

## Summary and Highlights:

### The Department of State, Foreign Operations, and Related Programs Appropriations Bills, FY12

#### Executive Summary

- **The Senate bill’s total budget for foreign assistance is \$44.64 billion, which is \$6.15 billion below the President’s request, but \$5 billion above the House version of the bill.** In one notable difference between the two, the Senate prioritizes democracy assistance funding to the Bureau of Democracy, Human Rights, and Labor (DRL) (\$70.91 million) over such funding to USAID (\$43.86 million), in comparison to proposed House levels of \$66.91 million and \$47.86 million, respectively.
- **As we begin to examine the appropriations bills for FY12, it appears that the irregularities and delays that characterized the FY11 Congressional budgeting process will continue.** In addition to the huge funding gaps between the proposed House and Senate versions of the State and Foreign Operations bills (\$5 billion, or almost 10 percent), the policy language attached to funding foreign assistance and bilateral assistance to individual countries varies widely. If the final budget negotiations from FY11 serve as any indication, the compromises made to reconcile the two versions will largely be agreed upon by a small and limited group of party leadership from Congress and the President, and will not follow formal Congressional appropriations procedures.
- **Congressional policy toward Egypt’s military and economic assistance varies considerably between the House and Senate.** The proposed House bill prohibits funding for Enterprise Funds and debt relief to Egypt, contradicting promises from the Obama administration for such assistance. In addition, the House bill contains much more restrictive language apparently directed toward the participation of the Muslim Brotherhood in a future Government of Egypt. A highly unusual clause proposed in the Senate bill would grant the administration the authority to transfer funds between Egypt’s military and economic assistance, an indicator of doubt in the Senate with the quality and pace of Egypt’s democratic transition as led by the ruling Supreme Council of the Armed Forces (SCAF).
- **Language proposed in the House bill on economic and/or military assistance is much more restrictive regarding the participation of a “foreign terrorist organization, its affiliates or supporters” or the participation of a member of a foreign terrorist organization in any “policy position” in the government of many countries in the region, including Egypt, Lebanon, the Palestinian Authority, Yemen or Libya.** In contrast, the Senate bill generally limits such assistance only when the government of a country is “controlled by” a foreign terrorist organization.

- **The House bill is generally more skeptical of international organizations in its outlook than the Senate**, as evidenced by proposed cuts to international peacekeeping missions, funding to the U.N. Human Rights Council, and a limitation on U.S. participation in international conferences.
- **New restrictions on military assistance to Morocco and Bahrain are introduced in the Senate bill.** A portion of Morocco’s FMF is withheld until a report from the Secretary of State confirms that specific steps are being taken by the Government of Morocco to enhance respect for human rights and allow NGOs to operate in the Western Sahara. Bahrain is added to a list of countries such as Cote d’Ivoire, Democratic Republic of the Congo, Libya, and Sri Lanka that may only be provided International Military Education and Training (IMET) through notification procedures of the Committees on Appropriations.
- **The Senate bill allocates funding for Enterprise Funds, the Overseas Private Investment Corporation (OPIC), and the Export-Import Bank of the United States while the House bill does not.** These mechanisms are key components of the Obama administration’s assistance plans to countries undergoing democratic transitions, especially in Egypt and Tunisia.
- **The Senate bill places a special emphasis on Internet freedom programs**, a reflection of the increased prioritization of such funding to the region this year, in particular to Iran, Syria and Bahrain.

## Introduction

On Wednesday 9/21, Senator **Patrick Leahy** (D-VT) introduced [S.1601](#), the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012, accompanied by the appropriations committee [report](#). The [press release](#) noted the committee’s difficult task of funding more with less, including “responding to the turbulent events in the Middle East and North Africa,” with a total budget of \$44.64 billion, which is \$6.15 billion below the President’s request, but \$5 billion above the House version of the bill. On the Middle East and North Africa:

**“The Committee fully funds assistance for these countries, including authority for enterprise funds in Egypt, Tunisia, and Jordan, and for debt relief for Egypt, and includes conditions on [military assistance to] Egypt relating to free and fair elections.** The bill includes a prohibition on economic assistance for the Palestinian Authority if it becomes a member or non-member state of the UN, with a national security interest waiver. The bill also includes a prohibition on assistance to a government over which Hamas exercises undue influence.”

On Wednesday 7/27, the House State and Foreign Operations Appropriations Subcommittee held a markup session and voted to pass the [2012 State and Foreign Operations Appropriations Bill](#), as is, to the full committee. **The bill would dramatically reduce funding to the State Department, USAID and U.S. commitments to the United Nations, including an elimination of all funding to the U.N. Human Rights Council.** The bill would provide the State Department and USAID with \$39.6 billion in discretionary funding, 18 percent lower (\$8.6 billion) than the levels enacted for FY11. **The bill seeks to restrict funding to Egypt, Lebanon, Yemen and the Palestinian Authority (PA).** For example, Egyptian aid is conditioned on full adherence to the peace treaty with Israel, dismantling and disrupting tunnels to the Gaza Strip, and the government is “not controlled by a foreign terrorist organization, its affiliates or supporters.” Aid to the

Palestinian Authority, Lebanon, and Yemen is conditioned on the participation of Hamas, Hezbollah, and the participation of a member of a foreign terrorist organization in any policy position in the government, respectively. Some of the language in the House appropriations bill is reminiscent of policy language inserted into [H.R.2583](#), the Foreign Relations Authorization Act of 2012, that POMED analyzed in a [report](#) in July 2011. In that report, we cautioned that although H.R.2583 was unlikely to become law “some language incorporated into this bill may be adopted by the House State and Foreign Operations Appropriations Subcommittee in the markup of its spending bill.” From the budget outlays and policy statements inserted into the House spending bill, it is clear that much of the language from H.R.2583 has been incorporated into the appropriations bill, where it does have a much higher chance of becoming law in a final appropriations bill passed by both chambers of Congress.

In POMED’s [report](#) on the FY11 budget process published in July 2011, Executive Director **Stephen McInerney** stated: “**dysfunction in the Congressional appropriations process is a serious problem.** Severe delays and irregularities in the Congressional budget and appropriations process have interfered with the planning and execution of foreign affairs spending, to a degree that undermines U.S. national security and national interests.” **As we examine the preliminary appropriations bills for FY12, it appears that such irregularities and delays in the Congressional budgeting process are likely to be repeated.** In addition to large funding gaps between the proposed House and Senate versions of the State and Foreign Operations bills (\$5 billion, or almost 10 percent), there are also considerable differences in the policy language attached to funding foreign assistance and bilateral assistance to individual countries. Compromises made to reconcile the two versions will likely be agreed upon by a small and limited group of party leadership from Congress and the president, with little or no transparency in their decision-making process. At this point in the appropriations process, each of the proposed bills has not been passed by either chamber as a whole and it is unlikely they will reach that stage. Nonetheless, the final appropriations act will be heavily influenced by some of the spending levels and policy language contained in each bill.

As has been the case in recent years, it appears that the House will introduce an omnibus spending bill, or a series of “mini-buses,” to replace the formal process of the appropriations bill. House leadership appears to be concluding that assembling multiple spending packages, which combine contentious spending bills with politically popular bills, will yield a smoother process than negotiating a single overall spending bill. Many members of the House leadership believe such a process would help to minimize the number of demands from individual members within the party as well as give them more leverage in negotiations with Democrats. **Lamar Alexander** (R-TN) has [explained](#), “We have to go deeply into every function of government and appropriate exactly the amount of money [required], and it is much easier to do when you are dealing with one bill at a time. One is better than three, and three is better than 12.”

Furthermore, to compound the complications of the appropriations process, this year the Joint Select Committee on Deficit Reduction, also known as the Supercommittee, was created as a joint select committee of Congress by the [Budget Control Act of 2011](#) passed on August 2, 2011. The 12 Congressional members of the committee are charged with issuing recommendations by November 23, 2011 for at least \$1.5 trillion in additional deficit reduction steps to be undertaken over a ten-year period. These budget cut recommendations are expected to come from every section in the federal budget, including U.S. foreign assistance.

Below we have tried to identify all sections of the bill directly related to U.S. engagement with the Middle East and North Africa and issues of democracy and human rights in the MENA region, accompanied by relevant quotes from Congressional hearings as well as background information and context.

### Congressional Leadership Comments on the Appropriations Bills

House State and Foreign Operations Appropriations Subcommittee Chairwoman **Kay Granger** (R-TX) [described](#) the proposed House bill as a response to the current tight fiscal conditions by reserving funding for only programs that “impact our national security.” On the conditions placed on Egypt, the Palestinian Authority (PA), and Lebanon, she said, “there is still uncertainty about whether [these governments] will continue to work toward peace or allow extremism into their governments. This bill makes it clear that in order to continue to be partners to the United States these governments must demonstrate that they are committed to promoting stability and fighting our common enemies.”

House State and Foreign Operations Appropriations Subcommittee Ranking Member **Nita Lowey** (D-NY) [supported](#) the conditions on aid to the PA and said “...in countries like Yemen, Lebanon, Egypt, and Pakistan, I appreciate the responsible approach of the Chairwoman to expand certification requirements before funding can be directed to these countries.” However, she described many of the cuts within the bill as “deeply problematic,” including cuts to the State Department and USAID.

In spite of the challenge of funding “more with less,” Senate State and Foreign Operations Appropriations Subcommittee Chairman **Patrick Leahy** (D-VT) [argued](#) the proposed Senate bill “does a good job of balancing priorities.” Earlier this spring, Leahy [argued](#), “Turning to Fiscal Year 2012, I believe [Secretary Clinton’s] budget request is a far more responsible approach to the national security challenges we face than what the House has proposed in its Fiscal Year 2011 Continuing Resolution. While the mood in Congress is to cut spending, the age old refrain ‘penny wise pound foolish’ could not be more applicable.”

Senate State and Foreign Operations Appropriations Subcommittee Ranking Member **Lindsey Graham** (R-SC) has also argued strongly for a fully-funded foreign aid budget: “In many ways, the President showed deep appreciation for the Arab Spring and the potential payoffs for our own national security. At a time when we’re broke at home, it remains important to remain engaged in the world and provide assistance to those who would live in peace with us.” Graham has repeatedly [spoken](#) on the importance of U.S. assistance to democratic transitions in the Middle East, emphasizing economic assistance to countries undergoing transitions to democracy, such as Tunisia, Egypt, and Libya as “national security investment[s].” He has argued that the U.S. has the opportunity to deter Iran by backing Arab Spring movements, demonstrating its rejection for theocratic and secular dictatorships that are oppressive.

### Title I – Department of State and Related Agency Department of State

#### Contributions to International Organizations

The House bill includes \$1.34 billion for membership in international multilateral organizations, while the Senate bill authorizes allocates \$1.59 billion. As mentioned previously, the lower spending level dedicated to international organizations in the House bill is reminiscent of [H.R.2583](#), the Foreign Relations Authorization Act of 2012. Moreover, House Foreign Affairs Chairwoman **Ileana Ros-Lehtinen** (R-FL) has recently [introduced](#) a [bill](#) that would [allow](#) the U.S. to “fund only UN agencies and programs that advance U.S. interests

and values, and the resulting competition among UN entities for funding will likely make those entities more transparent, accountable, and effective.” In contrast, support for participation in international organizations and multilateralism has significant Republican backing in the Senate, as evidenced by the [comments](#) of Senator **Lindsey Graham** (R-SC) on Syria, for example: "We also hope the Obama Administration will work with our allies and partners to raise the situation in Syria at the UN Security Council and secure the passage of a meaningful resolution there. We commend the General Secretariat of the Organization of the Islamic Conference (OIC) for its condemnation of the violence in Syria, and urge our Administration to work with Turkey, Saudi Arabia, and other regional partners to ratchet up the pressure on Assad in other forums and lend greater support to the Syrian people.”

#### International Peacekeeping Activities

The House bill designates \$1.7 billion for International Peacekeeping Activities, while the Senate bill includes \$1.9 billion. Of the [current UN peacekeeping operations](#) in the region, the final spending level determined would potentially affect funding to: the [United Nations Mission for the Referendum in Western Sahara](#) (MINURSO), the [United Nations Disengagement Observer Force](#) (UNDOF) in the Golan Heights in Syria, the [United Nations Interim Force in Lebanon](#) (UNIFIL), [United Nations Mission in the Sudan](#) (UNMIS), and the [United Nations Truce Supervision Organization](#) (UNTSO) in the Middle East. The lower level in the House may again be a reflection of sentiment expressed in [H.R.2583](#), which declared, “funds authorized to be appropriated for contributions for international peacekeeping activities shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount that is greater than 25 percent of the total of all assessed contributions for such operation.”

#### Broadcasting Board of Governors’ International Broadcasting Operations

For the Broadcasting Board of Governors’ International Broadcasting Operations, the House bill allocates \$730 million for “radio and television broadcasting to the Middle East,” and the Senate bill allocates \$740 million for the same activity. The Senate bill includes an additional provision for \$2.5 million “to expand unrestricted access to information on the Internet through the development and use of circumvention and secure communication technologies.” This provision is an important reflection of the growth of Internet freedom initiatives in democracy assistance, an issue that has become increasingly important as repressive governments in the Middle East [target](#) bloggers and activists through their Internet use, especially in [Iran](#), Syria, and Bahrain. State and Foreign Operations Appropriations subcommittee member [Mark Kirk](#) (R-IL) has recently joined the [Internet Freedom Caucus](#), [launched](#) in March of 2010.

#### United States Institute of Peace and the National Endowment for Democracy

For the United States Institute of Peace (USIP), the House bill allocates \$24.8 million and the Senate bill allocates \$31.6 million. For the National Endowment for Democracy (NED), both versions of the bill include \$117.76 million, which is just slightly below the \$118 million allocated in FY11.

#### **Title II – United States Agency for International Development**

The House bill allocates \$900 million for operating expenses of the United States Agency for International Development (USAID), in contrast to \$1.25 billion allocated for this purpose by the Senate bill. These funds



are the costs of administration and operation for USAID, separate from the foreign assistance funds programmed by the agency.

### **Title III – Bilateral Economic Assistance**

Under “Development Assistance,” the House bill and Senate bill make funds available “for programs to improve women’s leadership capacity in recipient countries,” although the House bill explicitly designates \$20 million for this objective.

Both chambers’ bills designate approximately \$55 million to “Transition Initiatives,” managed by the USAID Office of Transition Initiatives (OTI), which is described as aiming “to support transition to democracy and to long-term development of countries in crisis [...] such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict.” The Senate bill also designates \$30 million for USAID’s Complex Crisis Fund, “to support programs and activities to prevent or respond to emerging or unforeseen complex crises overseas.”

The House bill allocates \$4.06 billion in Economic Support Funds (ESF), while the Senate bill designates \$4.38 billion in ESF. These funds capture the majority of United States bilateral assistance to countries in the region, and the policy language on those budget outlays articulates restrictions to receiving such assistance.<sup>1</sup>

#### **Lebanon**

The House bill restricts any direct government-to-government assistance unless the Secretary of State certifies and reports that “such assistance is not provided to any ministry, agency, or instrumentality of the Government of Lebanon that is headed or effectively controlled by Hezbollah or any other foreign terrorist organization.” In contrast, the Senate bill restricts any assistance for the Government of Lebanon “if such government is controlled by a foreign terrorist organization.”

This is an important distinction, as the House-proposed language could effectively be interpreted to eliminate any bilateral assistance to the Government of Lebanon if Hezbollah were to head even one ministry or government agency in the Lebanese government, which it has done since 2005. Officials in both the Bush administration and Obama administration have largely agreed that uninterrupted assistance to Lebanon is an important component of efforts to strengthen Lebanese institutions, actors, and parties *especially* when Hezbollah plays a dominant role in the government. Congressman **Howard Berman** (D-CA) has proposed another option in regards to funding to Lebanon; he recently [introduced](#) a [bill](#) to “prohibit U.S. foreign assistance to a Hezbollah-dependent Lebanese government,” defined as a government where the terrorist organization is part of the majority coalition of the government, such as the one recently [announced](#) by Lebanese Prime Minister **Najib Mikati**. The bill contains built-in exceptions for assistance for humanitarian, democracy-building, and educational assistance. There is also an exception for IMET funding, in order to allow for continued contact with the Lebanese military.

#### **Jordan**

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<sup>1</sup> Additional ESF line items and policy language are discussed in Title VIII, below.

The House and Senate bills both allocate \$360 million in ESF for assistance to Jordan, as expected according to the current multi-year [Memorandum of Understanding](#) (MOU) governing U.S. assistance to Jordan.

### Tunisia

The Senate bill allocates \$30 million for loan guarantees for Tunisia. The House bill includes no ESF funds specifically designated for Tunisia (although it should be noted that the administration will have some discretion to allocate un-earmarked ESF funds as it sees fit, and would include funds for Tunisia even if not earmarked in the final Congressional appropriations act).

### Palestinian Authority

The House bill restricts any ESF on the condition that the PA “is not *attempting to establish or seek recognition* at the United Nations of a Palestinian state outside of an agreement negotiated between Israel and the Palestinians.” In contrast, the Senate bill restricts aid to the PA “if Palestine *becomes a member or nonmember state* of the United Nations outside of an agreement negotiated between Israel and the Palestinians.” (italics added). Additional restrictions on the issue of Palestinian statehood are discussed in Title VIII, below.

### Democracy Fund

The House and Senate bills both allocate \$114.77 million to the President’s Democracy Fund, which is just slightly below the FY11-enacted level of \$115 million. These are funds used to support democracy and governance programs worldwide, and they are divided between the State Department’s Bureau of Democracy, Human Rights, and Labor (DRL) and the USAID Office of Democracy and Governance. In one notable difference between the two, the Senate prioritizes democracy assistance funding to DRL (\$70.91 million) over such funding to USAID (\$43.86 million), as compared with proposed House levels of \$66.91 million and \$47.86 million, respectively.

At a hearing in April on USAID’s budget request, Senator **Patrick Leahy** (D-VT) [asserted](#), “I continue to believe strongly that USAID needs to become a more efficient, accessible, flexible, and less risk-averse agency that rewards creativity and focuses on building the capacity of people and governments in countries where the United States has important interests.”

### Millennium Challenge Corporation

Both the House and Senate bills designate \$898.2 million for the Millennium Challenge Corporation (MCC). In a recent meeting with Tunisian Foreign Minister **Mouldi Kefi**, Secretary **Hillary Clinton** [noted](#), “the Millennium Challenge Corporation is examining Tunisia’s eligibility for a threshold program, which would help Tunisia design and undertake a democratic reform program with an aim toward economic reform.” Senator **Joe Lieberman** (I-CT) has also recently [called for](#) “establishing a robust Millennium Challenge Corporation compact with Tunisia.” Furthermore, the MCC [signed](#) a five-year, \$275.1 million [compact](#) with Jordan in October 2010 and [signed](#) a five-year, \$697.5 million [compact](#) with the Kingdom of Morocco in August 2007.

### Title IV – International Security Assistance

Foreign Military Financing (FMF) is [defined](#) by the Defense Security Cooperation Agency (DSCA) as:

“the U.S. government program for financing through grants or loans the acquisition of U.S. military articles, services, and training, [which] supports U.S. regional stability goals and enables friends and allies to improve their defense capabilities [...] FMF helps countries meet their legitimate defense needs, promotes U.S. national security interests by strengthening coalitions with friends and allies, cements cooperative bilateral military relationships, and enhances interoperability with U.S. forces.”

## Egypt

Both the House and Senate bills include \$1.3 billion for Foreign Military Financing (FMF) for Egypt. In the House bill, this assistance is designated for “border security programs and activities in the Sinai, with the expectation that the Egyptian military will continue to adhere to and implement its international obligations, particularly the Egypt-Israel Peace Treaty.” In the Senate bill, this assistance is also for “border security programs and activities in the Sinai,” but **conditions the delivery of Egypt’s FMF on certification by the Secretary of State that “the Government of Egypt has held free and fair elections and is implementing policies to protect the rights of journalists, due process, and freedoms of expression and association.”**

This is similar to restrictions [proposed](#) for Egypt’s FMF in the Senate’s [version](#) of the FY11 bill earlier this year (but not included in the final version of the bill). In response to the restrictions proposed by the Senate on Egypt’s FMF, Secretary **Hillary Clinton** [said](#) in a recent interview, “**We believe in aid to your military without any conditions, no conditionality** [...] the Obama Administration and I personally am against that. I think it’s not appropriate.”

## Jordan

Both the House and Senate bills authorize \$300 million in FMF for Jordan, without any restrictions.

## Bahrain

The Senate bill restricts International Military Education and Training (IMET) assistance to Bahrain, adding Bahrain to a list of countries such as Cote d’Ivoire, Democratic Republic of the Congo, Libya, and Sri Lanka that “may only be provided [IMET training] through the regular notification procedures of the Committees on Appropriations and any such notification shall include a detailed description of proposed activities.” The section on IMET assistance notes “the civilian personnel for whom military education and training may be provided [...] whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights.” Furthermore, the Senate bill carries over a clause that was introduced in the FY11 appropriations act that specifically requires “the regular notification procedures of the Committees on Appropriations” to be followed before any FMF can be delivered to Bahrain.

## Title V – Multilateral Assistance

No relevant sections.

## Title VI – Export and Investment Assistance



The House bill designates \$52.2 million for administrative expenses for the Overseas Private Investment Corporation (OPIC), while the Senate bill designates \$55 million for such expenses. Immediately after President **Barack Obama**'s May 19<sup>th</sup> [speech](#) on the region, the administration [announced](#), "**OPIC will provide up to \$2 billion in financial support to encourage private sector investments in the Middle East and North Africa**, building partnerships between U.S. and Arab businesses to promote growth, and regional job creation. OPIC will prioritize small and medium-sized enterprises and is prepared to grant proposed projects "fast track" approval status (provided due diligence requirements are met) to mobilize capital quickly."

The Senate bill also includes \$4 million for the office of the Inspector General of the Export-Import Bank of the United States, a key component of the "Egypt: Forward" program, which [serves](#) "as an immediate response to support economic growth and stability in Egypt as it undergoes an historic transition."

## **Title VII – General Provisions**

The Senate bill prohibits any ESF or FMF funding "to finance directly any assistance or reparations for the governments of Cuba, North Korea, Iran, or Syria." As written, this language could be interpreted to restrict funding to the government of Syria, even if that government was one that emerged during FY2012 to replace the regime of the President of Syria **Bashar al-Assad**, and in that case could be interpreted to contradict Senate support for ESF funds to support democracy and human rights in Syria under Title VII.

### Promotion of Democracy

Both the House and Senate bills define the term "promotion of democracy" as "programs that support good governance, human rights, independent media, and the rule of law, and otherwise strengthen the capacity of democratic political parties, governments, nongovernmental organizations and institutions, and citizens to support the development of democratic states, institutions, and practices that are responsive and accountable to citizens." Both also assert that "**[w]ith respect to the provision of assistance for democracy, human rights and governance activities in this Act, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the government of any foreign country.**" Egypt's Minister for Planning and International Cooperation **Fayza Aboul Naga** has [protested](#) to the U.S. Embassy in Cairo that USAID's recent actions to solicit direct proposals for democracy assistance funding to the public violated Egypt's sovereignty. **She said bypassing the government in offering direct USAID grants contradicts a 1978 agreement between Egypt and the U.S. that mandates that all economic assistance must be channeled through the government.** Secretary of State **Hillary Clinton** [responded](#) in a recent interview:

"Well, we would like our NGOs to be registered. We would like for them to be under Egyptian law. I will say it's a little ironic, because President Mubarak didn't want us to have NGOs that were working with people either [...] You know we're there. You know we are saying look, we want to help people know how to run elections. We know that there are groups and countries that are funneling money into Egypt and nobody knows about it. You know what we're doing, and we're going to be as transparent with the government as possible."

The two bills contain two notable differences under this heading. In the house bill, the text asserts:

“[a]ny contract, grant, or cooperative agreement (or any amendment to any contract, grant or cooperative agreement) in excess of \$1,000,000 of funds under the heading ‘Democracy Fund,’ and in excess of \$2,500,000 under other headings in this Act for the promotion of democracy, with the exception of programs and activities of the National Endowment for Democracy, shall be subject to the regular notification procedures of the Committees on Appropriations.”

This would constitute a new requirement on democracy assistance projects that might slow the process of awarding new funding for and implementing such projects. Over the past several months, the speed at which new projects can be funded and set up to assist in democratic transitions in the region has been hugely important in reacting quickly to the needs of transitional governments. Another difference can be found in additional language in the Senate bill to designate funding for Internet freedom programming:

“[o]f the funds appropriated under the heading ‘Economic Support Fund’, up to \$25,000,000 shall be made available to the Bureau of Democracy, Human Rights and Labor for programs to promote human rights by expanding open and uncensored access to information and communication through the Internet, mobile phones, and other connection technologies including digital safety training, policy and advocacy, and the development of circumvention and secure communication technologies, as identified in the Department of State’s Internet freedom strategy.”

### Palestinian Statehood

Both the House and Senate bills restrict any ESF or FMF funding to support a Palestinian state unless the Secretary of State determines and certifies that the governing entity of a new Palestinian state is committed to peaceful co-existence with Israel, taking measures to counter terrorism, and seeking comprehensive regional peace.

Furthermore, the House bill contains an additional prohibition: “None of the funds appropriated in titles III through VI of this Act may be obligated for salaries of personnel of the Palestinian Authority located in Gaza or may be obligated or expended for assistance to Hamas, or any entity effectively controlled by Hamas, or any power-sharing government of which Hamas is a member *or that results from an agreement with Hamas.*” The Senate bill contains a slight but important variation on the final clause of that statement: “*or a government over which Hamas exercises undue influence*” (italics added). This is a significant difference, as the House language, if adopted, would prohibit assistance to any type of unity government that included Hamas, while the Senate language suggests more flexibility to work with a potential unity government.

Finally, the Senate bill includes an additional provision requiring the Secretary of State to submit “specific recommendations on appropriate actions to be taken with respect to the Palestine Liberation Organization’s status in the United States, especially about the closing of its office, if Palestine seeks to become a member or non-member state of the United Nations outside an agreement negotiated between Israel and the Palestinians.”

## Egypt<sup>2</sup>

Both the House and Senate bills include \$250 million in ESF for assistance to Egypt. The House bill restricts this assistance on a certification by the Secretary of State that the Government of Egypt is: “not controlled by a foreign terrorist organization, its affiliates or supporters,” implementing the Egypt-Israel Peace Treaty, and taking steps to detect and destroy the smuggling network and tunnels between Egypt and the Gaza strip. Furthermore, “None of the funds appropriated or otherwise made available in this Act may be used to reduce, reschedule, or forgive the debt of the Government of Egypt to the United States Government unless authorized for such purposes.” The restrictions in this section “shall not apply to assistance made available for the promotion of democracy.”

The “affiliates or supporters” language included in the House bill is reminiscent of Section 951 in [H.R.2583](#). This type of language is included by some members of Congress **in a clear attempt to restrict funding to an Egyptian government which might include the Muslim Brotherhood**, as they are not currently designated by the U.S. government as a foreign terrorist organization ( Hamas and Hezbollah are designated as such). Given that there are no legal parameters for what defines an affiliate or supporter of terror – with the exception of providing material support to terrorism – this clause could not practically be enforced by the administration and its intent therefore appears purely political.

That said, during the markup of [H.R.2583](#), Rep. **Jeff Duncan** (R-SC) introduced an amendment **demanding that the Secretary of State designate the Muslim Brotherhood as a foreign terrorist organization**. Duncan described the Muslim Brotherhood as a group that had been engaged in terrorist activities, such as the assassination of former President **Anwar Sadat**, and referenced sections of the charter of Hamas that includes quotes from Muslim Brotherhood founder **Hassan al-Banna**. He pointed to historical connections through the mujahideen in Afghanistan between the Muslim Brotherhood and al-Qaeda, and that money from the Muslim Brotherhood “occasionally went to al-Qaeda.” Although Duncan agreed to withdraw this amendment, he also introduced an [amendment to limit the Secretary of State from using “any funds available under this Act for direct or indirect assistance to the Muslim Brotherhood,”](#) which was agreed to by voice vote of the House Foreign Affairs Committee.

The language of the bill also reflects previous statements of Rep. **Ileana Ros-Lehtinen** (R-FL), who has [called for](#) “the unequivocal rejection of any involvement by the Muslim Brotherhood and other extremists who may seek to exploit and hijack these events to gain power.” Since the fall of Mubarak, Rep. Ros-Lehtinen has also [asserted](#) that “**The U.S. should only provide assistance to Egypt after we know that Egypt’s new government will not include the Muslim Brotherhood** and will be democratic, pro-American, and committed to abiding by peace agreements with Israel.”

In contrast, Rep. **Howard Berman** (D-CA) has been more cautious, and [argued](#) (before the fall of Mubarak) that the U.S. “cannot choose Egypt’s future,” but should support orderly change that supports relations with the U.S., democracy, human rights, a secular-oriented government and supports the Egypt-Israel Peace Treaty.

In contrast to the House bill, which prohibits any funding to relieve Egypt’s debt, the Senate bill provides for: “the authority to reduce debt [...] after the Secretary of State certifies to the Committees on Appropriations that

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<sup>2</sup> Egypt’s ESF is under Title III in the Senate bill

the Government of Egypt has held free and fair elections and is implementing policies to protect the rights of journalists, due process, and freedoms of expression and association.”

**The House bill’s notable prohibition on funds being used to “reduce, reschedule, or forgive the debt of the Government of Egypt” stands in stark contrast to President Barack Obama’s promise of debt relief to Egypt** in his [speech](#) on May 19<sup>th</sup>: “[W]e do not want a democratic Egypt to be saddled by the debts of its past. So we will relieve a democratic Egypt of up to \$1 billion in debt, and work with our Egyptian partners to invest these resources to foster growth and entrepreneurship.”

**The Senate bill also contains a highly unusual clause on Egypt’s FMF and ESF, which would grant the administration the authority to transfer funds between the two categories:**

“funds appropriated by this Act under the heading ‘Foreign Military Financing Program’ for assistance for Egypt may be transferred to, and merged with, funds appropriated for assistance for Egypt under the heading ‘Economic Support Fund,’” pursuant to “consultation with, and subject to the regular notification procedures of, the Committees on Appropriations.”

In March, Senator **John Kerry** (D-MA) was among the first to [suggest](#) publicly that there may be a need to “shift the balance” of U.S. assistance to Egypt by transferring some of the \$1.3 billion given annually in military aid to provide economic assistance and support for political reform. However, as POMED Executive Director **Steve McInerney** [noted](#) in July, “This would be an extremely unusual step for Congress to take, particularly given the structure of U.S. appropriations in which the ESF and FMF are entirely separate accounts,” and it remains unclear exactly how such a transfer would be technically executed.

Egypt has been a country of particular emphasis for Senate State and Foreign Operations Appropriations Subcommittee Ranking Member **Lindsey Graham** (R-SC). In response to President **Barack Obama**’s May 19<sup>th</sup> speech on the Arab Spring, Graham [declared](#): “I stand ready to work with the President to do all we can to help the Egyptian people create a new path that embraces representative government, tolerance and the rule of law. **Egypt is the heart of the Arab world and if democracy can form there, it will change the region forever.**” In his home state of South Carolina, Graham recently [noted](#) his work to secure a \$1 billion aid package for Egypt: “**Egypt is the prize to be won. Foreign aid is a very complicated, controversial topic, particularly when you’re broke. But [...] it is good for the American people and the American government to reach out and help those who live in peace with us.**”

## Lebanon

The House bill restricts all security assistance to Lebanon on a certification by the Secretary of State that: “no ministry, agency, or instrumentality of the Government of Lebanon is headed or effectively controlled by Hezbollah or any other foreign terrorist organization” – the same restrictions placed on Lebanon’s ESF. In contrast, the Senate bill prohibits any assistance “for the Government of Lebanon *if such government is controlled by a foreign terrorist organization.*” (italics added)

As discussed in relation to Lebanon’s FMF, **this is an important distinction, as the House-proposed language could effectively be interpreted to eliminate any bilateral assistance to the Government of Lebanon if Hezbollah were to head even one ministry or agency in the Lebanese government, which it has**

since 2005. The language of the House bill reflects previous statements of Rep. **Ileana Ros-Lehtinen** (R-FL), who has openly [questioned](#) whether a Hezbollah-dominated government would “qualify Lebanon as a state sponsor of terrorism” and how that might affect the administration’s position on aid to Lebanon.

### Libya

The House bill restricts any assistance to Libya on a certification by the Secretary of State that: (1) no ministry, agency, or instrumentality of the Government of Libya is controlled by a foreign terrorist organization; (2) rule of law has been restored in Libya; and (3) it is in the national security interest of the United States to provide such assistance.” In contrast, the Senate bill authorizes \$20 million in ESF for Libya “to promote democracy, transparent and accountable governance, human rights, transitional justice, and the rule of law in Libya, and for exchange programs between Libyan and American students...”

Unique to the restrictions on Libya as compared to other countries in the region is the requirement of economic assistance to be “in the national security interest of the United States,” a clause which [echoes](#) heated Congressional [debates](#) over the U.S. participation in the NATO intervention in Libya. Second, **the requirement that “rule of law has been restored” is an immensely difficult prerequisite to meet prior to disbursement of economic assistance to Libya, and is subject to widely varying levels of interpretation.** Given that “Rule of Law and Human Rights” programming is a key component of U.S. democracy assistance, it seems incongruous for this clause to apparently designate the restoration of “rule of law” as a prerequisite, rather than a goal, of U.S. bilateral assistance.

### Morocco

The Senate bill withholds from obligation \$1 million (out of a total \$9 million for FY12) of FMF to Morocco until the Secretary of State submits a report on the steps being taken by the Government of Morocco to: “(1) respect the right of individuals to peacefully express their opinions regarding the status and future of the Western Sahara and to document violations of human rights; and (2) provide unimpeded access to human rights organizations, journalists, and representatives of foreign governments to the Western Sahara.”

One main conclusion of POMED’s 2012 budget and appropriations [report](#) was that “Democracy programs appear underfunded in Morocco, which offers a real opportunity for support, given the small size of existing programs, the large number of effective NGOs willing to accept U.S. funding, a new reform agenda to which to hold the monarchy accountable, and a government less hostile to such programs than others in the region.” Although the provision proposed above does not provide additional funding to democracy assistance in Morocco, **leveraging some of Morocco’s FMF on improving human rights and access of NGO’s in the country does demonstrate an increasing interest on the part of the Senate in supporting political reform in Morocco.**

### Syria

The Senate bill includes “funds appropriated by this Act shall be made available to promote democracy and protect human rights in Syria: Provided, That a portion of such funds should be programmed in coordination with the Government of Turkey and other governments in the region, as appropriate.”



This provision appears to be inserted in anticipation of the need for human rights and democracy funding for a post-Assad Syria, and verbally recognizes the important role of neighboring Turkey in a potential democratic transition. However, the ambiguous language also could provide democracy assistance to help accelerate Assad's removal. Syria has been a country of particular emphasis for State and Foreign Operations Appropriations Subcommittee member Senator **Mark Kirk** (R-IL), who cosponsored [S.RES.180](#) with Senator **Joe Lieberman** (I-CT) that "[expresses](#) support for the people and condemns the human rights violations of the Assad regime."

## Yemen

The house bill restricts any assistance to Yemen on a certification by the Secretary of State that:

"(1) no ministry, agency, or instrumentality of the Government of Yemen is controlled by a foreign terrorist organization; (2) no member of a foreign terrorist organization serves in any policy position in a ministry, agency, or instrumentality of the Government of Yemen that is proposed to receive such assistance..."

As discussed in relation to Lebanon, restrictions to a post-Saleh government of Yemen based on the control of any one ministry or agency by a foreign terrorist organization, rather than control of the government as a whole, sets a precedent that could tie the hands of policymakers. **As different factions in Yemen vie for control, it will be important to preserve flexibility for the Administration in dealing with the different powers that may emerge during the next fiscal year.** Again, this is reminiscent of language inserted into the [H.R.2583](#), which prohibited security assistance to Yemen unless the President submits a report certifying that, among other elements:

"no ministry, agency, or instrumentality of the Government of Yemen is controlled by a foreign terrorist organization or is directly or indirectly affiliated with a foreign terrorist organization; (2) no member of a foreign terrorist organization serves in any policy position in a ministry, agency, or instrumentality of the Government of Yemen; [...] (5) the Government of Yemen is not complicit in human rights abuses."

## United Nations Human Rights Council

The House bill asserts, "**None of the funds made available by this Act may be used by the Secretary of State for voluntary contributions or payment of United States assessments in support of the United Nations Human Rights Council.**" In an earlier [draft version](#) of H.R.2583, section 402 declared "None of the funds authorized to be appropriated by this Act may be used by the Secretary of State as a contribution for the United Nations Human Rights Council." Although that section was not included in the final draft of [H.R.2583](#), its inclusion in earlier draft discussions of the bill was a clear indicator of some members' views of international organizations and U.S. funding and participation in thereof.

A [fact sheet](#) released by the U.S. State Department on "Key U.S. Accomplishments at the UN Human Rights Council 18th Session" touted: "**U.S. engagement thus far has resulted in significant improvements to the Human Rights Council as a multilateral forum for promoting and protecting human rights.**" The fact sheet notes U.S. success in suspending Libya from the Human Rights Council; the U.S. delegation subsequently

[blocked](#) the candidacy of Syria to fill the seat vacated by Libya on the council. On Syria, the U.S. pointed to the “prompt formation of the Commission of Inquiry mandated at the August 2011 Special Session on Syria” as a major success of the body. And on Yemen, the “United States worked with delegations from Yemen and the Netherlands, as well as others on a consensus resolution that calls for a rapid political transition and transfer of power, as outlined in the plan drawn up by the Gulf Cooperation Council.”

### Women in Development

The House bill notes that bilateral assistance funding “shall be made available to support programs to enhance economic opportunities for poor women in developing countries, including increasing the number and capacity of women-owned enterprises, improving property rights for women, increasing access to financial services, and improving women’s ability to participate in the global economy.” The Senate bill mirrors this language, but adds additional language that such funding should “increase political opportunities for women, including strengthening protections for women’s personal status, increasing women’s participation in elections, and enhancing women’s positions in government and role in government decision making.”

This language is reminiscent of the markup for [H.R.2583](#), when Rep. **Russ Carnahan** (D-MO) and Rep. **Donald Payne** (D-NJ) introduced an [amendment](#) to direct the Secretary of State to “encourage exchanges between women legislators and civil society leaders in politics and decision-making processes.” Goals of the exchanges include: “promote the advancement of women leaders in national parliaments and civil society” and “promote the human and civil rights of women.” The amendment was included in a larger block of amendments agreed to by voice vote.

### Enterprise Funds

Section 7077 of the House bill asserts, “None of the funds made available under titles III [ESF] through VI [FMF] of this Act may be made available for Enterprise Funds unless the Committees on Appropriations are notified at least fifteen days in advance.” In contrast, the Senate bill authorizes \$200 million for enterprise funds: \$60 million for Egypt, \$20 million for Tunisia, \$60 million for Pakistan, and \$60 million for Jordan.

In President Barack Obama’s May 19<sup>th</sup> [speech](#), he noted his administration was “working with Congress to create Enterprise Funds to invest in Tunisia and Egypt [...] modeled on funds that supported the transitions in Eastern Europe after the fall of the Berlin Wall.” Secretary **Hillary Clinton** [reiterated](#) the administration’s support for enterprise funds to Egypt after a recent meeting with Egyptian Foreign Minister **Mohamed Kamel**.

During the markup of [H.R.2583](#), Rep. **Howard Berman** (D-CA) introduced an [amendment](#) for the **promotion of the private sector in Egypt and Tunisia, commonly referred to as the “Enterprise Funds” for Egypt and Tunisia**. This is the same bill introduced by Rep. **Adam Schiff** (D-CA) as [H.R. 2237](#), and a bill introduced by Sen. **John Kerry** (D-MA) as [S.618](#). Rep. **Ileana Ros-Lehtinen** (R-FL) urged Rep. Berman to withdraw the amendment for a “fuller discussion” on the House floor that would be needed for the “serious and complex issues” associated with the funds, to which Berman agreed. In previous statements, Rep. Ros-Lehtinen has [said](#), “we must keep in mind that the performance of such funds in Eastern Europe and South Africa has been mixed. If approved, I will seek to require a portion of the profits generated be returned to the U.S. Treasury.”

### **Title VIII – Global War on Terrorism, Department of State**<sup>3</sup>

The House bill designates additional funding: \$85.2 million for USAID operating expenses, approximately \$1.2 billion for ESF, and \$1 billion for FMF “designated as being for the global war on terrorism pursuant to section 301 of H.Con.Res.34 (112<sup>th</sup> Congress).”

Although not explicitly restricted to specific countries, many Congressional staffers suggest this additional funding is intended for Afghanistan, Pakistan, and Iraq as the main theaters in the global war on terrorism.

### **Title VIII – Overseas Contingency Operations, Department of State**<sup>4</sup>

The Senate bill authorizes the Secretary of State to transfer up to \$230 million of the approximately \$3.7 billion under Title VIII “to support operations in and assistance for Afghanistan.” The Senate bill also includes an additional amount of \$8.4 billion for the United States Institute of Peace (USIP), \$3.5 million for Transition Initiatives, and \$5 million for the Complex Crises Fund to be “designated by Congress as being for overseas contingency operations.” Many of the funding sections under this title specifically reference the governments of Iraq and Afghanistan, consistent with those countries’ designation of civilian programming in a relatively new budget section termed the overseas contingency operations (OCO) account.

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<sup>3</sup> Title VIII designation for the House bill

<sup>4</sup> Title VIII designation for the Senate bill