



Foreign Relations Reauthorization: Background and Issues

Introduction and Current Legislation

Historically, the activities of the Department of State, related agencies, the Broadcasting Board of Governors (BBG), and foreign assistance have been authorized by two separate pieces of legislation. One, covering the day-to-day operations of the Department of State, diplomacy, and international broadcasting, is referred to as foreign relations authorization or State Department authorization. The second is referred to as foreign assistance authorization and provides for the spending of monies on promoting U.S. foreign policy objectives around the world through economic development programs, security assistance, refugee and disaster assistance, and multilateral aid.

In the second session of the 115th Congress, foreign affairs authorizing committees have introduced foreign relations authorization legislation: S. 1631 and H.R. 5592. Both include provisions addressing issues such as Administration efforts to reform the State Department and USAID, diversity hiring, and embassy construction.

Although comprehensive foreign relations reauthorization legislation has not been enacted since the 107th Congress in 2003, the 114th Congress passed what it named the Department of State Authorities Act, Fiscal Year 2017 (P.L. 114-323/S. 1635). The bill was introduced in the Senate in June 2015; the President signed it in December 2016.

This law differed from past comprehensive foreign relations authorizations because it did not include authorizations of appropriations. When a foreign relations reauthorization does not specifically authorize appropriations, waivers of this requirement are included in the annual appropriations bills. When authorization requirements are not enacted, foreign policy provisions often are inserted in the general provisions title. Typically, these provisions would be effective only for the duration of the appropriations law and would face renegotiation the following year.

Department of State Authorities Act, Fiscal Year 2017

As noted, this law did not include an authorization of appropriations and, thus, was referred to as an authorities act rather than as an authorization act. Some of the measures that were included, however, are significant with respect to how the Department of State is to operate in future years. For example, the law addressed some of the Benghazi Accountability Review Board recommendations regarding high-risk, high-threat posts, diplomatic security, and training. It also addressed UN peacekeeping issues, cost-of-living adjustments for civilian personnel stationed abroad, and public diplomacy and international broadcasting policy, among other issues.

Background

In earlier years, Congress enacted several laws that require foreign affairs appropriations to be authorized prior to expenditure. These include Section 15 of the State Department Basic Authorities Act of 1956 (P.L. 84-885), Section 10 of P.L. 91-672, Section 313 of the Foreign Relations Authorization Act, FY1994 and FY1995 (P.L. 103-236), and Section 504(a)(1) of the National Security Act of 1947 (P.L. 80-253). One motivation behind these requirements was to assert the role of the foreign affairs authorizing committees in budgetary decision making.

The foreign relations authorization laws for the State Department and related agencies are intended to coincide with the annual appropriations process and authorize specific levels for subsequent foreign affairs appropriations, usually for the next year or two. These laws can also become vehicles for Congress to address a range of foreign affairs policies, make changes to agencies or functions, and mandate numerous reporting requirements. (Stand-alone foreign assistance reauthorization has not been enacted since 1985, but aid provisions have been included in some past foreign relations authorizations.)

Relevance of Foreign Relations Reauthorization

Since the last comprehensive Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228), some have expressed concern that the President is conducting foreign policy without sufficiently consulting Congress. Debate persists about which branch of government takes the lead in establishing aspects of U.S. foreign policy. The Constitution does not definitively answer this debate but does give Congress the power to consider legislation to provide funding, specific policies, and oversight of the implementation of foreign policy. Some view foreign relations authorization legislation as a means for Congress to validate its institutional role regarding the direction of U.S. foreign policy.

Some assert that reestablishing a tradition of regularly enacting foreign relations authorization legislation also has several potential implications, including that it might:

- fulfill a key responsibility of the House Foreign Affairs and Senate Foreign Relations Committees;
- provide Members of Congress and their staffs more opportunity to consult with State Department officials, international broadcasting board members, and other foreign affairs experts to coordinate on foreign policy;
- create a legislative vehicle for Members of Congress to participate in establishing foreign policy priorities;
- encourage an ongoing discussion regarding security assistance funding, oversight, and cooperation between the Departments of State and Defense;

- provide a vehicle to reform, reorganize, create, or eliminate agencies, offices, or functions, as needs arise;
- act as a venue for setting funding ceilings for State Department operations and activities as situations arise or world-views change.

Why Not Enacted?

A frequently cited reason for preventing the enactment of a foreign relations reauthorization is the potential for controversial provisions in the legislation, particularly when one party does not control both the House and Senate. Disagreement on international family planning policy, for example, often has been an issue that stalled past bills. Additionally, constituent distaste for spending U.S. tax dollars overseas appears to be a contributing factor. Because of this, many Members of Congress may prefer not to vote multiple times to support foreign affairs appropriations or policies.

Timing of Authorization Legislation

Typically, the chairperson of the House Foreign Affairs and/or Senate Foreign Relations Committees introduces a foreign relations authorization bill in the first year of a Congress with the intention of seeing it enacted before the fiscal year it is to take effect. For instance, the most recent comprehensive authorization law enacted (P.L. 107-228/H.R. 1646) was introduced in the House on April 27, 2001 (a year and a half before the date of enactment) and passed by the full House on May 16, 2001. A year later, it was taken up and passed by the Senate Foreign Relations Committee and passed in the full Senate by unanimous consent on May 1, 2002. The conference report was agreed to on September 25-26, 2002, by both the House and Senate, respectively, and was signed into law on September 30, 2002, for implementation October 1, 2002 (FY2003).

In each of the 111th, 112th, and 113th Congresses, the Chair of the House Foreign Affairs Committee introduced a foreign affairs authorization bill that was passed by the full House. The bill was then sent to the Senate where no action on it was taken. The Chair of the Senate Foreign Relations Committee introduced an authorization bill in each of these Congresses, but the Senate took no further action on them.

History of Foreign Relations Authorization Actions

Throughout the 1970s, 1980s, and the first half of the 1990s, foreign relations authorization laws were enacted every year or two. Since 1996, comprehensive foreign relations authorization legislation has been enacted three times: for FY1998-FY1999 (P.L. 105-277), FY2000-FY2001 (P.L. 106-113), and FY2003 (P.L. 107-228). Those laws authorized a wide array of foreign policy actions. For example, the FY2003 law set ceilings for State Department expenditure of FY2003 appropriations, set U.S. policy for inter-country adoptions, established U.S. policy with respect to Jerusalem as the capital of Israel, allocated funds for the American Corners in the Russian Federation, determined policy for “rightsizing” of U.S. overseas posts, set policy and funds for recruitment of minorities for the Foreign Service and international affairs, and included the Iran Nuclear Proliferation Prevention Act of 2002, among

other things. Since 2003, Congress has waived the foreign relations authorization requirement 17 times.

Fiscal Years Reauthorizations Were Enacted

FY1984-85—P.L. 98-164; 2-year authorization
FY1986-87—P.L. 99-93; 2-year authorization
FY1988-89—P.L. 100-204; 2-year authorization
FY1990-91—P.L. 101-246; 2-year authorization
FY1992-93—P.L. 102-138; 2-year authorization
FY1994-95—P.L. 103-236; 2-year authorization—
 Government shutdown Nov. 1995-Jan. 1996
FY1998-99—P.L. 105-277, Div G, Subdiv B; 2-year
 authorization
FY2000-FY2001—P.L. 106-113, Appendix G, Div. A; 2-
 year authorization
FY2003—P.L. 107-228; 1-year authorization
FY2017—P.L. 114-323; 1-year authorities

Fiscal Years Reauthorization Requirement Was Waived

FY1996—authorization requirement waived by Sec. 405 in
 P.L. 104-134 (appropriations)
FY1997—authorization requirement waived by Sec. 404,
 P.L. 104-208 (appropriations)
FY2002—authorization requirement waived by Sec. 405,
 P.L. 107-77 (appropriations)
FY2004—authorization requirement waived by Sec. 407,
 P.L. 108-199 (Consolidated appropriations)
FY2005—authorization requirement waived by Sec. 410,
 P.L. 108-477
FY2006—authorization requirement waived by Sec. 407,
 P.L. 109-108 (appropriations)
FY2007—authorization requirement waived by Sec. 108 ,
 P.L. 110-5
FY2008—authorization requirement waived by Sec. 110,
 P.L. 110-161
FY2009—authorization requirement waived by Sec. 7023,
 P.L. 111-8
FY2010—authorization requirement waived by Sec. 7023,
 P.L. 111-117
FY2011—authorization requirement waived by Sec. 1108,
 P.L. 112-10, Title XI.
FY2012—authorization requirement waived by Sec. 7022,
 P.L. 112-74, Div. I
FY2013—authorization requirement waived by Sec. 1108,
 P.L. 113-6, Div. F
FY2014—authorization requirement waived by Sec. 7022,
 P.L. 113-76, Div. K
FY2015—authorization requirement waived by Sec. 7022,
 P.L. 113-235, Div. J
FY2016—authorization requirement waived by Sec. 7022,
 P.L. 114-113, Div. K
FY2017—authorization requirement waived by Sec. 7022,
 Div. J
FY2018—authorization requirement waived by Sec. 7022,
 P.L. 115-141, Div. K.

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