Congress Clamps Down on Donations of Patents

H.R. 2896, a tax bill introduced in the House on June 4, includes a provision that may affect some colleges. The bill would tightly restrict the current deduction on the donation of patents and other intellectual property to nonprofits, including universities.

Similar legislation passed the Senate last month, but is on hold pending action in the House. The legislation is intended to address concerns that the value of such donations is being vastly inflated.

Currently, charitable contributions of intellectual property are deductible at fair market value. This tax incentive has encouraged businesses holding valuable patents to seek out nonprofit entities, including research universities, to provide the opportunity to develop key technologies.

The Senate bill, S. 1637, would give patent donors an initial tax deduction of the lesser of 5 percent of appraisal value or $1 million. For example, a $10 million donation would result in an initial deduction of $500,000. Additional deductions would be permitted based on a percentage of the net income generated by the patent over 12 years following the donation.

Ways and Means Committee Chairman Bill Thomas (R-Calif.) has included an even stricter provision in the House bill that would limit the deduction to the value of the donor’s tax basis on the intellectual property. Beyond the desire to address the valuation issue, these provisions would raise over $3 billion in federal revenues to pay for other tax relief provisions in the bill.

The higher education community has been working with the House and Senate on compromise language introduced by Rep. Amory Houghton (R-N.Y.), who sits on the House Ways and Means Committee. The Houghton bill would eliminate abuses in valuation, while preserving an appropriate incentive for intellectual property donations to universities, teaching hospitals, and nonprofit research institutions.

Thus far, efforts to substitute the Houghton language have not been successful—primarily because it doesn’t raise nearly as much federal revenue as the harsher provisions do.

The Ways and Means Committee marked up the bill in the predawn hours this morning. It remains unclear when floor action might occur.

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Where in the World Is the HEA Bill?

True to the pattern set in early May, there has been another flurry of activity on the reauthorization of the Higher Education Act (HEA), followed by a period of quiet uncertainty.

After hearing that a bill would be marked up within a week, teams of higher education association lobbyists met with nearly all the members of the House Labor and Workforce Committee to express many concerns about H.R. 4283, the “College Access and Opportunity Act.” During the same period, NAICU and its companion associations also responded in writing.

Under the auspices of the American Council on Education, 45 associations signed a 25-page letter detailing the pros and cons of the bill. In response to a request from the committee staff, NAICU sent its own letter and (Continued on page 2)
House Hearing Scrutinizes 529 Plans

On June 2, the House Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing on “Investing for the Future: 529 State Tuition Savings Plans.” This hearing kicks off the work of a recently formed task force appointed by Securities and Exchange Commission Chairman William Donaldson to study these plans.

Section 529 college savings and prepaid tuition plans—named for the section of the Internal Revenue Code that governs them—were created in 1996. As their popularity has skyrocketed, so have concerns that exorbitant fees and insufficient regulation could severely compromise a plan’s value to the consumer. In addition, since these plans operate differently from state to state, parents often find it confusing and time-consuming to gather information and make choices.

The regulation of 529 plans was the subject of a recent letter that House Financial Services Committee Chairman, Michael G. Oxley (R-Ohio) sent to Donaldson. His response suggested the formation of a task force to study the concerns of fee structures, information access, and other regulatory issues. In a committee press release, Oxley said that “our goals should be to increase transparency and to clarify the regulatory oversight. For most parents, investing in a child’s future is too important to be left to ambiguous fees, inadequate disclosures, and unclear regulations.”

Witnesses at the June 2 hearing included executive directors of the Virginia and Ohio plans, as well as representatives from the securities industry, among others.

A few senators have already introduced bills covering limited HEA issues:
- Sen. John Warner (R-Va.) has a “Pell-Plus” bill to encourage high school students to take more math and science.
- Sen. Jack Reed (D-R.I.) has offered a bill to reauthorize LEAP.
- Sen. Michael Enzi (R-Wyo.) is working on a bill that will include provisions on distance education.
- Sen. Chris Dodd (D-Conn.) is in the final stages of preparing a graduate education bill.
- Sen. Hillary Clinton (D-N.Y.) has been working on legislation aimed at increasing assistance for nontraditional students.

Time is running out, and many issues are highly charged politically. The coming weeks will tell what new bills may be introduced, and what consideration they may receive.

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