

## APLU ANALYSIS OF THE FISCAL YEAR 2022 NATIONAL DEFENSE AUTHORIZATION ACT

On December 16, 2021, the Senate overwhelmingly approved the \$768 billion National Defense Authorization Act for Fiscal Year 2022 conference agreement, sending the bill to President Biden for his signature. The House of Representatives passed the conference agreement on December 7, 2021 by a vote of 363-70.

The House Armed Services Committee previously provided a [summary](#) and [explanatory statement](#) of the bipartisan legislation.

Earlier in the month, APLU President Peter McPherson and Association of American Universities (AAU) President Barbara Snyder sent a [conference letter](#) to Armed Services Leadership in Congress with recommendations on several shared priorities and concerns addressed in the legislation.

APLU was successful in advocating for increased basic research funding authorizations in the final bill. Provisions of concern regarding increased research security regulations were removed and will likely be considered next year as part of the U.S. Innovation and Competition (S. 1260) conference. The bill analysis below highlights which provisions were ultimately included and not included in the conference agreement considering the provisions of the original House and Senate measures.

### I. SCIENCE & TECHNOLOGY FUNDING

Summary: Overall the NDAA Conference Agreement authorizes \$5.8 billion above the President’s Budget Request (PBR) in funding for research, development, testing, and evaluation, including a 24.7 percent increase in defense-wide basic research, applied research, and advanced technology development.

<b>Title XLII – Research, Development, Test, and Evaluation</b>	
<b>Sec. 4201. Research, Development, Test, and Evaluation</b>	
<b><u>Program</u></b>	<b><u>Authorization Level</u></b>
University Research Initiatives (pg. 1,824) (pg. 1,829) (pg. 1,834)	Army URI - FY 22 PBR - \$66,981,000 <b>Conference Agreement - \$96,981,000</b>  Navy URI – FY 22 PBR - \$117,448,000 <b>Conference Agreement - \$167,448,000</b>  Air Force URI - FY 22 PBR - \$162,403,000 <b>Conference Agreement - \$193,903,000</b>
Defense Research Sciences (pg. 1,824)	Army DRS – FY 22 PBR - \$297,241,999

(pg. 1,829) (pg. 1,834) (pg. 1,840)	<p align="center"><b>Conference Agreement - \$328,788,000</b></p> <p>Navy DRS – FY 22 PBR - \$484,421,000  <b>Conference Agreement - \$489,406,000</b></p> <p>Air Force DRS – FY 22 PBR - \$328,303,000  <b>Conference Agreement - \$347,823,000</b></p> <p>Defense Wide DRS – FY 22 PBR - \$395,781,000  <b>Conference Agreement - \$454,281,000</b></p>
Basic Research Initiatives, including the Minerva Research Initiative (pg. 1,840)	FY 22 PBR - \$39,828,000 <b>Conference agreement - \$77,061,000</b>
National Defense Education Program (pg. 1,840)	FY 22 PBR - \$112,195,000 <b>Conference Agreement - \$132,195,000</b>
Defense Advanced Research Projects Agency (DARPA)	FY 22 PBR - \$3,533,492,000 <b>Conference Agreement - \$4,577,504,000</b>

## **II. RESEARCH & RESEARCH SECURITY**

The NDAA conference agreement removed all research security provisions proposed in the House and Senate package. Research security provisions will be negotiated as part of the conference for the U.S. Innovation and Competitiveness Act (S. 1260)

The conference agreement also requires the Secretary of Defense to develop a plan to promote defense research at “minority institutions,” and to support the development of capabilities to enable such institutions to more effectively compete for federal research funding.

<b>Title II – Research, Development, Test, and Evaluation</b>		
<b>Subtitle B – Program Requirements, Restrictions, and Limitations</b>		
<b>Section</b>	<b>Provision of Interest to APLU</b>	<b>Outcome</b>
Sec. 220. Defense Research and Engineering Activities at Minority Institutions (pg. 119)	<p>Would require the Secretary of Defense to develop a plan to promote defense-related engineering, research, and development activities at minority institutions for the purpose of elevating the capacity of such institutions in those areas</p> <p>Subject to the availability of appropriations, would authorize the Secretary to establish a program to award contracts, grants, or other</p>	<p>Included in Conference Agreement - the bill also more than doubles the budget request for Historically Black Colleges/Minority Intuitions programs (PE 601228D8Z) to \$73,247,000</p>

	agreements on a competitive basis to minority institutions	
Sec. 240. Research Security Training Requirement for Federal Research Grant Personnel	Would have required federal research agencies to establish an annual research security training requirement for federal research grant personnel	Not in Conference Agreement
Sec. 6446. Admission of Essential Scientists and Technical Experts to Promote and Protect the National Security Innovation Base	Would have provided a new, narrow pathway for ten essential scientific and technical experts to contribute their education and talents to the U.S. National Security Innovation Base	Not in Conference Agreement - However, the Undersecretary of Defense for Research and Engineering is instructed to provide recommendations to the Armed Services Committees on the use of foreign talent in research areas of national interest.
Sec. 6484. National Academies Science, Technology, and Security Roundtable	Would have directed the National Academies to convene an ad-hoc committee to study and provide recommendations on the feasibility of establishing an independent, non-profit entity to enable informed, proactive, and unbiased risk assessment for the U.S. research enterprise	Not in Conference Agreement
Sec. 6499E. Malign Foreign Talent Recruitment Program Prohibition	Would have prohibited malign talent recruitment program participants from receiving research and development awards from any federal research agency.	Not in Conference Agreement
House Intelligence Authorization Act for FY 2022 (H.R. 5412) DOD Pilot Program for Security Vetting of Certain Individuals (Section 701)	Would have authorized a new pilot program to vet researchers working on non-classified DOD sponsored research.	Not in Conference Agreement

### **III. CYBERSECURITY**

The NDAA conference agreement does not include a proposal that would have required all government contractors, including universities, to participate in a new federal cyber security incident reporting system.

The agreement calls for two studies supported by APLU focused on the impact of the Cybersecurity Maturity Model (CMMC) and a second study on academic engagement for the recruitment of cyber talent.

<b>Title VIII - Acquisition Policy, Acquisition Management, and Related Matters</b>		
<b>Subtitle G – Small Business Matters</b>		
<b>Section</b>	<b>Provision of Interest to APLU</b>	<b>Outcome</b>
Sec. 866. Report on Cybersecurity Maturity Model Certification Effects on Small Businesses (pg. 790)	<p>Would require the Secretary of Defense to submit a report on the effects of the Cybersecurity Maturity Model Certification (CMMC) framework on small businesses.</p> <p>In addition to small businesses, colleges and universities are also required to participate and comply with the new cybersecurity requirements as part of the CMMC framework.</p>	Included in Conference Agreement - but does not call out higher education institutions to be included in the report.
<b>Title XV – Cyberspace-Related Matters</b>		
<b>Subtitle B – Matters Related to Department of Defense Cybersecurity and Information Technology</b>		
Sec. 1532. Study Regarding Establishment Within DOD of a Designated Central Program Office for Cyber Talent (pg. 1,314)	Would direct the Secretary of Defense to conduct a feasibility study on establishing a central program office responsible for overseeing all academic engagement programs focusing on creating cyber talent across DOD.	Included in Conference Agreement
New Cyber Incident Reporting Requirements	Senator Peters’ Amendment #4799 to the Senate NDAA would have created a new Cyber Incident Reporting Act (CIRA), which requires federal contractors, including many colleges and universities, to report cybersecurity incidents	Not in Conference Agreement

#### **IV. EDUCATION**

The NDAA conference agreement removed a controversial provision that would have required contractors to report on professional training materials in use. This provision was aimed at identifying any materials that could be seen as promoting “critical race theory.”

The conference agreement does include a provision that would expand in-state tuition requirements in the Higher Education Act for members of the Armed Services, spouses, and dependents to also cover foreign service officers and their families.

<b>Title VIII - Acquisition Policy, Acquisition Management, and Related Matters</b>		
<b>Subtitle B – Amendments to General Contracting Authorities, Procedures, and Limitations</b>		
<b>Section</b>	<b>Provision of Interest to APLU</b>	<b>Outcome</b>
Sec. 818. DOD Contractor Professional Training Material Disclosure Requirements	Would have required federal contractor to publicly disclose a wide range of internal diversity equity and training materials.	Not in Conference Agreement
<b>Title LXII - Foreign Service Families Act of 2021</b>		
Sec. 6206. In-State Tuition Rates for Members of Qualifying Federal Service (pg. 2,009)	Would expand in-state tuition requirements in the Higher Education Act for members of the Armed Services to also cover a member of the Foreign Service, spouses, and dependents, for those on active duty for a period of more than 30 days. The HEA language (20 U.S.C. 1015d) applies the requirement to those “whose domicile or permanent duty station” is in the state	Included in Conference Agreement

## **V. STUDENT SERVICEMEMBERS & VETERANS**

The NDAA conference agreement includes an amendment offered by Senator Cardin (D-MD) that aims to gain additional information about ongoing implementation issues surrounding the Army’s new online system, ArmyIgnitED. Issues with the system have caused significant challenges for Army servicemembers trying to use their tuition assistance benefits at colleges and universities across the country.

<b>Title V – Military Personnel Policy</b>		
<b>Subtitle F – Member Education, Training, and Transition</b>		
<b>Section</b>	<b>Provision of Interest to APLU</b>	<b>Outcome</b>
Sec.559. Concurrent use of DOD Tuition Assistance and Montgomery GI Bill-Selected Reserve Benefits (pg. 495)	Would allow for the concurrent use of DOD tuition assistance and Montgomery GI Bill-Selected Reserve Benefits, and would no longer consider this to be a duplication of benefits if the individual is enrolled in a program of education on a half-time or more basis	Included in Conference Agreement
Sec. 559F. Report on Status of Army Tuition Assistance Program Army IgnitED Program (pg. 504)	Would require the Secretary of the Army to submit a report on the status of the ArmyIgnitED portal through which Army servicemembers access tuition assistance, as well as a timeline for resolving ongoing issues with the system.	Included in Conference Agreement