

SUNY Federal Relations Update Tuesday, May 13, 2008

Congress this week is trying to move the fiscal year 2008 supplemental war funding legislation. Once they send this to the President, House and Senate negotiators expect to put the final touches on the FY09 budget resolution. The budget resolution document, which is not signed into law by the President, is the annual guide for congressional spending and fiscal policy and sets the cap on discretionary spending in a given fiscal year. After Congress approves the measure, the House and Senate appropriations committees will allocate funding among their respective subcommittees and begin moving their FY09 appropriations bills. However, at this time most bills are not expected to be enacted prior to the presidential election in November. Reports indicate, however, that House and Senate negotiators on the budget resolution are about \$1.8 billion apart in their discretionary spending totals and they must find compromise before a budget resolution can be enacted.

I've include some additional information about the war supplemental below, as well as some *important updates regarding the Higher Education Act reauthorization* and other issues.

- **HEA on the Move!**
- **IRS to Send Compliance Check Questionnaires to 400-500 Higher Ed Institutions**
- **House and Senate Continue Work on Supplemental War Funding**
- **Department of Education Implementing the "Ensuring Continued Access to Student Loans Act of 2008"**
- **AAAS Holds Forum on Science and Technology Policy**
- **Rising Above the Gathering Storm Two Years Later**

As always, please feel free to contact me with any questions or concerns.

Liz

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HEA on the Move!

Congress last week approved another one-month extension of the Higher Education Act (HEA), extending the existing law through May 31 gives House and Senate negotiators on the five-year reauthorization bill (S. 1642, H.R. 4137) additional time to reach agreement. It is being reported that Congress is attempting to pass final HEA reauthorization legislative before it breaks for the Memorial Day Recess. Several higher education associations, as well as Inside Higher Ed, have reviewed a draft that has begun to circulate. You can find the Inside Higher Ed story here: <http://www.insidehighered.com/news/2008/05/13/hea>. Angie Anderson is following developments closely and has identified a number of outstanding provisions of concern, among them:

- Except where explicitly stated, the vast majority of the bill becomes effective immediately upon its enactment.
- The link between institutional Title IV eligibility (financial aid) and teacher training programs remains in the current version of the draft conference report.
- This iteration of the bill also contains language that would require institutions to track and report on their alumni with respect to their employment and graduate education activities.
- As drafted, the conference report would allow the Secretary to regulate in several areas related to accreditation, which goes beyond the negotiated language jointly offered by the higher education community and the accreditors.

There are a number of potential positive changes:

- On the "peer-to-peer" front, it appears that some progress has been made. While a technology-based deterrent plan would no longer be required, members of the higher education community, including EDUCAUSE, are further analyzing the language.
- While the cost provisions have become much more complicated (see above), it does appear that there is now at least some level of sensitivity of the differences between in-state and out-of-state rates at public universities with respect to tuition and fees.
- The conference report also maintains the language in the House bill that calls on the GAO to conduct a study on the impact of government regulations on institutions of higher education.

As we follow the developments on the HEA reauthorization, we are eager for any questions, comments or feedback you may have— please contact Angie Anderson with directly at: angie.anderson@suny.edu.

IRS to Send Compliance Check Questionnaires to 400-500 Higher Ed Institutions

In remarks Friday to a meeting of the ABA Section on Taxation, Lois Lerner, Director of Exempt Organizations at IRS, noted that their principal oversight project this year will be its survey of colleges and universities. Lerner added that the survey could provide information the IRS might use to decide whether to more closely examine the “commensurate use doctrine,” which says that a charitable organization should be providing services that are commensurate with its resources--as a way of ensuring that these organizations are fulfilling their charitable missions. In other words, are higher ed institutions and other charitable organizations providing services commensurate with their resources?

IRS plans to send compliance check questionnaires this year to 400-500 higher ed institutions, focusing on four main areas of interest – organization structure, UBIT-related issues, endowment funds, and executive compensation. In the endowment area, Lerner said IRS will look at the types of funds, whether they are restricted or unrestricted, and the types of investments the endowment uses. According to the May 12, 2008 BNA Daily Report for Executives, endowments and executive compensation are particular areas where IRS may look at applying the commensurate test.

We expect the House Ways and Means Committee to mark up legislation this week to extend certain expiring tax provisions for one year. The package is expected to include the above-the-line deduction for qualified tuition expenses and the IRA rollover provision, which has been a successful fundraising tool for many colleges and universities. It will also include a number of energy tax credits designed to encourage investment in renewable energy technologies.

House and Senate Continue Work on Supplemental War Funding

The House and Senate continue work this week on the FY08 emergency war supplemental funding bill, but it remains unlikely that the final package will include added funding for science. The House version of the bill—which will be on the House floor this week—includes no extra science funding. The version to be marked up in the Senate Appropriations Committee this week contains an expansive \$1.2 billion package for science. Its passage would require 60 votes, and Senate Republicans have said they are likely to block this and other add-ons. The Washington Post yesterday [editorialized](#) against financing so many initiatives, including key elements of the science package, “outside the normal budget process.” Although the Senate committee bill is not yet public, we know that it is different from the higher education community’s request for science, which aimed to repair the damage caused by the failure during the FY08 appropriations process to approve promised increases for NSF, the Department of Energy (DOE) Office of Science, and the National Institute of Standards and Technology (NIST). The measure reportedly includes \$200 million for NSF, \$100 million for DOE, and nothing for NIST. However, it would add \$400 million for NIH, \$200 million for NASA, and \$75 million for the National Oceanic and Atmospheric Administration.

Department of Education Implementing the “Ensuring Continued Access to Student Loans Act of 2008”

The Department of Education has begun implementing provisions of the “Ensuring Continued Access to Student Loans Act of 2008,” now that the President has signed it into law. The new law aims to ensure continued liquidity in the federal student loan market by allowing guarantee agencies to act as lender of last resort on an institution-wide basis and authorizing the Secretary of Education to purchase federally guaranteed loans made by private lenders. The Department says it should be able to start processing both emergency loan buy-backs and loans to guarantee agencies by June 1.

AAAS Holds Forum on Science and Technology Policy

I attended last week’s 33rd Annual Forum on Science and Technology Policy, sponsored by the American Association for the Advancement of Science (AAAS). John Kao, author of Innovation Nation, noted that a science and technology policy agenda is different from an innovation agenda, because innovation is more than solely scientific discovery.

He asserted that there is a distinct interdisciplinary aspect to innovation, and that the U.S. innovation agenda needs a narrative to galvanize public support around the issues in order to address the “silent Sputnik” that we face. He cited the example of three Finnish universities that are combining into one major Innovation University in order to harness the power of various disciplines. Other speakers addressed the issue of science and technology policy advocacy as well as new funding models for research and innovation. The forum’s program is available at: www.aaas.org/spp/rd/forum.htm

The newly published AAAS Report XXXIII: Research and Development FY 2009 is a comprehensive analysis of R&D in the proposed federal budget for FY 2009. The report, an annual effort produced in collaboration with nearly 20 science and engineering associations, is now available on the AAAS R&D web site and in print. The 280-page report, including nearly 40 tables and 25 chapters on R&D by agency, theme, and discipline, is an authoritative reference on R&D in the budget and is released in conjunction with the AAAS Forum on Science and Technology Policy (below).

A 16-page summary of the report and more detailed analyses of FY 2009 funding proposals are available on the AAAS R&D web site on the FY 2009 R&D page. The web site contains the full text of the report and an online store for print copies of the report, with discounts available for AAAS members.

(<http://www.aaas.org/spp/rd/rd09main.htm>) Book home page and online ordering form

(<http://www.aaas.org/spp/rd/fy09.htm>) R&D in the FY 2009 home page

(<http://www.aaas.org/spp/rd/prev09p.htm>) Summary of the FY 2009 R&D report

Rising Above the Gathering Storm Two Years Later

On April 29, I also had the opportunity to attend a convocation hosted by the National Academies to discuss progress on implementation of the recommendations in its Rising Above the Gathering Storm report that was issued in the fall of 2005. Corporate CEOs, seven members of Congress, three cabinet secretaries and others conveyed a sense of urgency with regard to funding math and science education and basic research. Several speakers emphasized that other countries are making significant investments in basic research and innovation and that the U.S. is under-investing in that area.

University of Maryland President Dan Mote argued that progress in meeting the Rising Above recommendations for higher education has been mixed. For example, while the report called for 5,000 new Graduate Research Fellowships (GRFs) each year, there has been a net loss of 107 GRFs between 2005-2008. On the positive side, the Administration's budget calls for a major increase for GRFs in Fiscal Year 2009.

In one of several calls for increased development of alternate sources of energy, Senator Lamar Alexander (R-TN) announced his intention to propose an initiative, modeled on the World War II-era Manhattan Project, focused on energy. According to congressional speakers, a major effort is underway to include \$500 million in the FY 2008 supplemental appropriations bill to restore cuts to NSF and avoid reductions in staff in the Office of Science in the Department of Energy.

More information about the convocation is available at:
nationalacademies.org/gatheringstorm/