



FY2021 NDAA Conference Agreement Summary of Provisions

Last week, the House and Senate FY2021 National Defense Authorization Act conferees released their [conference report](#) and [summary](#). The full House plans to vote on the conference report this week. Below are provisions that APLU provided [comments](#) on that have been included, amended, or removed from the final agreement.

*Because many pages in the report are not associated with a page number at the top of each page, page numbers referenced in this summary will match the PDF page referenced at the top left of your screen when the conference report is open.

SEC. 220. Social Science, Management Science, and Information Science Research Activities

Page 205

Action: Included

The conference report restores \$17 million in funding to the Minerva Research Initiative (MRI) program (page 4325) and formally authorizes the MRI program at the DoD. Section 220 requires a social, management, and information science research and development program to ensure access to the innovation and expertise necessary for improving the effectiveness and efficiency of executing operational and management activities. This section gives authority to the Secretary of each military department to establish or designate an entity or activity under the jurisdiction of such Secretary, which may include a DoD Laboratory, an academic institution, or another appropriate organization, to support interdisciplinary R&D social science, management science, and information science activities. The Department may engage with appropriate public and private sector organizations, including academic institutions, to enhance and accelerate the research, development, and deployment of social science management science, and information science within the agency.

SEC. 223. Disclosure of Funding Sources in Application for Federal Research and Development Awards

Page 220

Action: Included

Section 223 requires federal agencies ensure all federal grant applicants listed on a funding application to disclose all sources of current and pending research support received by, or expected to be received by, the individual at the time of disclosure. Updated disclosures may be requested by the agency prior to the award of support and at any subsequent time deemed appropriate by the agency. An entity, such as an institution of higher education, is responsible for certifying that each covered individual who is employed by the entity and listed on the application has been made aware of the disclosure requirements.

The Office of Science and Technology Policy is responsible for ensuring that disclosure requirements issued by federal research agencies are consistent. Failure to comply with disclosure requirements come with penalties such as an agency rejecting an application, temporarily or permanently discontinuing any or all funding from that agency for an individual or entity, and/or referring all failures to disclose to an

agency's Inspector General Office for further investigation. The conference report contains a special rule that enforcement against entities only in cases where the institution has not made faculty aware of disclosure requirements or the institutions was aware an individual on the grant did not properly disclose all other sources of research support.

SEC. 889 Assessment and Enhancement of National Security Innovation Base

Page 1069

Action: Included

Sections 889 requires an assessment of the economic forces and structures shaping the capacity of the national security innovation base, and policy proposals to address such forces and structures. APLU was supportive of an assessment during negotiations and is encouraged to see that a review of education funding policy; immigration policy, including the policies germane to the attraction and retention of skilled immigrants; federally funded investments, including R&D and advanced manufacturing; and federally funded investments to expand domestic manufacturing capabilities will be forthcoming.

SEC. 1062 Limitation on Provisions of Funds to Institutions of Higher Education Hosting Confucius Institutes

Page 1243

Action: Included

Section 1062 prohibits DoD from providing funding to any institution of higher education that hosts a Confucius Institute, other than amounts provided directly to students as educational assistance. In consultation with the National Academies of Sciences, Engineering, and Medicine, the DoD may waive the prohibition. The waiver process will be managed by the new academic liaison, established in Section 1299C below and the prohibition will go into effect 24 months after the enacted of this law.

SEC. 1299C Modification to Initiative to Support Protection of National Security Academic Researchers from Undue Foreign Influence and Other Security Threats

Page 1610

Action: Included

Section 1299C of the FY2021 NDAA conference agreement combines numerous elements that will help promote greater transparency and information sharing between federal agencies and academic institutions that APLU was supportive of during negotiations. This section amends Section 1286 of the FY2019 NDAA by calling on the Secretary of Defense to establish an initiative within DoD to work with institutions of higher education who perform defense research and engineering activities. The initiative and requirements include:

- Designating a government official to act as an academic liaison with principal responsibility for working with academia to develop and execute initiatives to protect Department-sponsored academic research from undue foreign influence and threats;
- Establishing briefings on espionage risks to appropriate senior academic officials;
- Developing and continuously updating in consultation with the National Academies of Science, Engineering, and Medicine and the appropriate government agencies, a list of foreign talent programs that pose a threat to national security interest;
- Establishing additional procedures, consistent with government best practices and overseen by the designated academic liaison, for enhanced information sharing between the government and academic institutions with respect to fundamental research programs;

- Mandating additional reporting on lists of academic institutions and foreign threat programs of concern; and,
- Requiring a report to congressional defense committees by April 30, 2021 containing:
 - o A description of the activities conducted, and the progress made to carry out this section;
 - o Findings of the Secretary with respect to the initiative;
 - o Recommendations for legislative or administrative action, including actions related to foreign talent programs;
 - o Identification and discussion of the gaps in legal authorities that need to be proved to enhance the security of research institutions of higher education performing defense research;
 - o A description of the actions taken by such institutions to comply with such best practices and guidelines as may be established by under the initiative; and,
 - o Identification of any incident relating to undue influence that impact academic research activities funded by the DoD, including theft of property or intellectual property relating to a project funded by the Department at an institution of higher education.

SEC. 1739 Assessment on Defense Industrial Base Cybersecurity Threat Hunting Program

Page 1958

Action: Included

Section 1739 directs the Secretary of Defense to complete an assessment of the feasibility, suitability, definition of, and resourcing required to establish a defense industrial base cybersecurity threat hunting program to actively identify cybersecurity threats and vulnerabilities within the defense industrial base. APLU and AAU had expressed concerns about the applicability of cybersecurity regulations to higher education research institutions engaged in basic research in our conference priorities [letter](#). While the association concerns were not fully addressed in the conference report, we will continue work with the Department of Defense and Congress on appropriate implementation of DoD's Cybersecurity Maturity Model Certification (CMMC) program.

Modified versions of bills of interest included in the FY2021 NDAA Conference Report:

- H.R.6145 / S.3191 Industries of the Future (page 3564)
- H.R.7178 / S.3933 Creating Helpful Incentives to Produce Semiconductors for America (page 3632)
- H.R. 6216 National Artificial Intelligence Initiative Act of 2020 (page 2780)

Provisions Not Included

Sense of Congress on the role of the National Science Foundation

Page 3784

Action: The House recedes

The conferees did include language stating that “the National Science Foundation is critical to the expansion of the frontiers of scientific knowledge and advancing American technological leadership in key technologies. Additionally, the conferees believe that in order to continue to achieve its mission in the face of rising challenges from strategic competitors, the National Science Foundation should receive a significant increase in funding, expand its use of its existing authorities to carry out new and innovative types of activities, consider new authorities that it may need, consider the creation of new directorates

or other structural changes, and increase existing activities such as the convergence accelerators aimed at accelerating the translation of fundamental research for the economic and national security benefit of the United States.”

Traineeships for American leaders to excel in national technology and science (House Sec. 279)

Page 3786

Action: The House recesses

While a traineeship program at the DoD was not established, the conferees direct the Under Secretary of Defense for Research and Engineering, in consultation with the Director of the National Science Foundation, to provide a comparison and cost benefit analysis not later than 1 year after the date of enactment of this Act of the value, impact, and success of different training and educational models aimed at expanding Department of Defense access to domestic scientific and technological talent in areas of strategic importance to national security, including the core modernization priorities derived from the most recent national defense strategy provided under section 113(g) of title 10, United States Code. The analysis should:

1. Consider the findings and recommendations in the National Academies of Science, Engineering and Medicine’s 2018 report on Graduate STEM Education for the 21st Century, and other relevant studies;
2. Assess various forms of scientific or technical educational assistance available to students;
3. Evaluate the value of educational cohorts in supporting educational missions;
4. Assess models that can best support and attract minority and lower income students, students at minority institutions, students underrepresented in STEM fields, and students from diverse regions of the country; and
5. Develop recommendations supportive of defense workforce and educational goals, including training and education of a high-quality workforce in disciplines of strategic importance to national security.

National Security Innovation Pathways

Page 3788

Action: The House recesses

APLU supported Section 281 of the House bill that would have provided special immigrant status to essential scientists and technical experts working on technologies critical for national defense. This proposal failed to make it into this year’s NDAA conference agreement.

Prohibition on procurement or operation of foreign-made unmanned aircraft systems

Page 3975

Action: The House recesses

Section 830B of the House bill contained a provision that would prohibit the head of an executive agency from procuring any commercial off-the-shelf drone or covered unmanned aircraft, or any component thereof for use in such a drone or unmanned aircraft, that is manufactured or assembled by a covered foreign entity, including any flight controllers, radios, core processors, printed circuit boards, cameras, or gimbals. As this prohibition would have negatively impacted many of our member institutions who utilize unmanned aircraft systems for research purposes, APLU urged conferees to exclude this provision from final agreement.

While the prohibition was not enacted, the conferees expect the Secretary of Defense to provide a briefing on activities underway at the DoD to share threat information related to the operational use of foreign systems with federal agencies by October 1, 2021. Regarding domestic supply chain issues, the conferees direct the Secretary of Defense to prepare in the agency's annual report an assessment of current and projected future demand for small unmanned aircraft system components. This assessment shall include:

1. The sustainability and availability of secure sources of critical components domestically and from sources in allied and partner nations;
2. The cost, availability, and quality of secure sources of critical components and other relevant information domestically and from sources in allied and partner nations;
3. Any plans of the Department of Defense to address gaps or deficiencies, including through the use of funds available under the Defense Production Act (50 U.S.C. 55) or through partnerships with public and private stakeholders; and
4. Other information as the Under Secretary of Defense for Acquisition and Sustainment determines to be appropriate.

Online and distance education classes and nonimmigrant visas

Page 4483

Action: The House recesses

Section 1736 of the House bill contained a provision that would authorize nonimmigrants described in subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) to engage in online or distance education classes or programs that are determined necessary by an institute or program for the protection of health and safety and that such classes or programs would count toward the requirement to pursue a full course of study to maintain nonimmigrant status. APLU [supported](#) this provision but it ultimately failed in conference negotiations.