



# WASHINGTON REPORT

FEDERAL RELATIONS REPORT OF THE ASSOCIATION OF AMERICAN UNIVERSITIES

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3. Science Advisor Speech on Research Funding
4. Letter to DoEd on Draft Strategic Plan

### CONGRESSIONAL SCHEDULE:

#### CONGRESS SET FOR TWO-WEEK RECESS

As this newsletter is being written March 13, the House and Senate plan to adjourn at the end of next week for a two-week recess to run from March 25 to April 5.

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### BUDGET & APPROPRIATIONS:

#### PRESIDENT SIGNS STIMULUS BILL

House Republicans March 6 gave up trying to move broad economic stimulus legislation, and embraced a narrowly focused, bipartisan bill (H.R. 3090) that combined an extension of unemployment benefits with a set of mostly business-related tax breaks favored by Democrats.

The bill passed the House on March 7 by an overwhelming vote of 417-3, and passed the Senate on March 8 by a vote of 85-9. President Bush signed the measure March 9.

The measure will cost \$51 billion in FY2002 and \$43 billion in FY2003. Because its business tax breaks are ultimately expected to generate new revenues, the

estimated 10-year cost of the measure is only \$42 billion.

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### **CBO ISSUES**

#### **MORE POSITIVE BUDGET FORECAST**

The Congressional Budget Office March 6 is sued an updated budget outlook that reflected increasing optimism over the economy. In January, CBO had said that maintaining current services (i.e., spending at current levels with an adjustment for inflation, but with no new spending or tax changes of any kind) would result in a \$21-billion deficit in FY2002 and a \$14-billion deficit in FY2003. In the March 6 budget update, CBO said that because the economy was rebounding more quickly than expected, maintaining current services would now result in surpluses of \$5 billion in FY2002 and \$6 billion in FY2003.

Even so, there is no possibility that Congress will adhere to a current services budget in FY2003. The unemployment/economic stimulus package approved last week raises FY2003 spending by an additional \$43 billion. Moreover, the new spending and tax changes proposed in the President's FY2003 budget plan would produce a deficit of \$121 billion.

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#### **WORK BEGINS ON BUDGET RESOLUTION**

The FY2003 budget resolution being marked up by the House Budget Committee as this newsletter is being written on March 13, is expected to follow closely the budget President Bush submitted last month. The resolution will recommend full funding of the President's defense spending request of \$393.8 billion, including a \$10 billion reserve for fighting terrorism. It also will call for Congress to approve the President's \$37.7 billion request for homeland security.

House GOP leaders have said their budget resolution will be balanced, but they plan to achieve this by excluding the costs of the just-enacted stimulus package. In addition, House Budget Committee chairman Jim Nussle will use the more optimistic revenue and spending projections from the Office of Management and Budget.

The budget resolution likely will go to the House floor March 21.

The Democratic-controlled Senate Budget Committee will have more difficulty in developing its version of the FY2003 budget resolution, which it expects to mark up the week of March 18. The committee faces strong election-year pressure to exceed the domestic spending levels proposed in the Administration's budget, while still supporting the

Administration on national security and demonstrating fiscal discipline.

The difficulty of crafting a budget resolution that could pass the Senate, coupled with the pressures of an election year in which control of both Houses is up for grabs, reinforces the view that the House and Senate this year will be unable to agree on a final budget resolution.

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### **ADMINISTRATION MAY POSTPONE DEBT CEILING FIGHT**

Responding to concerns of the House GOP leadership that a stand-alone bill to raise the government's debt ceiling could not pass in the House, the Administration has said it may postpone reaching the debt ceiling in late March by borrowing from federal employee retirement accounts.

By postponing the deadline for raising the debt ceiling, the Administration would give House Republican leaders time to attach the debt-ceiling increase to an FY2002 supplemental spending measure that Democrats would have a hard time opposing. The move would make it more difficult for Democrats to use consideration of debt-ceiling legislation as an occasion to blame Republicans for the disappearance of the budget surplus.

The Administration is expected to send its supplemental spending request to Capitol Hill the week of March 18, but Congress is likely to need several weeks to actually approve it.

Meanwhile, Democratic and Republican leaders in the Senate have agreed to pass a freestanding bill to raise the debt ceiling as early as the week of March 18.

Although debt-limit increases were once routine when the federal budget was regularly in deficit, there has not been a need for one for some years because of the recent surpluses. With the federal budget once again running in the red, the issue has resurfaced.

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### **OTHER CONGRESSIONAL DEVELOPMENTS:**

#### **WAIVERS AND APPEALS**

#### **URGED FOR BIOTERRORISM BILL**

Last December, the House and Senate approved different versions of bioterrorism legislation (H.R. 3448 and S. 1765) that referenced provisions of last October's broad anti-terrorism act (H.R. 3162, the "USA Patriot Act") that restrict certain categories of individuals from having access to or conducting research on certain biological agents and toxins.

But neither version of the bioterrorism bill includes waiver or appeal processes for these restricted persons, though the research community had sought both. With a waiver process in place, restricted persons who pose no security threats but are key to making research advances might still be able to contribute to searches for vaccines and cures. An appeal process would allow for correction of mistakes.

The university research community is working to have language incorporating the desired waiver and appeal processes included in the final conference report.

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#### **HOUSE PRODS SENATE ON STUDENT VISA REFORM BILL**

As noted in the last issue of this newsletter, Senator Robert Byrd (D-WVA) has been blocking consideration of the border security/student visa reform bill that passed the House in December (H.R. 3525). The measure essentially had been pre-conferenced with the Senate before the House adopted it, but Senator Byrd held up what was expected to be quick Senate approval on the basis that he had "procedural concerns" about the way the bill had been developed. (The American Council on Education has stated that both versions of the legislation are acceptable to the higher education community.)

In an effort to force Senate action on H.R. 3525, House leaders March 12 attached the bill to immigration legislation that is popular with Democrats. That measure, H.R. 1885, would extend temporarily an immigration program that allows some illegal aliens to remain in this country while they are applying for residency.

A spokesman for Senator Byrd said the House action would not change the Senator's view that the border security legislation should be subject to debate and amendment on the Senate floor.

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#### **AAU URGES SUPPORT OF RATS, MICE & BIRDS AMENDMENT**

AAU February 22 sent letters to farm bill conferees in both chambers urging them to retain in the final bill the Senate amendment by Jesse Helms (R-NC) that would codify the existing regulatory exclusion of rats, mice, and birds from oversight under the Animal Welfare Act. See Attachment 1 for a copy of the letters. The text of the letters has been posted on the AAU website under <http://www.aau.edu/research/animals.html>.

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#### **SENATE GEARING UP FOR CLONING FIGHT**

The Senate Health, Education, Labor and Pensions Committee March 5 held a hearing on the issue of therapeutic cloning. The star witness, actor Christopher Reeves, warned that the U.S. would "lose its preeminence in science and medicine" if therapeutic cloning was banned. But the most significant development was an indication that committee member Bill Frist (R-TN) may be getting ready to announce support for a ban on therapeutic cloning. Frist said he is "extremely concerned" about the practice, and he stressed that "we have an obligation to make sure scientific progress does not occur in a moral vacuum."

The Senate is expected to consider legislation on human cloning sometime this spring.

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#### **SENATE REVIEWS INTELLECTUAL PROPERTY LAWSUIT IMMUNITY**

The Senate Judiciary Committee March 6 held a hearing on S. 1611, a bill by chairman Patrick Leahy (D-VT) that would force state entities—including state colleges and universities—to waive their immunity from federal lawsuits if they themselves seek the right to sue under federal intellectual-property laws.

Leahy and supporters of his legislation maintain the immunity status that state entities enjoy under the 11th Amendment to the Constitution gives them unfair advantage in federal legal disputes over intellectual-property rights. Administration witnesses agreed with this position. James Rogan, undersecretary of commerce for intellectual property and director of the U.S. Patent and Trademark Office, said the current legal environment is "skewed." "State institutions profit from federally protected intellectual property and are permitted to bring suit to protect their own intellectual property, but are shielded from monetary damages as defendants," he said.

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#### **EXECUTIVE BRANCH: OMB PROPOSES "INVESTMENT CRITERIA" FOR BASIC RESEARCH**

The Office of Management and Budget February 27 distributed at a National Academies' workshop a "discussion draft" document entitled "OMB Preliminary Investment Criteria for Basic Research." The document and the discussion of it at the workshop were summarized in an article in the February 28 online edition of the *Chronicle of Higher Education*.

The discussion draft document is intended to address concerns expressed by OMB director Mitch Daniels, OMB associate director for natural resources, energy and science Marcus Peacock, and other Administration officials that federal spending for science should be evaluated according to performance criteria. The Bush Administration has discussed its intention to develop such criteria in both its FY2002 and FY2003 budget proposals.

The discussion draft document proposes that basic research programs should be evaluated according to three guidelines—quality, relevance, and performance—and suggests methods for evaluating research according to each.

See Attachment 2 for a copy of the document, which is also available on the AAU website at: <http://www.aau.edu/research/OMBCriteria.html>.

OMB says it will welcome comments from the academic community on the document; all such comments should be submitted to David Trinkle of the OMB staff ([dtrinkle@omb.eop.gov](mailto:dtrinkle@omb.eop.gov)). There is no specific deadline for submitting comments to OMB.

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#### **SCIENCE ADVISOR REVIEWS SCIENCE FUNDING POLICY**

White House Science Advisor John Marburger February 15 told an American Association for the Advancement of Science (AAAS) audience that federal funding for the health sciences, information sciences, and technologies of measurement and analysis will continue to be favored because they address the nation's highest priorities: the war against terrorism, homeland security, and economic revival.

Rejecting calls for equalizing federal funding of the life sciences and physical sciences, he argued that with expanding opportunities for atomic-level research, life sciences research "may still be underfunded relative to the physical sciences." He added that he supports the science management initiatives of the Administration as essential to making difficult choices among scientific opportunities and to reassuring the public that "the ever increasing [federal] investment in science is being made wisely." See Attachment 3 for a copy of the speech. It also is available on the Office of Science and Technology Policy website at [http://www.ostp.gov/html/02\\_02\\_20.html](http://www.ostp.gov/html/02_02_20.html).

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#### **NIH ANNOUNCES GRANT PROGRAM FOR HUMAN SUBJECTS OVERSIGHT**

The National Institutes of Health March 5 announced a new grant program intended to provide

"short-term interim support for institutional activities that will strengthen oversight of human subjects research at institutions that receive significant NIH support for clinical research." A total of \$28.5 million will be available for the program this year; this sum is expected to fund 174 awards. This is a one-time award program, and it will not pay for facilities and administration costs.

The announcement of the program is available online at <http://grants1.nih.gov/grants/guide/rfa-files/RFA-OD-02-003.html>. Eligible institutions are listed in three appendices to the announcement, stratified according to the amount of NIH research funding they receive.

Applications for program funding are due by May 7. The anticipated award date is September 1.

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#### **U.S. PROPOSES WORLDWIDE BAN ON HUMAN CLONING**

The U.S. government February 26 proposed that the United Nations adopt a "global and comprehensive ban" on human cloning and all experimentation involving human embryos. The proposal was made at a meeting of the UN's Committee on an International Convention Against the Reproductive Cloning of Human Beings. France and Germany have proposed a global treaty that would ban reproductive human cloning but allow therapeutic cloning to go forward, and the UN General Assembly is to decide in August whether to begin negotiating such a treaty. The new U.S. proposal is intended as an alternative to that approach.

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#### **DEPARTMENT OF EDUCATION RELEASES DRAFT STRATEGIC PLAN**

The Department of Education February 7 released the draft of a five-year strategic plan. The draft plan outlines the Administration's priorities for education based on six strategic goals. The plan poses several problems from the point of view of higher education:

- The plan does not mention the principal federal role in higher education of promoting access through need-based student aid.
- The plan does not distinguish between the fundamentally different federal roles in K-12 and higher education, and as a consequence proposes actions inappropriate for higher

education, such as producing a report on "national educational performance."

- The wording of strategic goal number 5 -- "enhance the quality of and access to postsecondary education" -- suggests a direct involvement of the federal government in the academic affairs of colleges and universities.
- The plan omits several areas of federal support for higher education including graduate and international education.
- The plan would require campuses to expand their reporting of graduation rates and other data, and would call on states to include higher education data in statewide accountability systems in ways that might amount to a federally mandated expansion of state oversight of higher education.

Following release of the draft plan, the American Council on Education led a community-wide effort to prepare comments. Those comments were submitted February 21 in a letter to the Department of Education. See Attachment 4 for a copy of the letter. The document also has been posted on the AAU website at: [www.aau.edu/education/legislat.html](http://www.aau.edu/education/legislat.html).

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#### **INS TO DELAY SEVIS REGULATIONS**

The American Council on Education February 25 reported that the Immigration and Naturalization Service plans to delay publication of fee-collection regulations for the Student and Exchange Visitor Information System (SEVIS), and instead to operate the system initially through the \$36-million SEVIS appropriation that was provided in the FY2002 Defense appropriations bill.

INS had been planning to publish the fee-collection regulation in early March, and to begin collecting fees 60 days after that.

ACE cautioned that INS has so far been unable to overcome the State Department's reluctance to adopt the approach that the higher education community wants, and unless State changes its mind, INS will still go ahead and publish the fee-collection regulation at some point in the future (presumably when the \$36 million is about to be used up).

If and when that happens, the published regulation will be a final regulation that will automatically take effect 60 days later.

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#### **PRESIDENT EXPECTED TO TAP JHU OFFICIAL TO HEAD NIH**

Reports the week of March 4 indicate that the President intends to nominate Elias Zerhouni, executive vice dean of the Johns Hopkins University School of Medicine, as director of the National Institutes of Health.

Zerhouni, a radiologist, is the school's second highest-ranking official. He has been instrumental in developing the school's new Institute for Cell Engineering, which is devoted partly to stem-cell research. News sources indicate, however, that Zerhouni has given assurances that he will adhere to the President's policy on stem-cell research, and to the President's position on therapeutic cloning.

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#### **FDA DEPUTY COMMISSIONER APPOINTED**

Health and Human Services Secretary Tommy Thompson February 25 named Lester Crawford Jr., a veterinarian, as deputy commissioner of the Food and Drug Administration. As deputy commissioner, Crawford will be the senior official at FDA, pending the installment of a permanent commissioner.

Crawford most recently served as head of the Center for Food and Nutrition Policy at Virginia Tech. He also has been administrator of the U.S. Department of Agriculture's Food Safety and Inspection Service and director of the FDA's Center for Veterinary Medicine. He holds both a Doctor of Veterinary Medicine degree and a Ph.D. in pharmacology.

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#### **DOE SCIENCE OFFICE HEAD CONFIRMED**

The Senate March 4 confirmed Ray Orbach, a physicist and former chancellor of the University of California, Riverside, as director of the Department of Energy's Office of Science.

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#### **NEW APPOINTMENT AT NASA**

NASA Administrator Sean O'Keefe March 4 named Mary Kicza as associate administrator for Biological and Physical Research. Kicza, who has been with NASA since 1982, is currently associate director of NASA's Goddard Space Flight Center. She replaces Kathie Olsen, who has been serving as both Acting Associate Administrator and Chief Scientist for the agency. The President has announced his intention to nominate Olsen as the associate director of the White House Office of Science and Technology Policy.

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**OTHER SECTORS:****ACCREDITORS FOR HUMAN SUBJECTS  
RESEARCH READY FOR APPLICATIONS**

The Association for the Accreditation of Human Research Protection Programs (AAHRPP) February 26 announced at a briefing in the capital that the organization is now ready to accept applications from organizations that conduct or review research involving human participants. Representatives from the Department of Health and Human Services and the National Science Foundation were on hand to express their support for this type of accreditation.

The organization uses a voluntary, peer-driven, educational model of accreditation whose standards meet all regulatory requirements related to human participant protections and, in some cases, exceed them.

AAHRPP was incorporated last April as a national, nonprofit accrediting organization. Its founding member organizations include AAU, the Association of American Medical Colleges, the Consortium of Social Science Associations, the Federation of American Societies for Experimental Biology, NASULGC, the National Health Council, and Public Responsibility in Medicine and Research.

Further information can be found on the organization's website at [www.aahrpp.org](http://www.aahrpp.org).

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**AUTM FINDS UNIVERSITY TECHNOLOGY  
LICENSING UP BY 9 PERCENT**

*The Chronicle of Higher Education* March 5 reported on the latest Association of University Technology Managers' survey of U.S. college and university licensing activity, which covered the 2000 fiscal year. The survey indicates that the nation's colleges and universities had more than \$1 billion in royalty income in FY2000, a 40-percent increase over the year before. However, a good deal of this increase was due to special, one-time payments like a \$200-million payment that the University of California, San Francisco, received from a patent-infringement lawsuit.

A better indicator of the growth in college and university licensing activity was the survey's data on the number of licenses and options executed, which rose by 9 percent to 3,606. The FY2000 survey included responses from 142 institutions. Year-to-year comparisons of AUTM surveys must always be taken with a grain of salt since the same institutions do not participate in the survey every year. The new AUTM survey presumably will be posted at some point on the organization's website ([www.autm.net/index\\_ie.html](http://www.autm.net/index_ie.html)), but it is not yet available there.

**AAU:****SSWG DAY ON THE HILL SCHEDULED**

This year's AAU Space Science Working Group (SSWG) meeting and Congressional Visits Day will be held on April 25-26, respectively. The April 25 meeting, which will begin at noon at the AAU offices, will feature speakers and group discussion. The next day, meetings with congressional staff will be scheduled from 9:00 a.m. to 3:30 p.m.

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**CFR:****NEXT MEETING**

The next meeting of the AAU Council on Federal Relations is Wednesday, April 3, 2002.

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