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A New Authorization for Use of Military Force Against the Islamic State: Issues and Current Proposals

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Summary

Since the United States embarked on a strategy to counter the Islamic State (also known as ISIL or ISIS) in 2014, some Members of Congress have raised concerns about the President's underlying authority to engage in anti-IS military operations. In the 114th Congress, both houses of Congress took steps to revisit the possibility of considering legislation to provide authority for the use of military force (AUMF) against the Islamic State. Interest has continued into the first session of the 115th Congress and with the start of the Trump Administration.

In 2014, the armed offensive of the Islamic State in northern and western Iraq and northeastern Syria raised significant concerns for the United States. After first ordering multiple deployments of U.S. troops to Iraq to provide security to diplomatic personnel and facilities, advise Iraqi security forces, and conduct intelligence gathering and reconnaissance, President Obama began ordering U.S. military airstrikes on IS forces in Iraq in August 2014. Later in September, after laying out plans for expanded use of military force against the Islamic State in a televised speech to the American people, the President ordered U.S. military airstrikes in Syria against both IS forces and forces of the "Khorasan Group," identified by the President as part of Al Qaeda. In 2015, the President ordered new deployments to Iraq, and the Administration announced deployment of a small number of special operations forces to Syria to conduct military operations that involve advising regional partner armed forces but also can include "unilateral" U.S. operations. In 2016, both U.S. military operations and deployments of U.S. Armed Forces increased to continue the campaign against the Islamic State.

As military action against the Islamic State has evolved and increased, many observers, including a number of Members of Congress, have raised numerous questions and concerns about the President's authority to use military force against the Islamic State. Some efforts began near the end of the 113th Congress to consider enactment of a new authorization for use of military force targeting the Islamic State, and have continued into the 114th Congress; the issue, however, remains contentious. The President provided Congress a new authorization proposal in February 2015, and in his 2016 State of the Union address again called on Congress to enact a new authorization for use of military force (AUMF) targeting the Islamic State. The Obama Administration's official position on presidential authority to use force against the Islamic State, however, has remained consistent, relying on the previous 2001 AUMF against those who perpetrated the September 11, 2001, terror attacks (and, to a lesser extent, the 2002 AUMF against the Saddam Hussein regime in Iraq).

This report focuses on the several proposals for a new AUMF specifically targeting the Islamic State made during the 113th and 114th Congresses as well as those made thus far in the 115th Congress. It includes a brief review of existing authorities and AUMFs, as well as a discussion of issues related to various provisions included in existing and proposed AUMFs that both authorize and limit presidential use of military force. Appendices provide a comparative analysis of similar provisions in the numerous AUMFs proposed in the 113th and 114th Congresses. This report will be updated to reflect congressional activity. For more information on the Islamic State, see CRS Report R43612, *The Islamic State and U.S. Policy*, by Christopher M. Blanchard and Carla E. Humud.

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The IS Crisis and the U.S. Response

In 2014, the armed offensive of the Islamic State (also known as ISIL, ISIS, or Daesh) in northern and western Iraq and northeastern Syria raised significant concerns for the United States. After first ordering multiple deployments of U.S. troops to Iraq to provide security to diplomatic personnel and facilities, advise Iraqi security forces, and conduct intelligence gathering and reconnaissance, President Obama began ordering U.S. military airstrikes on IS forces in Iraq in August 2014. Later in September, after laying out plans for expanded use of military force against the Islamic State in a televised speech to the American people, the President ordered U.S. military airstrikes in Syria against both IS forces and forces of the "Khorasan Group," identified by the President as part of Al Qaeda. In 2015, the President ordered new deployments to Iraq, and the Administration announced deployment of a small number of special operations forces to Syria to conduct military operations that involve advising regional partner armed forces but also can include "unilateral" U.S. operations.[1] The intensified U.S. military engagement has raised numerous questions in Congress and beyond about the President's authority to use military force against the Islamic State.[2] Some efforts began near the end of the 113th Congress to consider enactment of a new authorization for use of military force targeting the Islamic State, and have continued into the 114th Congress; the issue, however, remains contentious. In addition, the President provided Congress a new authorization proposal in February 2015, and in his 2016 State of the Union address again called on Congress to enact a new AUMF targeting the Islamic State.[3] In 2016, both U.S. military operations and deployments of U.S. Armed Forces increased to continue the campaign against the Islamic State, and hostilities are ongoing.

Presidential Authority to Use Military Force Against the Islamic State

President Obama in his August 2014 notifications to Congress of deployments and airstrikes in Iraq indicated his powers as Commander in Chief and Chief Executive under Article II of the Constitution gave him authority to undertake such action. Obama Administration officials and the President Obama's September 2014 notifications[4] to Congress for airstrikes and other actions in Iraq and Syria, however, stated that two enacted authorizations for use of military force (AUMFs), the Authorization for Use of Military Force (2001 AUMF; P.L. 107-40), and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (2002 AUMF; P.L. 107-243), provide authorization for certain U.S. military strikes against the Islamic State in Iraq and Syria, as well as the Khorasan Group of Al Qaeda in Syria. After these notifications, however, President Obama indicated on November 5, 2014, that he intended to enter into discussions with

[1] U.S. Congress, House Committee on Armed Services, hearing on regional implications of U.S. strategy in Syria and Iraq, 114th Cong., 1st sess., December 1, 2015 (testimony of Secretary of Defense Ashton Carter).

[2] For more information and analysis of the IS crisis, the U.S. response, and related issues, see CRS Report R43612, *The Islamic State and U.S. Policy*, by Christopher M. Blanchard and Carla E. Humud.

[3] President Barack Obama, State of the Union Address, January 12, 2016, https://www.whitehouse.gov/the-press-office/2016/01/12/remarks-president-barack-obama-%E2%80%93-prepared-delivery-state-union-address; see also President Barack Obama, Address to the Nation concerning the attack in San Bernardino, December 6, 2015, https://www.whitehouse.gov/the-press-office/2015/12/06/address-nation-president.

[4] Available at http://www.whitehouse.gov/the-press-office/2014/09/23/letter-president-war-powers-resolution-regarding-iraq; http://www.whitehouse.gov/the-press-office/2014/09/23/letter-president-war-powers-resolution-regarding-syria.

congressional leaders to develop a new AUMF specifically targeting the Islamic State, in order to "right-size and update whatever authorization Congress provides to suit the current fight, rather than previous fights" authorized by the 2001 and 2002 AUMFs.[5] President Obama called on Congress to enact a new AUMF targeting the Islamic State in his January 2015 State of the Union address, and transmitted a draft AUMF to Congress on February 11, 2015.

2001 Post-9/11 Authorization for Use of Military Force

In response to the 9/11 terrorist attacks, Congress enacted the AUMF authorizing the President to use military force against "those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons.... " Although the Islamic State does not appear to fall within that language, it is possible that the executive branch regards it as one of the "associated forces" fighting alongside Al Qaeda and the Taliban that it asserts are also targetable under the 2001 AUMF.[6] The Obama Administration had stated previous to the latest action against the Islamic State and the Khorasan Group that it will use force against such associated forces under the 2001 AUMF only when they are lawful military targets that "pose a continuing, imminent threat to U.S. persons.... " Due to Al Qaeda's February 2014 disavowal of any remaining ties with the Islamic State, some question whether the Islamic State can be considered an associated force under the 2001 AUMF. During his Administration, President Obama stated that the Islamic State can be targeted under the 2001 AUMF because its predecessor organization, Al Qaeda in Iraq, communicated and coordinated with Al Qaeda; the Islamic State currently has ties with Al Qaeda fighter and operatives; the Islamic State employs tactics similar to Al Qaeda; and the Islamic State, with its intentions of creating a new Islamic caliphate, is the "true inheritor of Osama bin Laden's legacy."[7]

2002 Authorization for Use of Military Force Against Iraq

Congress enacted the 2002 AUMF prior to the 2003 U.S. invasion of Iraq that toppled the government of Saddam Hussein, with U.S. military deployments to and operations in Iraq continuing until December 2011. The 2002 AUMF authorizes the President to use U.S. Armed Forces to enforce relevant United Nations Security Council resolutions and to "defend the national security of the United States against the continuing threat posed by Iraq.... " Although the 2002 AUMF has no sunset provision and Congress has not repealed it, one view is that after the establishment of a new Iraqi government, the restoration of full Iraqi sovereignty, and the U.S. withdrawal from Iraq, the 2002 AUMF no longer has force. During the Obama Administration, executive branch officials voiced support for repealing the 2002 AUMF, reflecting that Administration's belief that it was no longer needed. Conversely, another view asserts that, although its preamble focuses on the Saddam Hussein regime and its WMD programs, the 2002 AUMF's authorization language is broad, referring only to a "continuing threat" from Iraq, and that the 2002 AUMF could provide authority to defend against threats to Iraq as well as threats posed by Iraq. Indeed, 2002 AUMF authority was the basis for the U.S. military presence in Iraq from the fall of Saddam Hussein and completion of the WMD search to its 2011 withdrawal, a

[5] President Barack Obama, remarks at a press conference, November 5, 2014, http://www.whitehouse.gov/the-press-office/2014/11/05/remarks-president-press-conference.

[6] Testimony of Stephen W. Preston, General Counsel, Department of Defense, before the Senate Committee on Foreign Relations, hearing on the Authorization for Use of Military Force, 113th Cong., 2nd sess., May 21, 2014, http://www.foreign.senate.gov/imo/media/doc/Preston_Testimony.pdf.

[7] White House, "Press Briefing by Press Secretary Josh Earnest," press release, September 11, 2014, http://www.whitehouse.gov/the-press-office/2014/09/11/press-briefing-press-secretary-josh-earnest-9112014.

span of over eight years, a period that could be characterized as dealing with threats to Iraq rather than threats from Iraq. The IS threat in Iraq could therefore be seen as breathing new life into 2002 AUMF authority. In addition, former supporters of Saddam Hussein reportedly provide support to the Islamic State, possibly forming a link between the original aims of the 2002 AUMF and any future actions taken against the Islamic State.

Presidential Authority Under Article II of the Constitution

Article II of the Constitution makes the President Commander in Chief of the U.S. Armed Forces, and gives the President certain foreign affairs powers. It is debated to what extent Article II authorizes the President to unilaterally use military force, especially given Congress's Article I war powers, including the power to declare war. The President's authority to use force to defend the United States, its personnel, and citizens against ongoing or imminent attack has been generally accepted, while employing such force simply to further foreign policy or general national security goals is more controversial. In Iraq, the President would seem to have substantial authority to use force to defend U.S. personnel, the U.S. embassy in Baghdad, and any other U.S. facilities and property. President Obama's August 2014 notifications of airstrikes in Iraq, however, also cited as justification furthering U.S. national security and foreign policy interests, and described uses of force to provide humanitarian assistance, and to aid Iraqi security forces in their fight against the Islamic State. In addition, President Obama's stated strategy for degrading and destroying the Islamic State, as well as his September 2014 notifications to Congress of airstrikes and other actions in Iraq and Syria, were not based primarily on immediate protection of the United States, its personnel, or citizens. Thus, it can be argued that Article II alone might not provide sufficient authorization for the use of military force against IS and Khorasan Group forces in Iraq and Syria.[8]

December 2016 Legal Framework Report on Use of Military Force

President Obama issued a report in December 2016 entitled, "Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force, and Related National Security Operations."[9] Among other matters, the Report deals with the legal justification for the United States' ongoing use of military force against the Islamic State, which according to the Report has taken place in the form of airstrikes, military advising and training of Iraqi security forces and Syrian rebel groups, and military activities of U.S. special operations forces in Iraq, Syria, and Libya.[10] The Report asserts that such use of force is authorized by the 2001 AUMF, arguing certain factors as determinative:

1. The 2001 AUMF authorizes the President to use military force "in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons" who perpetrated or harbored those who perpetrated the September 11, 2001 terror attacks against the United States.
2. Al Qaeda was identified as the primary organization responsible for the September 11, 2001 attacks.

[8] See also CRS Report R43720, *U.S. Military Action Against the Islamic State: Answers to Frequently Asked Legal Questions*, by Michael John Garcia and Jennifer K. Elsea.

[9] Available at https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/Legal_Policy_Report.pdf. The report was released to accompany a December 5, 2016 Presidential Memorandum, *Steps for Increased Legal and Policy Transparency Concerning the United States Use of Military Force and Related National Security Operations*.

[10] *Ibid.*, pp. 2-3.

3. Organized, armed groups that are co-belligerent with Al Qaeda against the United States are targetable under the 2001 AUMF pursuant to the law of international armed conflicts as "associated forces."
4. With specific regard to the Islamic State, the United States determined in 2004 that Al Qaeda in Iraq (AQI), the predecessor organization of the Islamic State, was either part of Al Qaeda itself or an associated force in 2004 and has used force against the group under 2001 AUMF authority since that time, including after AQI changed its name to the Islamic State (or ISIL or ISIS).
5. The fact that the Islamic State has asserted a split between itself and Al Qaeda does not divest the President of his previous authority to use force against the Islamic State, as the Islamic State's conflict with the United States and its allies has continued.
6. Congress has supported military action against the Islamic State by specifically funding the military campaign and providing authority to assist groups fighting the Islamic State in Iraq and Syria.[11]

The Report does not reference the 2002 AUMF as authority for the use of military force against the Islamic State. Generally speaking, it does argue that President may use military force without congressional authorization under his Commander in Chief and Chief Executive powers in Article II of the Constitution, with a limitation such action when it would constitute a "war" as contemplated in the Constitution's Article I Declaration of War Clause.[12] It is not clear whether the Report links any past or planned action against the Islamic State to this assertion of Article II authority.

Calls for a New AUMF and Congressional Action in the 113th Congress

Although the Obama Administration claimed 2001 AUMF and 2002 AUMF authority for its recent and future actions against the Islamic State, these claims have been subject to debate. Some contend that U.S. military operations against the Islamic State also fall outside the President's Article II powers. Concerned with Congress's constitutional role in the exercise of the war power, perceived presidential overreach in that area of constitutional powers, and expansion of the use of military force in Iraq and Syria, several Members of Congress have continued to express the view that continued use of military force against the Islamic State requires congressional authorization. Members have differed on whether such authorization is needed, given existing authorities, or whether such a measure should be enacted.

Near the end of the 113th Congress, a number of Members proposed new authorization proposals (several of these are examined in greater detail in **Appendix B**). In December 2014, the Senate Foreign Relations Committee conducted a hearing and considered an IS AUMF proposed by Committee Chairman Robert Menendez. Prior to the committee's markup of the proposal on December 11, the committee held a hearing on December 9 with Secretary of State John Kerry to discuss the Obama Administration's views on enactment of a new IS AUMF. Senator Menendez's IS AUMF proposal, as amended and reported favorably out of committee on December 13 (S.J.Res. 47), would have authorized the use of U.S. Armed Forces against the Islamic State and "associated persons or forces," prohibited "ground combat operations" with limited exceptions,

[11] *Ibid.*, pp. 3-7.

[12] *Ibid.*, p. 7. See U.S. CONST., art. 1, §8, cl. 11.

repealed the 2002 AUMF, and sunset the authorization in the 2001 AUMF and the IS AUMF itself three years after enactment.

At the hearing, Secretary Kerry reiterated President Obama's earlier-stated position that the Administration supported enactment of a new AUMF targeting the Islamic State. The Secretary stated that the Administration agreed with the three-year sunset of the authorization contained in Senator Menendez's proposal, "subject to provisions for extension" of that authorization. He stated the Administration's view, however, that such authority "should give the President the clear mandate and flexibility he needs to successfully prosecute the armed conflict against [the Islamic State]," and thus the Administration opposed limitation on the use of ground combat forces, and geographic restriction limiting operations to Iraq and Syria.[13]

The 113th Congress did not ultimately enact a new IS authorization bill, and many Members called upon the President to submit his own proposal. For a comparison of multiple IS AUMFs proposed in the 113th Congress and issues raised by their provisions, see **Appendix B**.

IS AUMF-Related Proposals in the 114th Congress

During the 114th Congress, several proposals for a new IS AUMF or repeal of existing AUMFs were introduced and considered.

Appendix A provides a comparison of IS AUMF proposals introduced or announced during the 114th Congress, including President Obama's February 15, 2015, proposal. The below section discusses key elements and related issues concerning these proposals, as well as other proposals that aim to alter existing legislation or presidential action regarding military action against the Islamic State.

IS AUMF Proposals

On February 2, 2015, Representative Adam Schiff introduced the Authorization for Use of Military Force Against ISIL Resolution (H.J.Res. 27). Pursuant to this proposal, the President would have been authorized to use U.S. Armed Forces against the Islamic State, but limited solely to operations in Iraq and Syria, except for U.S. Armed Forces "engaged in training of indigenous Syrian or regional military forces for the purpose of combating" the Islamic State. The resolution stated that the authorization does not include "deployment of ground forces in a combat role," except "special operations forces or other forces that may be deployed in a training, advisory, or intelligence capacity." The resolution would have terminated the new authority provided by the resolution, as well as repealed the 2001 AUMF, three years after the resolution's enactment. The proposed resolution would have repealed the 2002 AUMF immediately upon enactment.

Representative Adam Kinzinger introduced the Authorization for Use of Military Force against the Islamic State of Iraq and the Levant (H.J.Res. 33) on February 13, 2015. The proposal would have authorized the President "to use the Armed Forces of the United States as the President determines to be necessary and appropriate against the Islamic State of Iraq and the Levant ('ISIL') or associated persons or forces.... " The proposal defined the term "associated persons or forces" as "individuals and organizations fighting for, on behalf of, or alongside ISIL or any closely-related successor entity in hostilities against the United States or its coalition partners."[14]

[13] Testimony of Secretary of State John Kerry, U.S. Congress, Senate Committee on Foreign Relations, *Authorization For The Use of Military Force Against ISIL*, 113th Cong., 2nd sess., December 11, 2014.

[14] This definition is the exact language included in the President's IS AUMF proposal.

It would have required the President to report on activities undertaken pursuant to the authorization every three months, and it would have repealed the 2002 AUMF.

Senators Tim Kaine and Jeff Flake introduced another proposed IS AUMF (S. 1587) on June 16, 2015. The bill contained a similar authorization provision to that of H.J.Res. 33, authorizing the President to use military force as he deems "necessary and appropriate" against the Islamic State and associated persons or forces. S. 1587 defined "associated persons or forces," however, as not only those "fighting for, on behalf of, or alongside" the Islamic State, but also any "individual or organization that presents a direct threat to members of the United States Armed Forces, coalition partner forces, or forces trained by the coalition, in their fight against ISIL." The proposal stated the authorization's purpose is to protect U.S. citizens and provide military support to the campaign of "regional partners" to defeat the Islamic State, and that the use of "significant United States ground troops" is "not consistent with such purpose," except to protect U.S. citizens. The bill provided that the authorization would have terminated three years after enactment, repealed the 2002 AUMF, and stated that the new authorization constitutes "the sole statutory authority for United States military action against the Islamic State of Iraq and the Levant and associated persons or forces, and supersedes" other authorizations. On December 11, 2015, Representatives Scott Rigell and Peter Welch introduced an identical proposal (H.R. 4208) in the House.

On December 3, 2015, Senator Lindsey Graham introduced S.J.Res. 26, which would have authorized the President to "to use all necessary and appropriate force in order to defend the national security of the United States against the continuing threat posed by the Islamic State of Iraq and the Levant, its associated forces, organizations, and persons, and any successor organizations." No other operative, interpretive, or limiting provisions were included.

Representative Schiff announced on December 10, 2015, that he was circulating another draft IS AUMF, the Consolidated Authorization for Use of Military Force Resolution of 2015.[15] The proposal would have repealed the 2001 and 2002 AUMFs, replacing their authorizations with a new one authorizing the President to "use all necessary and appropriate force against ... Al Qaeda, the Islamic State of Iraq and the Levant (ISIL), and the Afghan Taliban," as well as groups associated with these entities that are "co-belligerent ... in hostilities against the United States." This authority would have terminated three years after enactment. Instead of including definitions, limitations, and prohibitions circumscribing the scope of the authority granted, the proposal would have required the President to notify, and report certain information to, the "appropriate congressional committees"[16] when the authority was exercised, namely

- the entities targeted under the authorization (also to be published in the *Federal Register*);
- the reasons for concluding that a listed targeted entity other than those named is associated and co-belligerent with a named entity; and
- details of deployments of "ground forces in a combat role" under the authorization, with limited exceptions.[17]

[15] Text of the draft joint resolution is available at https://www.justsecurity.org/wp-content/uploads/2015/12/SCHIFF_023_xml.pdf.

[16] These are the House and Senate Armed Services Committees, the House Foreign Affairs Committee, the Senate Foreign Relations Committee, the House Permanent Select Intelligence Committee, and the Senate Select Intelligence Committee.

[17] The exceptions are deployments involving (1) special operations forces, (2) training, (3) advising, (4) search and rescue, (5) intelligence gathering, (6) ground support for air operations, (7) and limited duration actions against high value targets.

If a notification of the deployment of ground forces were made, the proposal stated that any joint resolution to modify or repeal the authority contained in the proposed IS AUMF should have been considered under the expedited procedure provisions in the War Powers Resolution.[18]

On January 20, 2016, Senator Mitch McConnell introduced S.J.Res. 29, which contained provisions that were nearly identical to S.J.Res. 26, discussed above, including authorizing the President to "to use all necessary and appropriate force in order to defend the national security of the United States against the continuing threat posed by the Islamic State of Iraq and the Levant, its associated forces, organizations, and persons, and any successor organizations." Unlike other IS AUMF proposals introduced during the 114th Congress, however, S.J.Res. 29 was not referred to committee, but instead bypassed committee consideration and was placed on the Senate legislative calendar on January 21, 2016. No further action was taken on the resolution.

Although it is not an IS-specific authorization, on March 2, 2016, Representative Scott Perry introduced the Authorization for Use of Military Force Against Islamist Extremism (H.J.Res. 84) that would have authorized the use of military forces against a number of named terrorist and extremist groups, including the Islamic State. The resolution was referred to the House Foreign Affairs Committee and no further action was taken.

Repeal or Limitations on Use of Existing AUMFs

A number of proposals were made in the 114th Congress that would have repealed existing authorizations without enacting a new authorization targeting the Islamic State. On February 10, 2015, Representative Barbara Lee introduced the Comprehensive Solution to ISIL Resolution (H.J.Res. 30), which did not include a new authorization for the use of military force, but would have repealed the 2001 and 2002 AUMFs and placed new requirements on the President concerning the campaign against the Islamic State. Repeal of the 2001 and 2002 AUMFs would have become effective 60 days after enactment. The proposal stated that the policy of the United States is to work through the United Nations and to carry out relevant U.N. Security Council resolutions, support regional efforts to counter the Islamic State, and to ensure U.S. foreign assistance is provided only to Iraqi and Syrian groups subjected to human rights vetting. It would have required the President to develop a comprehensive strategy, including strategy for non-military activities, to "degrade and dismantle the Islamic State in Iraq and the Levant (ISIL) and submit to Congress a report that contains the strategy." The President would have been required to update the report every 90 days.

Senator Ben Cardin introduced Sunset of the 2001 Authorization for Use of Military Force Act (S. 526) on February 12, 2015. The bill would have repealed the 2001 AUMF three years upon enactment. On March 4, 2015, Representative Barbara Lee introduced a bill (H.R. 1303) that would have repealed the 2001 AUMF 180 days after enactment, which included a provision stating that the 2001 AUMF has been used to "justify a broad and open-ended authorization for the use of military force," and that "such an interpretation is inconsistent with the authority of Congress to declare war.... " Representative Lee on the same day introduced a bill that would have repealed the 2002 AUMF upon enactment (H.R. 1304). In June 2015, Representative Lee introduced two amendments to a house version of the FY2016 Defense Department appropriations bill (H.R. 2685) that would have prohibited the use of FY2016 appropriated funds pursuant to the 2002 AUMF, and would have prohibited the use of such funds pursuant to the 2001 AUMF after December 31, 2015 (H.Amdt. 484 and H.Amdt. 482 to H.R. 2685). Both amendments were not agreed to. Representative Schiff proposed an amendment to the same bill that would have prohibited the use of appropriated funds for the use of military force against the

[18] Section 6 of P.L. 93-148 (50 U.S.C. §1545).

Islamic State through Operation Inherent Resolve after March 31, 2016 (H.Amdt. 479). This amendment also failed passage. Similarly, Representative James McGovern proposed an amendment concerning the use of military force against the Islamic State in a version of the FY2017 Defense Department appropriations bill (H.R. 5293) to prohibit appropriated funds being obligated for combat operations in Iraq or Syria unless a new IS-specific AUMF was enacted (H.Amdt. 1215). Representative Lee proposed a separate amendment to the bill in order to prohibit the use of funds to carry out the 2001 AUMF after April 30, 2017 (H.Amdt. 1216). Both failed passage.

Disapproval Measure Pursuant to War Powers Resolution

In addition, the House considered a concurrent resolution (H.Con.Res. 55), introduced on June 4, 2015, by Representatives Jim McGovern, Walter Jones, and Barbara Lee, to direct the President to remove U.S. Armed Forces deployed to Iraq and Syria on or after August 7, 2014 (the date on which the President began using military force against the Islamic State), within 30 days after the resolution's adoption. Under the proposal, the deadline could have been extended until December 31, 2015, at the latest, if the President determined it is not safe to withdraw such Armed Forces within the 30-day deadline. This resolution was introduced pursuant to Section 5(c) of the War Powers Resolution, which states that at any time after a President deploys U.S. Armed Forces into hostilities without congressional authorization, Congress may direct withdrawal of such forces by concurrent resolution. Although the resolution does not explicitly refute the President's reliance on the 2001 and 2002 AUMFs for authority to strike the Islamic State, the invocation of Section 5(c) indicates rejection of such interpretation of those authorizations.

H.Con.Res. 55 was treated in accordance with Section 6 of the War Powers Resolution, providing for expedited consideration of a concurrent resolution disapproving the use of military force without congressional authorization. The House Foreign Affairs Committee considered and reported the resolution favorably to the House within 15 days of its introduction, and the House ordered by unanimous consent that it would without procedural delay consider the resolution with two hours of debate divided equally between the majority and minority if requested by Chairman Ed Royce of the House Foreign Affairs Committee. Chairman Royce made such request on June 17, 2015, and after two hours of debate the resolution failed to pass by a vote of 139-288.

IS AUMF-Related Proposals in the 115th Congress

Early in the 115th Congress, the issue of a new IS-specific AUMF remains of interest to many Members of Congress. One new AUMF has been proposed as of the date of this report. Identical to the joint resolution he introduced in the 114th Congress (H.J.Res. 33), Representative Adam Kinzinger introduced the Authorization for Use of Military Force against the Islamic State of Iraq and the Levant (H.J.Res. 63) on February 3, 2017. The proposal would authorize the President "to use the Armed Forces of the United States as the President determines to be necessary and appropriate against the Islamic State of Iraq and the Levant ('ISIL') or associated persons or forces.... " The proposal defines the term "associated persons or forces" as "individuals and organizations fighting for, on behalf of, or alongside ISIL or any closely-related successor entity in hostilities against the United States or its coalition partners." It requires the President to report on activities undertaken pursuant to the authorization every three months, and it would repeal the 2002 AUMF.

President Obama's February 2015 IS AUMF Proposal

On February 11, 2015, President Obama provided Congress with a draft proposal for a new IS AUMF,[19] stating in an accompanying letter that he "can think of no better way for the Congress to join [the President] in supporting our Nation's security than by enacting this legislation, which would show the world we are united in our resolve to counter the threat posed by ISIL."[20] The President's proposal would have authorized the use of U.S. Armed Forces that he deems "necessary and appropriate" against the Islamic State and associated persons or forces. In the proposed authorization, "the term 'associated persons or forces' means individuals and organizations fighting for, on behalf of, or alongside ISIL or any closely-related successor entity in hostilities against the United States or its coalition partners." The authorization did not include authority for the use of U.S. Armed Forces for "enduring offensive ground combat operations." The proposal's authorization would have terminated three years after enactment, and contained a provision repealing the 2002 AUMF upon enactment. The President would have been required to report to Congress at least every six months on actions taken under the proposed IS AUMF.

The President's proposal raised a number of issues for Congress and its role in authorizing the use of military force:

- First, the proposal would have prohibited "enduring offensive ground combat operations," instead of specifically prohibiting the use of ground combat forces, or execution of ground combat operations, with exceptions for certain types of units or operations, as some of the previous IS AUMF proposals have. It is not clear what that limitation, expressed as it is, would mean in practice, although the President's letter states that it is designed to allow the same excepted units and/or operations.
- Second, the proposal did not include any geographical limitation, possibly enabling the use of military force in countries other than Iraq and Syria.
- Third, the definition of "associated persons or forces," especially the inclusion of the phrase "fighting ... on behalf of ... ISIL," might be considered lacking in precision, leading to confusion in the future interpretation of what constitutes a lawfully targeted entity.
- Fourth, the proposal, unlike many of the previous IS AUMF proposals, did not provide a purpose or objective for the use of U.S. Armed Forces against the Islamic State in the authorization language itself. This could lead to concerns that the authorization does not sufficiently direct the President's actions or provide a definition of victory, and therefore authorizes military operations without an endpoint or measurable goal.
- Fifth, the proposal did not contain a provision that repeals or sunsets that measure, unlike most of the IS AUMF proposals previously introduced.

[19] Available at https://www.whitehouse.gov/sites/default/files/docs/aumf_02112015.pdf.

[20] President Barack Obama, Letter from the President—Authorization for the Use of United States Armed Forces in connection with the Islamic State of Iraq and the Levant, February 11, 2015, http://www.whitehouse.gov/the-press-office/2015/02/11/letter-president-authorization-use-united-states-armed-forces-connection.

- Finally, the reporting requirement was for a basic periodic "actions taken" report, and would have been similar to certain reporting requirements already in place concerning deployed U.S. Armed Forces. This is in contrast to other past IS AUMF proposals, which have required information concerning all targeted entities, specific reports on operations and effectiveness of those operations, and the budget effects of operations.

President Obama, in his December 6, 2015, address to the nation after the killings in San Bernardino, CA, by individuals who pledged support for the Islamic State, renewed his call for Congress to enact a new authorization for use of force against the Islamic State:

> [I]f Congress believes, as I do, that we are at war with ISIL, it should go ahead and vote to authorize the continued use of military force against these terrorists. For over a year, I have ordered our military to take thousands of airstrikes against ISIL targets. I think it's time for Congress to vote to demonstrate that the American people are united, and committed, to this fight.[21]

President Obama made similar comments in his State of the Union address on January 12, 2016, stating, "If this Congress is serious about winning this war, and wants to send a message to our troops and the world, authorize the use of military force against ISIL. Take a vote." As in previous statements, however, President Obama did not link enactment of a new IS AUMF to the source of current presidential authority to direct the use of military force against the Islamic State, and indicated that military action against the group would continue regardless: "[T]he American people should know that with or without congressional action, ISIL will learn the same lessons as terrorists before them."[22]

Selected Types of Proposed IS AUMF Provisions and Related Issues

In general, language in a new AUMF targeting the Islamic State and other groups (IS AUMF) could either broaden the purpose of military force to include unspecified U.S. national security interests, or narrow the scope of authorization to specific objectives related to the Administration's stated goal of "degrading and ultimately destroying" the Islamic State. Congress could limit the IS AUMF's geographic scope, authorizing force only in Iraq and/or Syria. With continued uncertainty surrounding the Iraqi government, Congress might include authorization to use U.S. Armed Forces in Iraq in furtherance of political stability objectives. Provisions in any IS AUMF targeting the Islamic State might address the possible effect that targeting the Islamic State in Syria and Iraq could have on the ongoing conflict in Syria. Congress might also include a prohibition on the use of appropriated funds for the use of military force outside the scope of the specified authorization. Proposals for a new IS AUMF might contain provisions to limit presidential authority to use military force against the Islamic State as to scope and duration, and in some cases to sunset or repeal the existing authority in the 2001 and 2002 AUMFs.

President Obama stated that an IS authorization should provide the flexibility to carry out "not just our strategy [for the military campaign against the Islamic State] over the next two or three

[21] President Barack Obama, Address to the Nation concerning the attack in San Bernardino, December 6, 2015, https://www.whitehouse.gov/the-press-office/2015/12/06/address-nation-president.

[22] President Barack Obama, State of the Union Address, January 12, 2016, https://www.whitehouse.gov/the-press-office/2016/01/12/remarks-president-barack-obama-%E2%80%93-prepared-delivery-state-union-address.

months, but our strategy going forward."[23] It could be argued, however, that even if limitations are enacted and perceived later to have a deleterious effect on the U.S. campaign against the Islamic State, such limitations could be removed or modified through subsequent legislative action if the need arises. Such limitations and an overall lack of flexibility in any IS AUMF, however, might be difficult to change legislatively if Members of Congress cannot agree to changes; neither the 2001 nor 2002 AUMF has been amended, for example, despite the stated need for amendments by observers and Members over the lifespan of those two measures.

The following sections address some specific aspects of an AUMF that have or might come under debate in the 114th Congress.

Authorization Purpose and Scope

Some observers and Members of Congress have argued that recent open-ended, broadly worded authorizations can empower a President to continue military operations outside of Congress's intent. An IS AUMF could include language in the authorizing provision identifying the specific purpose for and scope of the President's use of U.S. military force, narrowing or broadening the President's flexibility. An authorization that authorizes force to defend "U.S. national security" against the threat posed by the Islamic State would seem to provide a broad "national security" basis for possible long-term, open-ended military operations. Authorizing force to protect U.S. "interests" generally would seem to provide even wider authority to the President, while including the goal of protecting both the United States and U.S. allies could expand the range of purposes for military action. As to scope, many past AUMFs include language stating that the President can use all "necessary and appropriate" force to achieve the purpose of the authorization. While this could provide the President with the flexibility he needs to effectively employ U.S. Armed Forces, such language leaves the determination of the form and extent of U.S. military force generally to the President. Congress could decide to place limitations and conditions on any broader purpose and scope provisions in an attempt to shape the President's use of U.S. military force. (See "Limitations and Conditions," below.)

Identifying Targeted Entities

Any new IS AUMF would be expected to name the Islamic State (or one of its other monikers, including ISIS, ISIL, or Daesh) as the primary entity to be targeted by authorized U.S. military force. As evidenced by the implementation of the 2001 AUMF, however, a number of issues arise in determining exactly who can be lawfully targeted under such a provision, and the extent to which Congress desires to define and/or limit the universe of lawful targets in an IS AUMF. First, while specifically targeting the Islamic State provides a basic starting point for determining authorized targets, in many cases it might be unclear whether individuals are in fact part of the Islamic State, are part of groups fighting alongside the Islamic State, or are merely part of non-aligned groups also fighting in the region, either against the United States and its allies or otherwise. Congress might also wish to include language providing for future iterations of the structure of the Islamic State group. The Islamic State might splinter at multiple points in time into several new entities with different names and different affiliations, or combine with other groups to form new entities. Indeed, the Islamic State itself was formerly known, among other things, as Al Qaeda in Iraq (AQI), and its former close relationship and subsequent reported split with Al Qaeda has complicated determinations of whether the 2001 AUMF could be applied

[23] President Barack Obama, remarks at a press conference, November 5, 2014, http://www.whitehouse.gov/the-press-office/2014/11/05/remarks-president-press-conference.

against it. An IS AUMF could include language that extends the authority to use military force against any successor entities of the Islamic State.

Perhaps the aspect of identifying lawful targeted entities considered most fraught is the matter of "associated forces." One of the central criticisms of the application of authority in the 2001 AUMF has been the expansion of military force to target entities that successive Administrations have designated "co-belligerent" with Al Qaeda and the Taliban. In the context of the current campaign against the Islamic State, the Obama Administration has asserted that the Islamic State can be targeted as it can be considered a branch or in some ways a successor to Al Qaeda.[24] It can be argued that this opens the possibility of military force being used now and in the future against a number of groups associated with the Islamic State, further expanding the universe of targeted entities, possibly in countries other than Iraq and Syria.

Some recent IS AUMF proposals have attempted to better define what constitutes "associated forces," or requires presidential reporting on or certification of newly designated associated forces, in an attempt to circumscribe the number of lawfully targeted entities and ensure congressional input into any expansion of such entities. The term "associated forces" would seem to apply to forces that are not part of IS forces but are fighting in concert with such forces. Some proposals, however, such as President Obama's IS AUMF proposal, include language that seems to define both IS and associated forces, stating the term means "individuals and organizations fighting for, on behalf of, or alongside ISIL.... " This language might be seen as overly broad and vague; Members of Congress may desire to more precisely define the term, ensuring that only those forces that are determined to directly engage in military operations in cooperation with IS forces are lawfully targeted under any IS AUMF. On the other hand, given the continued U.S. policies of defending U.S. national security, stabilizing and maintaining a democratic Iraq, and supporting moderate Syrian groups fighting the Syrian forces of the Asad government, an IS AUMF could eschew the "associated forces" term in favor of targeting the Islamic State and any other individuals or groups that pose a threat to those policies.

Limitations and Conditions

In considering any proposals to limit the authority of an IS AUMF, for example, by prohibiting the use of ground forces or constraining operations to a certain geographic area, Congress must weigh competing interests. The President's proposal would not allow "enduring offensive ground combat operations," while several previous IS AUMF proposals prohibited the use of ground combat forces or operations with specific carve-outs regarding special forces and training, among other units/operations. Understanding the expected effect of these different provisions would likely be key to Congress's decision on including them into a finalized IS AUMF. The limitation on the use of ground forces or prohibiting ground combat operations might, as some argue, significantly restrict the ability of the President and U.S. military leadership to prosecute conflict against the Islamic State in the manner they feel is most effective. Some in Congress might consider such restriction acceptable, however, if it is determined to avoid the involvement of the U.S. Armed Forces in another large-scale ground conflict following so closely upon the end of two such conflicts in Iraq and Afghanistan.

A geographic limitation might hinder the President's ability to strike IS and associated forces in countries other than Iraq and Syria, despite these forces' proven ability to cross state borders when it suits their purposes. In addition, as more groups pledge to fight alongside the Islamic State, or identify themselves as parts of the Islamic State itself, in countries such as Egypt, Libya, Algeria, Saudi Arabia, and Yemen, it could be reasonably expected that the President might

[24] See "Press Briefing by Press Secretary Josh Earnest," *supra* note footnote 7.

determine that U.S. military operations should expand outside Iraq and Syria in the future. Congress, however, might wish to include such a limitation to prevent a similar geographic expansion of military operations to the President's expansion under the 2001 AUMF's authority to several countries other than Afghanistan.

Repealing Previous AUMFs and Sunset Provisions

The President's proposal includes a three-year sunset provision automatically terminating the IS-specific authorization; past proposals like H.J.Res. 27 (114th Cong.) would have terminated the new authorization and repealed the 2001 AUMF after three years; Representative Schiff's December 2015 draft IS AUMF proposal would have repealed the 2001 and 2002 AUMFs immediately, replacing them with a comprehensive authorization against the Islamic State, Al Qaeda, and the Afghan Taliban. There is concern that Congress placing time limitations on the campaigns against the Islamic State, as well as Al Qaeda and other terrorist groups targeted under the 2001 AUMF, would send the wrong message to such targeted groups and the world about U.S. resolve to defeat these groups. On the other hand, a sunset on authority to use military force could be utilized to ensure that the IS and 2001 AUMF authorizations are not interpreted to authorize the use of military force in perpetuity, and in a manner that some perceive as outside the scope and intent of the original authorizations. Given the executive branch's continuing reliance on that authorization to conduct the current campaign against the Islamic State, for example, leaving the 2001 AUMF in place without amendment might be a continuing source of confusion and contention concerning presidential authority to use military force against the Islamic State, and in Iraq, Syria, and the Middle East/North Africa region in general. In any case, some argue, automatic terminations of authority might force Congress to reconsider previous AUMFs and their provisions in light of changed circumstances, amending and reauthorizing as Congress sees necessary.

Reporting and Certification

Although the executive branch has provided information both publicly and in briefings to Members of Congress concerning the campaign against the Islamic State, Congress may decide to require the President to report to Congress both before a new authorization can enter into effect, and at regular intervals as the campaign moves forward. Ensuring Congress is being presented with substantive, up-to-date information might serve to mitigate concerns over unchecked expansion of the scope and duration of military operations taken under any IS AUMF. President Obama's proposal would have required general reporting on the actions taken under the authorization every six months, which is in line with the existing reporting requirements in the War Powers Resolution.[25] Previous IS AUMF proposals have contained more frequent and detailed reporting requirements.[26] Representative Schiff's December 2015 draft IS AUMF proposal sought to replace limiting provisions defining targetable associated forces and circumscribing the geographic and operational scope of the new authorization, instead creating specific congressional reporting requirements on those issues. Members of Congress might wish to have clear strategy presented before agreeing to authorize military force, requiring a report explaining such a strategy to Congress (such as the report required in H.J.Res. 30), and make it a condition of authorization. Periodic reporting could require updated information on the

[25] See Section 4(c) of the War Powers Resolution (P.L. 93-148; 50 U.S.C. §1543(c)).

[26] See **Table A-1** in **Appendix A**, and **Table B-2** in **Appendix B**, below.

effectiveness of previously stated strategy, and the extent to which strategic goals are being achieved.

Appendix A. Comparison of IS AUMF Proposals from the 114th Congress

As discussed in the main text of this report, there have been several new proposals for authorizations to use military force against the Islamic State during the 114th Congress, both from Members of Congress and the President (see **Table A-1**).

Table A-1. Proposed Authorizations to Use Force Against the Islamic State in the 114th Congress

Bill or Resolution	Title	Sponsor	Date Introduced
H.J.Res. 27	Authorization for Use of Military Force Against ISIL Resolution	Representative Adam Schiff	February 2, 2015
President's February 2015 Proposed AUMF	Authorization for Use of Military Force against the Islamic State of Iraq and the Levant	President Barack Obama	February 11, 2015
H.J.Res. 33	Authorization for Use of Military Force against the Islamic State of Iraq and the Levant	Representative Adam Kinzinger	February 13, 2015
S. 1587	Authority for the Use of Military Force Against the Islamic State of Iraq and the Levant Act	Senator Tim Kaine	June 16, 2015
S.J.Res. 26	Authorization for Use of Military Force Against the Islamic State of Iraq and the Levant and its Associated Forces	Senator Lindsey Graham	December 3, 2015
H.R. 4208	Authority for the Use of Military Force Against the Islamic State of Iraq and the Levant Act	Representative Scott Rigell	December 10, 2015
Schiff December 2015 Draft AUMF	Consolidated Authorization for Use of Military Force Resolution of 2015	Representative Adam Schiff	December 10, 2015 (draft announced)
S.J.Res. 29	Authorization for Use of Military Force Against the Islamic State of Iraq and the Levant and its Associated Forces	Senator Mitch McConnell	January 20, 2016

Table B-2, below, provides a breakdown of these seven proposals by type of provision. S. 1587 and H.R. 4208 contain identical provisions, and are treated as one proposal in the table. S.J.Res. 26 and S.J.Res. 29 contain substantially similar provisions, but some are not identical, and thus the resolutions are treated separately.

Table A-2. Proposed Authorizations for Use of Military Force Against the Islamic State in the 114th Congress

Comparison of similar provisions (as of January 15, 2016)

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
Scope of authorized force	"The President is authorized, subject to the limitations in subsection (c), to use the Armed Forces of the United States as the President determines to be necessary and appropriate"	"The President is authorized to use the Armed Forces of the United States"	"The President is authorized to use the Armed Forces of the United States as the President determines to be necessary and appropriate"	"The President is authorized to use the Armed Forces of the United States as the President determines necessary and appropriate"	"The President is authorized to use all necessary and appropriate force"	"The President is authorized to use all necessary and appropriate force"	"The President is authorized to use all necessary and appropriate force"
International conditions for use of force	none specified	none specified	none specified	none specified	none specified	none specified	none specified
Types of military action authorized	none specified	none specified	none specified	none specified	none specified	none specified	none specified
Target of use of military force	"ISIL or associated persons or forces as defined" in the proposal	"the Islamic State of Iraq and the Levant ('ISIL')"	"the Islamic State of Iraq and the Levant ('ISIL') or associated persons or forces as defined in section 4"	"ISIL or associated persons or forces as defined in section 6"	"the Islamic State of Iraq and the Levant, its associated forces, organizations, and persons, and any successor organizations"	"Al Qaeda, the Islamic State of Iraq and the Levant (ISIL), and the Afghan Taliban," as well as "[a]ny organized and armed group that is associated with" one of those entities "if such group is a co-belligerent with such entity in hostilities against the United States"	"the Islamic State of Iraq and the Levant, its associated forces, organizations, and persons, and any successor organizations"

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
Purpose	none specified	none specified	none specified	"The purpose of this authorization is to protect the lives of United States citizens and to provide military support to regional partners in their battle to defeat ISIL."	"to defend the national security of the United States against the continuing threat posed by the Islamic State of Iraq and the Levant, its associated forces, organizations, and persons, and any successor organizations"	none specified	"to defend the national security of the United States against the continuing threat posed by the Islamic State of Iraq and the Levant, its associated forces, organizations, and persons, and any successor organizations"
Geographic limitation	none specified	"The authority granted in subsection (a) shall be confined to the territory of the Republic of Iraq and the Syrian Arab Republic. The limitation of this subsection shall not apply to the Armed Forces of the United States engaged in training of indigenous Syrian or regional military forces for the purpose of combating ISIL."	none specified	none specified	none specified	none specified	none specified

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
Military unit/action limitation	"The authority granted in subsection (a) does not authorize the use of the United States Armed Forces in enduring offensive ground combat operations."	"The authority granted in subsection (a) does not include the authority for the deployment of ground forces in a combat role. For purposes of this subsection, 'ground forces in a combat role' does not include special operations forces or other forces that may be deployed in a training, advisory, search and rescue, or intelligence capacity."	none specified	Bill states that "[t]he use of significant United States ground troops in combat against ISIL, except to protect the lives of United States citizens from imminent threat, is not consistent with" the purpose of the authorization.	none specified	No limitation provided; see "GROUND FORCES IN A COMBAT ROLE" in the **Reporting/ Notification** row of this column for related reporting requirements.	none specified

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
Associated forces definition/ limitation	"'[A]ssociated persons or forces' means individuals and organizations fighting for, on behalf of, or alongside ISIL or any closely-related successor entity in hostilities against the United States or its coalition partners."	none specified	"[T]he term 'associated persons or forces' means individuals and organizations fighting for, on behalf of, or alongside ISIL or any closely related successor entity in hostilities against the United States or its coalition partners."	"In this Act, the term 'associated persons or forces'— "(1) means individuals and organizations fighting for, on behalf of, or alongside ISIL or any closely related successor entity in hostilities against the United States or its coalition partners; and "(2) refers to any individual or organization that presents a direct threat to members of the United States Armed Forces, coalition partner forces, or forces trained by the coalition, in their fight against ISIL."	none specified	"Any organized and armed group that is associated with" "Al Qaeda, the Islamic State of Iraq and the Levant (ISIL), and the Afghan Taliban," "if such group is a co-belligerent with such entity in hostilities against the United States."	none specified
Government of Syria limitation	none specified	none specified	none specified	none specified	none specified	none specified	none specified
Sunset	Three years after date of enactment, "unless reauthorized"	Three years after date of enactment	none	Three years after date of enactment, "unless reauthorized"	none	Three years after date of enactment	none

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
AUMF Repeal/ Supersession	Proposal would repeal 2002 AUMF	Proposal would repeal 2002 AUMF upon enactment, and would repeal the 2001 AUMF three years after enactment	Proposal would repeal 2002 AUMF upon enactment	Proposal would repeal 2002 AUMF upon enactment Proposal states that "[t]his authorization shall constitute the sole statutory authority for United States military action against the Islamic State of Iraq and the Levant and associated persons or forces, and supersedes any prior authorization for the use of military force involving action against ISIL."	none	Draft resolution would repeal 2001 and 2002 AUMFs	none

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
Reporting/ Notification	"The President shall report to Congress at least once every six months on specific actions taken pursuant to this authorization."	"The President shall, at least once every 60 days after the date of the enactment of this joint resolution, submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted in section 2 and the status of planning for efforts that are expected to be required over the next 60 days."	"The President shall report to Congress at least once every three months on specific actions taken pursuant to this authorization."	"The President shall report to Congress at least once every six months on specific actions taken pursuant to this authorization."	"The President shall, at least once every 60 days, submit to Congress a report on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted in section 2."	PERIODIC REPORTING ON TARGETS/ LOCATIONS OF USES OF FORCE Every 90 days the President must submit to "appropriate congressional committees" and publish in the Federal Register "a list of entities and organized and armed groups against which" force has been used and the geographic location where such force has been used.	"Not less frequently than once every 60 days, the President shall submit a report to Congress on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted under section 2."

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
						Reporting/ Notification (cont.) ASSOCIATED GROUPS If force has been used against a group other than a targeted entity, the President must explain to the "appropriate congressional committees" the determination that such group is associated and co-belligerent with a targeted entity.	

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
						Reporting/ Notification (cont.) GROUND FORCES IN A COMBAT ROLE If "ground forces in a combat role" are deployed, the President must notify the "appropriate congressional committees at the earliest possible date ... consistent with the national security interests of the United States." "Ground forces in a combat role" do not include "special operations forces or other forces that may be deployed for purposes of training, advisory roles, search and rescue, intelligence gathering, ground support for air operations, or limited duration actions against high value targets."	

Provision	President's February 2015 Proposed AUMF	H.J.Res. 27	H.J.Res. 33	S. 1587/H.R. 4208	S.J.Res. 26	Schiff December 2015 Draft AUMF	S.J.Res. 29
Consultation	none specified	none specified	none specified	none specified	none specified	none specified	none specified
War Powers Resolution	Proposal states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))."	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution."	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))."	Both bills state authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))."	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution."	Draft resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution."	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution."
Expedited Consideration	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	If a joint resolution is introduced after the "appropriate congressional committees" receive a "ground forces in a combat role" notification that would amend or repeal the authority provided in the draft resolution, such new joint resolution shall be considered in accordance with the procedures described in section 6 of the War Powers Resolution (50 U.S.C. 1545).	none provided in addition to those included in the War Powers Resolution

Sources: Congress.gov; Whitehouse.gov; Justsecurity.org.

Appendix B. Comparison of IS AUMF Proposals from the 113th Congress[27]

Near the end of the 113th Congress, a number of Members proposed several new authorizations to use military force against the Islamic State:

Table B-1. Proposed Authorizations to Use Force Against the Islamic State in the 113th Congress

Bill or Resolution	Title	Sponsor	Date Introduced
H.R. 5415	Authorization for Use of Military Force against International Terrorism Act	Representative Frank Wolf	September 8, 2014
H.J.Res. 123	Authorization for the Use of Military Force Against the Islamic State of Iraq and the Levant (ISIL)	Representative Darrell Issa	September 8, 2014
S.J.Res. 42	Authorization for Use of Military Force against the Islamic State in Iraq and the Levant	Senator Bill Nelson	September 8, 2014
S.J.Res. 43	Authorization for Use of Force Against the Organization Called the Islamic State	Senator James Inhofe	September 8, 2014
S.J.Res. 44	Authorization for Use of Military Force against the Islamic State in Iraq and the Levant	Senator Tim Kaine	September 8, 2014
H.J.Res. 125	Authorization for Use of Military Force Against ISIL Resolution	Representative Adam Schiff	September 16, 2014
H.J.Res. 128	Authorization for Use of Military Force Against ISIL Resolution	Representative John Larson	September 19, 2014
S.J.Res. 47	Authorization for the Use of Military Force against the Islamic State of Iraq and the Levant	Senator Robert Menendez	December 13, 2014

Note: Each proposal was referred to either the House Foreign Affairs Committee or Senate Foreign Relations Committee, except H.J.Res. 128, which was referred to both the House Foreign Affairs and House Rules Committees, and S.J.Res. 47, which originated in the Senate Foreign Relations Committee and was reported favorably to the full Senate.

The analysis provided below compares similar types of provisions included in IS AUMF proposals from the 113th Congress and issues related to those provisions. **Table B-2** provides a breakdown of seven out of eight of these proposals by type of provision. Treatment of S.J.Res. 47 is included in the section entitled "Calls for a New AUMF and Congressional Action in the 113th Congress" in the main text of this report.

[27] This section does not include proposals introduced earlier in the 113th Congress that would, for example, repeal existing AUMFs or express a sense-of-Congress about military action in Iraq and/or Syria. Another proposal, H.J.Res. 127, introduced September 8, 2014, would recognize a state of war exists between the United States and the Islamic State, and authorize the use of military force against the Islamic State and associated forces.

Table B-2. Proposed Authorizations for Use of Military Force Against the Islamic State in the 113th Congress

Comparison of Similar Provisions

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
Scope of authorized force	"The President is authorized ... to use all necessary and appropriate force"	"The President is authorized to use the Armed Forces of the United States as the President determines to be necessary and appropriate"	"The President is authorized to use the Armed Forces of the United States"	"The President is authorized to use the United States Armed Forces as the President determines to be necessary and appropriate"	Same, except subject to conditions (see Reporting/ Certification row, below) and enactment of a second joint resolution under expedited procedures	"The President is authorized to use appropriate force"	"the President is authorized to use all necessary and appropriate force"	"the President is authorized ... to use all necessary and appropriate force"
International conditions for use of force	"with the close consultation, coordination, and cooperation with NATO and regional allies"	none specified	none specified	U.N. Security Council resolution authorizing use of force against ISIL	No U.N. Security Council resolution authorizing use of force against ISIL	none specified	none specified	"as part of a multinational coalition"

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
Types of military action authorized	none specified	none specified	none specified	none specified		none specified	none specified	"to participate in a campaign of airstrikes in Iraq, and if the President deems necessary, in Syria, to degrade and defeat ISIL" The resolution would also authorize the President to "provide military equipment and training to forces fighting ISIL in Iraq or Syria"

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
Target of use of military force	"those countries, organizations, or persons associated with or supporting terrorist groups, including al Qaeda and its regional affiliates, the Islamic State of Iraq and Syria, al Shabaab, Boko Haram, and any other emerging regional terrorist groups that share a common violent extremist ideology with such terrorist groups, regional affiliates, or emerging terrorist groups"	"Islamic State of Iraq and the Levant (ISIL)"	"Islamic State of Iraq and the Levant (ISIL)"	"Islamic State of Iraq and the Levant ('ISIL')"	"Islamic State of Iraq and the Levant ('ISIL')"	"Islamic State of Iraq and the Levant (ISIL)"	"Islamic State (or "IS"), formally known as the Islamic State of Iraq and the Levant, as well as any successor organization"	"Islamic State in Iraq and the Levant (ISIL)", as well as ISIL-associated forces, subject to requirements in Section 4 (see below)
Purpose	"to eliminate all such terrorist groups and prevent any future acts of international terrorism against the United States or its allies by such terrorist groups, countries, organization, or persons"	"to defend the national security of the United States against the continuing threat posed by the Islamic State of Iraq and the Levant (ISIL)"	none specified	"to ... defend the national security of the United States against the Islamic State of Iraq and the Levant ('ISIL'); and enforce a United Nations Security Council resolution" that authorizes a multilateral coalition to take several types of action against ISIL	"to defend the national security of the United States against the Islamic State of Iraq and the Levant ('ISIL')"	"to prevent terrorist attacks on the people and interests of the United States and our allies"	"to defend the national security of the United States against the threat posed by the organization called the Islamic State (or 'IS'), formally known as the Islamic State of Iraq and the Levant, as well as any successor organization"	"to protect the United States and other countries from terrorist attacks by the Islamic State in Iraq and the Levant (ISIL), and in order to protect individuals from acts of violence in clear contravention of international law and basic human rights"

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
Geographic limitation	none specified	none specified	"authority ... shall be confined to the territory of the Republic of Iraq and the Syrian Arab Republic" Limitation does not apply to foreign military training activities	none specified		none specified	none specified	Authorization applies to Iraq and Syria
Military unit/action limitation	none specified	none specified	"does not include the authority for the deployment of ground forces in a combat role" Limitation does not apply to "special operations forces or other forces that may be deployed in a training, advisory, or intelligence capacity"	none specified	use of U.S. Armed Forces authorized "other than the use of such Armed Forces in direct ground combat operations"	"does not include authorization for the use of rotational ground forces"	none specified	"does not include ... use of United States ground combat forces, except for [military assistance and training] or as necessary for the protection or rescue of members of the United States Armed Forces or United States citizens..., or for limited operations against high value targets"
Associated forces definition/ limitation	none specified	none specified	none specified	none specified		none specified	none specified	"does not include ... authorization for the use of force against forces associated with ISIL, unless such forces are identified in a report submitted under section 4" of the resolution.

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
Government of Syria limitation	none	none	none	none		none	none	"Nothing in this resolution shall be construed as ... authorizing support for force in support of, or in cooperation with, the national government of Syria ... or its security services"
Sunset	none	120 days after date of enactment	18 months after date of enactment	two years		three years after date of enactment	none	one year from date of enactment
AUMF Repeal/ Supersession	none	Resolution would repeal 2002 AUMF	Resolution would repeal 2002 AUMF immediately, and repeal the 2001 AUMF 18 months after date of enactment	Resolution would repeal 2002 AUMF immediately, and repeal the 2001 AUMF 2 years after date of enactment		none	none	Resolution would repeal 2002 AUMF

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
Reporting/ Notification	none	Not later than 60 days after enactment, President is required to report on "status of all actions taken"; "description of all proposed actions"; "status of engagement of allies of the United States and international coalitions in combating" ISIL; and "estimated budgetary effects of actions proposed"	"The President shall, at least once every 60 days" after enactment, report on relevant matters including actions taken and planned actions under the authorization	none specified	President must certify that the United States has sought, but the United Nations Security Council has not approved, a resolution authorizing the use of force, and is unlikely to; and that the President has sought to build a broad international coalition to counter ISIL President must present a strategy for use of military force against ISIL	none	Not later than 15 days after enactment, President is required to submit comprehensive strategy to defeat the Islamic State; not later than 90 days after the first report is required, President must report on implementation of the strategy; any substantive change to strategy requires an immediate additional report	Section 4 requires the President to identify ISIL-associated forces targetable under the resolution in a report every 90 days
				In both cases, every 60 days the President must report on uses of lethal force and their circumstances, civilian casualties resulting from such use of force, estimate of expenditures resulting from the use of force, and planning for redeployment of U.S. Armed Forces after military action against ISIL is completed				
Consultation	none specified	none specified	none specified	"The President shall consult on a regular basis with the congressional committees of jurisdiction to provide updated information on actions being taken pursuant to this joint resolution in either public or closed sessions"		none specified	none specified	none specified

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
War Powers Resolution	Bill states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution"	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution"	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution"	(in both cases) Resolution states that authorization sections are "intended to constitute specific authorization within the meaning of section 5(b) of the War Powers Resolution"		Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution"	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution"	Resolution states authorization section is "intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution"

Provision	H.R. 5415	H.J.Res. 123	H.J.Res. 125	H.J.Res. 128[a] *with U.N. Security Council Resolution*	H.J.Res. 128[a] *without U.N. Security Council Resolution*	S.J.Res. 42	S.J.Res. 43	S.J.Res. 44
Expedited Consideration	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	Provides expedited consideration for a second resolution, if such resolution is introduced by the majority or minority leader in the House or Senate within the next legislative day after a required presidential certification is submitted In both houses, second resolution is to be placed on the calendar, considered within one legislative day, debated for a maximum of 20 hours, and voted upon immediately following debate; passage of resolution in one chamber requires immediate action by the second chamber on the resolution received	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution	none provided in addition to those included in the War Powers Resolution

Source: Congress.gov.

a. H.J.Res. 128 contains two separate authorization provisions. Section 3 of the resolution operates when the U.N. Security Council has adopted a resolution authorizing the use of military force against the Islamic State; Section 4 operates when no such resolution has been adopted. Section 4 does not in fact authorize the use of military force, but instead creates a process of presidential reporting and certification and expedited consideration procedures for a separate resolution to be introduced after such reporting and certification has been made to Congress. The table therefore sets out the operative provisions and language in H.J.Res. 128 in two columns to separate the operative language of the two authorization sections. For provisions that apply no matter which authorization section is operative, or where the resolution does not contain the type of provision being explained, the two columns are combined.

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