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House Bill Gives NIH Three Percent Increase; Senate Measure Still in Committee

The House of Representatives passed the FY 2010 Labor, Health and Human Services, Education and Related Agencies (Labor-HHS) Appropriations bill on July 27, 2009 by a vote of 264-153. The Labor-HHS bill determines annual funding levels for the National Institutes of Health. The House approved \$31.3 billion for NIH, \$500 million more than the President's request and \$942 million (3 percent) more than FY 2009. During debate on the floor, the House considered five amendments, including an amendment offered by Representative Darrell Issa (R-CA). The amendment, accepted by Appropriations Committee Chairman David Obey (D-WI) without a vote, would remove funding for three NIH grants designed to understand the behavioral factors in HIV transmission. However, there is a strong possibility that the amendment will not be included in the conference agreement between the House and Senate.

While the House has passed all 12 appropriations bills, the Senate process is moving at a slower pace. The Senate Labor-HHS Appropriations Subcommittee and the full Appropriations Committee passed the Labor-HHS Appropriations bill last week. The Senate version of the bill includes \$30.8 billion for NIH, an increase of \$442 million (1.4 percent) over the FY 2009 level, matching the President's request.

During his opening remarks, Labor-HHS Appropriations Subcommittee Chair Tom Harkin (D-IA) stated that the subcommittee chose to allocate only a 1.4% increase to NIH because of the \$10 billion allocation that it received through the American Recovery and Reinvestment Act of 2009 (ARRA). Many other programs that received significant funds through ARRA were also funded only at the level of the President's request. The Committee report, which offers further justification for the allocation of money, provides insight into why NIH was funded at the President's request.

- *... "The Committee understands that the recommended fiscal year 2010 funding level falls below the amount needed to keep up with biomedical inflation, and that the NIH could face severe financial pressures in fiscal year 2011. But the Committee notes that the record-high increase for the NIH in the ARRA greatly mitigates the need for more funding than the administration requested in fiscal year 2010. While additional funding for the NIH could help ease the budgetary pressures in fiscal year 2011, that alone is not a sufficient reason to go beyond the administration's budget request in fiscal year 2010, especially when many other important programs in this bill that did not receive increases in the ARRA face immediate pressures of their own."*
- *... "The Committee rejects the administration's proposals to earmark an increase of \$268,000,000 for research on cancer and an increase of \$19,000,000 for research on autism. The devastating effects of cancer*

and autism are well known, and additional federally supported research in these areas is certainly warranted. However, the President's plan would set a dangerous precedent. The Committee has long subscribed to the view that funding levels for individual diseases should be determined without political interference. If Congress were to earmark funds for cancer and autism, advocates for a multitude of other health problems would justifiably demand similar treatment. In the long run, no one's interest would be served if Members of Congress with no professional expertise in medical research were asked to make funding decisions about hundreds of diseases and health conditions. ”

- ...”The Committee also notes that the proposed increases for cancer and autism research total \$287,000,000 of the \$441,764,000 overall proposed increase for NIH. It is hard to justify to those whose lives have been touched by heart disease, diabetes, COPD, Alzheimer’s disease and stroke, to name a few other high-morbidity diseases, that research in just two areas deserves almost two-thirds of all the new funding in fiscal year 2010.”

Health Reform Proposals Advance Through Congress

As Congress begins the August recess, many questions remain on health reform proposals. Prior to adjourning, the House Energy and Commerce Committee (E&C) completed its mark-up of the legislation drafted by E&C leadership in cooperation with the leadership of the Education and Labor Committee and the Ways and Means Committee (H.R. 3200). The other committees had previously approved their own marked-up versions of the bill. In order to gain support from enough committee members to ensure passage, E&C Committee Chair Henry Waxman (D-CA) came to an agreement with the Blue Dogs, fiscally conservative Democratic members of the House, on a number of amendments. Part of the agreement with several Blue Dog Democrats was a commitment from House leaders to refrain from bringing the bill to the floor for a vote until after Congress returns from the August recess in order to provide lawmakers sufficient time to review the language. The compromise, which would reduce the overall cost of the bill by \$100 billion, states that health care provider participation in the public option plan would be voluntary, that provider payment rates would be negotiated and not based on Medicare rates, and that safeguards would be established to ensure a level playing field for private plans. While some additional amendments will be added to H.R. 3200 in September through a separate bill, House leaders will now begin the work of melding the bills approved by the three committees for consideration by the full House this fall.

Also in an effort to gain support from the Blue Dogs, President Obama offered his own proposal to create an Independent Medicare Advisory Council (IMAC) with the authority to make changes to the Medicare program that, unless overridden by Congress within 30 days of introduction, would be implemented. In a July 25 letter to House Majority Leader Steny Hoyer (D-MD), Congressional Budget Office (CBO) Director Douglas Elmendorf wrote that enacting the Administration’s proposal would yield modest savings of \$2 billion over the 10-year period. However, all of the savings would be realized in the final four fiscal years 2016 through 2019. The White House’s plan has faced significant pushback from many industry stakeholders who disagree with the idea of having unelected, independent officials, appointed by the President, setting Medicare policy. As a result of the modest savings and the concerns raised by stakeholders, many experts believe the plan will ultimately be excluded from health reform legislation.

Two Senate committees are also grappling with health reform proposals. Although the Senate Health, Education, Labor and Pensions Committee passed its version of a health reform package, the Senate Finance Committee has yet to approve a bill. Senator Max Baucus (D-MT), chair of the Finance Committee, is intent on producing a bill for consideration by the committee by that has bipartisan support. To achieve this, Baucus and a bipartisan group of five other Finance Committee Senators have continued daily meetings over the past several weeks in order to craft an agreement. According to members of this group, the key sticking points in negotiations center on paying for the overall cost of the reform bill, ensuring that health insurance is affordable, and addressing the concerns of state governors regarding the additional costs associated with expanding Medicaid eligibility. According to a CBO analysis, the draft legislation produced to date by the Finance Committee would cost less than \$900 billion and would cover 95 percent of Americans.

Advocacy Efforts Delay Red Flags Rule Implementation

As a result of advocacy efforts by medical societies including The Endocrine Society, the Federal Trade Commission (FTC) has delayed the implementation date for compliance with the Red Flags Rule until November 1, 2009. This is the third implementation delay that the FTC has announced. Originally slated to begin November 1, 2008, compliance was first pushed back to May 1, 2009, and again to August 1, 2009. The latest delay was announced last week. The Red Flags Rule requires certain entities to implement written identity theft prevention and detection programs to protect consumers from identity theft. The rule requires protection of credit card information and tax identification numbers, such as social security numbers, and applies to all “creditors.” According to the FTC, physicians who accept insurance or allow payment plans are considered to be creditors.

The American Medical Association (AMA), The Endocrine Society, and other medical specialty societies have expressed their dissent that the Red Flags Rule should apply to physicians and have presented the argument that physicians are not, in fact, creditors. Both the AMA and the FTC have developed resources on compliance with the rule and simple identity theft prevention programs that can be incorporated into current HIPAA security and privacy policies. Physician resources are available at:

<http://www.ftc.gov/redflagsrule>

<http://www.ama-assn.org/ama/no-index/physician-resources/red-flags-rule.shtml>

Endocrine Society Partners with Research!America on *Your Congress-Your Health*

The Endocrine Society has once again partnered with Research!America on *Your Congress-Your Health*, an initiative started in 2007 to create a dialogue on health and research between Congress and the public. A goal of the *Your Congress-Your Health* initiative is to provide a database that outlines the stated positions of individual members of Congress on research- and health-related policy issues and, over time, to align members’ voting records with this information. This comparison will provide clear evidence of how well legislators’ voting records support their public comments on issues important to Endocrine Society members.

The Society encourages you to write to your members of Congress and ask them to respond to the *Your Congress-Your Health* questionnaire so that you may track where they stand on medical

research and other health-related issues. A sample letter is available on the Research!America website. To view the letter, please click [here](#).

The website www.yourcongressyourhealth.org outlines the questions being asked of members of Congress and includes their responses. The site is updated regularly with new information as more and more members provide their perspectives.

NIH to Request Grant Proposals on Breast Cancer and the Environment

The National Institute of Environmental Health Science (NIEHS) and the National Cancer Institute (NCI) have teamed up to encourage collaborative research and outreach on the environmental contributors to breast cancer. The Breast Cancer and the Environment Research Program (BCERP) supports transdisciplinary research on the effect of the interaction of environmental factors with genetic factors on development, health, and breast cancer throughout a woman's lifetime. Though applications are not being solicited at this time, a funding opportunity announcement is expected to be made in September. More information is available [here](#).

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