LEGISLATIVE AND REGULATORY REPORT

Presenter:

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Association of American Universities
Washington, D.C.

Stetson University College of Law:

17th ANNUAL LAW & HIGHER EDUCATION CONFERENCE
Clearwater Beach, Florida
February 11-13, 1996
Maureen Byrnes
Association of American Universities

Presentation Outline
Monday, February 12, 1996

I. The New Congress

II. Budget and Appropriations (Attachment I)
   - Research Funding
   - Student Aid
   - Graduate Education
   - Medicaid and Medicare Reform

III. Immigration Reform (Attachment II)

IV. "Reinventing Government" and the Effect on Grant Policies

V. Research Policy Issues (Attachment III)
   - Conflicts of Interest
   - Research Integrity
   - Research Involving Human Subjects

VI. 1996 and Beyond
Attachment 1

Maureen Byrnes
Association of American Universities
### Status of FY1996 Appropriations as of January 22, 1996

<table>
<thead>
<tr>
<th>Appropriations</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
<th>Conference Approval</th>
<th>Presidential Action</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agriculture</strong></td>
<td>Passed 7/21</td>
<td>Passed 9/20</td>
<td>Completed 9/27</td>
<td>House 10/12, Senate 10/12</td>
<td>Signed 10/21</td>
</tr>
<tr>
<td>HR 1976 (USDA Research)</td>
<td>Passed 7/26</td>
<td>Passed 9/29</td>
<td>Completed 11/29</td>
<td>House 12/6, Senate 12/7</td>
<td>Vetoed 12/19</td>
</tr>
<tr>
<td><strong>Commerce-Justice</strong></td>
<td>Passed 11/2</td>
<td>Passed 11/2</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>HR 2076 (NIST, NOAA)</td>
<td>Passed 7/12</td>
<td>Passed 8/1</td>
<td>Completed 10/25</td>
<td>House 10/31, Senate 10/31</td>
<td>Signed 11/13</td>
</tr>
<tr>
<td><strong>District of Columbia</strong></td>
<td>Passed 7/11</td>
<td>Passed 9/21</td>
<td>Completed 10/24</td>
<td>House 12/13</td>
<td>---</td>
</tr>
<tr>
<td>HR 2546</td>
<td>Passed 7/18</td>
<td>Passed 8/9</td>
<td>Completed 12/12</td>
<td>House 12/13,* Senate 12/14</td>
<td>Vetoed 12/18</td>
</tr>
<tr>
<td><strong>Energy &amp; Water</strong></td>
<td>Passed 8/4</td>
<td>Filibustered</td>
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<td>---</td>
<td>---</td>
</tr>
<tr>
<td>HR 1905 (DOE Research)</td>
<td>Passed 6/22</td>
<td>Passed 7/20</td>
<td>Completed 7/27</td>
<td>House 10/31, Senate 11/2</td>
<td>(Vetoed 10/3) Signed 11/19</td>
</tr>
<tr>
<td><strong>Foreign Operations</strong></td>
<td>Passed 6/21</td>
<td>Passed 7/21</td>
<td>Completed 9/14</td>
<td>House 9/20, Senate 9/22</td>
<td>Signed 10/3</td>
</tr>
<tr>
<td>HR 1868</td>
<td>Passed 9/7</td>
<td>Passed 9/5</td>
<td>Completed 11/15</td>
<td>House 11/16, Senate 11/16</td>
<td>Became law without the President's signature on 12/1/95.</td>
</tr>
<tr>
<td><strong>Interior</strong></td>
<td>Passed 6/21</td>
<td>Passed 8/10</td>
<td>Completed 10/19</td>
<td>House 10/25, Senate 10/31</td>
<td>Signed 11/15</td>
</tr>
<tr>
<td><strong>Legislative</strong></td>
<td>Passed 7/31</td>
<td>Passed 9/27</td>
<td>Completed 12/6</td>
<td>House 12/7, Senate 12/14</td>
<td>Vetoed 12/18</td>
</tr>
<tr>
<td>HR 1854</td>
<td></td>
<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Military Construction</strong></td>
<td></td>
<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HR 1817</td>
<td></td>
<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>National Security/Defense</strong></td>
<td></td>
<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HR 2126 (DOD Research)</td>
<td></td>
<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Transportation</strong></td>
<td></td>
<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HR 2002</td>
<td></td>
<td></td>
<td>**</td>
<td></td>
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</tr>
<tr>
<td><strong>Treasury-Postal</strong></td>
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<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HR 2020</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>VA-HUD-IA</strong></td>
<td></td>
<td></td>
<td>**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HR 2099 (NSF, NASA, EPA)</td>
<td></td>
<td></td>
<td>**</td>
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</tr>
</tbody>
</table>

*Conference report HRpt 104-259 for the Interior Appropriations bill was rejected by the House on 9/29/95. The House also rejected Conference Report HRpt 104-300 on 11/15.

**Conference report HRpt 104-353 for the VA-HUD-IA Appropriations bill was rejected by the House on 11/29/95.

--Prepared by the Association of American Universities (AAU)
### FY1996 Labor-HHS-Education Appropriations

(In Millions of Dollars)

<table>
<thead>
<tr>
<th></th>
<th>FY95 Actual</th>
<th>FY96 Budget Request</th>
<th>FY96 House Approp</th>
<th>FY96 Senate Full-Comm. Approp</th>
<th>FY96 Final Approp</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NAT'L INSTITUTES of HEALTH</strong></td>
<td>$11,296.6</td>
<td>$11,764.1</td>
<td>$11,939.1</td>
<td>$11,597.5</td>
<td>*$11,939.1</td>
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<tr>
<td>AGENCY for HEALTH CARE POLICY &amp; RES.</td>
<td>159.5</td>
<td>193.5</td>
<td>65.5</td>
<td>127.3</td>
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<tr>
<td>HEALTH PROF. TRAINING</td>
<td>279.0</td>
<td>*388.3</td>
<td>279.0</td>
<td>**343.8</td>
<td>n/a</td>
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<tr>
<td><strong>GRADUATE ED</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Harris Fellowships</td>
<td>10.1</td>
<td>0.0</td>
<td>0.0</td>
<td>9.3</td>
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</tr>
<tr>
<td>Javits Fellowships</td>
<td>6.9</td>
<td>0.0</td>
<td>0.0</td>
<td>6.3</td>
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<tr>
<td>Grad Assit. in Areas of Nat'l Need (GAANN)</td>
<td>27.3</td>
<td>27.3</td>
<td>27.3</td>
<td>27.3</td>
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<td>Faculty Development Fellowships</td>
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<td>3.7</td>
<td>0.0</td>
<td>0.0</td>
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<tr>
<td>Law School Clinical</td>
<td>13.2</td>
<td>0.0</td>
<td>0.0</td>
<td>5.5</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>STUDENT AID</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Pell Grants</td>
<td>***6,178.7</td>
<td>6,217.1</td>
<td>***5,977.0</td>
<td>***6,115.0</td>
<td>n/a</td>
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<tr>
<td>--Regular Program</td>
<td>6,178.7</td>
<td>6,217.1</td>
<td>5,697.0</td>
<td>5,400.0</td>
<td>n/a</td>
</tr>
<tr>
<td>--Unobligated Balances</td>
<td>---</td>
<td>---</td>
<td>280.0</td>
<td>715.0</td>
<td>n/a</td>
</tr>
<tr>
<td>Federal Perkins Loans</td>
<td>176.0</td>
<td>178.0</td>
<td>20.0</td>
<td>120.0</td>
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</tr>
<tr>
<td>--Capital Contributions</td>
<td>158.0</td>
<td>158.0</td>
<td>0.0</td>
<td>100.0</td>
<td>n/a</td>
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<tr>
<td>--Loan Cancellations</td>
<td>18.0</td>
<td>20.0</td>
<td>20.0</td>
<td>20.0</td>
<td>n/a</td>
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<tr>
<td>Federal Work-Study</td>
<td>616.5</td>
<td>616.5</td>
<td>616.5</td>
<td>616.5</td>
<td>n/a</td>
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<tr>
<td>State Student Incentive Grants (SSIG)</td>
<td>63.4</td>
<td>31.4</td>
<td>0.0</td>
<td>31.4</td>
<td>n/a</td>
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<tr>
<td>Supplemental Ed. Opportunity Grants (SEOG)</td>
<td>583.4</td>
<td>583.4</td>
<td>583.4</td>
<td>583.4</td>
<td>n/a</td>
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<tr>
<td>State Postsecondary Review Program (SPRE)</td>
<td>0.0</td>
<td>25.0</td>
<td>0.0</td>
<td>0.0</td>
<td>n/a</td>
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<tr>
<td><strong>INTERNATIONAL ED</strong></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Domestic Programs</td>
<td>52.3</td>
<td>52.3</td>
<td>52.3</td>
<td>48.7</td>
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<tr>
<td>Overseas Programs</td>
<td>5.8</td>
<td>5.8</td>
<td>4.0</td>
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<tr>
<td>Institute for International Public Policy</td>
<td>1.0</td>
<td>1.0</td>
<td>0.0</td>
<td>.920</td>
<td>n/a</td>
</tr>
</tbody>
</table>

*NIH funded by a continuing resolution through September 30, 1996.
**Reflects a program consolidation.
***Reflects FY1995 Rescission.
****The maximum Pell Grant award is increased to $2,440 (+$100.00 from FY1995).
## Pending FY 1996 Appropriations

<table>
<thead>
<tr>
<th>in millions of dollars</th>
<th>FY95 Actual</th>
<th>FY96 Budget Request</th>
<th>FY96 House Approp</th>
<th>FY96 Senate Approp</th>
<th>Conference Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Science Foundation</td>
<td>$3,228.7</td>
<td>$3,360.0</td>
<td>$3,160.0</td>
<td>$3,200.0</td>
<td>$3,180.0</td>
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<tr>
<td>National Endowment for the Humanities</td>
<td>$172.0</td>
<td>$182.0</td>
<td>$99.5</td>
<td>$110.0</td>
<td>$110.0</td>
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<tr>
<td>National Aeronautics &amp; Space Administration</td>
<td>$14,376.7</td>
<td>$14,260.0</td>
<td>$13,671.8</td>
<td>$13,798.5</td>
<td>$13,820.0</td>
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<tr>
<td>--Office of Space Science</td>
<td>$2,012.6</td>
<td>$1,958.9</td>
<td>$1,975.4</td>
<td>$2,054.4</td>
<td>n/a</td>
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<tr>
<td>--Mission to Planet Earth</td>
<td>$1,340.1</td>
<td>$1,341.1</td>
<td>$1,002.5</td>
<td>$1,280.1</td>
<td>$1,260.1</td>
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<tr>
<td>--Life &amp; Microgravity Sci.</td>
<td>$483.1</td>
<td>$504.0</td>
<td>$504.0</td>
<td>$467.0</td>
<td>$484.0</td>
</tr>
</tbody>
</table>

Environmental Protection Agency*

<table>
<thead>
<tr>
<th></th>
<th>FY95</th>
<th>FY96</th>
<th>FY96</th>
<th>FY96</th>
<th>FY96</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Budget Request</td>
<td>House Approp</td>
<td>Senate Approp</td>
<td>Final Approp</td>
</tr>
<tr>
<td>--Research &amp; Development</td>
<td>$350.0</td>
<td>$426.7</td>
<td>$384.1</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>--Science &amp; Technology</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>$500.0</td>
<td>$525.0</td>
</tr>
</tbody>
</table>

*The conferees agreed to the Senate proposal to create a new Science & Technology account which includes all activities formerly under the R&D account, plus program labs and personnel costs.

## Final FY 1996 Appropriations

<table>
<thead>
<tr>
<th>in millions of dollars</th>
<th>FY95 Actual</th>
<th>FY96 Budget Request</th>
<th>FY96 House Approp</th>
<th>FY96 Senate Approp</th>
<th>FY96 Final Approp</th>
<th>FY95 vs. FY96 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Energy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--Energy Supply R&amp;D</td>
<td>$3,314.5</td>
<td>$3,396.5</td>
<td>$2,596.7</td>
<td>$2,835.3</td>
<td>$2,727.4</td>
<td>-17.7%</td>
</tr>
<tr>
<td>--General Science &amp; Research</td>
<td>$984.0</td>
<td>$1,017.5</td>
<td>$991.0</td>
<td>$971.0</td>
<td>$981.0</td>
<td>-0.3%</td>
</tr>
<tr>
<td>Department of Defense</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--Research, Development, Test &amp; Evaluation</td>
<td>$35,132.0</td>
<td>$34,332.0</td>
<td>$35,880.0</td>
<td>$35,474.0</td>
<td>$36,430.1</td>
<td>+3.7%</td>
</tr>
</tbody>
</table>
Reconciliation Issues
(Student Loans and Graduate Medical Education)

Following is a recap of the congressional action on reconciliation since the last (October 13) issue of this newsletter:

- The House, which had divided its Medicare and non-Medicare reconciliation changes into two separate bills (H.R. 2425 and H.R. 2491, respectively), October 19 passed its Medicare reconciliation bill by a vote of 231 to 201.

- The House Budget Committee approved the House’s non-Medicare reconciliation bill October 20.

- The Senate Budget Committee (which had folded its Medicare and non-Medicare reconciliation provisions into a single bill, S. 1357) approved that measure October 23.

- The floor debates on the House’s non-Medicare bill and the Senate bill began October 25.

- The House passed its non-Medicare bill October 26 by a vote of 227 to 203.

- On October 26, the Senate approved 99-0 an amendment that restored $5.9 billion in student loan funding. This move effectively eliminated from the Senate bill the 0.85-percent institutional tax on student loan volume. It also reinstated the grace-period interest exemption and reinstated the PLUS-program interest exemption at its current level.

- The Senate passed its reconciliation bill October 28 by a vote of 52 to 47.

- The start of the House-Senate conference on reconciliation was delayed for a time, because Senate Democrats stalled the appointment of that chamber’s conferees. But GOP conferees began meeting anyway, and the conference was finally concluded November 16. Agreement on agriculture and tax issues proved especially difficult.

- The House and Senate approved the reconciliation conference agreement (H.R. 2491) November 17. The House acted first, passing the bill on a 237-189 vote; only one House Republican voted “no” and five House Democrats voted “yes.” Before it passed the bill, the Senate made two changes in the House-passed version, striking two Medicare provisions. One of these provisions would have exempted most laboratories in physicians’ offices from federal inspections. The other provision would have relaxed antitrust laws for doctors who anticipate in health care networks. The vote for final passage in the Senate was 52-47, with only one member breaking party ranks: William Cohen (R-ME). The House had planned to take up and approve the Senate-passed version November 18, but the chamber became sidetracked and put off action until November 20. On that date, the House passed the bill 235-192.

The full text of the reconciliation conference agreement was printed in Part II of the November 15 Congressional Record. Following is a summary of some of the key provisions of the final bill:

GRADUATE MEDICAL EDUCATION

The reconciliation conference agreement included the creation of a new Graduate Medical Education trust fund and funded it at a total of $13.5 billion ($1.1 billion in FY’97, $1.3 billion in FY’98, $2.0 billion in FY’99, $2.6 billion in FY’2000, $3.1 billion in FY2001, and $3.4 billion in FY2002).

The conference agreement also included the following percentage adjustments for Indirect Medical Education: 6.7 percent in FY’96, 6.0 percent in FY’97 and FY’98, 5.6 percent in FY’99, 5.3 percent in FY2000, 5.0 percent in FY2001 and thereafter.

See Attachment 2 for a detailed analysis of the conference agreement provisions relating to the above issues, prepared by the Association of American Medical Colleges.

The conference agreement does not include the Senate provision on the Adjusted Average Per Capita Costs calculation.

STUDENT LOANS

The conference agreement restored the grace-period interest exemption and the current PLUS-loan interest rate. The legislative language stated that direct lending is limited to the 102 institutions that participated in the direct lending program during the 1994-5 academic year and in no event can direct lending exceed 10 percent of new student loan volume.

DEEMING

The House and Senate conferees on the welfare reform portion of the reconciliation bill agreed to language exempting student aid from the deeming requirements contained in both the House and Senate versions of the bill (WR 7/14/95). This agreement will continue to allow legal resident aliens to receive student financial aid from pro-
Reconciliation Issues
(continued)

...grams within titles IV, V, IX, and X of the Higher Education Act.

Under the deeming provisions of the original House and Senate bills, legal resident aliens would have been required to add their sponsor's income to their own income when applying for student financial aid.

The conference agreement requires legal resident aliens who are applying for student loans to have their sponsor or another American citizen cosign their loan application.

TAX ISSUES

Section 127 employee educational benefits were extended through December 31, 1996, but graduate and professional study were excluded after December 31, 1995.

The credit for student loan interest adopted by the Senate was changed by the conferees to an above-the-line deduction (available only for those who itemize) for up to $2500 in student loan expenses. The deduction was made available only for a taxpayer and spouse; parents could not deduct interest payments made for a dependent.

The conference report included intermediate sanctions for tax-exempt organizations whose officers or other leadership receive excessive benefits. The conferees agreed to change the House provisions in this area in a number of ways that had been sought by the university community.

The conference report included the "Super IRA" proposal championed by Senate Finance Chairman William Roth (R-DE). This proposal would allow Individual Retirement Account withdrawals for education expenses.
Attachment II

Maureen Byrnes
Association of American Universities
S. 1394, the Immigration Reform Act of 1995
Summary of Provisions Affecting Higher Education.
December 11, 1995

The Senate Immigration Subcommittee November 29 marked up and
approved, by a 5-2 vote, S. 1394, the Senate legal immigration reform bill. The
Subcommittee also agreed to join together into one bill S. 1394 and S. 269, the illegal
immigration bill. During subcommittee markup, a number of amendments were
adopted which deleted, or modified, a number of restrictive provisions in the legislation.

However, the bill still contains the following provisions which continue to be of
concern to colleges and universities:

**Elimination of the Outstanding Professor and Researcher Category**

Senate Immigration Subcommittee Chairman Alan Simpson (R-WY) offered an
amendment at subcommittee markup to restore a modified version of the Outstanding
Professor and Researcher visa category. The original version of the bill eliminated the
Outstanding Professor and Researcher permanent visa category. As amended, the
Outstanding Professor and Researcher visa category would require labor market
screening (a new version of labor certification), English language proficiency, and two-
year conditional residency. In addition, it would cap this visa category at 6,000
(including family members), which is a 25-percent increase over current usage.

These additional restrictions are unduly burdensome for this class of highly
talented researchers and professors. We support the restoration of this category to
current law. In addition, the House immigration reform bill retains this visa category as it
appears in current law.

In 1994, only 1,809 petitions for Outstanding Professor or Researcher visas were
approved (and only a portion of these applications came from colleges and universities).
In comparison, the Chronicle of Higher Education reported that in 1992, a total of
220,673 full-time faculty with teaching responsibilities were employed at doctoral-
granting colleges and universities (there are more than 800,000 faculty members in all
of higher education). Therefore, the market impact of these highly talented professors
or researchers is minimal in comparison to the overall number of university faculty.

**Elimination of “Special Handling”**

The bill eliminates the “special handling” provision for college and university
teachers. “Special handling” allows colleges and universities to hire through an
expedited labor certification process those foreign teaching faculty who are the best
qualified applicants for a particular position.

When colleges and universities must use the full labor certification process, their
approval rate for that procedure is nearly 100 percent. “Special handling” is an efficient,
streamlined alternative to full labor certification, and should be restored.

**H-1B Visas Limited to Three Years**

The bill limits the length of H-1B visas to three years from the current six year
level. Research projects often last longer than three years. Important scientific projects
could be indefinitely delayed if H-1B visas last only three years, before many research projects are completed.

• **Three Year Work Abroad Requirement for Permanent Visas**
  The bill imposes a new three-year work requirement before an individual can obtain a permanent visa.

  Although the three-year work requirement could be satisfied while the individual is working on an H-1B visa, the limitation of H-1Bs to three years could make it difficult or impossible for an alien to have sufficient time to complete the work requirement and apply for a permanent visa.

• **Requirement to Pay 105 Percent of the Prevailing Wage**
  The bill requires employers to pay 105 percent of the prevailing wage to permanent and temporary aliens.

  Under this policy, universities would be placed in the position of having to pay foreign researchers and scholars salaries that exceed those paid to comparably employed U.S. academic researchers and scholars. This system would result in a built-in disparity in wages based not on objective criteria, such as productivity or talent, but rather solely on nationality. Furthermore, many state universities, even if they could find the resources to meet this mandated wage increase, are constrained by state law to predetermined salary scales for all workers.

  Colleges and universities strongly support policies that require employers to pay 100 percent of the prevailing academic wage to foreign researchers and scholars and provide them with the same benefits as their U.S. colleagues.

• **Fees for Using Permanent Visas**
  For permanent visas, the bill requires employers to pay 10 percent of the value of the alien’s annual compensation or $10,000 (whichever is greater) to a private fund dedicated towards increasing the competitiveness of American workers. One-half of the funds are to be targeted for college and university scholarships and fellowships for U.S. citizens and lawful permanent residents. The remaining funds are targeted for training workers in the United States.

  It would be counterproductive for universities to be required to pay this fee. Colleges and universities already provide significant amounts of institutional aid to students.

  The primary mission of colleges and universities is to educate students, whether they are U.S. citizens or foreign. The vast majority of students (both undergraduate and graduate) at American colleges are U.S. citizens, who are already being educated to be the next generation of American workers. This fee requirement would result in fewer funds being available to serve this important purpose.

  In addition, the bill requires that employers pay an additional fee to the Department of Labor to “cover its costs of administering the labor market screening required...including all enforcement activities in connection therewith.”
• Attestations

The bill requires a series of new attestation requirements that must occur before an employer can hire an H-1B worker. First, the employer would have to pay the H-1B worker 105 percent of the prevailing wage. Second, the employer must agree not to replace U.S. workers with H-1B workers unless each replacement is paid 105 percent of the mean of the compensation paid to the replaced worker. Third, employers must agree to take “timely, significant, and effective steps” to end dependence on foreign workers. Fourth, employers must certify that they have offered 105 percent of the prevailing wage during recruitment of a U.S. worker.

In addition, an amendment adopted at Subcommittee markup requires that prior to hiring an alien on a permanent visa which requires labor market screening, an employer must certify that it has not laid off a U.S. worker in the occupational classification subject of the application in the past six months and will not layoff or otherwise displace any U.S. worker in the occupational classification subject of the application in which the immigrant is intended to be employed. This language could be interpreted to mean that a university could, for example, be restricted from hiring a foreign chemist to work on a research grant because a U.S. citizen chemist, who specializes in an entirely different aspect of chemistry, may have been laid off due to the ending of a federal research grant.

We believe that this language should be narrowed to avoid such unintended problems.

• Student Visas

The bill includes several provisions affecting student visas. The bill requires that foreign students must make “normal progress” toward obtaining their degrees and they must be admitted only for the duration of their program.

The impact of this provision may be that those graduate students who are unable to finish their degree in the mandated time-frame may be forced to leave school and return home before they can complete their studies. Although the bill permits INS to grant an extension in their stay, past experience shows that INS has had trouble acting in a timely manner.

Also, the bill would establish a pilot program to collect from colleges and universities certain information relating to nonimmigrant students. INS is planning a similar study and this section is unnecessary and duplicative.

In addition, students applying for visas would be charged a $100 processing fee. This fee could prove to be a hardship to those students who come from poor families.

• Deeming and Student Aid

The Senate immigration bill contains broad language requiring that the income and resources of a permanent resident alien’s sponsor must be added to the resources of the alien before the alien can be eligible for any federal program. This requirement, known as deeming, would apply until the alien receives citizenship.
House and Senate leaders, following extensive negotiations during the conference on the welfare reform bill, have already determined that student aid should be excluded from similar deeming requirements in that bill. Since this issue has already been fully debated and settled by the Congress, it is unnecessary to consider it once again as part of the immigration reform bill.
Attachment III

Maureen Byrnes
Association of American Universities
CONFLICT OF INTEREST RULES SET

The Department of Health and Human Services June 11 published in the *Federal Register* its final rule on conflicts of interest. On the same day, the National Science Foundation also published “technical changes and clarifications” to the policy it had previously published on June 28, 1994. Both the HHS rule and the updated NSF policy will become effective October 1, 1995. See Attachment 10 for copies of both documents.

The HHS final rule responds to a number of concerns raised by the university community during the comment period, and it appears to retain certain authorities at the university level while still complying with the federal legislative mandate for disclosure and reporting requirements. For example, the regulations no longer require universities to manage the financial interest; instead, they are required to manage the conflict. The definition of significant interest has also been changed, and the minimum threshold for disclosure has been raised from $5,000 to $10,000. In response to many comments, some requirements have been revised to reduce certain burdens that were initially placed on institutions.

The NSF policy is essentially the same as the original June 1994 version, but some modifications have been made to ensure consistency with the HHS rule.

According to the NSF notice, NSF and HHS will be working together to develop common guidance, including a set of questions and answers, to help institutions implement conflict of interest policies that comply with both HHS and NSF requirements.
Commission on Research Integrity Recommendations

A twelve person Commission, chaired by Dr. Kenneth Ryan, Professor at Brigham and Women's Hospital and Harvard Medical School, was established by the NIH Revitalization Amendments of 1993 and was directed to advise the Secretary of Health and Human Services on issues such as a new definition of research misconduct, assurances for institutional compliance with HHS regulations, processes to monitor administrative regulations, and whistleblower protection measures. The following recommendations are expected to be among those included in the Commission’s final report.

Definition of Misconduct
The Commission is expected to propose a new definition of misconduct. The current PHS definition of scientific misconduct is as follows: “Misconduct in Science means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.”

The phrase “other practices that seriously deviate” has been criticized for being too vague and hard to defend, yet the Commission was concerned that by limiting the definition of misconduct to “fabrication, falsification and plagiarism,” serious research misconduct currently unforeseeable but just as egregious would not be captured.

Institutional Compliance
Institutions are required to provide an assurance on all PHS grants that procedures exist to respond to allegations of scientific misconduct. Those receiving NIH training grants are also required to assure that they will provide an educational program for the trainees that addresses responsible conduct in research. The Commission on Research Integrity plans to recommend that any institution receiving PHS grants of any kind (not just training grants) must assure that it has an educational program on the responsible conduct of research. The Commission will further indicate that it would be desirable for institutions to encourage all individuals involved in research or research supervision to participate in these activities.

Whistleblower Protection
The Commission will recommend a Whistleblower Bill of Rights, and institutions will be encouraged to adopt a structure implementing a specific set of rights. This structure would be expected to address the right to communicate, protection from retaliation, access to fair procedures, impartial proceedings, and complete and timely investigations. The Commission will also recommend that the Secretary implement regulations enforcing standards in this Bill of Rights.

Other Provisions
The Commission is also expected to include sections in the final report dealing with administrative processes and investigations in research misconduct, the teaching of ethics, and the role of professional societies in addressing and preventing scientific misconduct.
Research Involving Human Subjects

Ethical issues related to research are once again about to be the focus of attention by the federal government through a newly created National Bioethics Advisory Commission (NBAC). On October 3rd, the same day his Advisory Committee on Human Radiation Experiments released its report, President Clinton issued an Executive Order establishing the new Bioethics Advisory Commission. Although members of the Commission have not yet been named, the Commission’s agenda has essentially been established by the Executive Order.

Highlights of the Executive Order include:

- Within 120 days, each executive branch agency that conducts, supports, or regulates research involving human subjects must review its existing policies and procedures and report the findings of this review to the NBAC.

- Each of the above-described agencies, shall, to the extent practicable and appropriate, develop professional and public educational programs on ethical issues related to human subjects research. Where appropriate, such professional and education programs should be organized and conducted with the participation of medical schools, universities, scientific societies, voluntary health organizations, or other interested parties.

- The NBAC shall provide advice and make recommendations to the National Science and Technology Council and to other appropriate government entities on the appropriateness of certain governmental programs and policies as they relate to bioethical issues.

- As a first priority, the NBAC shall direct its attention to the consideration of protection of the rights and welfare of human research subjects, and issues in the management and use of genetic information, including but not limited to, human gene patenting.