

FY2022 NDAA: Status of Legislative Activity

December 22, 2021

By law (31 U.S.C. §1105(a)), the President is to send the federal budget request to Congress by the first Monday in February. In practice, the President sometimes sends it later, particularly during presidential transition years. On May 28, 2021, President Joseph R. Biden [submitted](#) the FY2022 budget request. Representative Adam Smith, Chair of the House Committee on Armed Services (also known as the House Armed Services Committee, or HASC), [had said](#) that a budget submitted on May 10 or later could affect the timing for completion of an annual National Defense Authorization Act (NDAA) by the October 1 start of the government's fiscal year.

On July 28-29, the seven HASC subcommittees considered and [reported](#) draft legislative proposals (known as *marks*) to the full committee with recommendations for matters in the FY2022 NDAA under their [jurisdiction](#). On August 25, Chairman Smith [released](#) each subcommittee's proposal in preparation of the full committee markup. On September 1, HASC [began considering](#) and marking up the legislation. On September 2, the committee [voted](#) 57-2 to order H.R. 4350 reported to the House with an *amendment in the nature of a substitute* reflecting the work product of the two-day markup. On September 10, the committee filed its report, H.Rept. 117-118, to accompany the legislation. (On September 17, the committee filed [a supplemental report](#) that included the Congressional Budget Office's cost estimate for the bill, among other information.) On September 21-23, the House [debated](#) and considered amendments to H.R. 4350 and, on September 23, passed the measure by a vote of 316-113.

On July 19-20, the seven subcommittees of the Senate Committee on Armed Services (also known as the Senate Armed Services Committee, or SASC), [marked up](#) draft legislative proposals with recommendations for matters in the FY2022 NDAA under their jurisdiction. Two of the markups were held in open sessions (Subcommittee on Readiness and Management Support, and Subcommittee on Personnel); five were closed. On July 21, SASC [considered](#) the legislation in a closed session and [voted](#) 23-3 to order reported an original bill reflecting changes agreed to in markup. On September 22, SASC reported S. 2792 and filed the accompanying report S.Rept. 117-39. The Senate did not vote on final passage of S. 2792. On November 19, Senator Jack Reed, Chair of SASC, offered on the floor an amendment in the nature of a substitute (S.Amdt. 3867) to H.R. 4350 to replace the text of the House-passed legislation with a modified version of the SASC-reported bill. The Senate did not agree to end debate on the amendment (S.Amdt. 3867), as modified; cloture was not invoked, by a vote of 45-51.

Unlike in most years, the House and Senate did not establish a conference committee to resolve differences between the two versions of the bill. Instead, leaders of the HASC and the SASC negotiated a bicameral agreement based on the two versions. On December 7, the committees released the text of the

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agreement, which was filed as a House amendment to an unrelated Senate-passed bill, S. 1605. The same day, an explanatory statement to accompany the House amendment to S. 1605 was published in [Part 2](#) of the House section of the *Congressional Record*. The final text of the NDAA made clear that this statement was to be treated as if it were the formal bicameral statement issued by a conference committee. Also that day, the House agreed to S. 1605, as amended, by a vote of 363-70. On December 15, the Senate agreed to the House amendment to S. 1605 by a vote of 88-11.

Table 1 shows the status of legislative activity on the FY2022 NDAA.

Table 1. FY2022 NDAA: Status of Legislative Activity

House				Senate				Public Law
Bill #, Date Reported	Report #, Date	Vote # (yeas, nays), Date Passed	HASC-SASC Negotiated Proposal	Bill #, Date Reported	Report #, Date	Vote # (yeas, nays), Date Passed	HASC-SASC Negotiated Proposal	P.L. #, Date Signed
H.R. 4350, 09/10/21	H.Rept. 117-118, 09/10/21	293 (316-113), 09/23/21						
				S. 2792, 09/22/21	S.Rept. 117-39, 09/22/21			
House amendment to S. 1605, 12/7/21		405 (363-70), 12/07/21	Explanatory statement published in <i>Congressional Record</i> ^a	House amendment to S. 1605, 12/7/21		499 (88-11), 12/15/21	Explanatory statement published in <i>Congressional Record</i> ^a	

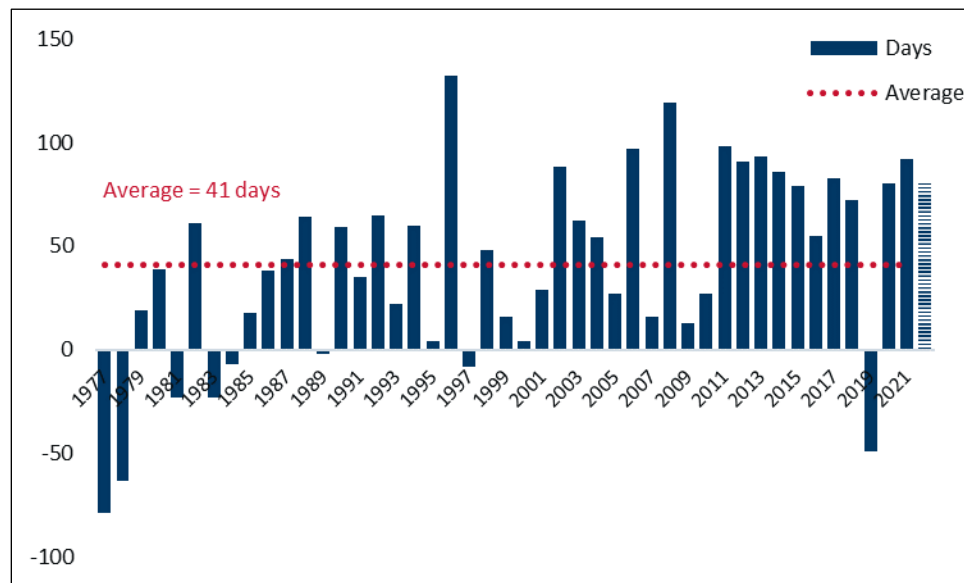
Source: CRS analysis of selected actions in Congress.gov.

- a. On December 7, 2021, the explanatory statement to accompany S. 1605 was published in [Part 2](#) of the House section of the *Congressional Record*.

Figure 1 shows the dates of enactment for the annual defense authorization act since FY1977, when the federal government transitioned to a fiscal year beginning October 1, 1976. The President had not signed S. 1605, the National Defense Authorization Act for FY2022, as of December 21, 2021; the patterned bar for FY2022 reflects the 81 days between October 1, 2021, and December 21, 2021.

Figure 1. Days Between Start of Fiscal Year and Enactment of Annual Defense Authorization Acts, FY1977-FY2021

(in days)



Source: CRS analysis of dates of enactment of public law from CRS Report 98-756, *Defense Authorization and Appropriations Bills: FY1961-FY2021*, by Barbara Salazar Torreon and Sofia Plagakis.

Notes: Negative values indicate number of days between enactment of annual defense authorization acts and start of fiscal year. The President had not signed the National Defense Authorization Act for FY2022 as of December 21, 2021; the patterned bar for FY2022 reflects the 81 days between October 1, 2021, and December 21, 2021. Annual defense authorization legislation for FY1979, FY1989, FY1996, FY2008, FY2016, and FY2021 was enacted over a presidential veto.

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