CONGRESSIONAL SCHEDULE NEW

The House was in session today and voted to approve the one-year tax measure (H.R. 3996) that includes three higher education provisions (see item below).

The Senate was in pro forma session today, with no roll call votes.

Following the Veterans’ Day holiday on Monday, Congress next week will face a busy schedule in the run-up to the Thanksgiving recess the following week. The House could begin work on $50-billion in short-term “bridge” funding for the wars in Iraq and Afghanistan, and may consider conference reports on the FY08 Transportation-HUD appropriations bill (H.R. 3074), the Defense authorization bill (H.R. 1585), and the reauthorization of the Head Start program (H.R. 1429). Also possible is action on legislation to address the subprime mortgage crisis (H.R. 3915).

The Senate’s schedule for next week is uncertain at this writing, but the chamber may continue debate on the farm bill (H.R. 2419) and consider the supplementary defense funding for Iraq and Afghanistan, as well as conference reports on the FY08 Transportation-HUD funding bill and the reauthorization of Head Start.
The Senate last night cleared by voice vote the FY08 Defense appropriations conference report (H.R. 3222, H. Rpt. 110-434), sending the package to the President, who has said he will sign it. The House approved the bill earlier in the day by a vote of 400-15.

As reported previously, the Defense conference report includes a cap on indirect cost reimbursement for Defense basic research. The House bill had included a 20-percent limit on negotiated reimbursement rates. The conference report places a 35-percent cap, not on negotiated rates but on the amount of an overall grant that can comprise indirect costs.

Nevertheless, this cap represents an arbitrary limit on the reimbursement of real and necessary costs for universities to conduct research on behalf of the federal government. These costs are regularly negotiated and rigorously audited by federal agencies. Moreover, this cap has been imposed without any congressional hearings or evidence of unjustified reimbursements of these research costs.

AAU, the National Association of State Universities and Land-Grant Colleges, and the Council on Governmental Relations issued a statement opposing the cap, which is available at: http://www.aau.edu/publications/Research_UniversitiesStmt_Indirect_Cost_Cap-11-5-2007.pdf.

--Defense Spending Bill Cuts S&T Funding Below FY07 Level But Basic Research Up 4.5 Percent

The FY08 Defense appropriations conference report provides $12.77 billion for science and technology (S&T) programs at the Department of Defense (DOD). This is a cut of $556.9 million, or 4.2 percent, from the FY07 level, but it is $2 billion, or 18.5 percent, more than the Administration’s request. 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.

For 6.1 basic research, the bill provides $1.63 billion, a $70 million, or 4.5-percent, increase over the FY07 level of $1.56 billion, and a $205.5 million, or 14.4-percent, increase over the Administration's request of $1.43 billion. Applied research (6.2 programs) receives $5.10 billion, a $233.4 million, or 4.4-percent, cut from the FY07 level of $5.33 billion, but a $739.2 million, or 17-percent, increase over the Administration's request of $4.36 billion. Advanced technology development (6.3 programs) receives $6.04 billion, a $393.5 million, or 6.1-percent, cut from the FY07 level of $6.43 billion, but a $1.05 billion, or 21.1-percent, increase over the Administration's request of $4.99 billion.

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

- Army 6.1: $381.5 million, a $15.6 million or 4.3-percent increase over FY07;
- Army 6.2: $1.18 billion, a $20.5 million or 1.7-percent cut from FY07;
- Navy 6.1: $506.2 million, a $14.5 million or 2.9-percent increase over FY07;
- Navy 6.2: $810.8 million, a $24.9 million or 3.2-percent increase over FY07;
- Air Force 6.1: $407.7 million, a $0.9 million or 0.2-percent cut from FY07;
- Air Force 6.2: $1.17 billion, a $16.9 million or 1.5-percent increase over FY07;
- Defense-wide 6.1: $338.3 million, a $40.8 million or 13.7-percent increase over FY07; and
- Defense-wide 6.2: $1.93 billion, a $254.6 million or 11.7-percent cut from FY07.

The bill also funds the National Defense Education Program/SMART Program at the Administration's requested level of $44.4 million, an increase of $25 million above the FY07 level of $19.4 million.

A further breakout of the appropriations levels for accounts of interest to research universities, including the University Research Initiative accounts, is available on the AAU Web site at: http://www.aau.edu/budget/08DODTable.pdf.

Overall, the committee approved $77.27 billion for Research, Development, Test and Evaluation (RDT&E). This is an increase of $1.32 billion, or 1.7 percent, above the FY07 level, and $2.15 billion, or 2.9 percent, above the Administration’s FY08 request.


--Defense Spending Bill Contains New Continuing Resolution

The package includes a continuing resolution (CR) that lasts through December 14 and generally would sustain discretionary spending for federal programs at their FY07 levels (the current CR runs out November 16). However, the CR adds $6.4 billion in domestic spending for disaster aid in the Gulf Coast and California and would funds veterans’ programs at the President’s requested FY08 level, which is $2.9 billion above the FY07 level. That is $3.7 billion below the amount contained in the Military Construction-VA conference report.

HOUSE APPROVES FY08 LABOR-HHS-EDUCATION CONFERENCE REPORT

The House last evening cleared by a vote of 274-141 the FY08 Labor-HHS-Education appropriations conference report (H.R. 3043, H. Rpt. 110-424), sending the measure to the President, who has said he will veto the measure because it is $9.8 billion more than he requested. The House action followed Senate approval of the package on November 7. Neither chamber achieved the two-thirds vote necessary to overcome a veto.

Congressional Democrats earlier this week decided to combine the conference reports of the Labor-HHS-Education and Military Construction-VA (H.R. 2642) funding bills, hoping to make it more difficult for the President to veto the package. But Senate Republicans used a revised provision of the ethics and lobbying law enacted last year (P.L. 110-81) to strike the MilCon-VA bill from the package on the basis that it had not been approved as part of the Labor-HHS-Education bill in either the House or the Senate. Senate Democratic leaders were unable to secure the 60 votes needed to overturn that challenge, and the two bills were split apart on a party line vote of 47-46. The Senate then separately voted to approve the Labor-HHS-Education conference report on a vote of 56-37.
The conference report on the bill is available at:

--Provisions in the Labor-HHS-Education Conference Report  UPDATED

The conference report would provide $30 billion for the National Institutes of Health (NIH), which is higher than either the House or Senate numbers ($29.7 billion and $29.9 billion respectively) and about $1.1 billion above the FY07 level of $28.9 billion.

The measure retains a provision in both the House and Senate bills that would require scientific articles based on research funded by NIH to be freely available to the public on NIH’s PubMed Central within 12 months of publication. AAU has endorsed the provision. The AAU letter to House Appropriations Committee Chairman David Obey (D-WI) on this subject is available at: http://www.aau.edu/budget/Ltr_PubMed_Central_2007-07-17.pdf.

The measure also includes a provision from the House-passed bill that would prohibit the Department of Education from issuing regulations on the accreditation process “until legislation specifically requiring such revision is enacted.”

Following are some highlights of funding for higher education programs:

- The Pell Grant maximum award would be raised to $4,925 by adding $125 in discretionary funding on top of the $490 in mandatory funding added by the College Cost Reduction Act. Taken together, the Pell Grant maximum award would increase in FY08 by $615 over the current maximum award of $4,310.
- The Pell Grant program, as a whole, would be funded at $14.5 billion in discretionary funds, the same as the Senate-approved level. The total is $838 million, or 6.1 percent, above the FY07 level. The House proposed $15.58 billion.
- Unobligated funds within the ACG and SMART grant programs would be made available for Pell Grants in the 2008-2009 award year.
- The TRIO program would be funded at $858.18 million, an increase of $30 million (3.6 percent) above the FY07 level. This is the same as the Senate-proposed level; the House proposed $868.18 million.
- The GEAR UP program would be funded at $318.42 million, an increase of $20 million (6.6 percent) above the FY07 level. This is a split between the House-proposed level of $323.42 million and the Senate level of $313.42 million.
- Campus-based programs would be level-funded, rejecting cuts proposed in the Administration’s FY08 budget.
- Student aid, as a whole, would be funded at $16.38 billion, an increase of $838 million above FY07. The House proposed $17.46 billion and the Senate proposed $16.37 billion.
- International Education and Foreign Languages programs would be funded at $110.7, which is a split between the House and Senate levels and an increase of $4.9 million above FY07.
- The conference report did NOT include the $3.2 million proposed in the House bill to increase the number of academic year and summer foreign language fellowships for International Education and Foreign Language Domestic programs.
- Also not included in the conference report was the House provision to establish a coordinating group on international education and foreign language studies.
SENATORS URGE ADMINISTRATION TO PROVIDE SUBSTANTIAL PELL GRANT INCREASE IN FY09 BUDGET

A bipartisan group of four Senators has sent a letter to White House Office of Management and Budget (OMB) Director Jim Nussle urging him to provide a “significant” increase for the maximum Pell Grant award in the President’s FY09 budget request. Senators Susan Collins (R-ME), Edward Kennedy (D-MA), Norm Coleman (R-MN), and Russ Feingold (D-WI) said in their letter that the increase would help to “ensure that the door to higher education, and the future it offers, remains open for thousands of needy college students next year.” The group also wrote to conferees on the FY08 Labor-HHS-Education appropriations bill asking them to provide “the highest possible maximum Pell grant award.”


HOUSE PASSES TAX BILL WITH THREE HIGHER EDUCATION PROVISIONS

The House today approved the Temporary Tax Relief Act of 2007 (H.R. 3996) by a vote of 216-193. Among other provisions, the bill would extend the above-the-line deduction for qualified tuition and related expenses and extend the IRA charitable rollover, which allows certain Individual Retirement Account (IRA) owners to make charitable deductions from their IRAs directly to eligible charities. Both provisions are set to expire at the end of this year. The third higher education-related provision would allow tax-exempt organizations, such as universities, to invest directly in domestic hedge funds without incurring the Unrelated Business Income Tax (UBIT).

A group of higher education associations, including AAU, wrote to all Members of Congress on November 7 urging them to approve H.R. 3996. The letter said that the associations were “extremely grateful” that the three provisions had been included in the bill and urged Members to support its final passage. The letter is available on the AAU Web site at: http://www.aau.edu/issues/Ltr_Assn_House_HR3996t_11-06-07.pdf.

H.R. 3996 is controversial because it would cover its $78 billion cost, in part, by raising taxes on the compensation of executives at hedge funds and private-equity firms. Senate Republicans are opposed to these tax increases and the White House has said the President would veto the bill if it includes tax increases.

OTHER CONGRESSIONAL ISSUES

HOUSE EDUCATION LEADERS INTRODUCE DRAFT HEA REAUTHORIZATION BILL

Democratic leaders of the House Education and Labor Committee today introduced the committee’s bill to reauthorize the Higher Education Act (HEA). Committee Chairman George Miller (D-CA) and Higher Education, Lifelong Learning, and Competitiveness Subcommittee
Chairman Ruben Hinojosa (D-TX) issued a press release and list of highlights of the bill, which can be accessed on the committee Web site at: http://www.house.gov/apps/list/speech/edlabor_dem/rel110907.html.

The Committee’s Ranking Republican Member, Howard “Buck” McKeon (R-CA), also sent out a press release on the measure, focusing on the fact that the draft bill “reflects bipartisan collaboration on key college access and affordability issues,” including college-cost provisions “modeled largely after college cost accountability proposals championed by McKeon…” The press release is not yet posted on the Republican portion of the Committee’s Web site, which can be accessed at: http://republicans.edlabor.house.gov.

The text of the bill, which was made available at 4:00 p.m. EST, can be accessed at: http://edlabor.house.gov/bills/HEAReauthorizationText.pdf.

OTHER

SECOND COMMUNITY LETTER ON LABOR-HHS-EDUCATION BILL HAD 1,076 SIGN-ONS

A total of 1,076 institutions and organizations, including AAU, signed on to a letter sent November 5 to all Members of Congress encouraging them to approve the FY08 conference report on the FY08 Labor-HHS-Education appropriations bill. This was the second of three letters on behalf of the measure spearheaded by a coalition of health, education, and labor groups. A third letter will be sent to President Bush asking him to sign it.

In addition, the group ran full-page ads in CQToday this week urging Members to approve the conference report.

Additional information about this broad community effort, including the text of the letters and the list of signatories, is available on the Committee for Education Funding Web site at: http://www.cef.org.

AAU URGES CJS APPROPRIATIONS CONFEREES TO SUSTAIN FUNDING INCREASES FOR NSF, NASA

AAU President Robert M. Berdahl sent a letter November 2 to House and Senate negotiators on the FY08 Commerce-Justice-Science appropriations bill (H.R. 3093) urging them to sustain in conference the significant funding increases provided for the National Science Foundation (NSF) and NASA in the House and Senate versions of the bill. Specifically, the letter requests $6.5 billion for NSF, which is a 10-percent increase over FY07 funding, and $18.6 billion for NASA, which includes the $1 billion in emergency funding added by the Senate to help the space agency recover from losses associated with the Columbia space shuttle tragedy.

The letter can be viewed at: http://www.aau.edu/budget/Ltr_CJS_11-2-07.pdf.

UNIVERSITY LEADERS URGE HOUSE EDUCATION LEADERS NOT TO ADD P2P PROVISIONS TO HEA REAUTHORIZATION BILL
A group of four university leaders wrote to members of the House Education and Labor Committee and the House leadership on November 7 urging them not to include in the reauthorization of the Higher Education Act (HEA) any provision on illegal peer-to-peer (P2P) file sharing sponsored by the entertainment industry.

The concern is that the Education and Labor Committee may be considering a P2P provision similar to one offered last July by Senate Majority Leader Harry Reid (D-NV) during Senate consideration of HEA. That amendment would have required the Secretary of Education to use industry-provided information to create an annual list of the 25 colleges and universities with the highest levels of illegal P2P file sharing. The Department would have been required to demand that those institutions implement a technological remedy. The Reid amendment was later modified to simply require institutions to inform students about their own policies as well as criminal and civil penalties for illegal P2P file sharing.

The four co-signers of the letter are the higher education members of the Joint Committee of the Higher Education and Entertainment Communities, a group that has worked for the past five years to develop workable means to reduce, if not eliminate, illegal file sharing on campus. They are William Kirwin, Chancellor of the University of Maryland System; John Hennessy, President of Stanford University; Dorothy Robinson, Vice President and General Counsel of Yale University; and Graham Spanier, President of the Pennsylvania State University.


**HIGHER EDUCATION ASSOCIATIONS COMMENT ON SENATE PATENT REFORM BILL**

Five higher education associations, including AAU, have provided comments to Senate committee staff on the Senate version of the Patent Reform Act of 2007 (S. 1145). The statement from AAU, the American Council on Education, the National Association of State Universities and Land-Grant Colleges, the Association of American Medical Colleges, and the Council on Governmental Relations thanked the Senate Judiciary Committee for its “thoughtful development” of S. 1145 and provided comments on three remaining concerns of the university research community.


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