

# ISSUE BRIEF

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## The House Interior, Environment, and Financial Services “Minibus” — Progress on Policy, But Fails to Cut Spending

*Justin Bogie, Daren Bakst, Nicolas D. Loris, Katie Tubb, and Norbert J. Michel, PhD*

This week, the House of Representatives will consider its second “minibus” package of the appropriations season. The bill combines the Interior, Environment, and Related Agencies appropriations with Financial Services and General Government appropriations. These will be the fifth and sixth subcommittee bills considered on the House floor.

In total, the bill would provide \$58.7 billion in funding—\$23.4 billion for Financial Services and General Government and \$35.3 billion for Interior and Environment and related agencies.

### Interior, Environment, and Related Agencies

The Interior, Environment, and Related Agencies appropriations bill primarily provides funding for the Department of the Interior and the Environmental Protection Agency (EPA) as well as for Indian Health Services, the Department of Agriculture’s Forest Service, and other independent agencies, such as the Smithsonian Institute and National Endowment for the Arts (NEA). In total, these agencies would receive \$35.25 billion in funding through the minibus. This is the same as the 2018 enacted level, and \$7 billion above the President’s request.

There are numerous examples of programs that do not meet the constitutional role of the federal government that continue to receive funding, and in some cases increases, under this bill. For example, the National Endowments for the Arts and Humanities are each provided an increase of \$2 million. Both of these agencies fall outside the role of government and should not receive federal or state funding. Though the bill fails to cut wasteful spending, it does include important policy riders aimed at reversing harmful EPA regulations.

### Interior and Environment Recommendations

In June, The Heritage Foundation published *A Blueprint for Balance: A Federal Budget for 2019*. The proposal includes analysis of the entire federal budget with recommendations for the programs included in this bill. The following programs should be considered for elimination:

- **EPA grant programs.** The bill provides funding for a number of grant programs, including \$2.5 billion for infrastructure assistance grants and \$1.1 billion for categorical grants for fiscal year (FY) 2019. In total, the minibus provides \$3.6 billion in EPA grants, about \$26 million higher than last year’s level and \$659 million higher than the President’s request. The EPA should not be funding Environmental Education Grants and other grant programs, such as job-training programs. Curriculum content should be set by parents and local school districts, not the EPA.
- **Regional EPA programs.** The bill provides \$434.9 million for geographic and regional programs for FY

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The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002  
(202) 546-4400 | [heritage.org](http://heritage.org)

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TABLE 1

## House Interior and Financial Services Minibus

DISCRETIONARY BUDGET AUTHORITY, IN MILLIONS

	FY 2018 Enacted	President's FY 2019 Request	FY 2019 House Bill
Interior and Environment	\$35,252	\$28,277	\$35,252
Financial Services and General Government	\$23,423	\$26,587	\$23,423

**SOURCE:** U.S. House of Representative, Committee on Appropriations, <http://appropriations.house.gov/> (accessed July 16, 2018).

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2019, \$13 million less than current funding, but over \$397 million higher than the President's request. Resource management should take into account the fact that environmental conditions will vary from location to location and from time to time. State governments are better positioned than the federal government to determine their unique environmental priorities and how best to utilize resources.

- **Leasing underutilized EPA space.** The bill provides \$39.5 million for EPA buildings and facilities for FY 2019, \$5.1 million more than current funding. Funding should be reduced further. The EPA has been leasing out a portion of its unused space since 2007, achieving nearly \$15 million in savings through 2014. According to a 2013 EPA Inspector General report, the agency could save an additional \$21 million every year by leasing out all of its remaining underutilized space.<sup>1</sup> The EPA should maximize use of public space and faithfully steward taxpayer resources.

- **Land and Water Conservation Fund (LWCF).** Though the LWCF is scheduled to expire at the end of the fiscal year, the House bill appropriates \$360 million to the fund.<sup>2</sup> The fund is intended to preserve and develop Americans' access to outdoor recreation and serve as a cost-sharing program to help states do likewise. However, the mission of the LWCF has migrated from preservation and state programs to acquiring new land and pet congressional projects, a development condemned even by those who advocate for the LWCF.<sup>3</sup> Congress, the Department of the Interior, and the Forest Service have used the fund primarily to grow the massive landholdings of the federal government, despite its incapacity to effectively manage the land it already owns. The LWCF has also been problematic in removing flexibility and decision making from states and local communities. Rather than expanding federal lands, Congress and federal land management agencies should let the LWCF expire and redirect their attention to better maintaining current lands and to granting more control to states and individuals.

- **National Endowment for the Arts (NEA).** The minibus includes \$155 million in funding for the NEA. This is an increase of \$2 million compared to the 2018 level. Private contributions to the arts and humanities vastly exceed the amount provided by the NEA. Taxpayers should not be forced to pay for plays, paintings, pageants, and scholarly journals, regardless of the works' attraction or merit. Both the President's and House Budget Committee proposals call for the elimination of this program.

- **National Endowment for the Humanities (NEH).** The bill provides \$155 million in funding for the NEH, \$2 million higher than last year's enacted level. Private individuals and organizations should be able to donate at their own discretion to humanities organizations and programs as

1 U.S. Environmental Protection Agency Office of Inspector General, "EPA Can Further Reduce Space in Under-Utilized Facilities," Report No. 13-P-0162, February 20, 2013, <https://www.epa.gov/sites/production/files/2015-09/documents/20130220-13-p-0162.pdf> (accessed July 18, 2018).

2 Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2019, p. 5, [https://appropriations.house.gov/uploadedfiles/interior\\_report.pdf](https://appropriations.house.gov/uploadedfiles/interior_report.pdf) (accessed July 18, 2018).

3 Katie Tubb and Nicolas D. Loris, "Five Reasons to Sunset the Land and Water Conservation Fund," Heritage Foundation *Backgrounder* No. 3165, November 16, 2016, <https://www.heritage.org/budget-and-spending/report/five-reasons-sunset-the-land-and-water-conservation-fund>.

they wish. Government should not use its coercive power of taxation to compel taxpayers to support cultural organizations and activities. The President and House Budget Committee both call for the elimination of this program.

Below are additional programs that have functions that should be considered for privatization or devolved back to the states:<sup>4</sup>

- **Bureau of Land Management (BLM).** The bill provides \$1.23 billion for the BLM for FY 2019, \$62.5 million more than current funding and \$317.2 million above the President's request. The size and diversity of the federal estate and the resources both above and below ground are too much for distant federal bureaucracies and an overextended federal budget to manage effectively. This overextension of resources has allowed vast tracts of federal lands to deteriorate, contributing to massive wildfires in the West. While the federal government can simply pass on the costs of poor or no management to federal taxpayers, states have powerful incentives for better management of resources on federal lands.
- **Forest Service.** The bill provides the Forest Service \$6.13 billion for FY 2019, \$197.5 million higher than current funding and \$1.5 billion above the President's request. The Forest Service (under the Department of Agriculture) manages 93 million acres of public grazing land and 10 million acres of private land within those bounds.<sup>5</sup> Private entities would be better equipped to manage these lands and could do so more cost-effectively

by opening up competition and the bidding process.

### **Interior and Environment Policy Riders**

The minibus provides an opportunity for Congress to influence policy in a number of important ways. Included in this bill are provisions that would prohibit implementation of problematic federal regulations that would adversely affect the economy and individual liberties.

- **Waters of the United States rule.** Section 431 of the bill would repeal the final "waters of the United States" rule.<sup>6</sup> This controversial rule, published by both the Army Corps of Engineers and the EPA, would greatly expand the types of waters that could be controlled under the Clean Water Act (CWA),<sup>7</sup> from most ditches to so-called waters that are actually dry land most of the time. For property owners, including farmers and ranchers, this regulatory overreach is problematic. If a certain property includes a water that is covered under the law, owners would be limited in what they could do with the property and would be required to secure costly and time-consuming permission to engage in even ordinary activities, such as farming. The Trump Administration has proposed to withdraw the rule,<sup>8</sup> but this legislative language would help ensure that unnecessary litigation will not create obstacles to get rid of the rule.
- **Transparency for the cost of litigation.** The House bill is right to bring attention to the costs of environmental litigation and, in particular,

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4 The Heritage Foundation, "Lands and Wildlife," in *Environmental Policy Guide: 167 Recommendations for Environmental Policy Reform*, 2015, [http://thf\\_media.s3.amazonaws.com/2015/pdf/04\\_Environmental\\_Policy\\_Guide\\_Lands\\_and\\_Wildlife.pdf](http://thf_media.s3.amazonaws.com/2015/pdf/04_Environmental_Policy_Guide_Lands_and_Wildlife.pdf), and Katie Tubb and Nicolas D. Loris, "The Federal Lands Freedom Act: Empowering States to Control Their Own Energy Futures," Heritage Foundation *Backgrounder* No. 2992, February 18, 2015, <http://www.heritage.org/research/reports/2015/02/the-federal-lands-freedom-act-empowering-states-to-control-their-own-energy-futures>.

5 Daren Bakst, "Eliminating and Reducing Regulatory Obstacles in Agriculture," Heritage Foundation *Backgrounder* No. 3135, June 28, 2016, <http://www.heritage.org/research/reports/2016/06/eliminating-and-reducing-regulatory-obstacles-in-agriculture>.

6 "Clean Water Rule: Definition of 'Waters of the United States,'" *Federal Register*, Vol. 80, No. 124 (June 29, 2015), pp. 37054-37127, <https://www.epa.gov/sites/production/files/2015-06/documents/epa-hq-ow-2011-0880-20862.pdf> (accessed July 16, 2018).

7 Daren Bakst, "What You Need to Know About the EPA/Corps Water Rule: It's a Power Grab and an Attack on Property Rights," Heritage Foundation *Backgrounder* No. 3012, April 29, 2015, <http://www.heritage.org/research/reports/2015/04/what-you-need-to-know-about-the-epacorps-water-rule-its-a-power-grab-and-an-attack-on-property-rights>.

8 Environmental Protection Agency, "EPA and Army Seek Additional Public Comment on 'Waters of the U.S.' Repeal," June 29, 2018, <https://www.epa.gov/newsreleases/epa-and-army-seek-additional-public-comment-waters-us-repeal> (accessed July 16, 2018).

increasing transparency regarding legal fees awarded to successful petitioners.<sup>9</sup> Unclear and overly broad environmental laws have pushed an increasing number of environmental decisions into the courts, resulting in excessive, expensive, and time-consuming litigation sometimes with dangerous consequences for humans and the environment.<sup>10</sup> Accordingly, the bill requires the EPA, the Interior, and the Forest Service to publically disclose information on program funds used and fees awarded to plaintiffs in compliance with court orders. While there is more work to do,<sup>11</sup> this is a step in the right direction to return accountability to environmental management decisions.

- **Range improvements.** The House bill directs an “indefinite appropriation of not less than” \$10 million from land-use fees to be used for improvement, “rehabilitation, protection, and acquisition” of rangelands.<sup>12</sup> However, Congress ought to turn its attention to how these resources are used and how to improve land management. As explained by the Property and Environment Research Center, “the federal grazing system may be resulting in poor rangeland conditions. According to the BLM, more than 21 percent of BLM grazing allotments are not meeting or making significant progress toward meeting the agency’s own standards for land health.”<sup>13</sup> Both the BLM and the Forest Service have expressed frustration with the environmental review process under the National Environmental Policy Act (NEPA), the

costs of which are exacerbated by nuisance litigation, often from extreme environmental activist groups. In recent years, the Forest Service has spent more on navigating the NEPA process for renewing grazing permits than it has on grazing allotments management.<sup>14</sup> Congress needs to address regulatory burdens that contribute to poor management and prioritize regulatory compliance over sound management, and in particular the NEPA.<sup>15</sup>

- **Addressing the wild horse crisis.** The exploding population of wild horses is becoming an increasingly difficult challenge for the BLM and residents in the West. The estimated 83,000 wild horses on public lands are more than triple the appropriate management level set by the BLM. The overpopulation is destroying grazing land and habitats, straining water resources, and leaving horses malnourished and emaciated.<sup>16</sup> Congress commends the BLM for its recent report on wild horse and burro management and directs the bureau to “immediately begin designing the regulatory framework and technical protocols for an active sterilization program.”<sup>17</sup> Sterilization and engagement with private organizations should be part of a multifaceted strategy. However, the bill also continues to prevent the use of euthanasia and destruction for commercial purposes. The use of both would result in a healthier wild horse population and a healthier environment.

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9 Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2019, p. 4.

10 Allan K. Fitzsimmons, *Reforming Federal Land Management: Cutting the Gordian Knot* (Lanham, MD: Rowman & Littlefield, 2012).

11 Diane Katz, “An Environmental Policy Primer for the Next President,” Heritage Foundation *Backgrounder* No. 3079, December 14, 2015, <https://www.heritage.org/environment/report/environmental-policy-primer-the-next-president>.

12 H. Rept. 115-765, 2018, <https://www.congress.gov/congressional-report/115th-congress/house-report/765> (accessed July 18, 2018).

13 Holly Fretwell and Shawn Regan, “Divided Lands: State vs. Federal Management in the West,” Property and Environment Research Center *Public Lands Report*, March 2015, p. 19, [http://www.perc.org/sites/default/files/pdfs/150303\\_PERC\\_DividedLands.pdf](http://www.perc.org/sites/default/files/pdfs/150303_PERC_DividedLands.pdf) (accessed July 18, 2018).

14 U.S. Department of Agriculture, Forest Service, *Fiscal Year 2017 Budget Justification*, February 2016, pp. 172, VII-37, and 270, <http://www.fs.fed.us/sites/default/files/fy-2017-fs-budget-justification.pdf> (accessed June 25, 2016).

15 Diane Katz, “Time to Repeal the Obsolete National Environmental Policy Act (NEPA),” Heritage Foundation *Backgrounder* No. 3293, March 14, 2018, <https://www.heritage.org/government-regulation/report/time-repeal-the-obsolete-national-environmental-policy-act-nepa>.

16 Matt Anderson and Hannah Downey, *The Hill*, May 13, 2018, <http://thehill.com/opinion/energy-environment/387492-reining-in-the-blms-wild-horse-crisis> (accessed July 16, 2018).

17 H. Rept. 115-765, 2018.

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## Financial Services and General Government

The Financial Services and General Government appropriations bill provides funding for the Treasury Department, Justice Department, Small Business Administration (SBA), and the Securities and Exchange Commission, among other agencies.

The minibus includes a total of \$23.4 billion in funding for those agencies, which is equal to the 2018 enacted level, and \$3.2 billion below the President's request. The bill also includes important policy riders, such as prohibiting the use of funds for abortion in the Federal Employee Health Benefits program, prohibiting a pay increase for the Vice President and other senior political appointees, and new prohibitions related to the Cuban government, among other provisions.

The Financial Services and General Government appropriations bill makes strides by rejecting spending increases called for by the President. However, it fails to cut spending below last year's level and continues to provide funding for programs that could be reduced or eliminated entirely.

Additional areas where savings could be achieved include:

## Financial Services and General Government Recommendations

The following programs should be considered for elimination:

- **Small Business Administration's Disaster Loans Program (DLP).** After federally declared disasters, the DLP offers taxpayer-funded direct loans to assist businesses, nonprofit organizations, homeowners, and renters in repairing damaged and destroyed property. Unfortunately, the generous federal disaster relief offered by the DLP creates a "moral hazard" by discouraging individuals and businesses from purchasing insurance for natural catastrophes. SBA disaster loans are awarded regardless of whether the beneficiaries previously took steps to reduce their exposure to losses from natural disasters.<sup>18</sup>

While SBA disaster loans are intended to help applicants return their property to its pre-disaster condition, the unintended consequence of this requirement is that borrowers are forced to rebuild in disaster-prone locations.

The minibus would provide the DLP with \$31.3 million in 2019. While Congress should work to eliminate the program entirely, this level represents a decrease of \$155.1 million compared to the President's request.

The program amounts to a poorly managed government subsidy that falls outside the proper scope of the federal government and should be left to the private sector.

- **Community Development Financial Institutions Fund (CDFI).** This bill provides \$191 million for the CDFI, a decrease of \$59 million from the FY 2018 enacted level, but \$177 million above the President's request. The CDFI provides grants to community development financial institutions, community development entities, and other private financial institutions.

The CDFI fund should be shut down because it amounts to corporate welfare. Furthermore, the grants hinder competition and distort private markets, ultimately leading to higher consumer prices and further justification for increased federal spending.

## Financial Services and General Government Policy Riders

- **Limit and define the powers of the Consumer Financial Protection Bureau (CFPB).** Although elimination of the CFPB would be preferable, the bill does take a step in the right direction by bringing the CFPB under the annual appropriations process and making reforms to the leadership structure. Congress should go further by limiting and explicitly defining the CFPB's powers.<sup>19</sup>

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18 Justin Bogie, "Trump's Budget Deal with Democrats Will Only Worsen Our Fiscal Situation," The Daily Signal, September 7, 2017, <https://www.dailysignal.com/2017/09/07/trumps-budget-deal-democrats-will-worsen-fiscal-situation/>.

19 Diane Katz, "The CFPB in Action: Consumer Bureau Harms Those It Claims to Protect," Heritage Foundation *Backgrounder* No. 2760, January 22, 2013, <http://www.heritage.org/research/reports/2013/01/the-cfpb-in-action-consumer-bureau-harms-those-it-claims-to-protect>.

- **Expand the D.C. Opportunity Scholarship Program (OSP).** Policymakers can advance school choice by expanding access to the OSP through existing funding authorized by the D.C. School Choice Incentive Act. The OSP provides scholarships that enable children from low-income D.C. families to attend a private school of the parents' choice. When the OSP was created in 2003, Congress funded the new school choice option through the "three-sector" approach: \$20 million in funding for the OSP, \$20 million in supplemental funding for D.C.'s public charter schools, and an additional \$20 million for the D.C. public school system.

Federal policymakers should use a portion of the additional federal funding provided to traditional public schools in the three-sector approach to fund additional scholarships for students to attend a private school of choice. According to one study, 91 percent of students who used a voucher to attend a private school of choice graduated high school: a rate 21 percentage points higher than the rate for a control group of peers who were awarded, but did not use, a scholarship.<sup>20</sup>

## Conclusion

The Interior, Environment, and Financial Services minibus makes positive strides by advancing key conservative policies, such as reducing the burden of harmful EPA regulations and prohibiting the use of Federal Employee Health Benefit funds for abortion services. It also makes progress by repealing the "waters of the United States" rule and limiting the powers of the CFPB.

However, the minibus does not go far enough in limiting the role of the federal government and clawing back the spending increases approved by the Bipartisan Budget Act of 2018. Congress should use this and other appropriations bills to cut government waste and carefully prioritize government resources.

—*Justin Bogie is Senior Policy Analyst in Fiscal Affairs in the Thomas A Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom, at The Heritage Foundation. Daren Bakst is Senior Research Fellow in Agricultural Policy in the Roe Institute. Nicolas D. Loris is Research Manager for Energy and Environment and the Herbert and Joyce Morgan Research Fellow in the Roe Institute. Katie Tubb is Policy Analyst in the Roe Institute. Norbert J. Michel, PhD, is Director of the Center for Data Analysis, of the Institute for Economic Freedom.*

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20 Lindsey M. Burke, "D.C. Opportunity Scholarship Program Proves Cost Effective, Boosts Graduation Rates," *The Washington Times*, July 2, 2018, <https://www.washingtontimes.com/news/2018/jul/2/dc-opportunity-scholarship-program-proves-cost-eff/> (accessed July 16, 2018).