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## **Capital Snapshot: A Monthly Overview of the Issues, Events, Timelines, and Polling Data Driving Federal Policy Decisions**

**October 2022**

# This Month's Capital Snapshot Deck Includes

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- The policy and political timeline for the post-election Lame Duck period during November and December, and a look at the remaining 2022 Congressional Calendar.
- An overview of top Congressional priorities for the remainder of the 117<sup>th</sup> Congress, including: (1) an end-of-year omnibus appropriations package; (2) the National Defense Authorization Act (NDAA) reauthorization; (3) FDA biomedical research and development “policy riders”; (4) *Electoral Count Reform Act of 2022*; (5) same-sex marriage and interracial marriage codification; and (6) additional natural disaster relief.
- An overview of, and insight into, the campaign for control of Congress in the 2022 midterm elections.
- A look at some of the current events, factors, and developments that could impact the 2022 midterm elections landscape.

# **Congressional Schedule and Priorities for the Post-Election Lame Duck Session of Congress**

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# Remaining Days in Congress

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## House

- 7 legislative days scheduled for November.
- The House is scheduled to return from recess on November 14.
- 17 legislative days left in 2022.

## Senate

- 8 legislative days scheduled for November.
- The Senate is scheduled to return from recess on November 14.
- 23 legislative days left in 2022.

# Congressional Agenda and Priorities for November and December

End-of-year omnibus appropriations package

NDAAs Reauthorization

FDA biomedical research and development “policy riders”

Possible Senate consideration of the *Electoral Count Reform Act of 2022*

Potential Senate vote on the *Respect for Marriage Act*

Additional natural disaster relief



# Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023

- On September 30, President Joe Biden [signed](#) the *Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023* ([Senate amendment to H.R. 6833](#)) into law. The House passed the bill earlier that day by a final vote tally of [230 – 201](#), and the Senate first passed the bill on September 29 by a vote of [72 - 25](#).
- This bill is the continuing resolution (CR) that will temporarily fund the government at FY 2022 levels through December 16, 2022.
- Other notable components of the bill include:
  - \$12.3 billion in economic and military support for Ukraine;
  - \$1 billion for the Low-Income Home Energy Assistance Program (LIHEAP);
  - \$2.5 billion in funding for New Mexico to recover from the Hermit's Peak/Calf Canyon fire in April;
  - \$2 billion in additional disaster aid; and
  - \$20 million for water infrastructure in Jackson, Mississippi.
- Sen. Joe Manchin's (D-WV) energy permitting reform [plan](#), the *Energy Independence and Security Act of 2022*, was originally included in the bill, but was dropped before the CR reached the Senate Floor, as it did not have the 60 votes needed to pass a cloture vote.



# Reauthorization of FDA User Fee Programs in the Continuing Resolution

- The CR includes a five-year reauthorization of the US Food and Drug Administration (FDA) User Fee Agreements, extending them through September 30, 2027.
- Additionally, a handful of related programs—including orphan drug grants, pediatric research incentives, incentives for developing pediatric and humanitarian medical devices, and the Critical Path Public-Private Partnership—would be reauthorized until December 16, 2022.
- These short-term reauthorizations are meant to provide leverage for getting Republicans to agree to add FDA “policy riders” to an omnibus appropriations bill in December, when this CR would expire.
- On September 30, House Energy and Commerce (E&C) Chairman Frank Pallone (D-NJ) [indicated](#) on the House Floor that he has “secured commitments” from Senate Health, Education, Labor, and Pensions (HELP) Committee Chair Patty Murray (D-WA), HELP Ranking Member Richard Burr (R-NC), and E&C Ranking Member Cathy McMorris Rodgers (R-WA) to continue working to finalize a package of FDA reforms by December 16.
  - This could include reforms for (1) diagnostics; (2) cosmetics; (3) dietary supplements; (4) Accelerated Approval; (5) clinical trial diversity; (6) fostering of innovation; and (7) infant formula.



# Status of FY 2023 Appropriations

- The passage of the CR into law gives the “four corners” congressional appropriations leaders an additional 2+ months to come to an agreement on a full year omnibus appropriations package.
- House Appropriations Chair Rosa DeLauro (D-CT) and Senate Appropriations Chairman Patrick Leahy (D-VT) have [both](#) released [statements](#) expressing their desire to negotiate a bipartisan, bicameral omnibus appropriations bill by December 16.
- Over the summer, Senate Appropriations Committee Chairman Patrick Leahy (D-VT) [released](#) all 12 Fiscal Year (FY) 2023 appropriations bills and accompanying explanatory statements. The Senate’s FY 2023 appropriations package totals nearly \$1.7 trillion.
  - This appropriations package only represents an agreement among Senate Democrats, as Republican appropriators in both chambers have not agreed to topline fiscal numbers yet.
- In July, the House advanced a [minibus package](#) of six of its own appropriations bills by a straight party-line vote of [220 - 207](#).



From left to right: Senate Appropriations Chairman Patrick Leahy (D-VT) and Vice Chairman Richard Shelby (R-AL). Both Senators are retiring at the end of the 117<sup>th</sup> Congress.

# FY23 National Defense Authorization Act (NDAA)

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**Background:** The NDAA is an annual bill that sets the budget and priorities of the Department of Defense (DoD). The bill has passed annually for nearly six decades and is considered the last real “must-pass” bill by many in Congress, leading to a bipartisan, bicameral process to ensure the package is passed each year.

**House Progress:** On July 14, the House passed their version of the Fiscal Year (FY) 2023 NDAA (H.R.7900) by a vote of 329-101. Overall, the bill provides \$839 billion for the DoD, keeping with the HASC-approved \$37 billion increase over the president’s budget request which Chairman Smith (D-WA) argued against.

**Senate Progress:** The Senate Armed Services Committee (SASC) marked up its bill on June 15 which provides \$857 billion for the DoD in FY 2023, a \$45 billion increase over the White House’s original proposal and \$8 billion more than the House version.

**Next Steps:** Senate floor amendments had to be filed by Sept. 30. SASC leaders, Sens. Jack Reed (D-RI) and Jim Inhofe (R-OK), are expected to file a substitute bill on Oct. 11, which will open NDAA debate despite the October recess. Upon return on Nov. 14, the Senate is expected to consider and pass its version of the NDAA swiftly so that HASC and SASC can reconcile the differences in the two bills. Given the late deadline this year, we expect final passage to occur in December.



# Hill Leadership Hits Pause on Bill to Ban Senior Government Officials From Stock Trading and Ownership

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Rep. Steny Hoyer

## Recent Developments

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- On September 29, House Majority Leader Steny Hoyer (D-MD) confirmed a vote on the bill will not occur before midterm elections.
- While both Republicans and Democrats have voiced support for the ban, many notable Democrats have pushed back, including Majority Leader Hoyer.
- There is a Senate companion bill with similar language, but it has not received any traction.



Reps. Pelosi and Lofgren

## The Bill

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- Speaker of the House Nancy Pelosi (D-CA) initially opposed the stock ban but altered course earlier this year and directed Rep. Zoe Lofgren (D-CA) to draft a proposal. Rep. Lofgren released [draft](#) legislation early last week to address concerns about potential abuses.
- The bill would ban members of Congress, the president, political appointees, anyone on the Federal Reserve's board of governors, and Supreme Court justices (along with family members) from trading stocks, cryptocurrency, commodities, and more. Any holdings covered in the bill would be eligible for inclusion in a qualified blind trust.

Sources: congress.gov; PoliticoPro

# Anti-Trust Bill Stalls; Senators Hope for Lame Duck Action

- After a pledge from Senate Majority Leader Chuck Schumer (D-NY) in August to bring the *American Innovation and Choice Online Act* ([S. 2992](#)) failed to materialize in September, the bill's lead sponsors, Sens. Amy Klobuchar (D-MN) and Chuck Grassley (R-IA) are pushing for a vote on the bill after the 2022 midterm elections.
- The bill is a broad anti-trust package that prohibits large platforms from limiting the availability of competing products on their own platforms and prohibits platforms from restricting a competing business entity's access to their platform, operating system, hardware, and software.
- The bill also restricts the platform's use of nonpublic data obtained or generated on the platform and prohibits the platform from restricting access to platform data generated by the activity of a competitor.
- Despite this recent push to consider the bill, it remains unclear if there are 60 votes in the Senate. The bill has attracted public opposition from big tech companies, which have, lobbied against the bill since it was introduced in October 2021.



Sens. Chuck Grassley (R-IA) and  
Amy Klobuchar (D-MN)

# Other Anti-Trust Bills

- The Senate is also considering the *Open App Markets Act* ([S.2710](#)), lead by Sens. Richard Blumenthal (D-CT) and Marsha Blackburn. While still a broad technology antitrust effort, this bill is more targeted than the *American Innovation and Choice Online Act* as it establishes restrictions specifically for app stores with over 50 million US users. However, this bill has attracted less attention from Senate leadership and from big tech and does not seem likely to receive floor time during the lame duck session.
- The House has taken a narrower approach to approaching anti-trust legislation. On September 29, the House passed the *Merger Filing Fee Modernization Act* ([H.R.3843](#)), which would adjust and expand the schedule for graduated merger filing fees and requires fees be adjusted annually based on the Consumer Price Index. The Senate has not indicated plans to vote on this bill in the coming weeks.
- Despite this progress, the narrow approach from the House does not indicate a large appetite among the House or Senate to address comprehensive anti-trust reforms. However, Sens. Klobuchar and Grassley will continue to whip up support for their *American Innovation and Choice Online Act* and press Senate Majority Leader Schumer to put the bill on the floor for a vote later this year, even with the uncertainty on the bill's ultimate passage.



Thank you



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