



EXPLAINER

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September 2023: Foreign Policy Legislative Outlook

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Introduction

As the summer Congressional recess comes to an end and lawmakers return to Washington, D.C. in September, there are a number of foreign policy legislative matters to attend to. This explainer outlines legislation Congress needs to address in September 2023. However, it is possible that these bills will not be considered in September and addressed later in the year. This is explained in more detail below, specific to each legislation. Additionally, this list is not exhaustive and other legislative actions could come up, especially in response to current events.

Appropriations

Congress has to determine how to spend, or “[appropriate](#),” money for fiscal year (FY) 2024 by September 30, 2023, when the current fiscal year, FY2023, will end. Failing to reach an agreement by this date could risk a [government shutdown](#). To avoid a shutdown, and buy more time to consider appropriation bills, Congress could pass a [continuing resolution](#), which would continue funding at FY2023 levels. This year’s appropriations process comes at a time when discretionary spending has been capped under the [Fiscal Responsibility Act of 2023](#) – also known as the [debt ceiling deal](#).

Department of Defense

As of this publication, defense appropriations bills have yet to be considered by the House or the Senate on the floor. However, both chambers’ have passed defense appropriations bills at the committee level. The House Rules Committee considered the defense appropriations bill on September 12, 2023, however, it is [unclear](#) if the Rule is expected to pass the full House. The legislation was [scheduled](#) to be considered by the full House during the week of September 11, 2023. The House bill, [H.R. 4365](#), appropriates \$826.5 billion for defense.¹ This is a \$28.8 billion (3.6%) increase from FY2023. The House bill would eliminate the diversity, equity, and inclusion (DEI) Inspector General (IG) office, restrict abortion access for service members, [prevent](#) the closure of Guantanamo Bay, and prevent funding for an IG office tasked with combating extremism in the military.

¹ This figure (and the Senate figure below) refer to appropriations for the Department of Defense (DOD) only. Not defense-related matters at other agencies.

The Senate DOD appropriations bill, [S.2587](#), appropriates \$831.8 billion. This is a \$34.1 billion (4.3%) increase from FY2023. The Senate bill addresses depleting weapons stockpiles shipments to Ukraine and allows the Pentagon to enter into multi-year contracts with Lockheed Martin and other weapons manufacturers to produce arms, weapons, and munitions, such as surface-air-missiles and Javelin anti-tank missiles. The Senate bill also appropriates \$1.1 billion to send weapons to support Taiwan's defense.

State and Foreign Operations

As with defense, appropriations for State, Foreign Operations, and Related Programs (SFOPS) have only been considered by each chamber's appropriations committee, not the full chamber. SFOPS allows Congress to invest in diplomacy and humanitarian assistance through funding the [State Department, USAID, and other international programs](#). The House bill, [H.R. 4665](#), appropriates \$52.5 billion. This is a \$7.2 billion (12%) decrease from FY2023. It would reverse \$11 billion from the [Inflation Reduction Act](#) to offset total spending. It restricts investments in the [Green Climate Fund](#) and the [Clean Technology Fund](#).

The House bill reinstates the Helms amendment, which prevents the U.S. from funding abortion services around the world, even in countries where abortion is legal. It also reinstates the Mexico City Policy, or the global gag rule, which states that if foreign nongovernmental organizations (NGOs) want to receive U.S. aid, they cannot "promote abortion as a method of family planning." If an NGO uses any funds, including its own or funds it obtains from other countries/multilateral organizations, to support abortion (in addition to providing abortions, this also includes referrals, counseling, or even advocating for abortion rights), it will jeopardize its access to U.S. aid.

The Senate SFOPS bill, [S.2438](#), appropriates \$61.6 billion, which is a \$1.9 billion (3.2%) increase from FY2023. It includes the Helms amendment, omits the Mexico City Policy, and provides \$150 million to the Clean Technology Fund.

National Defense Authorization Act

Before the August recess, the House and Senate passed each chamber's respective National Defense Authorization Act (NDAA) for FY2024. Informal conference negotiations to reconcile the differences between the two bills likely occurred in August. A formal [conference committee](#) announcement could come in September, but this is optional, and previous NDAA's were completed through informal conferences.

While the NDAA is considered a "[must-pass](#)" bill, unlike appropriations, if the NDAA doesn't pass, it will not risk a government shutdown and it is not required to pass to fund the government. If the NDAA doesn't pass, it will simply join the list of hundreds of bills introduced, but never passed by Congress. General Congressional understanding is that the NDAA moves parallel with the appropriations process, meaning the NDAA is signed into law before September 30. However, this usually

doesn't happen. Consideration of the defense bill could continue into the next fiscal year if Congress passes a continuing resolution extending government funding past the September 30 deadline. Previous NDAA's have been signed into law in late December.

The House and Senate NDAA authorized \$886 billion² for military spending, reflected in the [debt ceiling deal](#) and President Biden's FY2024 [budget proposal](#). It is a \$28 billion (3.3%) increase from FY2023 NDAA. For more on the House and Senate NDAA, read our [comparison](#) of the two chamber's bills.

Emergency Supplemental

On August 10, 2023, the Biden Administration submitted an [emergency supplemental request](#) to Congress. Supplemental bills occur outside the regular appropriations process, usually to address urgent matters that cannot wait for the regular appropriations cycle, such as natural disasters, pandemics, or war. For example, since Russia's war in Ukraine began in February 2022, Congress has passed four supplemental appropriations bills totaling [\\$113 billion](#) to support Ukraine.

The Biden Administration's latest supplemental request is \$40 billion. It includes \$13 billion for military aid to Ukraine, \$8.7 billion for economic and humanitarian aid to Ukraine, \$2.3 billion for additional Ukraine support through the World Bank, \$12 billion to respond to natural disasters such as wildfires and hurricanes, \$4 billion for border security, and \$60 million for wildland firefighter pay. Supplemental appropriations are not subject to spending caps.

A supplemental request is just that, a request. Congress can adopt or reject the President's request and reduce or increase it. The previous Democratic-controlled Congress enacted supplemental bills that increased funding beyond the President's request. While there is [bipartisan support](#) in the Senate for President Biden's supplemental request, the House is more divided. The House Freedom Caucus is staunchly opposed to the emergency supplemental. In order to reach an agreement on how to move forward on the supplemental, House Speaker Kevin McCarthy needs to navigate opposition within his House conference and [support](#) from his counterpart in the Senate, Minority Leader Mitch McConnell (R-KY).

Authorizations for Use of Military Force

On March 29, 2023, the Senate passed [S.316](#), a bill that would repeal the [1991 and 2002 Authorizations for Use of Military Force](#) (AUMFs), to formally end the Gulf War and Iraq War, which have been over for 32 and 12 years, respectively. Keeping these outdated war authorizations on the books risks their abuse by presidents for military actions that Congress did not authorize, jeopardizing constitutional integrity. House Speaker Kevin McCarthy (R-CA-20) [assured](#) that the repeal legislation would be on the Floor by the end of September, along with a potential replacement for the 2001

² Unlike defense appropriations, the NDAA topline includes funding for the DOD and defense-related programs at other federal agencies, such as nuclear weapon programs at the Department of Energy.

AUMF, which the executive branch cites as authority for all current U.S. counterterrorism wars. In July 2021, the House voted to repeal the 2002 AUMF through a standalone bill ([H.R. 256](#)), with 49 Republicans voting in favor. This year's Senate vote of 66-30 for S.316 signified the continued bipartisan, bicameral support to repeal AUMFs that authorized wars in Iraq against a regime that no longer exists.

Foreign Intelligence Surveillance Act

The [Foreign Intelligence Surveillance Act](#) (FISA) sets the rules the U.S. government must adhere to when collecting foreign intelligence, including critical rules that protect or compromise Americans' privacy. It first became law in 1978, but since then, it has been amended multiple times to enable greater [domestic surveillance](#), such as through [The Patriot Act](#).

Section 702 of FISA was enacted in 2008 to legalize part of an illegal Bush administration surveillance program. It allows intelligence agencies to warrantlessly compel electronic communications companies, like Google and Verizon, to turn over information about non-U.S. persons located outside the U.S. This includes their conversations with people in the U.S., meaning Section 702 endangers Americans, and others, by making their Fourth Amendment protected communications available to intelligence agencies for investigation, coercion, and prosecution. Intelligence agencies, such as the FBI, search through this staggering amount of surveillance, specifically looking for information about people in the U.S. Privacy advocates call this the "[backdoor search loophole](#)." Requiring a warrant for these searches is a key part of this year's surveillance reform effort.

Section 702 is set to expire on December 31, 2023, unless Congress reauthorizes it. Reauthorization provides a unique opportunity to reform Section 702 and restore Americans' Fourth Amendment right to privacy. In addition to Section 702, other [reform priorities](#) include reigning in mass surveillance under Executive Orders³ and the warrantless purchase of Fourth Amendment-protected information, such as location data, from data brokers. While Congress has not provided an official timeline yet, legislation to reauthorize section 702 — including legislation to reform it and end existing practices — could be introduced in September. Hearings and committee activity could also begin in September and continue through the year.

Conclusion

Upcoming foreign policy bills create an opportunity to invest in meaningful diplomacy, repeal outdated war authorizations, and protect Americans' constitutional privacy rights. Activity on these pieces of legislation can begin and continue in September and extend later into the year.

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³ Surveillance under Executive Orders usually occurs without Congressional Authorization or Judicial Oversight.