

FY 2019 Appropriations Update: Negotiators Release Defense L-HHS-ED Agreement

Lewis-Burke Associates LLC – September 17, 2018

On September 13, House and Senate negotiators released the *Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019*. This two-bill package, also known as a minibus, combined the Defense and Labor, Health and Human Services, and Education (L-HHS-ED) appropriations bills and includes a continuing resolution (CR) for the seven appropriations bills that have yet to be completed. This will be the second minibus passed by Congress for fiscal year (FY) 2019, following passage of the *Energy and Water Development and Related Agencies Appropriations Act, 2019* on September 13. The CR would fund the remaining appropriations bills at FY 2018 levels through December 7, 2018. This gives appropriators and congressional leadership until after the November election to determine how to proceed with passing the remaining spending bills and navigate funding for controversial spending measures, especially building a southern border wall.

The Senate is expected to pass the minibus this week, and the House will do so next week. The Administration has previously expressed some concern with the minibus because it includes higher spending for non-defense discretionary programs in the L-HHS-ED portion of the package. Many expect the President will ultimately sign the bill prior to the end of the fiscal year on September 30 because of the substantial support the minibus provides for defense spending, a key priority for the Trump Administration.

The conference agreement reflects the higher spending levels seen in the Senate, as compared to the House's appropriations bills, and includes significant increases for research at both the Department of Defense (DOD) and the National Institutes of Health (NIH) and supports student aid programs at the Department of Education (ED). This is the second year in a row Congress rejected drastic cuts and problematic policies proposed in the President's budget request.

The bill would provide \$94.8 billion for research, development, test, and evaluation (RDT&E), an increase of 7.5 percent for DOD. Of special interest to universities, is an increase of \$2.5 billion for basic research across the Department, which would be an 8.0 percent increase. Additionally, the basic research accounts for all the Services and Defense-Wide would see increases.

The bill would provide a fourth consecutive increase of at least \$2 billion for NIH, bringing the agency's total funding to \$39.1 billion. The total includes \$711 million for specific initiatives in the NIH Innovation Account authorized in the *21st Century Cures Act*. The conference agreement would retain the salary cap at Executive Level II (\$189,600), rejecting the President's FY 2019 budget request proposal to decrease it to Level V (\$153,800).

The bill would continue to fund agency-wide priorities at the Department of Health and Human Services (HHS), including combatting the opioid epidemic, improving rural health, and supporting health professions in primary care.

The bill would fund ED at \$71.5 billion, an increase of \$581 million. This increase is a clear rejection of the cuts proposed by the President's budget request and includes increases to the maximum Pell Grant award and the TRIO and GEAR UP programs. Additionally, the conference agreement would maintain funding levels for several student aid programs, including the Supplemental Education Opportunity Grants (SEOG) program and Federal Work-Study (FWS).

Department of Defense

For DOD, the final conference agreement would provide \$674.4 billion for all of DOD, with \$67.9 billion for Overseas Contingency Operations. The agreement continues to emphasize readiness and modernization, priorities of the Administration and the House and Senate Defense Appropriations Committees, as Lewis-Burke Associates LLC (Lewis-Burke) has previously reported. The defense summary accompanying the agreement notes the need to respond to the changing national security landscape and emerging threats.

The conference agreement includes \$96.1 billion for RDT&E. Especially relevant to research institutions, the science and technology (S&T) accounts (6.1 – 6.3) would be funded at \$1.1 billion, a 7.4 percent increase compared to FY 2018. The basic research account (6.1) would be funded at \$2.5 billion, an 8.0 percent increase compared to FY 2018. While not as significant an increase as proposed by the Senate, the funding included for basic research rejects cuts proposed by both the House and the President's budget request. The final agreement includes across the board increases for applied (6.2) and advanced technology development (6.3) accounts for the Services and Defense-Wide.

The agreement includes a new provision directing the Secretary of Defense to provide quarterly reports to both the House and Senate Appropriations Committees on the use of Other Transaction Authority (OTA). Congress continues to be concerned about DOD's lengthy, complex procurement process and sees OTAs as one method of streamlining operations; however, there is concern about the appropriate use of OTAs and this reporting requirement indicates congressional intent to maintain oversight of their use.

New research priorities in the final agreement include:

- Encourages the Secretary of Defense to increase work on a predictive traumatic brain injury model for blast exposure, emphasizing impact on the cellular level of the brain
- Directs the Under Secretary of Defense (Research and Engineering) (USD(R&E)) to conduct an assessment of the Department's test and evaluation infrastructure and would provide increased funding for said infrastructure, emphasizing infrastructure related to "hypersonics, directed energy, augmented intelligence, machine learning, robotics, and cyberspace"
- Directs the USD(R&E) to submit a report to the congressional defense committees on current investments in energetics research and a strategic roadmap for future research
- Support partnerships between the Defense Advanced Research Projects Agency and the Services regarding hypersonics research and encourages the USD(R&E) to establish a partnership with a university on hypersonics research and education

Beyond core defense science and technology programs, the Defense Health Program RDT&E account would receive approximately \$2.18 billion, a nearly 7 percent increase from the FY 2018 enacted level. The agreement directs not less than \$1.17 billion to the Congressionally Directed Medical

Research Program (CDMRP), including \$350 million for the Peer-Reviewed Medical Research Program (PRMRP) which is a \$20 million increase relative to FY 2018. New topics in the PRMRP include: hemorrhage control, nanomaterials for bone regeneration, polycystic kidney disease, and resilience training. Appropriators would also allocate \$10 million to the new Peer-Reviewed Melanoma Research Program. Other significant CDMRP increases would include: \$10 million for cancer research, totaling \$90 million; \$5 million for vision research, totaling \$20 million; and \$5 million for kidney cancer research, totaling \$20 million. Two new health research programs would be created: chronic pain management and combat readiness medical research, funded at \$10 million and \$15 million, respectively.

National Institutes of Health

The conference agreement includes an increase of \$2 billion (5.4 percent) for NIH, which would be the fourth consecutive increase of at least \$2 billion and would bring the agency to \$39.1 billion in FY 2019. As included in the House and Senate bills, the agreement would retain the salary cap at Executive Level II (\$189,600), rejecting the President's FY 2019 budget request proposal to decrease it to Level V (\$153,800).

For most targeted research activities, the agreement adheres to the Senate-passed levels, including \$2.3 billion for Alzheimer's research, \$550 million for combating antibiotic resistance research, and \$560 million for the Clinical and Translational Science Awards (CTSAs). For research on a universal flu vaccine, the agreement includes a \$40 million increase bringing the total to \$140 million for FY 2019, which is \$20 million more than the Senate proposed. The agreement also would provide \$361.6 million for the Institutional Development Award (IDeA) Program, which would be an \$11 million increase above FY 2018 and aligns with the Senate-passed level.

It also would provide funding increases for programs supported through the NIH Innovation Account, authorized by the *21st Century Cures Act*. Per the *Cures Act*, \$400 million is directed to the National Cancer Institute (NCI) for the Cancer Moonshot; \$57.5 million is directed to the National Institute of Neurological Disorders and Stroke (NINDS) and another \$57.5 million to the National Institute on Mental Health for the BRAIN Initiative; \$196 million for the Precision Medicine Initiative All of Us cohort study; and \$10 million for regenerative medicine.

The agreement also includes language directing NCI to study the impact of providing navigation and direct patient reimbursement on patient enrollment, retention, and research outcomes, particularly among underrepresented and minority communities, in cancer clinical trials. NCI is directed to develop the study in consultation with the NCI-designated Cancer Centers, the National Clinical Trials Network, the NCI Community Research Program, and non-profits working in this area, and to deliver it to Congress within 90 days of the bill being signed into law.

The bill includes a provision that would direct the NIH Office of the Director to transfer \$5 million to the HHS Office of Inspector General to support increased oversight of NIH's grant programs, particularly grantees' compliance with NIH efforts to ensure integrity of the peer review process and effectiveness of grantee institutions' efforts to protect intellectual property derived from NIH-supported research. This amendment follows reports of threats to the security and integrity of NIH-funded

research and a [letter](#) from NIH to grantee institutions urging full disclosure of foreign support and announcing the creation of a working group to address academic research and security.

The conference agreement also includes a new provision that would direct the NIH director to present a report to Congress on current funding levels for mental health and substance use disorder research and the process by which NIH sets funding priorities for these areas.

Other Department of Health and Human Services

The conference agreement includes level funding for Title VII Health professions programs and Title VIII Nursing Workforce Development programs at the Health Resources and Services Administration (HRSA), except for Area Health Education Centers, which received a \$1 million increase. In addition, the conference agreement includes language for a new graduate medical education program at HRSA focused on primary care. Specifically, the conferees direct HRSA to support “colleges of medicine at public universities located in the top quintile of States projected to have a primary care provider shortage” and to prioritize applications from universities located in states with the greatest number of federally-recognized tribes as well as public universities with a “demonstrated public-private partnership.”

The Centers for Disease Control and Prevention (CDC) would receive about \$7.9 billion in FY 2019. While this is about a \$353 million decrease below the FY 2018 level, it does not include one-time funding for a lab that was put in the FY 2018 bill. When that funding is discounted overall funding for the CDC is slightly higher than the FY 2018 levels. Within the CDC, the National Institute for Occupational Safety and Health (NIOSH), which was slated to be moved to NIH in the President’s FY 2019 budget request, would receive \$336 million, a \$1.1 million increase above the FY 2018 level. In addition, \$5 million is included for a new initiative focused on the consequences of infectious disease (specifically Hepatitis B, Hepatitis C, and HIV) and the opioid epidemic. The conference agreement also includes level funding at the CDC for prevention research centers (PRCs) at universities.

The Agency for Healthcare Research and Quality (AHRQ) would receive \$338 million, which is \$4 million above the FY 2018 enacted level. Within those funds, \$2 million is directed for AHRQ to work with the Centers for Medicare and Medicaid Services (CMS) and “qualified” public universities to “explore the effectiveness of data computing analytics to identify trends in chronic disease management and support the development of protocols for intervention and utilization of health care navigators to carry out those intervention strategies.”

The conference agreement also continues support for combatting the nation’s opioid epidemic. In addition to funding at the CDC mentioned above, within HRSA the conferees included \$120 million to continue efforts under the Rural Communities Opioid Response program to support treatment and prevention activities in high-risk rural communities. Applications for this new program are now under review and are expected to be awarded at the end of September. The conference agreement also continues to provide \$500 million split evenly between the National Institute on Drug Abuse (NIDA) and NINDS for research related to “opioid addiction, development of opioid alternatives, pain management, and addiction treatment.” The conferees clarify that this funding is in addition to the \$774 million in base funding at NIH which is expected to support opioid misuse and addiction treatment and pain research.

There is an increasing focus in Congress on reducing maternal mortality, which is reflected in the conference agreement. It includes a \$12 million increase in the Healthy Start program for new efforts focused on reducing maternal mortality. In addition, \$23 million is included for Special Projects of Regional and National Significance (SPRANS) at HRSA for State Maternal Health Innovation Grants to “establish demonstrations to implement evidence-based interventions to address critical gaps in maternity care service delivery and reduce maternal mortality.” Of that funding, \$1 million can be used for telehealth equipment, and \$12 million would support the Safe Motherhood and Infant Health Program through the CDC for technical assistance to states. In May, Democrats in the House [called for hearings](#) to examine the increasing maternal mortality in the United States, and the House Energy and Commerce Committee held a hearing on September 14 focused on better data and outcomes to reduce maternal mortality in the U.S. In the Senate, legislation on this issue has been approved by the Health Education, Labor, and Pensions (HELP) Committee.

Recognizing the potential of technology to improve the quality of life for individuals with disabilities, the conference agreement also includes an increase of \$4 million for Assistive Technology Research at the National Institute on Disability, Independent Living, and Rehabilitation Research within the Administration for Community Living. Funding would support “competitive research grants that help individuals with disabilities, with a particular emphasis on seniors, maintain or improve independence.”

Department of Education

The agreement includes an increase for FY 2019 education funding, ED receiving an additional \$581 million compared to FY 2018, for a total of \$71.5 billion. Notable increases include a \$100 increase in the maximum Pell Grant award, which would rise to \$6,195 under the bill. This is the second year in a row that Congress has increased discretionary funding for the program, as the Pell Grant had previously increased automatically with mandatory funding. The bill also rescinds \$600 million from the current Pell Grant surplus.

Other student aid programs of interest would be unchanged from current funding levels, including the SEOG program at \$840 million and the FWS program at \$1.13 billion. The President’s FY 2019 budget request proposed eliminating the SEOG program and cutting the FWS program significantly. The agreement also continues support at \$350 million for the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program that was first funded in the FY 2018 spending agreement.

The TRIO and GEAR UP programs would see increases of \$50 million and \$10 million, respectively, for totals of \$1.06 billion and \$360 million. The Title VI International Education and Foreign Language programs and Graduate Assistance Areas of National Need (GAANN) programs were level funded at \$72.1 million and \$23 million, respectively. The education research programs within the Institute of Education Sciences (IES) were also flat funded. For a second year, the agreement would provide \$5 million to support competitive grants to fund open textbook projects at institutions.

In terms of policy proposals, the agreement reiterates that institutions are allowed to share FAFSA information, under the explicit consent of an applicant, with scholarship granting organizations. It also clarifies that this would include organizations that assist students in applying for federal, state, local, or tribal funds. The agreement also authorizes ED to reimburse institutions of higher education for the cost of servicing Federal Perkins Loans.

The agreement notes that policy proposals outlined in the House and Senate appropriations reports, unless explicitly restricted, would carry forward under this agreement. Of interest, the report language accompanying the House appropriations bill notes concern around the lack of transparency on relationships between “certain foreign source organizations” and higher education institutions, particularly organizations that “that may lead to censorship and other threats to academic freedom.” The language recommends the Secretary of Education require institutions to file a public disclosure report with ED of “any contractual agreements with foreign source organizations that do not respect the principles of free expression and openness.”

Department of Defense

(in thousands of \$)

As reported by the conference committee on September 13, 2018

	FY 2018 Enacted	FY 2019 House	FY 2019 Senate	FY 2019 Minibus	FY 2019 Minibus vs. FY 2018
RDT&E, total	88,308,133	91,218,284	95,131,819	94,896,708	6,588,575 (7.5%)
S&T, Total	14,863,004	14,433,672	15,426,977	15,959,770	1,096,766 (7.4%)
6.1, Total	2,343,154	2,298,102	2,798,456	2,529,556	186,402 (8.0%)
6.2, Total	5,681,752	5,571,178	5,577,344	6,068,244	386,492 (6.8%)
6.3, Total	6,838,098	6,564,392	7,051,177	7,361,970	523,872 (7.7%)
Army RDT&E	10,647,426	10,108,108	10,812,458	11,083,824	436,398 (4.1%)
Army 6.1	470,022	442,241	582,645	506,895	36,873 (7.8%)
Army 6.2	1,369,382	1,324,701	1,166,109	1,579,344	209,962 (15.3%)
Army 6.3	1,478,677	1,159,984	1,494,535	1,586,818	108,141 (7.3%)
Navy RDT&E	18,010,754	17,658,244	18,992,064	18,510,564	499,810 (2.8%)
Navy 6.1	621,901	619,378	737,878	679,878	57,977 (9.3%)
Navy 6.2	994,110	889,198	1,027,056	1,018,971	24,861 (2.5%)
Navy 6.3	816,707	742,253	901,810	852,820	36,113 (4.4%)
Air Force RDT&E	37,428,078	40,939,500	40,896,667	41,229,475	3,801,397 (10.2%)
Air Force 6.1	520,259	516,369	642,819	561,369	41,110 (7.9%)
Air Force 6.2	1,434,714	1,384,342	1,430,342	1,481,342	46,628 (3.2%)
Air Force 6.3	869,117	865,797	919,097	929,597	60,480 (7.0%)

Defense Wide RDT&E	22,010,975	22,291,423	24,049,621	23,691,836	1,680,861 (7.6%)
Defense Wide 6.1	730,972	720,114	835,114	781,414	50,442 (6.9%)
Defense Wide 6.2	1,883,546	1,972,937	1,953,837	1,988,587	105,041 (5.6%)
Defense Wide 6.3	3,673,597	3,796,358	3,735,735	3,992,735	319,138 (8.7%)
Defense Health R&D	2,039,315	1,443,237	1,673,837	2,180,937	141,622 (6.9%)

National Institutes of Health

(in thousands of \$)

As reported by the conference committee on September 13, 2018

	FY 2018 Enacted	FY 2019 House	FY 2019 Senate	FY 2019 Minibus	FY 2019 Minibus vs. FY 2018
NIH, Total	37,084,000	38,334,000	39,084,000	39,084,000	2,000,000 (5.4%)
National Cancer Institute (NCI)	5,664,800	6,136,037	6,147,125	6,143,892	479,092 (8.5%)
National Heart, Lung, and Blood Institute (NHLBI)	3,383,201	3,423,604	3,490,171	3,488,335	105,134 (3.1%)
National Institute of Dental and Craniofacial Research (NIDCR)	447,735	453,082	462,024	461,781	14,046 (3.1%)
National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK)	1,970,797	1,994,333	2,030,892	2,029,823	59,026 (3.0%)
National Institute of Neurological Disorders and Stroke (NINDS)	2,145,149	2,228,780	2,275,580	2,274,413	129,264 (6.0%)
National Institute of Allergy and Infectious Diseases (NIAID)	5,260,210	5,368,029	5,506,190	5,523,324	263,114 (5.0%)
National Institute of General Medical Sciences (NIGMS)	2,785,400	2,818,667	2,874,292	2,872,780	87,380 (3.1%)
Institutional Development Award (IDeA)	350,575	365,575	361,763	361,573	10,988 (3.1%)
Eunice Kennedy Shriver National Institute of Child	1,452,006	1,469,346	1,507,251	1,506,458	54,452 (3.8%)

Health and Human Development (NICHD)					
National Eye Institute (NEI)	772,308	781,540	796,955	796,536	24,228 (3.1%)
National Institute of Environmental Health Sciences (NIEHS)	751,143	760,113	775,115	774,707	23,564 (3.1%)
National Institute on Aging (NIA)	1,452,006	1,469,346	1,507,251	1,506,458	54,452 (3.8%)
National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS)	772,308	781,540	796,955	796,536	24,228 (3.1%)
National Institute on Deafness and Other Communications Disorders (NIDCD)	751,143	760,113	775,115	774,707	23,564 (3.1%)
National Institute of Mental Health (NIMH)	2,574,091	3,005,831	3,084,809	3,083,410	509,319 (19.8%)
National Institute on Drug Abuse (NIDA)	586,661	593,663	605,383	605,065	18,404 (3.1%)
National Institute on Alcohol Abuse and Alcoholism (NIAAA)	459,974	465,467	474,653	474,404	14,430 (3.1%)
National Institute on Nursing Research (NINR)	1,711,775	1,732,731	1,813,750	1,812,796	101,021 (5.9%)
National Human Genome Research Institute (NHGRI)	1,383,603	1,400,126	1,420,591	1,419,844	36,241 (2.6%)
National Institute of Biomedical Imaging and Bioengineering (NIBIB)	509,573	515,658	525,867	525,591	16,018 (3.1%)
National Institute on Minority Health and Health Disparities (NIMHD)	158,033	159,920	163,076	162,992	4,959 (3.1%)
National Center for Complementary and Integrative Health (NCCIH)	556,881	563,531	575,882	575,579	18,698 (3.4%)
National Center for Advancing Translational Sciences (NCATS)	377,871	382,384	389,672	389,464	11,593 (3.1%)
John E. Fogarty International Center (FIC)	303,200	306,821	314,845	314,679	11,479 (3.8%)

National Library of Medicine (NLM)	142,184	143,882	146,550	146,473	4,289 (3.0%)
Office of the Director (OD)	742,354	751,219	806,787	441,997	-300,357 (40.5%)
Common Fund	75,733	76,637	78,150	78,109	2,376 (3.1%)
NIH Innovation Account*	110,000	711,000[†]	711,000	711,000	601,000 (546%)
Building Facilities	128,863	200,000	200,000	200,000	71,137 (55.2%)

* The NIH Innovation Account, authorized in the Cures Act, is derived from mandatory funding, rather than discretionary funding that supports most NIH activities. Per statute, the Account supports four specific NIH initiatives and will end in FY 2026, hence, it is not considered part of the NIH base budget.

† The funds in the NIH Innovation Account are distributed among several institutes, including \$400 million to NCI for the Cancer Moonshot and \$57.5 million each to NINDS and NIMH for the BRAIN Initiative. The totals for these agencies reflect the transfer of these funds. The Innovation Account total in this chart of \$711 million includes the Moonshot and BRAIN funding transferred to the ICs.

Department of Health and Human Services (Other)

(In millions of \$)

As reported by the conference committee on September 13, 2018

	FY 2018 Enacted	FY 2019 House	FY 2019 Senate	FY 2019 Minibus	FY 2019 Minibus vs. FY 2018
Health Resources and Services Administration (HRSA)	7,014	6,858	7,134	7,161	147 (2.1%)
Title VII	396	371	398	397	1 (0.3%)
Title VIII	249	241	249	249	--
Substance Abuse and Mental Health Services Administration (SAMHSA)	5,159	5,682	5,733	5,742	583 (11.3%)
Mental Health Services	1,487	1,415	1,569	1,558	71 (4.8%)
Substance Abuse Treatment	3,264	3,854	3,809	3,819	555 (17.0%)
Substance Abuse Prevention	248	249	200	205	-43 (17.3%)
Agency for Healthcare Research and Quality (AHRQ)	334	334	334	338	4 (1.2%)
Centers for Disease Control and Prevention (CDC)	8,301	7,685	7,874	7,948	-353 (4.3%)
Chronic Disease Prevention and Health Promotion	1,163	1,205	1,163	1,188	25 (2.1%)
National Institute for Occupational Safety and Health (NIOSH)	335	339	335	336	1 (0.3%)

Environmental Health	206	201	207	209	3 (1.5%)
Administration on Community Living (ACL)	2,172	2,187	2,177	2,197	25 (1.2%)
National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR)	105	105	109	109	4 (3.8%)
Administration for Children and Families (ACF)	38,219	38,115	38,412	38,413	194 (0.5%)
Office of the National Coordinator for Health IT (ONC)	60	43	60	60	--

Department of Education

(in thousands of \$)

As reported by the conference committee on September 13, 2018

	FY 2018 Enacted	FY 2019 House	FY 2019 Senate	FY 2019 Minibus	FY 2019 Minibus vs. FY 2018
Innovation and Improvement*					
Education Innovation and Research	120,000	145,000	135,000	130,000	10,000 (8.3%)
Student Financial Assistance*					
Pell Grant [†]	6,095	6,095	6,195	6,195	100 (1.6%)
SEOG	840,000	840,000	840,000	840,000	--
Federal Work-Study	1,130,000	1,130,000	1,130,000	1,130,000	--
Higher Education*					
Aid for Hispanic Serving Institutions (HSIs)	123,183	123,183	125,898	124,415	1,232 (1.0%)
Promoting Post- Baccalaureate Opportunities for Hispanic Americans	11,052	11,052	11,296	11,163	111 (1.0%)
Title VI International Education and Foreign Language Studies (Domestic and Overseas)	72,164	72,164	72,164	72,164	--
TRIO Programs	1,010,000	1,060,000	1,010,000	1,060,000	50,000 (5.0%)
GEAR UP	350,000	360,000	350,000	360,000	10,000 (2.9%)
GAANN	23,047	23,047	23,047	23,047	--

Institute of Education Sciences	613,462	613,462	615,462	615,462	2,000 (0.3%)
Research, Development and Dissemination	192,695	192,695	192,695	192,695	--
Research in Special Education	56,000	56,000	56,000	56,000	--
Regional Education Laboratories	55,423	55,423	55,423	55,423	--
Statewide Longitudinal Data Systems	32,281	32,281	32,281	32,281	--

* Categories included for ease of reading the chart.

† The Pell Grant is listed as the total maximum grant award an individual could receive, including mandatory and discretionary funding. It is *not* listed in thousands of dollars.

Sources and Additional Information:

- The joint explanatory statement is available at <https://docs.house.gov/billsthisweek/20180910/Joint%20%20Statement.pdf>.
- The defense summary is available at https://appropriations.house.gov/uploadedfiles/minibus_2_-_fy_2019_defense_appropriations_bill_-_summary.pdf.
- The L-HHS-ED summary is available at https://appropriations.house.gov/uploadedfiles/minibus_2_-_fy_2019_labor_hhs_appropriations_bill_-_summary.pdf.