

# Legislative Update



## August 2019

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### **Two-year budget deal raises spending caps for final two years of the BCA**

On July 25, the House of Representatives passed H.R. 3877, the Bipartisan Budget Act of 2019 by a vote of [284-149](#). The legislation, supported by APHA, would raise the austere spending caps under the final two years of the Budget Control Act of 2011 to provide \$56.5 billion in additional funding for nondefense discretionary programs over fiscal years 2020 and 2021, including programs critical to improving and protecting the public's health. The Senate passed the bill by a vote of [67-28](#) on August 1. Had Congress failed to pass this crucial legislation, nondefense discretionary funding would have been cut by \$55 billion below current levels in FY 2020. While APHA supported the legislation, in a [letter to all members of Congress](#), APHA Executive Director, Dr. Georges C. Benjamin expressed disappointment that the agreement would extend the sequester of mandatory non-exempt programs including the Prevention and Public Health Fund. Through the Centers for Disease Control and Prevention, the prevention fund provides critical resources for programs at the local, state and federal levels that fight obesity, curb tobacco use, increase access to immunizations and prevent childhood lead poisoning.

Now that Congress has raised the spending caps for nondefense discretionary spending, the Senate must begin work on its version of the FY 2020 appropriations

bills. The House has already passed 10 of the 12 annual spending bills, but will have to make adjustments to certain spending levels in order to conform to the final spending levels set by the budget agreement – a \$15 billion difference for nondefense discretionary programs. Once the Senate has passed its FY 2020 bills, both chambers will have to come together and reconcile any spending differences contained in each chambers' versions of the bills. APHA will continue to monitor the process and urge Congress to provide the highest possible level of funding for programs at CDC and HRSA. APHA members are encouraged to [send a message to their members of Congress](#) urging strong support for public health funding in any final FY 2020 Labor-HHS-Education appropriations bill.

### **APHA urges Congress and the administration to address the health impacts of climate change**

On Wednesday, July 24, APHA Executive Director Dr. Georges C. Benjamin [testified](#) at the House Budget Committee's hearing, [The Costs of Climate Change: From Coasts to Heartland, Health to Security](#). At the hearing, Dr. Benjamin highlighted the health impacts and the health costs associated with climate change, including those health impacts we are experiencing today. Climate change and rising temperatures expose more Americans to conditions that result in illness and death due to respiratory illness, heat-related stress, vector-borne disease, wildfires and extreme weather events. Climate change raises temperatures and makes ozone pollution worse, triggering asthma attacks and permanently damaging and reducing lung function. These maladies fall most heavily on our most vulnerable communities, including children, seniors, low income communities, some communities of color and those with chronic disease. Emerging data indicate that the health, social and economic costs of climate change are vast. One study estimates health costs of six climate related events at \$14-40 billion, which is consistent with costs from other weather and climate disasters. Billions of dollars have been lost due to climate and weather disasters in the United States. The year 2017 saw a record-tying 16 major events. This costs approximately \$313 billion, which includes damage calculations for insured and uninsured losses, such as structural and agricultural.

Benjamin urged Congress and the administration to work to reduce greenhouse gas emissions, increase funding for CDC's Climate and Health Program and to support the Climate Change Health Protection and Promotion Act which would create a national strategic plan to address the health impacts of climate change. In addition, APHA signed on to the [Climate, Health, and Equity Policy Action Agenda](#) with more than 70 health organizations to protect the health and safety of all people in the U.S. Together these organizations call on government, business, and civil society leaders, elected officials and candidates for office to recognize climate change as a health emergency and to work across government agencies and with communities and businesses to prioritize the actions in this Climate, Health and Equity Policy Action Agenda. You can find more information and resources related to the [health impacts of climate change on APHA's website](#).

## **APHA supports legislation to establish humanitarian standards at border detention centers and protect immigrant families**

Reports of inhumane conditions at Customs and Border Protection facilities have raised alarm among public health professionals and members of Congress alike. This past June, APHA endorsed [H.R. 3239, the Humanitarian Standards for Individuals in Customs and Border Protection Custody Act](#), sponsored by Rep. Raul Ruiz, D-Calif., which would enforce standards related to the care of immigrants in U.S. Customs and Border Protection custody. Specifically, the bill would require health screenings, psychological and mental care and proper documentation of individual care. Additionally, the bill would create standards to ensure detainees receive appropriate access to drinking water, sanitation, hygiene products and food and nutrition services. This legislation would also require CBP to coordinate with the federal agencies to address surge capacity, and ensure that all CBP personnel are trained on humanitarian response and standards. The bill passed the House on July 24 by a vote of [233-195](#). At this time, the outlook for the [Senate companion bill](#), introduced by Senators Tom Udall, D-N.M., Martin Heinrich, D-N.M., and Sherrod Brown, D-Ohio, is unclear.

APHA has also endorsed two bills in the House sponsored by Rep. Lucille Roybal-Allard, D-Calif., [H.R. 3451, the Human Enforcement and Legal Protections for Separated Children Act](#) and [H.R. 3452, the Help Separated Families Act](#). The HELP Separated Children Act includes provisions that would help to mitigate some of the stress and instability of immigration enforcement on children by allowing parents to arrange for the care of their children prior to being taken into custody and prior to deportation; supporting continued contact between detained parents and children; and ensuring parents are able to fully participate in child welfare proceedings. The bill also seeks to minimize trauma for children who are present during enforcement actions by requiring agents to undergo training and to refrain from interrogating parents in front of children or using children as translators. Meanwhile, the Help Separated Families Act includes critical provisions to address barriers that may prevent children in the child welfare system from being able to reunite with a detained or deported parent or to be placed in the care of a family member. The bill also seeks to prevent unnecessary permanent separation by allowing child welfare agencies to delay the process for terminating parental rights in cases when a parent is detained or deported, unless certain conditions are met. Rep. Roybal-Allard introduced these bills in late June, but no further action has been taken at this time.

## **The latest on ACA in the courts**

On July 9, a three-judge panel of the Fifth Circuit Court of Appeals heard oral arguments in the case *Texas v. United States*, a lawsuit brought by a coalition of 18 conservative state attorneys general challenging the constitutionality of the Affordable Care Act's individual mandate and, ultimately, the entire health care law. The plaintiffs argue that without a tax penalty – which was zeroed out by with the enactment of the [Tax Cuts and Jobs Act](#) – the individual mandate is no longer constitutional, and because the individual mandate is so intertwined with other

provisions of the law then the entire law should be found unconstitutional and struck down. In December 2018, Judge Reed O'Connor of the Northern District of Texas agreed with the plaintiffs, ruling that the ACA is invalid, but would remain in effect through the appeals process.

The main questions in this case center on severability and interpreting Congressional intent. Unfortunately, the ACA does not have a severability clause which means if any provision of the law is struck down then the remainder of the law could be struck down as well. Judicial precedent on severability directs courts to defer to Congressional intent. In this case, defendants of the ACA argue that because the 2017 Congress, which passed the tax reform bill, left the remaining provisions of the ACA intact after the individual mandate penalty was eliminated, there is no clear indication that Congressional intent was to repeal the entire health care law.

If the state plaintiffs' argument prevails, it will upend major provisions of the ACA, including the protections of those with pre-existing conditions, coverage of preventative services including immunizations and cancer screenings and more than 20 million people would lose health coverage immediately. In addition to coverage-related provisions, the ACA established critical public health provisions and programs, including the [Prevention and Public Health Fund](#), which would be eliminated if the law is struck down. A ruling from the Fifth Circuit is expected later this fall.

### **Senate agrees to 2019 National Public Health Week Resolution**

On July 31, the Senate agreed to the [National Public Health Week resolution](#) by voice vote. The resolution, introduced by Sen. Tom Udall, D-N.M., recognizes the efforts of public health professionals in preventing disease and injury and the role of public health in improving health across the U.S. In addition, it encourages strengthening the public health system and increasing efforts and resources to help create the healthiest nation in one generation. APHA is grateful to Sen. Udall for his leadership in introducing this resolution and to the Senate for their support of National Public Health Week.

### **APHA's 2019 Speak for Health Advocacy Bootcamp brings public health advocates to Washington, D.C.**

On July 15 and 16, APHA hosted the second-annual Speak for Health Advocacy Bootcamp. This two-day training provided public health students and early-career professionals with an opportunity to learn and apply public health advocacy tools in a policy setting. This year, APHA focused on the intersection of public health and climate change by calling upon public health advocates to urge their members of Congress to support action to help protect against the negative health impacts of climate change.

Attendees heard from both climate policy and climate advocacy experts to help them prepare for their meetings with the offices of their Senators and

Representatives. The nearly 190 attendees represented 38 states, and collectively visited more than 200 member offices on Capitol Hill.

APHA is incredibly inspired by the passion and knowledge of all the 2019 Speak for Health Advocacy Bootcamp attendees. The involvement of public health professionals and students in policy is vital to creating healthier communities and influencing legislation that benefits all people.

### **Advocate for public health this Congressional recess**

The U.S. House of Representatives and the Senate will be in recess Aug. 5 — Sept. 9, meaning your representatives and senators are home and more accessible. Reaching out to lawmakers in support of strong funding for important public health programs at CDC and HRSA and protecting the Prevention and Public Health Fund is especially important as Congress continues work on the fiscal year 2020 spending bills before the current fiscal year ends Sept. 30.

[APHA's Speak for Health](#) resources give public health advocates the materials they need to be advocates for themselves and their communities. Check out the Speak for Health materials for [state-specific fact sheets](#), tips for [meeting with your members](#) and using [Facebook](#) and [Twitter](#) for advocacy.

We want to know how APHA members are taking action between July 1 and Sept. 30 for public health and APHA's [2019 advocacy priorities](#). Public health advocates can let us know how they Speak for Health through the [Speak for Health Challenge](#). The APHA member group with the most individual members reporting at least one action will be recognized at this year's Annual Meeting!

### **Additional APHA advocacy news**

Given the rapid pace of action in Washington, D.C., we wanted to highlight additional issues we have weighed in on recently. Those include:

- [Organization letter](#) in support of the Asuncion Valdivia Heat Illness and Fatality Prevention Act
- [APHA comments to EPA](#) regarding Draft: OPPT Updated Risk Characterization for Occupational Inhalation of PV29 Based on Updated Approach
- [Health organization brief](#) filed in the U.S. Supreme Court in the case of Harris Funeral Homes v. Equal Employment Opportunity Commission, et al. in support of the employees
- [APHA testimony](#) before the House Budget Committee hearing: The Costs of Climate Change: From Coasts to Heartland, Health to Security
- [Organization letter](#) to the 2020 Dietary Guidelines Advisory Committee urging the committee to continue to make full use of the best available scientific evidence in the development of the 2020 Dietary Guidelines for Americans

- [Organization letter](#) urging all Members of Congress to support S. 2097, the Protecting Sensitive Locations Act
- [Health organization letter](#) urging the Senate to pass legislation that would provide a pathway to citizenship for undocumented young people and those approved for Deferred Action for Childhood Arrivals