

ASPPH Policy & Advocacy

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Highlights

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Conferees Approve FY 2019 HHS Funding Bill

All ASPPH Priority Accounts Funded; NIH Up \$2 Billion

A House-Senate Conference Committee on Thursday afternoon approved the FY 2019 Labor-HHS-Education and DOD minibus conference report. The conference report will be voted on by the full Senate first, probably early next week. The House will vote when it reconvenes the week of September 24. The conference agreement was released to the public on Thursday evening ([conference report](#) (the bill text); [statement of the conferees](#)). Congressional leaders say they expect Congress to approve the agreement and Donald Trump to sign it into law.

The conference report on another minibus (covering Military Construction, VA-HUD, Energy and Water and Legislative Branch) was approved this week by the House and Senate and that bill is on its way to the White House. A continuing resolution (CR) has been attached to the Labor-HHS/DOD bill to fund the rest of the government through December 7. The bills that are included in the CR are: Agriculture, Rural Development, Food and Drug Administration, and Related Agencies; Commerce, Justice, Science, and Related Agencies; Financial Services and General Government; Homeland Security; 5) Interior, Environment, and Related Agencies; and State, Foreign Operations, and Related

Programs.

This is the first time the Labor-HHS-Education appropriations bill has been completed before the October 1 start of the new fiscal year since 1999. Highlights of the bill include:

National Institutes of Health

FY 2019 Conference	\$39,084,000,000	(+\$2.0B or 5.4%)
FY 2018 Enacted	\$37,084,000,000	

Provisions of Note:

- The conferees provided \$78.109M (+\$2.376M or +3.14%) for the Fogarty International Center.
- The conference agreement keeps the NIH salary cap at Executive Level II (currently \$189,600).
- The conferees rejected the Administration's proposal to move parts of the National Institute for Occupational Safety and Health (NIOSH) from CDC to NIH; and to fold the Agency for Healthcare Research and Quality (AHRQ) and the National Institute on Disability, Independent Living, and Rehabilitation Research (Dept. of Education) into NIH as new institutes.

Centers for Disease Control and Prevention

FY 2019 Conference	\$7,947,741,000	(-\$353.425M or -4.26%)
FY 2018 Enacted	\$8,301,166,000	

Provisions of Note:

- The one-time funding (\$480M) provided CDC in FY 2018 for a new bio-containment facility on the CDC's Atlanta campus distorts the CDC program funding level. Not including the facility expenditure, the comparable program level in FY 2019 is up +\$126.575M or +1.63%.
- The conference agreement for CDC includes \$610M for the Strategic National Stockpile, which is proposed to be transferred to the account for the HHS Assistant Secretary for Preparedness and Response.
- Within the CDC account, the conferees provided level funding for the Prevention Research Centers (\$25,461,000) and the Centers for Public Health Preparedness (\$8,200,000).

- The conference agreement also funds the NIOSH Education and Research Centers (\$29,000,000) and the NIOSH Agricultural Forestry and Fishing Centers (\$25,500,000) at last year's level. The House had proposed \$2M increases for each program, but the increases were not included in the conference report.
- The conferees restored funding to CDC Climate Change program at last year's level of \$10M. The House had proposed killing the program.
- The conference agreement establishes an Infectious Disease Rapid Resource Research Fund within CDC. It was included in the House bill, but not in the Senate measure. The House had proposed a \$325M appropriation for the Fund, but the conferees only provided \$50M.
- The conference agreement provides \$488.621M for CDC's Global Health account, the same as in FY 2018.
- The conference agreement keeps the so-called Dickey amendment that prohibits the use of Federal funds for lobbying activities related to gun control. The conference agreement does not provide dedicated funding for firearms research.

Health Resources and Services Administration

FY 2019 Conference	\$7,160,703,000	(+\$145.750M or +2.08%)
FY 2018 Enacted	\$7,013,953,000	

Provisions of Note:

- The conference agreement provides \$17 million for the "Public Health and Preventive Medicine" line, the same as in FY 2018. The line funds the Public Health Training Centers (\$9.86M) and Preventive Medicine Residency Programs (\$7.14M).
- The conferees restored funding for the Family Planning (Title X) program at last year's level of \$286.479M. The House had proposed killing the program.

Agency for Healthcare Research and Quality

FY 2019 Conference	\$338,000,000	(+\$4M or +1.2%)
FY 2018 Enacted	\$334,000,000	

Provisions of Note:

- AHRQ also is expected to receive \$124.3M in mandatory funds from the Patient-Centered Outcomes Research Trust Fund (PCORTF), an increase of \$24.5M over the FY 2018 level.

Other Appropriations Highlights

- The conference agreement restores funding for the Teen Pregnancy Prevention Grant Program at last year's funding level of \$101M. The House has proposed killing the program.
- The conference agreement provides a total of \$6.7 billion for various programs to combat the opioid epidemic, including \$5.7 billion for the Substance Abuse and Mental Health Services Administration, a \$584M increase.

Trump Refuses to Take Any Responsibility for Hurricane Maria Deaths

Political Uproar Over Trump's False and Callous Tweets

Donald Trump's [tweets](#) on Thursday concerning the recent George Washington Milken Institute School of Public Health study on deaths in Puerto Rico resulting from Hurricane Maria have been universally condemned, even by [Fox News](#) and Red Sox manager [Alex Cora](#). The Trump messages, which accused Democrats of manipulating death data, failed to recognize or take any responsibility for the gravity of the Puerto Rican disaster. Almost every newspaper headline on the matter noted the falsity of Trump's statements. GW issued a [statement](#) in response to Trump's tweets and politicians from both parties issued blistering [statements](#) critical of Trump. The *Washington Post* fact checker gave Trump "[Four Pinocchio's](#)" for his tweets about the hurricane deaths.

FDA Launches Crackdown on E-Cigarette Manufacturers and Sellers

Manufacturers Must Detail Plans to Prevent Distribution to Minors

The U.S. Food and Drug Administration on Wednesday [announced](#) "a series of critical and historic enforcement actions related to the sale and marketing of e-cigarettes to kids. In the largest coordinated enforcement effort in the FDA's history." FDA issued more than 1,300 warning letters and civil money penalty complaints (fines) "to retailers who illegally

sold JUUL and other e-cigarette products to minors during a nationwide, undercover blitz of brick-and-mortar and online stores this summer. As a result of these violations of the law – and other indications that e-cigarette use among youth has hit epidemic proportions – FDA Commissioner Scott Gottlieb, M.D., signaled that the agency intends to take new and significant steps to address this challenge in a speech at the agency’s headquarters.”

FDA issued letters to the manufacturers of the five top-selling national brands (JUUL, Vuse, MarkTen XL, blu e-cigs, and Logic) asking each company to submit to FDA within 60 days plans describing how they will address the widespread youth access and use of their products. If they fail to do so, or if the plans do not appropriately address this issue, “the FDA will consider whether it would be appropriate to revisit the current policy that results in these products remaining on the market without a marketing order from the agency. This could mean requiring these brands to remove some or all of their flavored products that may be contributing to the rise in youth use from the market until they receive premarket authorization and otherwise meet all of their obligations under the law.”

ASPPH and 50 partner organizations on Tuesday [wrote](#) to Congressional leaders urging that all tobacco policy riders be stricken from the FY 2019 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill, including a provision that would weaken FDA oversight of tobacco products, including e-cigarettes and cigars.

Strategic Lessons from the Tobacco Master Settlement Agreement

Applicability to Other Public Health Issues Considered

Dr. Cheryl Heaton, dean of the NYU College of Global Public Health, wrote an [article](#) published this week by the *New England Journal of Medicine*, titled, “The Tobacco Master Settlement Agreement – Strategic Lessons for Addressing Public Health Problems.” Dr. Heaton writes that, “Given its success, the agreement has enormous promise as a model for similar litigation or settlements that could hold industries accountable when they knowingly deceive and injure consumers with their products.” She highlights specific provisions included in the tobacco agreement that might be applicable to other industries, such as the sugar-sweetened beverage and fast food industries, firearm manufacturers, opioid producers and distributors, the alcohol industry, and fossil fuel companies.

Dr. Heaton concluded her essay, “The trajectory of these major public health problems

could be altered by reducing industry manipulation of science and lobbying for policies against the public interest; compensating public coffers for money spent combating these epidemics and redirecting funds to prevention; and using public education, product warnings, and price increases to reduce use of harmful products. By using these strategies, state AGs could strengthen their consumer-protection roles as guardians of the health of the public.”

Before joining NYU, Dr. Heaton was the founding President and CEO of the American Legacy Foundation, which was established as part of the 1998 Master Settlement Agreement between major U.S. tobacco companies and 46 U.S. states, the District of Columbia and five territories. In 2015, the Foundation changed its name to the Truth Initiative.

In Brief

- **Federal Brain Drain:** A new [analysis](#) from the Partnership for Public Service, based on data from the Office of Personnel Management, shows that, “The exodus of Senior Executive Service (SES) members was nearly 26 percent higher under President Trump in fiscal 2017, which included most of his first year in office, than it was under former President Barack Obama in fiscal 2009...In fiscal 2017, which began in October 2016, 1,522 senior execs left the government.” That represented 18.6 percent of the SES on board at the beginning of the fiscal year. The SES was designed to be a corps of executives selected for their leadership qualifications, serving in key positions just below the top Presidential appointees as a link between them and the rest of the Federal civil service workforce.
- **House GOP Members Urge Trump to Yield on Federal Pay Increases:** The *Washington Post* [reported](#) on Thursday that a growing number of congressional Republicans are calling on Donald Trump to reverse his opposition to giving federal employees a pay raise next year, “warning his stance could hurt the party in November’s midterm elections.” Rep. Tom Cole (R-OK), an influential member of the House Appropriations and Rules Committee said, “Look, a lot of members have a significant federal presence in their district and feel very strongly about this...The idea that people who are comparatively well-off get tax cuts and we’re not going to help federal employees get a reasonable raise . . . I think it’s a signal to the workforce about how they’re valued.” Rep. Cole was among 23 House lawmakers who sent a [letter](#) recent to Trump urging him to reconsider his position. The NIH salary cap is tied

to the Federal executive level pay schedule so that a freeze in Federal pay also would freeze the salary cap.

- **The Budget Deficit Explodes:** A new CBO [report](#) finds the federal budget deficit hit \$895 billion in the first 11 months of fiscal 2018, an increase of 32 percent over the same period the previous year. The increase was due mostly to the new GOP tax law and Congress' decision to increase spending, which grew by 7 percent compared to revenue growth of only 1 percent. The CBO now says the deficit will approach \$1 trillion by the end of this fiscal year. In its April forecast, CBO didn't expect the deficit to reach \$1 trillion until 2020. The budget deficit has totally disappeared from the GOP's campaign talking points, after being a central focus for at least two decades. Another example of how far the deficit has faded as a GOP issue, House Ways and Means Committee Chair Kevin Brady (R-TX) last week [introduced](#) the "Republicans' Tax Reform 2.0 Package" that would lock in the temporary individual and small business tax cuts and blow an even larger hole in the Federal budget.
- **Administration Expands Facility to Hold Ten Times More Migrant Children:** HHS has [announced](#) that it will expand its tent shelter in the El Paso area for immigrant minors. The facility at Tornillo, Texas originally opened with a 360-bed capacity for 30 days. The expansion will allow the Trump Administration to hold 3,600 children at the site. The *New York Times* [reported](#) on Thursday that, "Population levels at federally contracted shelters for migrant children have quietly shot up more than five-fold since last summer...reaching a total of 12,800 this month. There were 2,400 such children in custody in May 2017." Separately, the paper [reported](#) that, "The foreign-born population in the United States has reached its highest share since 1910, according to government data released Thursday, and the new arrivals are more likely to come from Asia and to have college degrees than those who arrived in past decades." A Brookings Institution analysis of that data "shows that 41 percent of the people who said they arrived since 2010 came from Asia. Just 39 percent were from Latin America. About 45 percent were college educated, the analysis found, compared with about 30 percent of those who came between 2000 and 2009."
- **State of Obesity 2018:** The Trust for America's Health and the Robert Wood Johnson Foundation last week released a new [data report](#), "State of Obesity 2018: Better Policies for a Healthier America." The report contains 40 recommendations "for action steps that should be taken by the federal government, state and local policymakers, the food and restaurant industry and the healthcare sector to make healthy choices easy and affordable for all Americans." Data in the report shows: adult obesity rates are at or above 35 percent in seven states; adult obesity rates are between 30 and 35 percent in 22 states and 19 states have adult obesity rates

between 25 and 30 percent; over the past five years (2012 - 2017), 31 states had statistically significant increases in their obesity rate and no state had a statistically significant decrease in its obesity rate; and, obesity levels are highest in Black and Latino communities, low-income and rural communities, places where residents often have limited access to healthy options.

- **Physical Activity Resource Guide:** The Nutrition Education Obesity Prevention Branch within the California Department of Public Health has updated its [Physical Activity Resource Guide](#). Three new sections have been added to the guide, Physical Literacy, Older Adults (age 60 and above) and Physical Activity and Physical Activity for Individuals with Physical Limitations and Disabilities.
- **Rate of Uninsured Remains Stable:** The Census Bureau [reported](#) on Wednesday that the rate of uninsured Americans held firm at 8.8 percent last year, despite the GOP's repeated efforts to undercut Obamacare. The rate of uninsured was 13.3 percent in 2013, the year before the ACA's major provisions came into force.
- **New Leadership at Planned Parenthood:** Dr. Leana Wen, health commissioner for the city of Baltimore, has been chosen to be the [new president](#) of Planned Parenthood. She will start in November. She succeeds Cecile Richards who announced in January she was stepping down.
- **Bottom-Up Leadership on Climate Change:** The Wednesday issue of the *LA Times* featured an [op-ed](#) by California Governor Jerry Brown and Michael Bloomberg titled, "Even without the Trump administration, the U.S. is upholding its commitment to the Paris climate agreement." The authors note, "The United States cannot legally withdraw from the Paris agreement until November 2020...In fact, since the White House announced its intention to withdraw from the Paris agreement, more than 3,000 U.S. cities, states, businesses and other groups have declared their commitment to the Paris agreement. We are tracking their progress through an initiative called America's Pledge. Together, these groups form the third-largest economy in the world, and they represent more than half the total U.S. population. They have been ramping up actions to cut carbon pollution and move toward the goals in the Paris agreement, just as the rest of the world is doing." Governor Brown and Mr. Bloomberg conclude, "...bottom-up leadership will continue driving progress on climate change, no matter what obstacles Washington throws in our way."
- **Resignation in COI Reporting Fiasco:** The *New York Times* [reported](#) on Friday that Dr. José Baselga, the chief medical officer of Memorial Sloan Kettering Cancer Center, resigned on Thursday following reports "that he had failed to disclose millions of dollars in payments from health care companies in dozens of research articles." The paper said the resignation was immediate and he will have no further role at the

Manhattan institution. Dr. Lisa DeAngelis, chair of the neurology department, has been named acting physician-in-chief.

- **Nominees Sought:** HRSA is seeking [nominations](#) for new members to serve on its Health Workforce National Advisory Committees. The five committees (which includes the Advisory Committee on Interdisciplinary, Community-Based Linkages) advise the Secretary of HHS and Congress on health workforce policies and programs. The FDA Center for Tobacco Products is seeking [nominations](#) for members of the Tobacco Products Scientific Advisory Committee. The CDC has announced it is seeking [nominations](#) for appointment to the Board of Scientific Counselors in the Office of Public Health Preparedness and Response.

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