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Foreign Relations Reauthorization: Background and Issues

Introduction and Current Legislation

Historically, the activities of the Department of State, related agencies, 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.

Comprehensive foreign relations reauthorization legislation has not been enacted since the 107th Congress in 2003. 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. In addition, foreign policy-related legislation is often inserted into other legislative vehicles, or in stand-alone legislation.

In the 116th Congress, the House Foreign Affairs Committee passed the Department of State Authorization Act of 2019 (H.R. 3352); there is no companion bill yet in the Senate. This bill authorizes appropriations for the Embassy Security, Construction, and Maintenance account and also authorizes appropriations more generally for certain purposes, such as enhancing the capacity of foreign civilian security forces to participate in peacekeeping and counterterrorism operations. Furthermore, the bill addresses issues including security assistance reform, embassy construction, and public diplomacy programs.

Department of State Authorities Act, Fiscal Year 2017

The 114th Congress passed what it named the Department of State Authorities Act, Fiscal Year 2017 (P.L. 114-323). 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 decisionmaking.

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 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

While the Constitution does not definitively answer which branch of government maintains primacy in all aspects of foreign affairs, it gives Congress the power to consider legislation to provide funding, specific policies, and oversight of the implementation of foreign policy. In recent years, some have expressed concerns that the President is conducting foreign policy without sufficient recognition of Congress's constitutional and statutory prerogatives. Among the areas where some believe Congress could assert its authorities is the regular passage of comprehensive foreign relations reauthorization laws, which has not occurred since the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228) was enacted.

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 and USAID 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; and/or
- act as a venue for setting funding ceilings for State Department operations and activities as situations arise or worldviews 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 may 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 the House and Senate, respectively, and the bill 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, established U.S. policy with respect to Jerusalem as the capital of Israel, allocated funds for the American Corners in the Russian Federation, and included the Iran Nuclear Proliferation Prevention Act of 2002, among others. Since 2003,

Congress has waived the foreign relations authorization requirement 19 times.

Enacted Reauthorizations

FY	P.L.	Length of Auth.
1984-1985	P.L. 98-164	2-year
1986-1987	P.L. 99-93	2-year
1988-1989	P.L. 100-204	2-year
1990-1991	P.L. 101-246	2-year
1992-1993	P.L. 102-138	2-year
1994-1995	P.L. 103-236	2-year
1998-1999	P.L. 105-277	2-year
2000-2001	P.L. 106-113	2-year
2003	P.L. 107-228	1-year
2017	P.L. 114-323	1-year authorities

Note: P.L. 114-323 did not include the authorization of funding.

Waived Reauthorizations

FY	P.L.	Div.	Title	Sec.
1996	P.L. 104-134	—	IV	405
1997	P.L. 104-208	A	IV	404
2002	P.L. 107-77	—	IV	405
2004	P.L. 108-199	B	IV	407
2005	P.L. 108-447	B	IV	410
2006	P.L. 109-108	—	IV	407
2007	P.L. 110-5	B	I	108
2008	P.L. 110-161	J	I	110
2009	P.L. 111-8	H	VII	7023
2010	P.L. 111-117	F	VII	7023
2011	P.L. 112-10	B	I	1108
2012	P.L. 112-74	I	VII	7022
2013	P.L. 113-6	F	I	1108
2014	P.L. 113-76	K	VII	7022
2015	P.L. 113-235	J	VII	7022
2016	P.L. 114-113	K	VII	7022
2017	P.L. 115-31	J	VII	7022
2018	P.L. 115-141	K	VII	7022
2019	P.L. 116-6	F	VII	7022

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