

ASPPH Policy & Advocacy

March 26, 2018

Fiscal Year 2018 Omnibus Enacted; Likely the Last Major Legislative Accomplishment Before Mid-Term Elections

Congress on March 22 and 23 approved the omnibus fiscal year 2018 spending bill. The House voted 256-167 to pass the bill -- with 145 Republicans and 111 Democrats voting "aye" and 90 Republicans and 77 Democrats voting "nay" (view the roll call [here](#)). The Senate approved the measure by a vote of 65-32 (roll call [here](#)) with 23 Republicans and 9 Democrats voting against the 2,232 page bill ([full text](#), [report](#)). Donald Trump [signed](#) the measure into law on March 23.

The omnibus legislation funded all of ASPPH's appropriation priorities and provided significant increases to the National Institutes of Health, the Centers for Disease Control and Prevention, and the Health Resources and Services Administration. See below for highlights of the omnibus, which contains all 12 of the FY 2018 appropriations measures.

The rest of the 115th Congress is likely to be marked by partisan posturing with almost no substantive legislation being considered. *Politico* said, after the passage of omnibus "legislating is effectively over, and a big part of the political picture of the first two years of Donald Trump's presidency is frozen and ready for the voters' review. Some might argue that if Democrats take the House, the heaviest period of legislating for Trump's first term [ended last] week... Republicans will give vulnerable lawmakers a chance to score some minor legislative victories for messaging purposes. The Senate has confirmations to handle, as well. Between now and election day, you might see a few more items pop up from time to time, but the next six or so months are about campaigning for control of Congress."

For advocates, attention now turns to the fiscal year 2019 appropriations process. In the months ahead there will be hearings and some subcommittees may mark-up their bills, but it is very unlikely that any of the 12 appropriations bills will be acted on until after the November 6 elections. It is only 191 days before the start of the new fiscal year and 225 days until the mid-term. The February budget agreement established spending caps for FY 2019, theoretically making the appropriations process more straightforward than the FY 2018 slog. The omnibus became law 173 days after the start of the fiscal year.

Dr. Robert Redfield Expected to be Sworn in as CDC Director on March 26

Dr. Robert Redfield, appointed director of the Centers for Disease Control and Prevention on March 21, is expected to be sworn in on Monday, March 26. Media stories on the appointment highlight earlier scientific and policy controversies in which he was involved. Notable stories have appeared on [Vox](#), the [Washington Post](#), the [New York Times](#), [National Public Radio](#), [Atlantic Monthly](#) and [Kaiser Health News](#).

Highlights of the Fiscal Year 2018 Omnibus Appropriations Bill

The following provisions in the FY 2018 omnibus are of particular interest to academic public health. [Contact Tony Mazzaschi at advocacy@aspgh.org for information on accounts not mentioned below.]

National Institutes of Health

The bill includes just over \$37 billion in fiscal year 2018 for the NIH, a \$3 billion — or 8.8 percent — increase from the previous year. This amount includes \$496 million from the 21st Century Cures Act. Opioid activities will get \$500 million for research on addiction as well as the development of alternatives to opioids for treatment of pain and for new addiction treatments. The bill contains a \$414 million increase for Alzheimer's disease research, and \$149 million in new funding for the BRAIN Initiative. CTSA's will receive \$543 million, an increase of almost \$27 million.

- Fogarty: The bill provides an appropriation of \$75.733 million for the Fogarty International Center, an increase of \$2.38 million over the FY 2017 level. The Trump Administration's proposal to abolish Fogarty never gained traction.
- Facilities and Administrative (or Indirect) Costs: The bill continues to contain language to block any Administration attempt to impose an indirect cost cap unilaterally.
- Salary Cap: The bill maintains the current salary cap at Executive Level II (currently \$189,600).
- The report accompanying the omnibus put at least a temporary halt to NIH's use of an expanded definition of clinical trials that would sweep in many research studies with humans that don't test treatments. The report said, "There is concern that policy changes could have long-term, unintended consequences for this research, add unnecessary regulatory burdens, and substantially increase the number of studies in the ClinicalTrials.gov database that are not clinical trials." The bill directs NIH to apply the new reporting rules only to studies that were already considered clinical trials and to delay adding additional studies

while NIH consults with the community. NIH was ordered to report to Congress on its plans by June 22.

Centers for Disease Control and Prevention

The omnibus includes \$7.2 billion in discretionary budget authority for CDC, or about a \$1.1 billion increase over fiscal 2017 enacted spending levels. Total spending at CDC would be \$8.3 billion. The proposal would boost CDC's Public Health Preparedness and Response programs by \$45 million and provides \$480 million for construction of a new biosafety lab to support biodefense research. It also gives CDC \$475 million for prescription overdose prevention activities — and an increase of \$350 million to help fight the opioid epidemic, with \$10 million of those funds dedicated to an opioid abuse awareness campaign. Trump's 2019 budget proposal had called for a \$900 million cut to the agency. Programs of special interest to ASPPH:

- The bill provides \$25,461,000 for the Prevention Research Centers Program, the same as in FY 2017.
- Within the NIOSH accounts, the bill provides \$25,500,000 for the Agriculture, Forestry, Fishing Centers and \$29,000,000 for the Education and Research Centers, the same as in FY 2017.
- The Academic Centers for Public Health Preparedness are provided \$8,200,000, again the same as in FY 2017.
- The bill provides an additional \$50,000,000 with three-year availability to help CDC sustain its Global Health Security work in other countries.
- Gun Violence Research: The statement of managers attempts to clarify that the Dickey amendment only affects gun control advocacy and does not ban CDC research on gun violence. The report contains language stating, “While appropriations language prohibits the CDC and other agencies from using appropriated funding to advocate or promote gun control, the Secretary of Health and Human Services has stated the CDC has the authority to conduct research on the causes of gun violence.” No explicit gun violence research funding was provided in the bill.
- CDC's Office on Smoking and Health will be funded at \$210 million (a \$5 million increase from the FY 2017 level and \$50 million higher than the House-passed bill). In addition, the House-passed policy riders concerning FDA's tobacco regulations were dropped from the final bill. The House would have exempted “large and premium cigars” from FDA oversight and change the grandfather date in order to exempt e-cigarettes, cigars, and other tobacco products from an FDA product review requirement.

Health Resources and Services Administration

Congress provided the Health Resources and Services Administration with \$7.014 billion, an increase of \$553 million over the FY 2017 level. Within the HRSA account, \$17 million is provided for the Public Health and Preventive Medicine line, which includes the Public Health Training Centers Program and the Preventive Medicine Residency Program. Both programs are level funded compared to FY 2017.

Agency for Healthcare Research and Quality

The bill rejects the Trump Administration's proposal to move AHRQ to NIH as a new institute. The bill provides AHRQ with an appropriation of \$334 million, an increase of \$10 million from the FY 2017 level.

Opioid Response Funding

The HHS section of the bill provides \$3.6 billion to address the opioid crisis, an increase of 244 percent and \$2.55 billion over the FY 2017 level. Specific allocations include:

- A new \$1 billion State Opioid Response grant program under SAMHSA.
- \$500 million for research on addiction at NIH, and for-profit grant recipients would be subject to a 50 percent match. The explanatory statement would also encourage the National Institute on Drug Abuse to allocate more of its budget to opioid research.
- \$500 million for the State Response to the Opioid Abuse Crisis Account created under the 21st Century Cures Act (Public Law 114-255), the same as in fiscal year 2017.
- \$475.6 million for prescription drug overdose prevention activities at the CDC, \$350 million more than in fiscal year 2017.
- \$130 million for a new Rural Communities Opioids Response program.
- \$2 million under SAMHSA to charter a National Academies of Sciences (NAS) review within 90 days of enactment. The review will report on the effectiveness of activities authorized by the Comprehensive Addiction and Recovery Act, specifically their effectiveness "in achieving their respective goals for preventing, treating and supporting recovery from substance abuse disorders." An interim report is expected in three years and a final report in five years.

Other Accounts Of Interest:

Education Department:

- Student financial assistance: \$24.445 billion (an increase of \$247.1 million over the FY 2017 level and \$1.513 billion more than requested by the Administration)

- Higher education: \$2.247 billion (an increase of \$191.1 million over the FY 2017 level and \$701.2 million more than requested by the Administration)
- The bill contains several technical fixes to the Public Service Loan Forgiveness Program, including \$350 million for the Secretary to provide loan cancellation for certain borrowers who would otherwise qualify for PSLF but are in extended or graduated repayment plans. The bill also provides \$2.3 million for the Secretary to conduct outreach to borrowers who intend to apply for PSLF to ensure they meet the terms and conditions of the program, as well as improve the certification process.

US Department of Agriculture:

- Agricultural Research Service: \$1.343 billion (an increase of \$73.5 million over FY 2017 and \$350.2 million more than requested by the Administration)
- Food Safety and Inspection Service: \$1.057 billion (an increase of \$24.8 million over FY 2017 and \$18.8 million more than requested by the Administration)
- Food for Peace Grants: \$1.600 billion (an increase of \$134 million over FY 2017 and \$1.6 billion more than requested by the Administration)
- McGovern-Dole International Food for Education and Child Nutrition Program: \$207.6 million (an increase of \$6.0 million over FY 2017 and \$207.6 million more than requested by the Administration)

Environmental Protection Agency:

Overall, the EPA receives \$8.06 billion in fiscal 2018, equal to the FY 2017 amount and \$2.4 billion more than the Administration requested. Included in this funding:

- Environmental programs and management: \$2.598 billion (the same level as in FY 2017 and \$880.5 million more than requested by the Administration)
- Science and technology: \$706.5 million (the same level as in FY 2017 and \$255.7 million more than requested by the Administration)

State Department and Foreign Operations

The State Department and foreign operations programs receive \$54.2 billion for fiscal 2018, \$13.5 billion more than the administration requested and \$3.35 billion less than the programs received in FY 2017. Within the bill:

- Global health programs: \$8.690 billion (a decrease of \$35 million over the FY 2017 level and \$2.209 billion more than requested by the Administration)
- International organizations: \$1.786 billion (a decrease of \$30.1 million from the FY 2017 level and an increase of \$616.7 million over the Administration's request).

- The bill would block all global health assistance funds -- not just those earmarked for family planning -- from going to nongovernmental organizations that promote or perform abortions, except in cases of rape or incest, or when the mother's life is endangered. The measure also would allow contributions to the U.N. Population Fund, which supports reproductive health care and other rights for women and youth, only if the fund doesn't support abortion and U.S. support isn't used for programs in China.

Science Agencies:

- National Science Foundation: \$7.767 billion (an increase of \$295 million over FY 2017 and \$1.115 billion more than requested by the Administration)

Transportation Department:

- National Highway Traffic Safety Administration (NHTSA): A total budget of \$911.247 million (including both appropriations and trust fund) (an increase of \$35 million over the FY 2017 amount and \$48.065 million more than requested by the Administration).

Other News

- *Science and Retraction Watch* [reported](#) on March 21 that NIH has "imposed unusual new requirements on researchers based at Duke University...who receive federal funds. The changes are a response to concerns over how the institution handled recent cases involving research misconduct and grant management." The requirements include receiving prior approval for any modifications to new and existing grants. In addition, researcher submitting a modular application for a grant worth less than \$250,000 per year must include detailed budgets justifying the costs.
- On March 21 day, the FDA issued an [advanced notice of proposed rulemaking](#) on the regulation of premium cigars.
- In a [letter](#) on March 21 to HHS Secretary Alex Azar, Senator Edward Markey (D-MA) wrote, "In light of [the] legislative recognition of the limits of the Dickey amendment, and the increase in CDC funding for fiscal year 2018 by \$1.046 billion over fiscal year 2017, it appears that the CDC is in an ideal position to begin research on this public health crisis." The Senator asked Secretary Azar several questions about funding gun violence research.
- Dr. Michael Brumage, director of the West Virginia Office of Drug Control Policy, has resigned. He recently has defended needle exchange programs in the state, including the program in Charleston that he started when he was county health

commissioner. The *Charleston Gazette-Mail* [reported](#), “Charleston’s mayor and police chief had complained that first responders are finding too many needles in public spaces and are fearful of needle-stick injury.” The paper said that Dr. Brumage earlier in the week had told them he had to “cease and desist” talking about the needle exchange program in Charleston. He resigned shortly thereafter. Dr. Brumage is assistant dean for public health practice and service at the WVU School of Public Health.

- The Student and Exchange Visitor Program (SEVP) last week [launched a new portal](#) to streamline the Student and Exchange Visitor Information System (SEVIS) update process by enabling F-1 students participating in post-completion optional practical training (OPT) to report personal and employer information directly to SEVP. Prior to the portal's creation, these international students had to rely on their designated school official for this reporting. Only selected public health degree programs are considered STEM degrees for the purposes of the OPT extension. The list of qualified Classification of Instructional Programs (CIP) codes is available [on-line](#). The list was last updated in May 2016.

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