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FEW Washington Legislative Update July 1-15, 2023 US Senate Returned on July 10, 2023

In Congress:

The Senate will reconvene on July 10, and the House on July 11, for a relatively brief three-week work period before the lengthy August recess. This month the Senate is [scheduled](#) to be in session for about twelve days, and the [House](#) for twelve days, before both are scheduled to adjourn on Friday, July 28.

Over the weekend, Senate Majority Leader Chuck Schumer (D-New York) laid out the Senate's July work session in a [Dear Colleague](#) letter saying he plans to work on (1) appropriations, (2) the National Defense Authorization Act (NDAA), (3) artificial intelligence briefings and (4) judicial confirmations. Leader Schumer also said he hopes to make progress on bipartisan bills dealing with prescription drug pricing, permitting reform, rail safety, marijuana industry banking, the Farm Bill and FAA reauthorization. In total, the letter lists more than eleven policy items to get through before August, and Leader Schumer will need to win over at least nine Republicans to get any of the bills passed.

On Tuesday, July 11, 2023, all senators will receive a classified briefing on how the Department of Defense and intelligence agencies are using artificial intelligence (AI) to protect national security as well as how foreign adversaries are developing the emerging technology. Leader Schumer, who is working with Senators Martin Heinrich (D-New Mexico), Mike Rounds (R-South Dakota) and Todd Young (R-Indiana) on the issue. It was announced last month that the Senate will hold AI "insight forums" with top experts in the field to help guide the Senate Committees in developing potential legislation.

Senator Tommy Tuberville R-Ala., blocked the confirmation of General Eric Smith to become the commandant of the Marine Corps as part of [his continuing hold on senior military nominations](#) prompted by the Pentagon's abortion travel and paid leave policy.

On Wednesday, July 12, 2023, The House Homeland Security Committee reported out [the DHS Suicide Prevention and Resiliency for Law Enforcement Act \(H.R. 2577\)](#), which would require officials to set up within the department's medical office a mental health and wellness program for law enforcement personnel. Departmental components including Customs and Border Protection, the Secret Service, the Transportation Security Administration, Immigration and Customs Enforcement and the inspector general's office would benefit from the program's guidance and resources.

On Friday, July 14, 2023, Senator Tim Kaine, D-Va., filed [an amendment to the Senate version fiscal 2024 National Defense Authorization Act](#) that would attach the Saving the Civil Service Act to the annual must-pass bill. The measure bars the president from creating any new job classifications within the excepted service aside from the five that existed in September 2020, effectively requiring the president to seek congressional approval to add new job categories.

The House finally finished its work for the week on Friday, July 14, 2023, by voting to pass the [National Defense Authorization Act](#) (NDAA) following a contentious debate and the adoption of controversial amendments that touched on hot-button social issues. The bill was passed on a largely party-line vote of 219 to 210. [Four Democrats](#) crossed the aisle to vote with Republicans and four GOP members voted against the bill.

Diversity, Equity, and Inclusion:

House Supports a 5.2 Percent Pay Raise in its Draft Defense Policy Bill, But Slashes Diversity Initiatives

House lawmakers this week will vote on an annual Defense policy bill that includes a 5.2 percent average pay raise for federal workers and members of the military and slashes Pentagon diversity initiatives.

The House version of the fiscal 2024 National Defense Authorization Act (H.R. 2670) effectively endorses President Biden's plan to give service members and civilian federal employees the largest pay raise in decades in January. But, to Democrats' dismay, the bill also includes a number of provisions that would crack down on the Defense Department's efforts to improve diversity, equity, and inclusion.

The bill eliminates the position of chief diversity officer at the department and bars the Pentagon from paying any employee tasked with implementing diversity, equity, and

inclusion initiatives more than \$92,000. It also bars federal funds from being used to teach critical race theory, sets an end date for the Defense Advisory Committee on Diversity and Inclusion, and it bars federal funds from being used for “a drag show, drag queen story or similar event.”

The legislation also would task the secretary of Defense to audit the payrolls of employees operating with telework or remote work agreements to ensure they are receiving the correct locality pay. Office of Personnel Management guidance states that employees with telework agreements should be paid locality pay that corresponds with the location of their traditional work site, while remote workers should be granted locality pay that corresponds with where they live and work.

“H.R. 2670 also takes on the Biden administration’s attempts to put politics ahead of national security,” said House Rules Committee Chairman Tom Cole, R-Okla., at a committee hearing on the measure on Tuesday. “It rejects moves to indoctrinate our nation’s defense with progressive ideology by prohibiting things like critical race theory training and Green New Deal initiatives. The Pentagon should be laser focused on military readiness and preparedness, not appeasing extreme elements of the far left or far right.”

Democrats and the White House have announced their opposition to the provisions limiting diversity and inclusion initiatives at the Pentagon, although in a statement of administration policy on the bill, the Office of Management and Budget did not issue a formal veto threat over the measures.

“The administration strongly opposes the House’s sweeping attempts to eliminate the department’s longstanding DEIA efforts and related initiatives to promote a cohesive and inclusive force,” the White House wrote. “As articulated in the 2022 [National Defense Strategy], one of the department’s top priorities is building a resilient joint force and defense enterprise. DOD’s strategic advantage in a complex global security environment is the diverse and dynamic talent pool from which we draw.”

Rep. Adam Smith, D-Wash., ranking member of the House Armed Services Committee, said his Republican colleagues are mistaking valuable policy tools with political indoctrination.

“A diverse force is crucial; we currently have recruitment challenges, so we cannot take large groups of people and exclude them from the process,” Smith said. “I would remind the committee that 13 years ago, we finally allowed gay people to serve in the military. And I would remind the committee that at every single Republican voted against the

Defense bill that year because of that. Can you honestly say that we would be better and safer if we took every single gay person and said, 'You can't serve in the military.' This is about national security, not a left-wing political agenda."

In recent years, the NDAA's reputation in Congress as a "must-pass" bill has led to it becoming a vehicle for provisions affecting the entire federal government, such as in 2019 when lawmakers included language authorizing up to 12 weeks of paid parental leave each year to the federal workforce. But House Armed Services Committee Chairman Mike Rogers, R-Ala., said Tuesday that his and Smith's goal this year was to end that practice.

"I've heard concerns from members on both sides that over the past several years, the NDAA has turned into an omnibus authorization bill, filled with provisions that have little to do with defense," he said. "In response, the bill before you today include only provisions squarely within the jurisdiction of the Armed Services Committee. Whether that policy continues as this bill moves forward is up to you all, but as you consider which amendments to make in order, I would respectfully request you focus on amendments that advance the security of our nation and the needs of our service members."

The House is expected to begin consideration of the NDAA on Thursday, July 13.

Sourced From: ([Government Executive](#))

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Tier I

OPM's New Employee Wellness Guidance Focuses on Being Proactive

The Office of Personnel Management (OPM) is asking agency leaders to take it up a notch to support federal employees' mental health and wellness.

Every agency's Employee Assistance Program (EAP) has a set of traditional offerings to help feds through personal and work-related issues — including mental health counseling, substance abuse treatment and financial and legal services. EAPs are voluntary programs that feds can opt into, when or if they are looking for those services.

But now OPM is calling on agencies to revamp their EAPs and start including even more resources for feds, to create what the agency called Employee Wellness Programs (EWPs). New employee wellness guidance, which the agency published in May, expands OPM's EAP revitalization efforts.

Although OPM oversees the wellness programs government-wide, each agency runs its own wellness program for internal employees.

"A lot of people tend to have an outdated understanding of EAPs, since they traditionally originated as substance use treatment services with mental health counseling," Taswell said. "However, today, they've really grown and evolved to encompass many more services and resources and sometimes employees are just not aware of these tools that are available to them."

Again, much of the work to dispel myths about EAPs comes from the role of agency leaders. Many areas of the program, such as mental health wellness, have a traditionally negative stigma, so it is up to agency leaders to set the stage, encourage a positive workplace culture and suggest employees take advantage of the resources when or if they need them.

The broadened EAP options OPM is pushing in its new guidance stem from a goal of the President's Management Agenda, which includes the plan that "agencies will promote awareness of employee well-being and support initiatives that extend beyond the workplace."

And it is not just about mental health wellness — there is a ripple effect, too. At the end of the day, employees with better mental health and wellness often feel more engaged and productive in their work, Taswell said.

"These employee wellness services can really help an employee to hone in on those areas and provide them with additional support, which can in turn lead to greater productivity, and help agency employees meet the mission of their agency," Taswell said. "We encourage our agency leaders to promote these resources on a proactive rather than a reactive basis, so that employees can maintain their mental health on a consistent basis."

Sourced From: [\(Federal News Network\)](#)

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Tier II

House GOP Plan to Curb Fed Pay and Benefits Would Come at a Cost, Experts Say

Republicans in Congress are proposing to cut deficits by way of steep curbs to federal employee compensation—for example, ending “automatic” annual pay boosts and increasing the price of health insurance premiums. But some experts—in public administration, labor, and business—see the plan’s savings as potentially very limited, and the costs potentially high.

Last month, over 150 House Republicans issued a proposal detailing the cuts along with multibillion-dollar estimates of future savings. The news of the proposal also noted an added aim of stripping down the General Schedule system—cheering backers of former President Trump’s “Schedule F” plan and raising renewed severe criticism from federal employee unions.

“The federal government’s current compensation framework largely ignores the more efficient compensation approach used in the private sector,” the 167-page GOP document posits as a basis for cutting back—citing a 2017 Congressional Budget Office report finding feds were paid 17 percent more on average than “comparable” private-sector counterparts. It should be noted—and federal employee unions have done so, loudly—that conflicting government calculations have found feds are greatly undercompensated—for instance, according to the Federal Salary Council, by 24 percent.

The House GOP proposal goes on to call for reductions that would severely ding the financial picture for federal employees. It recommends adjusting “federal worker paid leave policies to match the value of benefits paid by the private sector,” slashing costs by \$75 billion over 10 years. It calls for making all increases in pay fall under an as-yet only sketched in “merit-based” system, cutting another \$57 billion over a decade. Most substantially, it advocates “reforming” federal retirement savings as we know it—more or less abolishing it—and merging this function into TSP. In other words, ditching the defined-benefit aspect of federal retirement altogether. The purported savings? The GOP group lists that as clawing back “\$235 billion over 10 years.”

Whichever bottom line you use for federal compensation, high or low—and there are others in between—and whatever the likelihood of such a belt-tightening program

actually passing—one thing seems almost certain: if Congress compelled federal agencies to enact these drastic “savings,” there will also be costs at the personnel level beyond economics—in morale, recruitment and retention of the existing workforce. And sure enough, that is what experts we asked said.

“A lot of these kinds of proposals look at a dollar amount—just thinking budgetary savings, and just thinking budgetary tests,” Jenny Mattingley, Vice President for Government Affairs at the Partnership for Public Service, told Government Executive. “But the problem with that is when you're looking at employee recruitment and retention, most companies and organizations actually really compete on more than that.”

“Yes, there's a budget component,” she said. “But it's really about a lot of things that help recruit and retain the best talent, so you need to have a conversation about the skills you need, and how you compare to the market sector on recruiting and retaining.”

“What those behind this proposal are talking about here, among other things, is moving towards a purely defined contribution benefit plan,” Merick Masters, a professor of business and expert on labor in the Department of Management and Information Systems at Wayne State University, told Government Executive. “And I would say that all these things they are thinking of doing here to cut or reduce—if the plan comes to pass—they should be very careful in calculating and adjusting. That is because a federal government employee's compensation package is very different on average than someone in the private-sector workforce—government has more professionals on average, for a start.”

“But there's no doubt that this plan, if it were done, would be taking a heavy hit at federal employees,” Masters continued. “There are items in here that remind me of what the Trump administration proposed to do, to make it easier to terminate federal employees. When you look at this, in total, it looks like an attack on federal employees.”

Masters added that the plan would not be very effective, in any case, at its stated aim of making substantial savings against the deficit. The “excessive costs” of government, as he put it, are “so much higher” than the projected savings. “If the plan saved, you know, a few hundred billion over 10 years, we are dealing with deficits so much larger than that now—it's really not going to make that much of a difference.”

And then there are the costs. “It clearly doesn't help morale among the existing workforce,” he said. Whatever the rationale, “people will feel they are being unnecessarily targeted and scapegoated for the actually much larger deficits and other problems in government.”

The real fix, if there is one, Masters advised, is to pare down over time the actual number of employees across some parts of the government's workforce—downsizing only certain departments or units of them. And to further slash federal expenditures by “reining in entitlements to the public” to a more sustainable level.

Another expert on the public workforce, Timothy Hagle, a professor who for decades has taught political science and public administration at the University of Iowa, like Masters would like to see government cut costs against the growing deficit (estimated at around \$3 trillion this year alone)—but he sees some minuses in the proposed plan.

“When I was at the Office for Victims of Crime at the Department of Justice”—where he served during the George W. Bush Administration— “I saw some of the problems in government, first-hand,” he told *Government Executive*. “You want people in government to be sufficiently compensated with decent benefits and incentives, because professionals like lawyers and doctors could go off and make more money somewhere else.”

Because of its indiscriminate nature, Hagle said the kind of cuts outlined in the House GOP plan would likely cause morale problems in the existing workforce. “Still, you have to reach some sort of balance,” he said. “These are taxpayer dollars, and so making an effort to save is important too—especially for Republicans who run on that.”

“We need to come up with compensation plans that create better retention for some areas of government where that is a big problem,” Hagle said. “In theory, it would be great if we could increase the benefits, or even salary, for government jobs that are hard to recruit and retain,” he said. “But it could cost less in other areas—maybe important, but not nearly as difficult to fill, for example some purely administrative work. Look, we can try to make these distinctions—but this is the federal government, and on the ground with compensation you are sort of locked in with the system across the board. It would be—and has been—very hard to change it.”

Sourced From: [\(Government Executive\)](#)

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Tier III

FDA Approves First Over-The-Counter Birth Control Pill

The FDA approved the country's first-ever daily hormonal contraceptive pill for sale without a prescription, a move that could dramatically expand access to birth control for the uninsured and reduce unwanted pregnancies at a time abortion access is evaporating in much of the country.

Though the drug itself and the campaign for its approval go back decades, pressure on the Biden administration to approve a hormonal over-the-counter birth control option increased after the fall of *Roe v. Wade* last year. Perrigo, the pill's manufacturer, has pledged to make the pill "accessible and affordable to women and people of all ages."

"When used as directed, daily oral contraception is safe and is expected to be more effective than currently available nonprescription contraceptive methods in preventing unintended pregnancy," Patrizia Cavazzoni, director of the FDA's Center for Drug Evaluation and Research, said in a statement.

Perrigo's president and CEO Patrick Lockwood-Taylor called the decision "a truly momentous day for women's health nationwide" and said the drug "has the potential to radically transform women's access to contraception."

Progressive reproductive rights advocates and some medical groups praised the Thursday announcement, saying it will meaningfully expand contraception access for the uninsured, teenagers and other groups who face barriers to obtaining a prescription.

Several groups stressed, however, that while they are confident the pill's sale will help lower the number of unwanted pregnancies, they do not see it as a replacement for broad abortion access. According to the FDA, there are about 3 million unintended pregnancies in the U.S. annually. These pregnancies come with higher risks of negative health outcomes, including preterm birth.

"We know that increasing access to birth control is not a solution to the ongoing attacks on abortion access and sexual and reproductive health," said Alexis McGill Johnson, president, and CEO of Planned Parenthood. "But it is a critical part of protecting our reproductive freedom, especially as states across the country continue to double down on their unpopular abortion bans and restrictions."

In a call with reporters, Perrigo declined to share a retail price for Opill. “We will communicate manufacturers’ suggested retail pricing in the coming months ahead of in-store availability,” said Frédérique Welgryn, Perrigo’s Global Vice President for women’s health. She added that the company was working on a patient assistance program for those who may not be able to afford it.

Welgryn said that Opill will be available in stores and online in early 2024. CVS, one of the nation’s largest pharmacy chains, has already pledged to carry the drug in its 10,000 locations. Other retailers have not yet revealed whether they will stock the drug.

It is not clear whether health insurance plans will cover Opill. Most insurance coverage does not cover over-the-counter products. But the Affordable Care Act requires coverage of certain over-the-counter products, including emergency contraception — the catch is that it still would require a prescription, said Greer Donley, an associate professor at the University of Pittsburgh law school. And that may put the same burden on patients that previously existed. “The whole point of over-the-counter products is that you don’t have to get a prescription,” he added.

“We know that access is ... influenced by price and insurance coverage,” said Welgryn. She said the company is working to get Opill included in Medicaid coverage and by private insurers — with a prescription but was not able to say whether that would be completed by the time the drug reaches store shelves next year.

“This is probably a really good moment for the Biden administration to re-evaluate the contraceptive mandate,” said Donley, noting that removing the prescription requirement for Opill would be key to ensuring that as many people access it as possible.

Some anti-abortion and religious groups, including the Catholic Medical Association and the National Association of Catholic Nurses, vehemently opposed FDA approval of Opill and previously requested the FDA block over-the-counter approval of the pill. The groups say the drugs’ availability will lead to an increase in unprotected sex and “carry potentially life-threatening side effects.” The FDA on Thursday said the pill’s most common side effects include “irregular bleeding, headaches, dizziness, nausea, increased appetite, abdominal pain, cramps or bloating.”

Opill is a progestin-only birth control pill from Perrigo. It works by thickening cervical mucus and disrupting ovarian activity. Several progestin-only birth control pills are currently available with a prescription in the United States, and hormonal birth control pills have long been available over the counter in dozens of other countries. According to the CDC, they are about 93 percent effective at preventing pregnancy.

Two independent panels for the FDA comprised of 17 experts voted unanimously in May to recommend the agency approve Opill without a prescription. HRA Pharma, which has since been acquired by Perrigo, submitted data from its study of more than 880 participants showing that the vast majority correctly took the pill at the same time every day — which is crucial to its effectiveness — or used an alternative form of birth control if they did not.

At that meeting in May, however, FDA scientists expressed concern that the study's findings on the pills' effectiveness were based on 50-year-old data that did not reflect the current demographics of those able to become pregnant in the U.S. today. The staffers also flagged that the company's data indicated that users may have taken more pills than they were supposed to in a given month. Company representatives said this was more likely a result of study design issues, rather than participants actually taking more pills.

Jack Resneck, the immediate past president of the American Medical Association, told POLITICO in an interview earlier this year why the group endorsed the drug's approval for sale without an age restriction.

"First of all, these are medications that we know are safe and effective from decades of use and millions of women in countries around the world," he said. "Secondly, I think there's a particularly acute need for this right now in the post-Dobbs era, as the consequences of unintended pregnancies are even more substantial than they had been before."

Several health advocacy groups, including the National Latina Institute for Reproductive Justice and Ibis Reproductive Health, said Thursday that they will continue pressuring insurance companies and state Medicaid programs to cover the over-the-counter pills and will push the manufacturers to set an affordable price.

Another company, Cadence OTC, is working with the FDA toward approval for a different kind of daily oral contraceptive — a combined estrogen-and-progestin pill — for eventual over-the-counter sale. The company expects to begin late-stage trials on the pill next year.

Sourced From: [\(Politico\)](#)

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