

115TH CONGRESS }
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT
115-952

DEPARTMENT OF DEFENSE FOR THE FIS-
CAL YEAR ENDING SEPTEMBER 30, 2019,
AND FOR OTHER PURPOSES

CONFERENCE REPORT

TO ACCOMPANY

H.R. 6157



SEPTEMBER 13, 2018.—Ordered to be printed

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DEPARTMENT OF DEFENSE FOR THE FISCAL YEAR END-
ING SEPTEMBER 30, 2019, AND FOR OTHER PURPOSES

SEPTEMBER 13, 2018.—Ordered to be printed

Mr. FRELINGHUYSEN, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 6157]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6157), making appropriations for the Department of Defense for the fiscal year ending September 30, 2019, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. References.

Sec. 4. Statement of appropriations.

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2019

Title I—Military Personnel

Title II—Operation and Maintenance

Title III—Procurement
Title IV—Research, Development, Test and Evaluation
Title V—Revolving and Management Funds
Title VI—Other Department of Defense Programs
Title VII—Related Agencies
Title VIII—General Provisions
Title IX—Overseas Contingency Operations

DIVISION B—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019

Title I—Department of Labor
Title II—Department of Health and Human Services
Title III—Department of Education
Title IV—Related Agencies
Title V—General Provisions

DIVISION C—CONTINUING APPROPRIATIONS ACT, 2019

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

SEC. 4. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2019.

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2019

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers’ Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$42,690,042,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and ex-

SEC. 529. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug: Provided, That such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with State and local law.

This division may be cited as the “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2019”.

DIVISION C—CONTINUING APPROPRIATIONS ACT, 2019

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2019, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2018 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this Act, that were conducted in fiscal year 2018, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2018 (division A of Public Law 115–141), except section 783.

(2) The Commerce, Justice, Science, and Related Agencies Appropriations Act, 2018 (division B of Public Law 115–141).

(3) The Energy and Water Development and Related Agencies Appropriations Act, 2018 (division D of Public Law 115–141).

(4) The Financial Services and General Government Appropriations Act, 2018 (division E of Public Law 115–31).

(5) The Department of Homeland Security Appropriations Act, 2018 (division F of Public Law 115–141) and title II of division M of Public Law 115–141.

(6) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2018 (division G of Public Law 115–141), except section 114, except for appropriations in the matter preceding the first proviso under the heading “Dwight D. Eisenhower Memorial Commission—Capital Construction”, and except that the language in section 118 shall be applied as if the language read as follows: “Section 6906 of title 31, United States Code, shall continue in effect for this fiscal year”.

(7) The Legislative Branch Appropriations Act, 2018 (division I of Public Law 115–141) and section 7(a) of Public Law 115–141.

(8) *The Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018 (division J of Public Law 115–141), except section 243.*

(9) *The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (division K of Public Law 115–141).*

(10) *The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2018 (division L of Public Law 115–141).*

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 103. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2018.

SEC. 104. Appropriations made and authority granted pursuant to this Act shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this Act.

SEC. 105. Unless otherwise provided for in this Act or in the applicable appropriations Act for fiscal year 2019, appropriations and funds made available and authority granted pursuant to this Act shall be available until whichever of the following first occurs:

(1) the enactment into law of an appropriation for any project or activity provided for in this Act;

(2) the enactment into law of the applicable appropriations Act for fiscal year 2019 without any provision for such project or activity; or

(3) December 7, 2018.

SEC. 106. Expenditures made pursuant to this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 107. Appropriations made and funds made available by or authority granted pursuant to this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this Act may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 108. Notwithstanding any other provision of this Act, except section 105, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2019 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this Act that would impinge on final funding prerogatives.

SEC. 109. This Act shall be implemented so that only the most limited funding action of that permitted in the Act shall be taken in order to provide for continuation of projects and activities.

SEC. 110. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2018, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain pro-

gram levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2018, to be continued through the date specified in section 105(3).

(b) Notwithstanding section 105, obligations for mandatory payments due on or about the first day of any month that begins after October 2018 but not later than 30 days after the date specified in section 105(3) may continue to be made, and funds shall be available for such payments.

SEC. 111. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2018, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 112. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 3094(a)(1)).

SEC. 113. (a) Each amount incorporated by reference in this Act that was previously designated by the Congress for Overseas Contingency Operations/Global War on Terrorism or as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or as being for disaster relief pursuant to section 251(b)(2)(D) of such Act is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism or as an emergency requirement pursuant to section 251(b)(2)(A) of such Act or as being for disaster relief pursuant to section 251(b)(2)(D) of such Act, respectively.

(b) Section 6 of Public Law 115-141 shall apply to amounts designated in subsection (a) for Overseas Contingency Operations/Global War on Terrorism or as an emergency requirement.

SEC. 114. Amounts made available by section 101 for "Department of Agriculture—Food and Nutrition Service—Child Nutrition Programs" to carry out section 749(g) of the Agriculture Appropriations Act of 2010 (Public Law 111-80) may be apportioned up to the rate for operations necessary to ensure that the program can be fully operational by May, 2019.

SEC. 115. Notwithstanding section 101, amounts are available in the "Rural Utilities Service—Rural Water and Waste Disposal Program Account" of the Department of Agriculture for gross obligations for the principal amount of direct loans as authorized by section 306 of the Consolidated Farm and Rural Development Act not to exceed \$4,141,176,000.

SEC. 116. Amounts provided by section 110 to the Department of Agriculture for "Corporations—Commodity Credit Corporation Fund—Reimbursement for Net Realized Losses" may be used, prior to the completion of the report described in section 2 of the Act of August 17, 1961 (15 U.S.C. 713a-11), to reimburse the Commodity Credit Corporation for net realized losses sustained, but not pre-

viously reimbursed, as reflected in the June 2018 report of its financial condition.

SEC. 117. In addition to amounts provided by section 101, amounts are provided for “Department of Agriculture—Agricultural Research Service—Salaries and Expenses” at a rate for operations of \$42,000,000 for the operation and maintenance of the National Bio and Agro-Defense Facility.

SEC. 118. Any program, authority, or provision, including any pilot program, authorized under the Violence Against Women Reauthorization Act of 2013 (Public Law 113–4; 127 Stat. 54) shall continue in effect through the date specified in section 105(3) of this Act.

SEC. 119. (a) Funds made available by section 101 for “Department of Energy—Energy Programs—Uranium Enrichment Decontamination and Decommissioning Fund” may be apportioned up to the rate for operations necessary to avoid disruption of continuing projects or activities funded in this appropriation.

(b) The Secretary of Energy shall notify the Committees on Appropriations of the House of Representatives and the Senate not later than 3 days after each use of the authority provided in subsection (a).

SEC. 120. Notwithstanding section 101, the matter preceding the first proviso under the heading “Department of Energy—Power Marketing Administrations—Operation and Maintenance, Southwestern Power Administration” in division D of the Consolidated Appropriations Act, 2018 (Public Law 115–141) shall be applied by substituting “\$43,488,000” for “\$30,288,000”; the first proviso under such heading shall be applied by substituting “\$33,088,000” for “\$18,888,000”; and the second proviso under such heading shall be applied by substituting “\$10,400,000” for “\$11,400,000”.

SEC. 121. Notwithstanding section 101, amounts are provided to the Department of the Treasury for “Departmental Offices—Salaries and Expenses” at a rate for operations of \$214,576,000.

SEC. 122. Notwithstanding any other provision of this Act, except section 105, the District of Columbia may expend local funds under the heading “District of Columbia Funds” for such programs and activities under the District of Columbia Appropriations Act, 2018 (title IV of division E of Public Law 115–141) at the rate set forth under “Part A—Summary of Expenses” as included in the Fiscal Year 2019 Local Budget Act of 2018 (D.C. Act 22–397), as modified as of the date of the enactment of this Act.

SEC. 123. Amounts made available by section 101 for “Small Business Administration—Business Loans Program Account” may be apportioned up to the rate for operations necessary to accommodate increased demand for commitments for general business loans authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

SEC. 124. Amounts made available by section 101 for “Department of Homeland Security—Federal Emergency Management Agency—Disaster Relief Fund” may be apportioned up to the rate for operations necessary to carry out response and recovery activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. 125. The Secretary of Homeland Security may transfer up to \$15,000,000 in unexpended balances of amounts made available

to the Department of Homeland Security under the heading “Science and Technology Directorate—Operations and Support” in division F of the Consolidated Appropriations Act, 2018 (Public Law 115–141) to the Department of Agriculture for the purpose of contract support of the operations of the National Bio and Agro-defense Facility.

SEC. 126. Amounts made available by section 101 for the “U.S. Customs and Border Protection—Operations and Support”, “U.S. Immigration and Customs Enforcement—Operations and Support”, and “United States Secret Service—Operations and Support” accounts of the Department of Homeland Security may be apportioned at a rate for operations necessary to maintain not less than the number of the staff achieved on September 30, 2018.

SEC. 127. Amounts made available by section 101 for the Department of Homeland Security for “United States Secret Service—Procurement, Construction, and Improvements” may be apportioned up to the rate for operations necessary to purchase base platform vehicles in support of the fully armored vehicle program.

SEC. 128. Amounts made available by section 101 to the Department of Homeland Security for “Office of the Secretary and Executive Management—Operations and Support”, “Management Directorate—Operations and Support”, and “Intelligence, Analysis, and Operations Coordination—Operations and Support” may be apportioned up to the rate for operations necessary to carry out activities previously funded by the Working Capital Fund of the Department of Homeland Security, consistent with the fiscal year 2019 President’s Budget.

SEC. 129. (a) In addition to amounts provided by section 101, amounts are provided for “Department of Health and Human Services—Indian Health Service—Indian Health Services” at a rate for operations of \$14,112,000, for an additional amount for costs of staffing and operating facilities that were opened, renovated, or expanded in fiscal year 2018, and such amounts may be apportioned up to the rate for operations necessary to staff and operate such facilities.

(b) In addition to amounts provided by section 101, amounts are provided for “Department of Health and Human Services—Indian Health Service—Indian Health Facilities” at a rate for operations of \$1,200,000, for an additional amount for costs of staffing and operating facilities that were opened, renovated, or expanded in fiscal year 2018, and such amounts may be apportioned up to the rate for operations necessary to staff and operate newly constructed facilities.

SEC. 130. Section 810 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6809) shall be applied by substituting “September 30, 2020” for “September 30, 2019”.

SEC. 131. Notwithstanding section 101, the matter preceding the first proviso and the second proviso under the heading “Environmental Protection Agency—Hazardous Waste Electronic Manifest System Fund” in division G of Public Law 115–141 shall be applied by substituting “\$8,000,000” for “\$3,674,000” each place it appears: Provided, That such amounts may be apportioned up to the rate for operations necessary and amounts made available by section 101 for “Environmental Protection Agency” may be transferred between appropriations under such heading as necessary to ensure that the

Hazardous Waste Electronic Manifest System becomes fully operational.

SEC. 132. (a) The following sections of the Federal Insecticide, Fungicide, and Rodenticide Act shall continue in effect through the date specified in section 105(3) of this Act—

(1) subparagraphs (C) through (E) of section 4(i)(1) (7 U.S.C. 136a-1(i)(1)(C)–(E));

(2) section 4(k)(3) (7 U.S.C. 136a-1(k)(3));

(3) section 4(k)(4) (7 U.S.C. 136a-1(k)(4)); and

(4) section 33(c)(3)(B) (7 U.S.C. 136w-8(c)(3)(B)).

(b)(1) Section 4(i)(1)(I) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(1)(I)) shall be applied by substituting the date specified in section 105(3) of this Act for “September 30, 2017”.

(2) Notwithstanding section 33(m)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(m)(2)), section 33(m)(1) of such Act (7 U.S.C. 136w-8(m)(1)) shall be applied by substituting the date specified in section 105(3) of this Act for “September 30, 2017”.

(c) Section 408(m)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)(3)) shall be applied by substituting the date specified in section 105(3) of this Act for “September 30, 2017”.

SEC. 133. Activities authorized under part A of title IV and section 1108(b) of the Social Security Act shall continue through the date specified in section 105(3) of this Act in the manner authorized for fiscal year 2018, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose.

SEC. 134. The authority provided by section 7081(h) of division J of the Consolidated Appropriations Act, 2017 (Public Law 115-31) shall apply through the date specified in section 105(3).

SEC. 135. Effective upon enactment of this Act, the matter under the heading “Federal Railroad Administration—Railroad Rehabilitation and Improvement Financing Program” in division L of the Consolidated Appropriations Act, 2018 (Public Law 115-141) is amended—

(1) by striking the third and fourth provisos and inserting the following provisos: “Provided further, That, not later than 30 days after the date of enactment of the Continuing Appropriations Act, 2019, the Secretary of Transportation, in consultation with the Director of the Office of Management and Budget, shall define the term ‘cohorts of loans’ for purposes of section 502(f)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)(4)) (as in effect on the day before the amendments made by section 11607 of Public Law 114-94 (129 Stat. 1698) took effect): Provided further, That, when all obligations attached to a cohort of loans have been satisfied, the Secretary of Transportation shall return to the original source, on a pro rata basis, the credit risk premiums paid for the loans in the cohort, with interest accrued thereon, that were not used to mitigate losses, not later than 60 days after the date of enactment of the Continuing Appropriations Act, 2019 or, for a cohort of loans with obligations that have not yet been satisfied, not later than 60 days after the date on

which all obligations attached to the cohort have been satisfied.”; and

(2) by striking “for a fiscal year” in the fifth proviso.

This division may be cited as the “Continuing Appropriations Act, 2019”.

And the Senate agree to the same.

RODNEY P. FRELINGHUYSEN,
KAY GRANGER,
TOM COLE,
KEN CALVERT,
STEVE WOMACK,
ROBERT B. ADERHOLT,
HAROLD ROGERS,
MARTHA ROBY,
NITA M. LOWEY,
PETER J. VISCLOSKY,
ROSA DELAURO,
LUCILLE ROYBAL-ALLARD,
BETTY MCCOLLUM,

Managers on the Part of the House.

RICHARD C. SHELBY,
ROY BLUNT,
LINDSEY GRAHAM,
JERRY MORAN,
PATRICK J. LEAHY,
PATTY MURRAY,
RICHARD J. DURBIN

(Except Senate receding on
Senate section 252),

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6157) making appropriations for the Department of Defense for the fiscal year ending September 30, 2019, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

This conference agreement includes the Department of Defense Appropriations Act, 2019, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2019, and the Continuing Appropriations Act, 2019. The Senate amendment included the Senate version of the Defense Appropriations bill (S. 3159) and added the Labor, Health and Human Services, and Education and Related Agencies bill (S. 3158). The House bill included the House version of the Defense Appropriations bill (H.R. 6157) only. H.R. 6157 was passed by the House on June 28, 2018 and used as the vehicle for the Senate amendment, which passed the Senate on August 23, 2018. The agreement also includes continuing appropriations for fiscal year 2019.

Section 1 of the conference agreement is the short title of the bill.

Section 2 of the conference agreement displays a table of contents.

Section 3 of the conference agreement states that, unless expressly provided otherwise, any reference to “this Act” contained in any division shall be treated as referring only to the provisions of that division.

Section 4 provides a statement of appropriations.

The conference agreement does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined by clause 9 of rule XXI of the Rules of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2019

The conference agreement on the Department of Defense Appropriations Act, 2019, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 115–769 and Senate Report 115–290 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.