL SCHEDULE  NEW
BUDGET & APPROPRIATIONS
Congress Approves Financial Rescue Bill with Tax Extenders  UPDATED
Higher Education Associations Urge House and Senate Passage of Financial Rescue Bill
President Signs FY09 Continuing Resolution  NEW
OTHER CONGRESSIONAL ISSUES
Congress Approves FY09 DOD Authorization Bill  UPDATED
Higher Education Associations Discuss New Textbook Requirements with Senator Durbin
EXECUTIVE BRANCH
NIH Issues Policy for Funding Continuing Grants Under the FY09 Continuing Resolution
IRS Sends Out Long-Awaited Compliance Letters
Associations Comment on Use of Cost Sharing at National Science Foundation

CONGRESSIONAL SCHEDULE

The House was in session today to consider the Senate-passed financial rescue package (see item below). Also approved was another extension of unemployment benefits (H.R. 6867). The remaining House schedule is unclear. CongressDaily reports that the House is likely to adjourn today subject to the call of the chair, leaving open the prospect of returning after elections for a lame-duck session. But, at least for now, there are no plans to return.

The Senate is out of session today and will return for a pro forma session, with no votes, on Monday, October 6. Senate Majority Leader Harry Reid (D-NV) yesterday said he had scheduled a lame-duck session beginning November 17, when Senators will already be in Washington to elect their leaders for the next Congress. The purpose of the post-election session is to consider a package of 150 bills that have been blocked by Senator Tom Coburn (R-OK), who has placed holds on the bills for a variety of reasons. The bills, mostly dealing with public lands issues, have been added to a wilderness bill (H.R. 5151).

BUDGET & APPROPRIATIONS

CONGRESS APPROVES FINANCIAL RESCUE BILL WITH TAX EXTENDERS  UPDATED

The House today voted final approval of the Senate version of the $700-billion financial rescue package (H.R. 1424), sending the measure to the President for signature. Today’s vote was 263 to 171. Earlier in the week, the House rejected overwhelmingly an earlier version of the measure
The Senate package, which the Senate approved on October 1 by a vote of 74 to 25, contained several modifications to the original bill aimed at winning over House members, as well as the Senate-passed tax bill (H.R. 6049) with the tax extenders supported by the higher education community.

The Senate tax bill, approved by the Senate on September 23 by a vote of 93 to 2, includes a two-year extension of the above-the-line deduction for qualified tuition and related expenses, the IRA charitable rollover, and the R&D tax credit. It also includes a one-year “patch” to the alternative minimum tax (AMT), an energy tax package with offsets, disaster tax breaks, and mental health parity legislation.

CQToday notes that the House and Senate have been arguing over the tax extenders for most of the 110th Congress. House Democrats, particularly the conservative “Blue Dog” Democrats, wanted more of the extenders offset by revenue raisers or spending cuts, while Republicans argued that extending existing tax benefits should not require offsets.

The House divided its version of the Senate measure into four separate bills, each of which was approved last week. But Senate leaders were unwilling to negotiate on the legislation and urged House leaders simply to take up the Senate bill without delay. They argued that the Senate bill was a hard-fought but delicate compromise worked out over many months of effort. Ultimately, Senate leaders used the financial rescue package to press their position.

HIGHER EDUCATION ASSOCIATIONS URGE HOUSE AND SENATE PASSAGE OF FINANCIAL RESCUE BILL

Three higher education associations, including AAU, sent a letter to all Senators on October 1 urging them to vote in favor of the financial rescue legislation, which the Senate approved later that evening. Yesterday, a similar letter was sent by six higher education associations, including AAU, to all House members, in anticipation of a vote on the package today.

The association letters focus on the potential impact on colleges and universities of the crisis in the nation’s financial and credit markets. They also express appreciation that the measure includes the tuition tax deduction and the IRA charitable rollover.

PRESIDENT SIGNS FY09 CONTINUING RESOLUTION NEW

President Bush on September 30 signed into law the FY09 continuing resolution (CR). The measure, which lasts through March 6, 2009, freezes funding for most federal agencies at their FY08 levels during that period, including those domestic research agencies of major interest to AAU institutions: the National Institutes of Health (NIH), the National Science Foundation, the Department of Energy Office of Science, NASA, and the National Endowment for the Humanities.

The measure includes an additional $2.5 billion to help address a projected $6 billion shortfall in the Pell Grant program over three academic years (07-08, 08-09, 09-10) and maintain the maximum award at its current level. Some $750 million of the appropriated amount is a down payment on the shortfall. Language in the bill prohibits a ratable reduction in individual grants.

Attached to the CR is a so-called “minibus” of three national security full-year appropriations bills—Defense, Homeland Security, and Military Construction-Veterans Affairs.
Within the Department of Defense (DOD) bill, funding for basic research (budget function 6.1) is $1.842 billion, a 12.7-percent increase above FY08 and higher than either the House or Senate subcommittee-approved levels. Additional details on DOD science and technology funding are available in last week’s CFR Weekly Wrap-up.

**OTHER CONGRESSIONAL ISSUES**

**CONGRESS APPROVES FY09 DOD AUTHORIZATION BILL  UPDATED**

The Senate, on September 27, gave final congressional approval to the FY09 Defense authorization bill (S. 3001), which the President is expected to sign.

As discussed previously, report language that accompanied the House version of the bill directs the Government Accountability Office (GAO) to study the indirect costs of Defense grants and contracts. Although this language is not in the conference report, the GAO study will move forward. Senate negotiators did not dispute the proposed study in conference and GAO does not require a specific appropriation in order to undertake the review.

Last year during the FY08 appropriations process, Rep. John Murtha (D-PA), chairman of the House Defense Appropriations Subcommittee, raised questions about university indirect cost rates and placed a one-year cap on such reimbursements (the FY09 appropriations bill extends the cap). The limitation is a 35-percent cap on the amount of an overall grant, not on the negotiated rate.

**HIGHER EDUCATION ASSOCIATIONS DISCUSS NEW TEXTBOOK REQUIREMENTS WITH SENATOR DURBIN**

The reauthorization of the Higher Education Act (P.L. 110-315) includes provisions requiring publishers and higher education institutions to address rising textbooks costs, in part by requiring early publication of textbook International Standard Book Numbers (ISBN) for courses offered in the upcoming term.

On September 24, Senator Richard Durbin (R-IL), author of the textbook provisions, invited leaders of the six presidentially based higher education associations, including AAU, to discuss the provisions. The association leaders reviewed what institutions already are doing to lower the cost of textbooks, and Senator Durbin urged them to encourage institutions to implement the provisions as quickly as possible, in advance of the July 1, 2010 compliance deadline.

The American Council on Education has compiled a summary of campus plans and activities for implementing the textbook provisions, including several innovative approaches to curbing textbook costs. The associations also have invited Patricia Schroeder, president of the Association of American Publishers, to discuss how our two communities might work together to help campuses comply with the new law. AAU staff will provide additional information about this effort as it progresses.

**EXECUTIVE BRANCH**
NIH ISSUES POLICY FOR FUNDING CONTINUING GRANTS UNDER THE FY09 CONTINUING RESOLUTION

The National Institutes of Health on October 2 issued its policy for funding non-competing grant awards (i.e., continuing grants) under the FY09 continuing resolution. The notice says that until the final FY09 appropriation is enacted, the agency will issue non-competing awards at “generally up to 90 percent of the previously committed level.”

IRS SENDS OUT LONG-AWAITED COMPLIANCE LETTERS

The Internal Revenue Service (IRS) on October 1 sent out tax compliance questionnaires to some 400 colleges and universities requesting information on their finances, unrelated business income, endowments, and executive compensation practices. The survey has been expected since June.

An IRS press release states that the IRS expects to issue a report on the project in 2009. IRS Commissioner Doug Shulman commented "[t]his effort reflects our work to build a better understanding of the largest, most complex organizations in the tax-exempt sector.” He went on to say that “[t]he information gathered will help us identify issues and areas that may need more outreach and education or further scrutiny."

The IRS has made public the questionnaire, along with instructions for filling it out and the cover letter that accompanies it.

ASSOCIATIONS COMMENT ON USE OF COST SHARING AT NATIONAL SCIENCE FOUNDATION

AAU, the Council on Governmental Relations (COGR), and the National Association of State Universities and Land-Grant Colleges (NASULGC) on September 30 submitted comments to the National Science Foundation (NSF) on the use of cost sharing in NSF-funded activities. The letter was submitted in response to the National Science Board’s request for public comment on how the agency should address the challenges in managing cost sharing.

The associations’ letter discusses a number of issues related to both voluntary and mandatory cost sharing and offers several ways to reduce the regulatory burden for colleges and universities without compromising good stewardship of public funds or the quality of research. The letter also argues that voluntary cost sharing—which is cost sharing specifically pledged in a proposal’s budget or award—could be eliminated without harming the quality of the research enterprise and could improve the enterprise by removing the problems associated with voluntary cost sharing.

After reviewing the public comments, the National Science Board plans to release a report on voluntary cost sharing in NSF-funded activities in February 2009.