



# THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH

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## California Capitol Hill Bulletin

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*To expand communications between Washington and California, the California Institute provides periodic news bulletins regarding current activity on Capitol Hill and other information that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.*

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### APPROPRIATIONS: HOUSE APPROPRIATIONS APPROVES \$5.14 BILLION FOR DHS

On Wednesday, July 25, 2018, the House Appropriations Full Committee approved \$51.4 billion in FY19 discretionary funding for the Department of Homeland Security (DHS). The bill was approved by a vote of 29-22, and is a funding increase of \$3.7 billion above the FY18 enacted level for DHS. The bill also includes \$6.7 billion for major disaster relief and emergency response activities through the Federal Emergency Management Agency (FEMA). Further, the legislation includes \$5 billion for 200 miles of "new physical barrier construction along the southern border of the US." The remainder of the article provides a summary of the amendments adopted by the Committee.

For a summary of the fiscal components of the bill, please find the July 19 Capitol Hill Bulletin, here: <http://www.calinst.org/bul2/b2522.pdf>

#### Amendments.

Rep. Kevin Yoder (KS): the amendment made technical and other noncontroversial changes and additions to the bill and report, and was adopted on a voice vote.

Rep. Yoder/Rep. Lucille Roybal-Allard (Los Angeles): The amendment adds report language to support the enforcement of border and immigration laws and the humane treatment of children and families. The amendment also adds funding for health services, alternatives to detention, and family case management services, and was adopted on a voice vote.

Rep. Yoder: The amendment provides additional flexibility related to the country cap on high-skilled workers under the H1-B visa program. The amendment was adopted on a voice vote.

Rep. Pete Aguilar (Diamond Bar): The amendment prohibits funds to deport DACA recipients who also serve in the U.S. Armed Forces, and was adopted on a voice vote.

Rep. Aguilar: The amendment prohibits funding for the removal of noncitizens who are DACA recipients. The amendment was adopted on a voice vote.

Rep. Robert B. Aderholt (AL): The amendment adds bill language prohibiting use of ICE funding to pay for an abortion or require anyone to perform or facilitate an abortion. The amendment was adopted on a vote of 30-20.

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Rep. John Abney Culberson (TX): The amendment adds bill language amending the Stafford Act to increase access for rental assistance following declared national disasters, and was adopted on a voice vote.

Rep. Culberson: The amendment adds language preventing ICE from releasing certain criminal detainees back onto U.S. soil. The amendment was adopted on a voice vote.

Rep. Katherine M. Clark (MA): The amendment adds language prohibiting funds for ICE to use restraints on a pregnant detainee in most circumstances. The amendment was adopted on a voice vote.

Rep. Clark: The amendment prohibits funding for the destruction of documents related to sexual abuse or assault on detainees in custody. The amendment was adopted on a voice vote.

Rep. Barbara Lee (Oakland)/Rep. José E. Serrano (NY): The amendment adds bill language extending disaster unemployment assistance by one year following the declared national disasters of hurricanes Maria and Irma. The amendment was adopted on a voice vote.

Rep. Dan Newhouse (WA): The amendment adds bill language changing the H-2A seasonal agricultural worker program from seasonal to year-round. The amendment was adopted on a voice vote.

Rep. Andy Harris (MD): The amendment adds language restoring a two-year "look back" within the H-2B seasonal guest worker visa program, exempting a certain number of return workers from the overall cap. It also sets up a system to allow a proportional number of visas for businesses, instead of all or none, when there is a higher demand for visas than the total number authorized. The amendment was adopted on a voice vote.

Rep. Derek Kilmer (WA)/Rep. Tom Cole (OK): The amendment prohibits funding to disallow certain Native American tribal members the right to pass the U.S./Canada border, and was adopted on a voice vote.

Rep. John R. Moolenaar (MI): The amendment adds report language clarifying policies related to the deportation of certain asylum seekers, such as Chaldean Christians, and was adopted on a voice vote.

Rep. Debbie Wasserman Schultz (FL): The amendment adds language providing additional flexibility under the FEMA public assistance statute of limitations. The amendment was adopted on a voice vote.

Rep. Steven Palazzo (MS): The amendment allows certain existing, unobligated funds to be used to purchase long-lead time materials for the 12th National Security Cutter. The amendment was adopted on a voice vote.

Rep. David E. Price (NC): The amendment expands asylum status definitions to include "credible fear" as an established reason for asylum, which would include threats of gang and domestic violence. The amendment was adopted on a voice vote.

For more information regarding the hearing, the full text of the bill, and a report of the bill authored by the Committee please visit:

<https://appropriations.house.gov/calendar/eventsingle.aspx?EventID=395386>

For a summary press release regarding the Committee markup, please visit:  
<https://appropriations.house.gov/news/documentsingle.aspx?DocumentID=395388>

## **HEALTH: HOUSE E&C SUBCOMMITTEE REVIEWS IMPLEMENTATION OF CURES ACT**

On Wednesday July 25, 2018, the House Energy and Commerce Subcommittee on Health examined the implementation of the 21st Century CURES Act by the Federal Drug Administration and the National Institutes of Health. The witnesses were: The Honorable Francis Collins, Director, National Institutes of Health; Dr. Stephanie Devaney, Deputy Director, All of Us Research Program, on behalf of the Hon. Francis Collin; The Honorable Scott Gottlieb, Commissioner, Food and Drug Administration; and Dr. Norman Sharpless, Director, National Cancer Institute, on behalf of the Hon. Francis Collins.

Chairman Michael C. Burgess (TX) noted that the CURES Act "provides hope to those who need it the most: individuals and families suffering from life-altering, often life-threatening illnesses." The Chair argued that "one of the most impactful provisions of ... CURES [is the] creation of the NIH Innovation Account in the Treasury. This account funds projects related to the Precision Medicine Initiative (PMI), the Brain Research through Advancing Innovative Neurotechnologies (BRAIN) Initiative, cancer research, and regenerative medicine." Further, Chairman Burgess noted how the bill created the National Neurological Conditions Surveillance System, which expands "surveillance infrastructure and activities, including data collection to determine prevalence, risk factors, and diagnostic and progression markers... [this system] will provide us with better information so that we can further our understanding of, and eventually cure, these diseases," such as multiple sclerosis.

Ranking Member Gene Green (TX) noted that "the promise of CURES is to advance the discovery and development of new treatments [and] cures through increased research and improved drug approval process," and has resulted in \$6.3 billion in new funding. Specifically, the National Institutes of Health (NIH) was provided \$4.8 billion in new funding and the Food & Drug Administration (FDA) was provided \$500 million over 10 years."

The Honorable Francis S. Collins noted that CURES provides support for "four cutting edge research priorities, to enhancing privacy protections to inclusion of various communities in research trials, to reducing administrative burdens to expanded prize authority." Dr. Collins noted the ways in which NIH is requiring data and big data sharing, and discussed how CURES required the "inclusion of children and seniors; inclusion of pregnant and lactating women; and continuing our focus on women, and racial and ethnic minorities" to broaden the applicability of clinical trials. Further, Dr. Collins reviewed the creation of "Task Force on Research Specific to Pregnant Women and Lactating Women (PRGLAC) to advise the Secretary of Health and Human Services regarding gaps in knowledge and research on safe and effective therapies for pregnant women and lactating women."

The Honorable Scott Gottlieb discussed how, in modernizing regulations and catalyzing the development of medicines and technologies, the "FDA's Center for Drug Evaluation and Research (CDER) plans to add review divisions and to organize the divisions more closely around disease types. The proposed changes are intended to free up resources so that our scientists and physicians have more time to focus on advancing the science and technology that can lead to future innovative therapies, particularly to address unmet medical needs." Mr. Gottlieb noted how this new framework mirrors the framework established by FDA's Oncology Center of Excellence (OCE), which

approved, "for adult and pediatric patients, the first cancer treatment based on a tumor's biomarker rather than the tumor's site or cell type... Testing was permitted using a single therapeutic approach for patients with different tumor types rather than requiring separate development programs for each disease site." In adhering to the sharing of data, the witness also reviewed how "FDA will be making a publicly available list of biomarkers that have been used to support both accelerated and traditional drug and biologics approvals, as well as surrogate endpoints the Agency believes would be acceptable to support approval."

For more information regarding the hearing, the witnesses, and a background memo provided by Majority Committee Staff, please visit:

<https://energycommerce.house.gov/hearings/21st-century-cures-implementation-updates-from-fda-and-nih/>

## **ECONOMY: HOUSE EDUCATION & WORKFORCE EXAMINES WORK FLEXIBILITY & H.R. 4219**

On Tuesday, the House Education and Workforce Subcommittee on Health, Employment, Labor, and Pensions examined H.R. 4219, the "Workflex in the 21st Century Act", authored by Rep. Mimi Walters (Irvine). The bill "amends the Employee Retirement Income Security Act of 1974 (ERISA) to establish a voluntary workflex option under which employers who provide flexible workplace arrangement plans that include a combination of paid leave and flexible work options are exempt from certain state and local laws regarding employee benefits."

The witnesses were: Jon W. Breyfogle, Principal, Groom Law Group; Ms. Loreen Gilbert, President, WealthWise Financial Services; The Honorable Gayle Goldin, State Senator of Rhode Island; and Johnny C. Taylor, Jr., SHRM-SCP, President & CEO, Society for Human Resource Management (SHRM).

Chairman Tim Walberg (MI) noted that "traditionally, competitive salaries and pay raises have been the primary ways for employers to attract and retain quality employees...[however] Americans have begun demanding flexible paid leave policies (including telework and other work arrangements)." In citing a 2015 Harris Poll, the Chair stated that "nearly four in five employees preferred new or additional benefits or other perks over a pay raise." The Chair also discussed the following contents of the legislation: "it would provide employers with a clear-cut solution to the growing confusion around state and local paid leave laws, while providing employees with a worker-friendly benefits package. Second, and maybe most notably, it would do so without resorting to the use of an overly burdensome and inflexible federal mandate."

Ranking Member Gregorio Kilili Camacho Sablan (Northern Mariana Islands)note that "last Friday the Bureau of Labor Statistics released new data finding that nearly 71% of private sector workers now have some access to paid sick days. And although this is good news, that number drops dramatically, to 52%, for those in service occupations, and even further, to 31%, for the bottom ten percent of wage earners." The ranking Member argued that "H.R. 4219 does not guarantee workers the ability to earn time off to care for themselves or a loved one and many workers may not even be better off than the status quo... [and the] bill usurps the authority of state and local legislators to create critical workplace policies for their constituents, and its overly broad language would preempt employers from having to comply with state and local paid sick days laws, fair scheduling, overtime, and potentially a host of other laws." The Ranking Member also argued that the following bills would allow "a vast majority of workers [to] gain access to paid time off and fair schedules." According to the Minority Committee staff, these bill include: "The Healthy Families Act... the

FAMILY Act... and the Schedules that Work Act."

Ms. Gilbert, of the small business WealthWise Financial Services, of Irvine California, noted that "standardizing flexible work arrangements and paid leave will enable employees to strike the work-life balance they desire and provides employers with the certainty of being in compliance. Best of all, this legislation is voluntary at both the employer and the employee level." The witness also discussed the trend of Millennials desiring more flexibility in the work place, stating that "if they don't perceive that they have the flexibility and paid leave they desire, they will quit. Therefore, in order to retain and attract more Millennials, just this month I expanded my own company's paid leave policy."

State Senator Goldin called "H.R. 4219, an ill-crafted, harmful proposal that would severely undermine certainty for employees, employers, local enforcement agencies and the public's health while making a mockery of our state legislative process." Ms. Goldin argued that the "loopholes" in H.R. 4219 "will lead to uncertainty for all parties: workers who are unsure what law governs their employer, employees who are reliant on the U.S. Department of Labor to say whether their new ERISA plan meets the conditions set out in the law, and local enforcement agencies who do not know which employers are following local rules and which have chosen to bypass them."

For more information regarding the hearing, please visit:

<https://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=402913>

For more information regarding H.R. 4219, please visit:

<https://www.congress.gov/bill/115th-congress/house-bill/4219>

For more information, authored by the Minority Committee Staff, regarding the Healthy Families Act, the FAMILY Act, and the Schedules that Work Act," please visit:

<https://democrats-edworkforce.house.gov/media/press-releases/democrats-gop-bill-could-cut-workers-access-to-paid-leave>

## **REPORT: AMERICAN ENTERPRISE INSTITUTE FINDS THAT 'BAN THE BOX' INCREASED EMPLOYMENT**

In February 2018, the American Enterprise Institute (AEI) released a report entitled "'Ban the Box' Measures Help High-Crime Neighborhoods." The abstract of the report reads as follows: "Many localities have in recent years regulated the use of questions about criminal history in hiring, or 'banned the box.' We show that these regulations increased employment of residents in high-crime neighborhoods by up to 4%, consistent with the central objective of these measures. This effect can be seen in both aggregate employment patterns for high-crime neighborhoods and in commuting patterns to workplace destinations with this type of ban. The increases are particularly large in the public sector and in lower-wage jobs. This is the first nationwide evidence that these policies do, indeed, increase employment opportunities in neighborhoods with many ex-offenders."

AEI notes that "lower bound" estimates find that "slightly fewer than half of all private-sector firms to practically all government agencies," in 2001, asked job seekers to check a box on the application that states if they have ever been convicted of a crime and/or required background checks for prospective employees. The cited goals of this policy, as noted by AEI, are to "mitigate risk of fraud or criminal activity by employees... [or] to avoid employing persons of poor character, skills, and work ethic, or who are likely to be arrested again soon. In addition, federal and state laws ban certain employers, including public-sector employers, from hiring ex-offenders for certain positions and/or mandate criminal background checks." This policy has wide effects because "as many as 65 million people are estimated to have been arrested and/or convicted of criminal

offenses... Whereas about one out of every three African-American males, and one out of six Hispanic males will spend time incarcerated over their lifetime; women are convicted at much lower rates, and account for only 7% of the federal and state prison population."

As early as 1998, starting with the state of Hawaii, a number of municipalities, counties, and states have adopted legislation or other measures that prohibit the use of criminal background questions in the early stages of application procedures. In 2015, "the federal government followed suit via executive order. Additionally, a number of private-sector employers, most prominently Home Depot, Koch Industries, Target, and Walmart, have recently adopted a policy of not asking prospective employees about their criminal history as well."

The AEI report, in detail, describes their methodology for calculating the impact of these policies in "high crime areas," which they calculate as follows: "we rank census tracts based on the number of assaults and murders per capita, and label the 25% most violent tracts as "high-crime." In one analysis, AEI finds an "increase in high-crime area employment in the years after the ban is introduced, with minor fluctuations around our baseline 3.5% increase estimate." AEI's second analysis results in "an increase in employment of 4.1%, which is remarkably similar to our result from the previous subsection." In the continuation of one analysis, AEI finds that wages increased a little over 4% "for our lowest-income" category. AEI also discusses which industries demonstrated the largest increase in employment following the adoption of ban the box: "government (12.1%), information (5.3%), education (4.2%), and real estate (4.1%.) Missing from this list are industries with large numbers of minimum-wage workers such as retail, accommodation, and food services, which may not have complied with employment reporting requirements.

In conclusion, AEI states that "Ban the Box legislation thus appears to have been successful if judged on the basis of its proclaimed proximate objective: making it easier for individuals with criminal records to find and retain employment. It has increased employment in the highest crime neighborhoods by as much as 4%. The mechanism through which this happened seems quite straightforward: in all likelihood, employers who used to ask about an applicant's criminal history used to scare some potential employees away and used to choose not to interview some others."

For the full report, please visit:

<https://www.aei.org/wp-content/uploads/2017/03/criminal-records-paper.pdf>

## **REPORT: CA ASSEMBLY SPEAKER'S OFFICE RELEASES REPORT ON COLLEGE READINESS, FOOD & HOUSING INSECURITY**

In July 2018, the California State Assembly Speaker's Office of Research and Floor Analysis released a report entitled "College Ready, Hungry, and Homeless: An Overview of Basic Needs Insecurity in California's Public Higher Education System." The report found that "food and housing insecurity is a growing challenge for students, families, faculty and staff, institutional leadership, and the Legislature." The US Department of Food and Agriculture (USDA) defines "food insecurity as the limited or uncertain availability of nutritionally adequate and safe foods, or the inability to acquire food in a socially acceptable manner." This article summarizes and provides highlights of the report.

California's Community Colleges (CCC) system is the largest system of higher education in the nation, with more than 2.1 million students across 114 campuses. CCC's are by far the most affordable of the three public higher education systems in California. However, "housing accounts for 43% of the cost of being a CCC student, and 30% of students are solely responsible for their housing costs. According to the Speaker's Office, "grant aid at CCCs covers a third of the total cost

of attendance, and relatively few students have access to loans. In recent years, about 40% of students had very low food security, and a quarter of students experienced homelessness. At Los Angeles Community College District, almost three in four students reported food insecurity, and at Peralta Community College District in the Bay Area, 84% of students experienced housing insecurity in the 2016-17 academic year."

The California State University (CSU) system spans 23 campuses and enrolls over 450,000 students each year, with total enrollment at about 484,000 during FY17. At the CSU system, tuition is currently \$5,742 system wide, and grant aid for low-income students covers half of the cost of attendance. As noted by the Speaker's Office, "since 2006-07, financial aid packages for students living off-campus have been calculated based on annual inflation, but median rents have risen much faster than the rate of inflation. The Basic Needs Initiative found that 42% of students were food insecure, and 11% of students were homeless in the past year. In addition, the survey found only 10% of students with very low food security and 7.5% of students with low food security used CalFresh system-wide. Seven in 10 students were unaware of emergency housing services or thought they were not offered on campus."

The University of California (UC) is the most selective and expensive of the three higher education systems in California. Systemwide tuition and fees currently cost resident undergraduates \$12,630 and roughly total cost of attendance for living on campus is \$34,700, versus \$31,600 off campus. According to the Speaker's Office, "like at CSU, grant aid at UC covers nearly half the cost of attendance for the average resident student, at an average award amount of \$16,000." The Office also found that "rent is the largest expense for UC students living off campus, though UC has the most amount of aid available for living costs. In 2016, 5% of undergraduates were homeless while attending UC, and nearly half of undergraduates were food insecure. Of students experiencing food insecurity, 57% were not food insecure as children. In addition, a survey of graduate students in May 2017 found that one in three was food insecure and 5% experienced homelessness."

The report provides the following recommendations:

- Conduct oversight and follow-up on implementation of AB 801 (Bloom, Chapter 432, Statutes of 2016), which, in part, required colleges to designate a Homeless Student Liaison on campus;
- Connect students with benefits like CalFresh by incorporating pre-screening into existing services, such as academic counseling or orientation, in order to capture the most students eligible;
- Provide emergency aid or micro-grants to students facing financial emergencies or needing security deposit assistance, and ensure eligibility for aid is as clear and unrestrictive as possible;
- When developing on-campus housing, or housing near campuses, consider the needs of low- and moderate-income students and build mixed-income or exclusively affordable projects.
- Provide students with housing assistance by operating legal clinics or referring them to legal help for evictions or landlord issues. Use some on-campus housing spaces for short-term emergency housing for students who are homeless. If schools do not have on-campus housing, partner with local hotels and motels to offer homeless students subsidized vouchers for temporary stays.
- Establish campus food pantries, campus community gardens, food recovery or meal swipe donation programs.
- Coordinate with local Continuums of Care and public housing authorities to ensure students experiencing homelessness are accessing the local coordinated entry system, and build relationships with local youth shelters and service providers in particular.

For the full report, please visit:  
[https://www.scribd.com/document/384328333/College-Ready-Hungry-and-Homeless?#emlnl=Alerts\\_AM\\_Newsletter&id=bmljb2xhc3FnYWx2YW5AZ21haWwuY29t](https://www.scribd.com/document/384328333/College-Ready-Hungry-and-Homeless?#emlnl=Alerts_AM_Newsletter&id=bmljb2xhc3FnYWx2YW5AZ21haWwuY29t)