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SUMMARY

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Congressional Oversight of the State Department: Review of Selected Organizational Reform Efforts

Over the past several decades, Members of Congress, former and current senior State Department officials, academics and think-tank analysts, and other stakeholders have proposed numerous initiatives to address what they perceive as organizational misalignments and management deficiencies that diminish the State Department's capacity to serve as the federal government's lead foreign affairs agency. The Biden Administration, which has stated its intention to leverage diplomacy as the primary tool of U.S. global engagement, has identified the need for a more modern, agile State Department to realize this goal.

This report focuses on congressional engagement in three previous initiatives to reorganize and reform the State Department during the George H.W. Bush, Clinton, and Trump Administrations. The George H.W. Bush Administration petitioned Congress to provide it with statutory authority to reorganize the State Department's bureaucracy so that the department would be more capable of managing foreign policy challenges expected to emerge in the post-Cold War world. Congress rejected the Bush Administration's request. The Clinton Administration revised and expanded upon the Bush Administration's proposal. By 1994, Congress appeared to agree that reorganization was necessary to ensure the State Department retained its status as the federal government's lead foreign affairs agency in the post-Cold War world. Congress authorized many, but not all, of the Clinton Administration's requested measures pursuant to the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (). Shortly thereafter, Congress initiated additional reorganization measures, introducing bills to eliminate the U.S. Agency for International Development (USAID), the U.S. Information Agency (USIA), and the Arms Control and Disarmament Agency (ACDA), and to task the State Department with implementing their remaining responsibilities. The Clinton Administration initially resisted consolidation of the federal government's foreign affairs agencies. However, congressional insistence and geopolitical developments in the 1990s appeared to eventually persuade the Administration that diplomacy, development assistance, and public diplomacy efforts needed to be conducted under a more unified foreign policy apparatus. A statutory agency consolidation plan agreeable to both Congress and the Clinton Administration was enacted in 1998.

Congress was not receptive to the Trump Administration's 2017 State Department reform initiative, proposed as part of a broader effort "to improve the efficiency, effectiveness, and accountability of the executive branch." Congressional reactions to the proposal partly mirrored those that surfaced during the George H.W. Bush Administration. During their consideration of both the George H.W. Bush and Trump Administration's proposed reforms, some Members of Congress justified their concerns on the basis that the executive branch was not sufficiently forthcoming regarding the details and intentions of its reform effort. Congressional reluctance to embrace the Trump Administration's proposals also reflected other, unique factors, including unease among some Members regarding the Administration's general management approach toward the State Department. For example, some Members opposed the Administration's proposed cuts to the State Department's budget and expressed concern that the Administration might seek to transfer certain State Department bureaus to other federal agencies.

The efforts to reorganize the State Department examined in this report may offer several perspectives to Members considering statutory State Department reorganization in the 117th Congress. First, past experiences demonstrate that successful reorganization efforts generally either restored or maintained, rather than altered, the legislative and executive branches' traditional prerogatives regarding management and oversight of the State Department. Precedent further indicates that the executive and legislative branches are more likely to agree on a reorganization measure if they are forthcoming regarding their plans and work to identify shared priorities that the reorganization will advance. Finally, past reorganization efforts have generally demanded periods of intense negotiation between and within the executive and legislative branches and required them to make concessions to reach an agreement on a reorganization law. In addition to these factors, other variables, including the partisan alignment of the branches, appear to affect outcomes when assessing these case studies. Should Members conclude that the political will required to collaborate with the executive branch to effect a statutory reorganization of the State Department is lacking, they may consider the potential benefits and drawbacks of using their own authorities unilaterally to implement organizational changes.

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Introduction

Many observers of the State Department generally agree that although the department is the U.S. government's lead foreign affairs agency, it has struggled to maintain a preeminent role among other federal agencies in the conduct of foreign affairs throughout much of the post-World War II period. Less consensus exists among such observers regarding the primary cause of this state of affairs. Factors frequently raised include

- long-standing efforts by both Republican and Democratic presidents to centralize control of foreign policy making in the White House through strengthening the National Security Council;
- the emergence of large, permanent defense and intelligence bureaucracies that have proven more effective than the State Department at securing policymaking influence and budget support from Congress;
- the increasing salience of interdisciplinary foreign policy issues, such as trade, global health, climate change, and cybersecurity, that agencies other than the State Department may be better equipped to address in terms of personnel expertise and programmatic capacity; and
- an apparent lack of support for, and sometimes resistance to, comprehensive reform or reorganization initiatives among State Department personnel.[1]

In past efforts to revitalize and reorganize the State Department, the White House has often exercised a leadership role by transmitting proposals and advocating legislative action in public statements and negotiations with Congress. Congress maintains primary constitutional responsibility for the structural organization of the executive branch and the creation of its principal components. Section 1 of the State Department Basic Authorities Act of 1956, as amended (P.L. 84-885; hereafter, the Basic Authorities Act), provides the statutory basis for the State Department's bureaucratic structure.[2] Among other provisions, this law establishes the Secretary of State as the senior department official with the authority to administer the State Department, places ceilings on the number of Under Secretary of State and Assistant Secretary of State positions, and requires the State Department to establish and maintain several senior positions with responsibility for issues of particular concern to Congress, such as the Assistant Secretary of State for Democracy, Human Rights, and Labor and the Coordinator for Counterterrorism. These positions and their ranks relative to one another are reflected in the State Department's organizational chart (see the **Appendix**).

Decades-long concerns regarding the institutional strength of the State Department have prompted reorganization and reform proposals originating from within the department, elsewhere in the executive branch, Congress, universities, and think tanks. This report focuses on three reorganization efforts in which Congress played a significant role, offering both historical context and analytic conclusions that Members of the 117th Congress may consider or apply when weighing any future proposals. Two reorganization efforts took place during the Clinton

[1] For example, see Joseph Cassidy, "10 Ways to Fix America's Ailing State Department," *Foreign Policy*, July 20, 2015, https://foreignpolicy.com/2015/07/20/state-department-kerry-obama/; Brett D. Schaefer, *How to Make the State Department More Effective at Implementing U.S. Foreign Policy*, Heritage Foundation, Backgrounder no. 3115, April 20, 2016; Uzra S. Zeya and John Finer, *Revitalizing the State Department and American Diplomacy*, Council on Foreign Relations, November 2020; and Harry Kopp, "Blue-Ribbon Blues: Why So Many Great Reports and Good Ideas Go Nowhere," *Foreign Service Journal*, September 2018.

[2] See 22 U.S.C. §2651a.

Administration (the first of which originated during the George H.W. Bush Administration). The third was developed during the Trump Administration.

A survey of past efforts to reorganize the State Department reveals that many issues of concern can be raised in the broad context of "reorganization" or "reform." This report focuses principally on efforts to reorganize the State Department's bureaucratic structure: the number of State Department senior positions and offices, the substantive focus of such positions and offices, and the institutional relationships between them. Congress frequently has a significant role in reorganization efforts of this type, as they often involve a change in law.

A detailed analysis of past structural reorganization efforts at the State Department reveals information about its capacity to manage emerging substantive foreign policy issues of concern and to address persistent management challenges regarding "lines of authority" (the chain of command through which senior officials delegate responsibilities to subordinates) and related internal matters. Moreover, past congressional efforts to improve the State Department's bureaucratic structure can provide context for current efforts, such as the Biden Administration's stated intent to modernize the department during a time of renewed great power competition between the United States and strategic competitors (such as Russia and China). Such information may be useful to Members as they develop or consider State Department reorganization proposals in the 117th Congress.

George H.W. Bush Administration Reform Proposals

In the early 1990s, shortly after the fall of the Berlin Wall and the beginning of the Soviet Union's dissolution, the George H.W. Bush Administration sought to reorganize the State Department's bureaucracy to reflect the new challenges it anticipated facing in the emerging post-Cold War world. The Bush Administration's proposal called on Congress to implement what was arguably the most comprehensive statutory reorganization measure since the immediate post-World War II period, when Congress passed a law implementing several recommendations of the Hoover Commission on Organization of the Executive Branch (hereafter, the Hoover Commission; for more information, see the **text box** below).

State Department Reform After World War II

In 1947, Congress passed a law establishing the Hoover Commission, which was tasked with recommending changes to promote economy and efficiency within the executive branch.[3] The commission's State Department recommendations, released in 1949, were based largely on a reorganization plan that Secretary of State George Marshall developed the previous year.[4] To address what the commission perceived as limited senior staff support for the Secretary of State and excess diffusion of command among senior personnel, it recommended establishing clear lines of authority from the Secretary of State through the chain of command by creating two Deputy Under Secretaries responsible for policy and management issues and several Assistant Secretaries to manage numerous regional and functional matters.[5] In response, Congress authorized the State Department to implement these

[3] National Archives and Records Administration, "Records of the Commissions on Organization of the Executive," updated August 15, 2016, https://www.archives.gov/research/guide-fed-records/groups/264.html. For the authorizing statute, see P.L. 80-162.

[4] U.S. Congress, Senate Committee on Foreign Relations, *Strengthen and Improve the Organization and Administration of the Department of State*, report to accompany S. 1704, 81st Cong., 1st sess., S.Rept. 81-304, p. 2.

[5] Herbert Hoover (Chairman) and Dean Acheson (Vice Chairman), *The Hoover Commission Report*, 2nd printing (New York, NY: McGraw-Hill Book Company, Inc.), pp. 159-165.

recommendations and create the new positions, with slight revisions reflecting State Department concerns, pursuant to P.L. 81-73.[6] Following passage of the law, the State Department established several bureaus that continue to exist in some form today.[7]

The proposed changes would have provided the Secretary of State near-exclusive remit for delegating authorities to subordinate officials, a paramount responsibility shaping the State Department's conduct of foreign policy, organizational structure, and management practices that, under many interpretations of what was then existing law, the Secretary shared with Congress.[8] Administration officials argued that the executive branch required this flexibility in order to recalibrate the State Department's organizational structure to better ensure the department was able to meet the challenges of a rapidly changing world. They asserted that reprogramming requirements elsewhere in law would obligate the State Department to engage with Congress in advance of any significant future reorganization efforts (for more information regarding these requirements, see the **text box** below). This arrangement, such officials added, would empower Congress to have a meaningful oversight role without requiring it to consider statutory changes whenever the State Department wished to adjust its bureaucratic alignment.[9]

[6] Congress did not legislate the titles of the Deputy Under Secretaries or the Assistant Secretaries of State authorized pursuant to this law, nor did it vest any authorities in these positions. The Senate Foreign Relations Committee's report accompanying its version of the bill listed these positions by title or responsibility, indicating an understanding between the State Department and Congress regarding how the former intended to fill these newly authorized offices. Additionally, Congress acceded to the State Department's request that it be provided the flexibility to designate two Assistant Secretaries to serve in the Deputy Under Secretary positions, a measure the Hoover Commission did not recommend. See Senate Committee on Foreign Relations, *Strengthen and Improve the Organization and Administration of the Department of State*.

[7] U.S. Department of State, Office of the Historian, "Principal Officers By Title," https://history.state.gov/departmenthistory/people/principalofficers.

[8] Section 3 of P.L. 81-73, which prior to 1994 was the law prescribing the organization of the State Department, transferred to the Secretary of State authorities that previously had been vested in other *specified officers*. However, unlike statutes providing for the organization of other federal agencies that sought to implement Hoover Commission recommendations, P.L. 81-73 does not appear to have provided for a *general vesting of all authorities of all employees* under the jurisdiction of the Department of State in the Secretary. Section 4 of P.L. 81-73 did authorize the Secretary of State to delegate "functions now or hereafter vested in the Secretary of State *or the Department of State*." Some may have interpreted this provision as empowering the Secretary of State to delegate functions of the department or its employees, even where they had not explicitly been vested in the Secretary. However, congressional testimony of the Under Secretaries of State for Management of both the George H.W. Bush and Clinton Administrations suggests that the State Department generally interpreted P.L. 81-73 as not ultimately vesting authorities Congress vested to subordinate officials in other laws to the Secretary of State. For example, see U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Human Rights and International Organizations and Subcommittee on International Operations, *Foreign Relations Authorization, Authorizing Appropriations for Fiscal Years 1992-93 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and For Other Purposes*, hearings, 102nd Cong., 1st sess., February 27, 1991, pp. 4, 7, 949; and U.S. Congress, House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, hearings, 103rd Cong., 1st sess., February 23, 1993, April 1, 1993, and April 20, 1993, p. 464.

[9] House Committee on Foreign Affairs, *Foreign Relations Authorization, Authorizing Appropriations for Fiscal Years 1992-93 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and For Other Purposes*, pp. 4, 9-10, 46.

Notification Requirements Regarding Reprogramming of Appropriated Funds

In 1983, Congress amended the State Department Basic Authorities Act of 1956 to require the State Department to notify the House Foreign Affairs Committee and the Senate Foreign Relations Committee 15 days in advance of any reprogramming of appropriated funds for, among other purposes, reorganizing the department's offices or relocating department offices or employees.[10] Similar requirements obligating the State Department to inform the appropriations and authorization committees responsible for funding department operations had been inserted into authorization and appropriations bill reports dating back to at least the 1970s.[11] These requirements reflected congressional concerns regarding the reprogramming of funds in support of "new or controversial programs," in some cases without informing Congress. They were intended to require the State Department to provide Congress with necessary information regarding significant reprogramming actions, while affording the department sufficient flexibility to redirect resources in support of good management practices.[12] The notification requirements inserted into the Basic Authorities Act remain in force in amended form, and Congress continues to include similar requirements in annual appropriations laws.[13]

The George H.W. Bush Administration's request was developed in a historic context in which Congress had previously abided by the Hoover Commission's recommendation that it refrain from vesting authorities by statute in subordinate State Department officials (in other words, officials other than the Secretary of State).[14] For a time, Congress generally accepted the commission's warning that, should it do so, the independence of subordinate officials would increase at the Secretary's expense, thereby, leaving lines of authority unclear and exacerbating challenges involved with coordinating intra- and interagency foreign relations activities. The Hoover Commission added that vesting subordinate officials with authorities might lead them to establish independent channels of communication with Congress.[15] Congressional adherence to this view appeared to decline as tensions between the executive and legislative branches grew in the 1960s and 1970s—for example, the conduct of some officials during the Vietnam War raised questions about war powers, while Congress disagreed with President Nixon over the expenditure of appropriated funds.[16]

Congress took a greater oversight role of the State Department's bureaucratic structure during this period, passing laws that required the State Department to create specific senior positions and seemed to directly vest authorities within these new offices. Proponents of these new laws argued that they were necessary to compel the State Department to dedicate requisite senior-level

[10] See Section 123 of P.L. 98-164.

[11] For example, see U.S. Congress, House of Representatives, House Committee on Appropriations, *Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies Appropriations Act, Fiscal Year 1977*, report to accompany H.R. 14239, 94th Cong., 2nd sess., H.Rept. 94-1226, pp. 7-8; and U.S. Congress, House of Representatives, Committee on International Relations, *Foreign Relations Reauthorization Act, Fiscal Year 1979*, report to accompany H.R. 12598, 95th Cong., 2nd sess., H.Rept. 95-1160, pp. 13-14.

[12] House Committee on Appropriations, *Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies Appropriations Act, Fiscal Year 1977*, p. 8.

[13] For the Basic Authorities Act provision, see Section 34 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. §2706). For a recent provision inserted into an annual appropriations law, see Section 7015 of Title VII of Division K of P.L. 116-260.

[14] Senate Committee on Foreign Relations, *Strengthen and Improve the Organization and Administration of the Department of State*, p. 3. See also Section 3 of P.L. 81-73, which vested in the Secretary of State authorities previously vested in selected subordinate State Department officials.

[15] Senate Committee on Foreign Relations, *Strengthen and Improve the Organization and Administration of the Department of State*, p. 3; Hoover and Acheson, p. 152.

[16] CRS Report RL31835, *Reorganization of the House of Representatives: Modern Reform Efforts*, by Judy Schneider and Christopher M. Davis.

attention to issues of congressional concern.[17] Proponents added that these measures often enhanced administrative practices within the State Department. Congressional oversight sometimes revealed what Members judged to be disparate offices that would be more empowered if organized under a senior official with an apparent statutory mandate to exercise specified authorities. (For an example of how such arguments were applied in practice, see the **text box** below.)

Creation of the Bureau of Oceans and International Environmental and Scientific Affairs (OES)

Members of Congress petitioned the State Department to create a new bureau focused on ocean affairs in the 1960s. Senator Claiborne Pell wrote a letter to Secretary of State Dean Rusk in 1968 observing "that our present government structure is not adequate to deal effectively with the new challenges and the new opportunities being presented in ocean affairs" and suggesting that he create a new bureau to deal with such matters through executive processes, without specific authorizing legislation.[18] After the State Department refrained from doing so for several years, Congress included a provision in the Department of State Appropriations Authorization Act of 1973 (P.L. 93-126) creating the OES Bureau. Supporters of this provision argued that although international attention regarding environmental and oceans issues had increased over the past decade, the State Department lacked a functional bureau responsible for formulating and implementing comprehensive and coherent policy on these matters. Such supporters also noted that the new bureau would place dispersed offices throughout the State Department responsible for fisheries, environmental matters, wildlife and ocean affairs, and scientific and technological affairs under a single Assistant Secretary of State, which would, in their view, strengthen the offices' effectiveness.[19] The conference report accompanying the law stated that the authorizing statute effectively required the Secretary of State to "to carry out his functions relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs through the new Assistant Secretary."[20]

The George H.W. Bush Administration was cognizant of these dynamics when, in an effort to meet emerging post-Cold War policy priorities, it asked Congress for more flexibility to organize the State Department's bureaucracy by repealing the authorizing statutes (and the authorities apparently vested therein) for several bureaus and positions. These included the Bureau of Oceans and International Environmental and Scientific Affairs, the Assistant Secretary for Human Rights and Humanitarian Affairs, and the Coordinator for International Communications and Information Policy.[21] Congress ultimately rejected the Bush Administration's request. Some Members noted that although they broadly supported measures to give the State Department more organizational flexibility, the Bush Administration had failed to provide significant details and justification for its proposal.[22]

Congress also included a provision in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (P.L. 102-138), requiring the State Department to create another senior position—in this case, the Assistant Secretary of State for South Asian Affairs—despite objections from senior

[17] House Committee on International Relations, *Foreign Relations Authorization Act, Fiscal Year 1979*, report to accompany H.R. 12598, 95th Cong., 2nd sess., H.Rept. 95-1160, p. 20.

[18] U.S. Congress, Senate Committee on Foreign Relations, *Department of State Appropriations Authorization, Fiscal Year 1974*, hearings, 93rd Cong., 1st sess., April 4, 1973, p. 258.

[19] U.S. Congress, Senate Committee on Foreign Relations, *Department of State Authorization Act of 1973*, report to accompany S. 1248, 93rd Cong., 1st sess., S.Rept. 93-176, pp. 31-32.

[20] U.S. Congress, House of Representatives, *Department of State Appropriation Authorization*, report to accompany H.R. 7645, 93rd Cong., 1st sess., H.Rept. 93-563, pp. 7-8.

[21] House Committee on Foreign Affairs, *Authorizing Appropriations for Fiscal Years 1992-93 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and For Other Purposes*, p. 46.

[22] Ibid., p. 696.

State Department officials responsible for South Asia matters.[23] Congressional support for this measure largely followed the logic underlying previous similar statutory requirements. Supporters argued that the position was necessary to ensure the State Department provided requisite high-level attention for South Asia matters, including the ongoing conflict in Afghanistan, tensions between India and Pakistan, and nuclear proliferation issues.[24] Proponents further maintained that the then-existing arrangement, wherein South Asia issues fell under the purview of the Bureau of Near Eastern Affairs (NEA), meant that "South Asia [was] slighted in the bureaucracy."[25] Proponents believed that officials and organizational units responsible for South Asia issues would be more effective if they were decoupled from NEA and placed under the authority of a dedicated Assistant Secretary.

Clinton Administration Reform Efforts

The Clinton Administration sustained and expanded the Bush Administration's efforts to restructure the State Department's bureaucracy with the intent of strengthening its capacity to advance U.S. foreign policy and national security objectives in the post-Cold War era. President Clinton's first Secretary of State, Warren Christopher, engaged Congress on a reorganization plan centered on several key priorities, including

- creating new focal points for foreign policy initiatives, particularly on transnational issues such as environmental policy, democracy promotion, human rights, international labor issues, refugee matters, counterterrorism, and counter-narcotics, and in U.S. relations with Russia and the former Soviet states;
- improving management and communication by strengthening the roles of the Under Secretaries of State by giving them more authority over bureaus under their jurisdiction and making them senior foreign policy advisors to the Secretary of State and the Deputy Secretary of State; and
- streamlining operations by reducing the number of Deputy Assistant Secretaries of State and delegating more decisionmaking to working-level personnel.[26]

Secretary Christopher's plan aimed to help the State Department realize efficiencies. The plan was conceived in the context of the Clinton Administration's deficit reduction efforts and the guidelines set in the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508), which imposed restrictions on international affairs spending.[27] These objectives reflected Secretary

[23] See Section 122 of P.L. 102-138, as amended (22 U.S.C. §2652b). To review arguments made by senior State Department officials opposing the statutory mandate for the Assistant Secretary of State for South Asian Affairs, see House Committee on Foreign Affairs, *Authorizing Appropriations for Fiscal Years 1992-93 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and For Other Purposes*, pp. 877-879.

[24] House Committee on Foreign Affairs, *Authorizing Appropriations for Fiscal Years 1992-93 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and For Other Purposes*, pp. 874-876.

[25] Ibid., p. 875.

[26] House Committee on Foreign Affairs, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, hearings, 103rd Cong., 1st sess., February 23, 1993, April 1, 1993, and April 20, 1993, pp. 47, 400, 402, 439, 465, 494-495. See also Memorandum from Secretary of State Warren Christopher to all State Department employees, February 2, 1993, shared by the Office of the Historian of the U.S. Department of State with CRS via email on November 17, 2020.

[27] For more detail regarding the context in which the Clinton Administration's reform proposal was made, see, for example, CRS Issue Brief IB93073, *Foreign Policy Budget for FY1994*, by Larry Q. Nowels and Ellen C. Collier. (The

Christopher's management philosophy that the State Department organizational units not under the jurisdiction of an Under Secretary of State risked getting "lost in the shuffle" and not receiving adequate attention from senior leadership.[28] The objectives were also indicative of concerns, shared by many Members of Congress, that the State Department was culturally and institutionally predisposed to prioritize the maintenance of bilateral diplomatic relationships at the expense of increasingly important transnational issues.[29] Some Members of Congress and others perceived that federal agencies with applicable functional expertise (e.g., the Department of Commerce with respect to trade) would assume greater responsibility for these matters and potentially reduce the State Department's relevance in certain aspects of foreign affairs.[30]

Like the Bush Administration, the Clinton Administration requested that Congress repeal provisions of law that required the State Department to establish and maintain several senior positions and bureaus, and that appeared to vest authorities to senior positions other than the Secretary. Repealing such provisions, the Clinton Administration asserted, would provide the department with "flexibility to respond to what has been a rapidly changing international environment."[31] Some Members welcomed the Clinton Administration's request, which the State Department transmitted in early 1993, with one Member stating that such provisions inadvertently "fractured our ability to conduct a coordinated policy" and "further bloated" the State Department's bureaucracy.[32] Supporters argued that because Congress was moving to stringently limit growth in the State Department's budget, it was obligated to provide the department with management flexibility to streamline its operations and allocate as many resources as possible into fulfilling its policy priorities.[33] Some opponents and skeptics of the Administration's initiative argued that it should focus on other priorities. Such opponents said that the Clinton Administration's rhetorical support for enhancing the State Department's ability to promote U.S. businesses abroad was inconsistent with proposed cuts in related programming.[34] The Clinton Administration's reorganization plan also called for, among other proposals,

- creating an Under Secretary of State for Global Affairs position to oversee the newly reconstituted Bureaus of Democracy, Human Rights, and Labor; Narcotics, Terrorism, and Crime; and Population, Refugees, and Migration—the proposed reconstituted bureaus were composed largely of existing components that the State Department sought to consolidate;[35]

Issue Brief is out of print but available to congressional clients from the author upon request.)

[28] House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, p. 415.

[29] Ibid., pp. 2, 10, 16, 139-140, 179-180, 189.

[30] Ibid.

[31] U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on Terrorism, Narcotics, and International Operations, *Fiscal Year 1994 Foreign Relations Authorization Act: Budget Requests*, hearings, 103rd Cong., 1st sess., May 12, June 9, June 17, 1993, p. 7. The Administration did not request that Congress repeal statutes authorizing positions throughout the executive branch, including in the State Department, such as inspectors general. See House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, pp. 467, 539.

[32] House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, p. 31.

[33] Ibid., pp. 403, 533.

[34] U.S. Congress, Senate Committee on Foreign Relations, *Foreign Policy Overview, Budget Requests for Fiscal Year 1994*, hearings, 103rd Cong., 1st sess., April 20, 1993, p. 45.

[35] The Clinton Administration's proposal also called for the Under Secretary of State for Global Affairs to oversee the Bureau of Oceans and International Environmental and Scientific Affairs, for which consolidation was not proposed.

- consolidating all State Department offices with responsibility for arms control and nonproliferation issues under the supervision of the Under Secretary for International Security Affairs and changing the title of the Under Secretary position to the Under Secretary for Arms Control and International Security Affairs;
- creating a new Ambassador-at-Large for the New Independent States to help manage policy toward the newly independent states of the former Soviet Union; and
- closing the Office of the U.S. Coordinator for Counterterrorism and transferring the authorities of this office to a Deputy Secretary of State within an expanded Bureau of Narcotics, Terrorism, and Crime.[36]

Secretary Christopher implemented many reforms by internal directive, including a measure to reduce the number of Deputy Assistant Secretaries of State and equivalent rank positions from around 120 to 76, in an effort to streamline decisionmaking and control costs.[37] Secretary Christopher also established a new Office of Business Facilitation within the Bureau of Economic and Business Affairs, an initiative that he cited in response to critics who argued that the reorganization plan did not adequately prioritize improving the position of U.S. businesses in overseas markets.[38] The State Department was required by law to notify Congress prior to implementing many of these directives. (For an overview of the relevant statutes, see the "Notification Requirements Regarding Reprogramming of Appropriated Funds" **text box** above.)

Although the State Department was required to engage with Congress prior to carrying out smaller-scale reorganization efforts, Congress had to change the law to institute the most sweeping measures.[39] These measures were enacted pursuant to the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236), which amended the Basic Authorities Act to provide a new statutory basis for the State Department's bureaucratic structure (the measures remain in force and are codified, as amended, as 22 U.S.C. §2651a). Among the key provisions was a measure that sought to clearly vest in the Secretary of State the authorities previously vested by Congress, with some exceptions, in subordinate officials or organizational units of the Department of State, according to the State Department's interpretation of past law.[40] This measure ended a practice the State Department had objected to for decades and provided the

[36] U.S. Department of State (George W. Bush Administration), Office of the Historian "History of the Department of State During the Clinton Presidency (1993-2001)," https://2001-2009.state.gov/r/pa/ho/pubs/8518.htm; House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, pp. 443, 470, 717; Memorandum from Secretary of State Warren Christopher to all State Department employees, February 2, 1993.

[37] Senate debate, *Congressional Record*, vol. 140, part 23 (January 31, 1994), p. 547.

[38] Memorandum from Secretary of State Warren Christopher to all State Department employees, February 2, 1993. See also Senate Committee on Foreign Relations, *Foreign Policy Overview, Budget Requests for Fiscal Year 1994*, p. 45.

[39] House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, pp. 400-401.

[40] Exceptions included authorities vested in the Inspector General and the Chief Financial Officer. These exceptions were consistent with the Bush Administration's original request, which did not request that Congress repeal authorizing statutes for positions for which similar statutes existed for equivalent positions across the federal government. See House Committee on Foreign Affairs, *Foreign Relations Authorization, Authorizing Appropriations for Fiscal Years 1992-93 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and For Other Purposes*, p. 46.

Secretary with greater authority and flexibility to delegate authorities to subordinate officials as they saw fit.[41]

P.L. 103-236 limited the number of authorized Under Secretaries of State to five, and implemented the State Department's request that Congress repeal statutes authorizing the position titles and jurisdictions for its Under Secretaries of State. The law's repeal of previous authorizing statutes enabled the State Department to determine the title and jurisdictions of all office holders at this rank and to subsequently adjust them, as necessary, without first seeking a change in law. As a result, the State Department created the new Under Secretary for Global Affairs, a key component of the Clinton Administration's reorganization plan. Congress retained its authority to conduct oversight and capacity to influence the President's decisions regarding Under Secretary of State appointments and the responsibilities delegated to individual officers of this rank. For example, Congress did not repeal the statutory requirement that all Under Secretaries of State shall be appointed by the President, by and with the advice and consent of the Senate.

Statutory Authorization of the Coordinator for Counterterrorism

As part of its reorganization effort, the Clinton Administration sought to transfer the authorities of the Coordinator for Counterterrorism to a Deputy Assistant Secretary of State within the Bureau of Narcotics, Terrorism, and Crime. However, Congress rejected this request. Section 161(e) of P.L. 103-236 required, for not less than one year, that the State Department retain the position with the same responsibilities it maintained when the Clinton Administration took office. Congress rejected the request, in part, due to concerns that the Clinton Administration would demote the senior State Department official responsible for counterterrorism matters to a lower diplomatic rank. At this lower diplomatic rank, these concerns followed, he or she might find it more challenging to advocate effectively for U.S. counterterrorism priorities with foreign allies and partners and carry out effective interagency coordination. The Clinton Administration's proposal countered that U.S. counterterrorism priorities would not receive adequate attention from the State Department's senior leadership unless responsibility for these issues was moved into a bureau under the direct authority of an Under Secretary of State.[42] A subsequent amendment to the Basic Authorities Act enacted in 1998 authorized the U.S. Coordinator for Counterterrorism, housed within the Office of the Secretary of State, on a permanent basis. It further required that the Coordinator for Counterterrorism "shall report directly to the Secretary of State." This provision remains in force.[43]

Congress did not grant the State Department all of the flexibility it requested in other areas, including with regard to the management of Assistant Secretaries of State. (For another example of an area where Congress refrained from implementing a component of the Clinton Administration's request, see the **text box** above.) P.L. 103-236 authorized not more than 20 positions at this rank, fewer than the 24 the State Department requested. A Senate floor amendment to limit the number of Assistant Secretaries to 18, the number the State Department already maintained, failed to pass by one vote.[44] The vote was accompanied by concerns that such a freeze would constitute micromanagement and encumber Secretary Christopher's efforts to ensure that the State Department had senior leaders in place to focus on emerging areas of

[41] This provision remains in force, see 22 U.S.C. §2651a(a)(3). Previously, Section 3 of P.L. 81-73 vested authorities in the Secretary of State that were previously vested in State Department officials such as the Assistant Secretary of State for Administration. However, 22 U.S.C. §2651a(a)(3) expanded the scope of this earlier provision, providing that, with limited exceptions "the Secretary shall have and exercise any authority vested by law in any office or official of the Department of State."

[42] House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, pp. 766-771.

[43] See Section 2301 of P.L. 105-277. This provision is codified, as amended, at 22 U.S.C. §2651a(e).

[44] U.S. Congress, Conference Committee, *Foreign Relations Authorization Act, Fiscal Years 1994 and 1995*, conference report to accompany H.R. 2333, 103rd Cong., 2nd sess., H. Rept. 103-482, p. 173.

concern in the post-Cold War world, such as the competitiveness of U.S. businesses abroad and refugee issues.[45] Congress also did not fully repeal authorizing statutes for certain Assistant Secretary positions (including Oceans and International Environmental and Scientific Affairs and South Asian Affairs), with some Members arguing that Congress created these positions to ensure that the State Department afforded sufficient attention to matters within their jurisdiction, and that this need was still apparent.[46]

Reforms Initiated by Congress During the Clinton Administration

Following passage of the 1994 reorganization, some Members of Congress and other stakeholders remained concerned with what they maintained was excessive spending on foreign policy and foreign assistance priorities. They further observed that the missions of the U.S. Agency for International Development (USAID), the U.S. Information Agency (USIA), and the Arms Control and Disarmament Agency (ACDA) reflected Cold War-era national security concerns that no longer existed and that their remaining functions relevant to the post-Cold War era should be largely integrated into the Department of State.[47] Such efforts, they maintained, would bring about a more streamlined U.S. foreign policy mechanism, enhancing the United States' ability to respond effectively to world events.[48]

With such concerns in mind, Senate Foreign Relations Committee Chairperson Jesse Helms introduced legislation (S. 908) in June 1995 that proposed eliminating USAID, ACDA, and USIA and merging some of their functions into the State Department.[49] Earlier in 1995, the Clinton Administration had concluded through its National Performance Review—a whole-of-government review intended to find means for federal agencies to "work better and cost less"—that the missions of these three agencies remained relevant in the post-Cold War world and that the agencies themselves were "essential vehicles" for realizing those missions. The Administration opposed such consolidation.[50] The Helms bill and similar legislation introduced in the House of Representatives (H.R. 1561) sought to amend the Basic Authorities Act to require the State Department to create several new positions at the rank of Under Secretary and Assistant Secretary of State to assume leadership for implementing the new functions transferred from the to-be-shuttered agencies and for other purposes.[51] However, some Members of Congress and State Department officials argued that the proposed mandate to eliminate the three agencies and establish these new positions was excessively prescriptive, especially given the flexibility Congress had provided to the State Department the previous year.[52]

In an effort "to consolidate and reinvent the foreign affairs agencies of the United States within the Department of State," "assist congressional efforts to balance the Federal budget and reduce

[45] Senate debate, *Congressional Record*, vol. 140, part 23 (January 31, 1994), pp. 542-550.

[46] Ibid., p. 550.

[47] For example, see U.S. Congress, Senate Committee on Foreign Relations, *Reorganization and Revitalization of America's Foreign Affairs Institutions*, hearings, 104th Cong., 1st sess., March 23, 1995, pp. 59-63.

[48] CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, p. 9.

[49] Ibid., p. 3. See also S. 908 104th Congress.

[50] Senate Committee on Foreign Relations, *Reorganization and Revitalization of America's Foreign Affairs Institutions*, pp. 3, 54-55, 280.

[51] See H.R. 1561, 104th Congress.

[52] Senate Committee on Foreign Relations, *Reorganization and Revitalization of America's Foreign Affairs Institutions*, pp. 288-289, 350-351.

the Federal debt," and strengthen "the leading role of the Secretary of State in the formulation and articulation of United States foreign policy," House and Senate negotiators agreed on a plan to abolish one agency, to be selected by the President, but widely expected to be ACDA.[53] The President also was to certify that (1) his own foreign policy consolidation plans would save $1.7 billion over four years and (2) the preservation of the remaining two agencies was important to U.S. national interests.[54] Furthermore, the negotiators significantly reduced the number of specific positions at the rank of Under Secretary and Assistant Secretary of State that the State Department would be required by statute to establish.[55] However, President Clinton ultimately vetoed these measures (included in an amended version of H.R. 1561) in April 1996, arguing that they "seriously impeded the President's authority to organize and administer foreign affairs agencies" and reiterating previous Administration assertions that USAID, USIA, and ACDA should remain in place as separate agencies.[56] Congress attempted to but did not override President Clinton's veto.

Given persistent congressional interest in the matter, some observers encouraged the Clinton Administration to construct its own consolidation proposal to protect presidential prerogatives to restructure the executive branch.[57] In 1997, newly appointed Secretary of State Madeleine Albright indicated her openness to foreign affairs agency consolidation, as did other Administration officials, who stated that recent experiences in Haiti and Bosnia convinced them that diplomacy, development assistance, and public diplomacy efforts needed to be conducted under a more unified foreign policy apparatus.[58] Some observers during this period further noted that if the Clinton Administration wished to move forward with elements of its foreign policy agenda requiring congressional action, such as Senate advice and consent to ratification of the Chemical Weapons Convention, it would need to engage with Congress on foreign affairs agency consolidation.[59] In this context, the Clinton Administration released a plan proposing, among other initiatives,

- the integration of ACDA into the State Department's Bureau of Political-Military Affairs;
    - during the transition, having the ACDA Director serve as the Under Secretary of State for Arms Control and International Security Affairs;
- the integration of USIA into the State Department;
    - during the transition, having the USIA Director serve as the Under Secretary of State for Public Diplomacy;

[53] See Section 103 of H.R. 1561, 104th Congress, as enrolled. See also CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, p. 4.

[54] Ibid.

[55] See H.R. 1561, as enrolled.

[56] U.S. Congress, House of Representatives, *Message from the President of the United States Transmitting his Veto of H.R. 1561, A Bill Entitled "Foreign Relations Authorization Act, Fiscal Years 1996 and 1997*, 104th Cong., 2nd sess., April 1996, H.Doc. 104-197, p. 1.

[57] CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, p. 3.

[58] John F. Harris and Thomas W. Lippman, "Clinton Agrees to Shift Foreign Policy Agencies," *Washington Post*, April 18, 1997, https://www.washingtonpost.com/archive/politics/1997/04/18/clinton-agrees-to-shift-foreign-policy-agencies/c97fda2f-0dcc-47c7-9368-efe94eee6703/; and CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, pp. 2-3.

[59] CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, pp. 2-3.

- the retention of USAID as an agency separate from the State Department; and
- the placement of the USAID Administrator under the direct authority and foreign policy guidance of the Secretary of State.[60]

During this period, both the House and Senate passed legislation to implement a statutory agency consolidation. Congress resolved differences between the House and Senate bills and passed the Foreign Affairs Reform and Restructuring Act of 1998 (H.R. 1757). President Clinton vetoed this bill due to concerns with unrelated provisions pertaining to international family planning programs and other matters. In his veto message, President Clinton indicated support for the provisions regarding agency consolidation.[61] Anticipating this veto, Congress revised and restated the foreign affairs agency consolidation provisions in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Division G of H.R. 4328, later P.L. 105-277), which President Clinton signed into law.[62]

This agency consolidation law could be viewed as a compromise measure that recognized the President's prerogatives to conduct foreign affairs and manage the executive branch and Congress's oversight and legislative responsibilities. Division G of P.L. 105-277 authorized the President to implement consolidation efforts along the lines of the executive branch's plans, with some conditions. The law required the President to submit to Congress a consolidation and reorganization plan and a report providing for the abolition of ACDA and USIA and for the transfer of most of their remaining functions to the State Department, along with the transfer of USAID's press office and "certain administrative functions" to the State Department.[63] Congress allowed the Administration to implement additional consolidation and reorganization measures, and to allocate or reallocate any function transferred to the State Department by the agency consolidation law to meet the broader aims of the statute. Congress required the Administration to notify it of such plans and to ensure that the measures did not create a new executive department or a standalone federal agency or conflict with existing laws, including those establishing or defining the functions of any bureau, office, or officer of the State Department.[64]

The Clinton Administration consolidation and reorganization plan, as submitted to Congress on December 30, 1998, leveraged this flexibility. Some of the initiatives were implementing measures that reflected the consolidation law's clear purposes. For example, the State Department expanded the number of senior positions within its Legislative Affairs bureau to augment the bureau's leadership positions and expertise regarding the department's newly transferred arms

[60] The White House (Clinton Administration), *Fact Sheet: Reinventing State, ACDA, USIA and AID*, press release, April 18, 1997, https://1997-2001.state.gov/global/general_foreign_policy/reinvent.html; and CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, pp. 7-8.

[61] "Foreign Affairs Reform and Restructuring Act of 1998 – Veto Message from the President of the United States," *Congressional Record*, daily edition, vol. 144 (October 21, 1998), p. H11698.

[62] CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth; see the "Summary" section.

[63] USIA's international broadcasting activities were not placed under the authority of the Department of State. Instead, they were transferred to the Broadcasting Board of Governors (BBG), an entity within USIA that the law elevated to an independent agency to supervise the federal government's nonmilitary international broadcasting programs. Additionally, the law authorized, but did not require, the abolition of the U.S. Agency for International Development. The President did not exercise this authority. See Section 1601(d) of Division G of P.L. 105-277. Transferred administrative functions included those "related to retirement counseling and processing, location of headquarters mainframe computer operations, storage of employees' household goods and other transportation and storage services." See https://1997-2001.state.gov/global/general_foreign_policy/rpt_981230_reorg2.html.

[64] See Sections 1601 and 1611 of Division G of P.L. 105-277.

control and public diplomacy responsibilities.[65] Other reform efforts reported to Congress sought to strengthen the State Department's operational effectiveness more broadly, including efforts to organize the Under Secretaries of State into a "Corporate Board," chaired by the Deputy Secretary, responsible for overseeing the State Department's operations. The Secretary strengthened the authority of individual Assistant Secretaries of State "to emphasize their primary policy and resource allocation role."[66] Additionally, the State Department detailed its plans to consolidate all domestic information technology personnel into the new Bureau of Information Resource Management.[67] These measures were not specifically required by P.L. 105-277. The process through which they were rolled out illustrated Congress's approach of specifying in law the broad parameters under which consolidation and reorganization would be implemented. At the same time, Congress tasked the State Department with conceiving and carrying out more targeted measures, provided they were reported to Congress and consistent with the law.

Reorganization and the Donald J. Trump Administration

Following the inauguration of President Trump in January 2017, Secretary of State Rex Tillerson initiated a "Redesign" initiative to implement White House directives intended "to improve the efficiency, effectiveness, and accountability of the executive branch" through "a plan to reorganize governmental functions and eliminate unnecessary agencies ... components of agencies, and agency programs."[68] Prior to its release, Secretary Tillerson characterized the initiative largely as a series of reforms intended to enhance the State Department's ability to deliver on its mission and modernize its management and policy development practices rather than to adjust its organizational structure.[69] However, Secretary Tillerson sought to advance the Redesign during a period in which some Members of Congress and other observers were expressing concern that his broad management priorities, including his support for cutting the State Department's budget and reducing the number of Foreign Service and Civil Service personnel, were part of a "doctrine of retreat" deemphasizing the use of diplomacy to meet what they saw as diminished U.S. foreign policy and national security goals.[70] In this context, some Members expressed concern that the Trump Administration might try to leverage the Redesign to make significant adjustments to the State Department's organizational structure. Examples of

[65] U.S. Department of State (Clinton Administration), "Policy Support Functions," Reorganization Plan and Report Submitted by President Clinton to the Congress on December 30, 1998, Pursuant to Section 1601 of the Foreign Affairs Reform and Restructuring Act of 1998, as Contained in P.L. 105-277, December 30, 1998, https://1997-2001.state.gov/global/general_foreign_policy/rpt_981230_reorg11.html.

[66] U.S. Department of State (Clinton Administration), "Reinvention," Reorganization Plan and Report Submitted by President Clinton to the Congress on December 30, 1998, Pursuant to Section 1601 of the Foreign Affairs Reform and Restructuring Act of 1998, as Contained in P.L. 105-277, December 30, 1998, https://1997-2001.state.gov/global/general_foreign_policy/rpt_981230_reorg19.html.

[67] Ibid.

[68] Executive Order 13781, "Comprehensive Plan for Reorganizing the Executive Branch," March 13, 2017.

[69] U.S. Department of State, remarks of Secretary of State Rex Tillerson, "Remarks at Town Hall," December 12, 2017, https://2017-2021.state.gov/remarks-at-town-hall/index.html; Testimony of Secretary of State Rex Tillerson, in U.S. Congress, Senate Committee on Foreign Relations, *State Department Budget - (Hearing)*, hearings, 115th Congress, 1st sess., June 13, 2017, https://plus.cq.com/doc/congressionaltranscripts-5875797?2.

[70] U.S. Congress, Senate Committee on Appropriations, *Department of State, Foreign Operations, and Related Programs Appropriations Bill, 2018*, report to accompany S. 1780, 115th Cong., 1st sess., S.Rept. 115-152, September 7, 2017, p. 6.

such adjustments included the merger of USAID into the State Department, and the transfer of the Bureaus of Population, Refugees, and Migration and, separately, Consular Affairs, to the Department of Homeland Security.[71] In addition to expressing concern about these actions, Members introduced legislation attempting to block or impose conditions on any such efforts.[72]

At the time of President Trump's inauguration, Congress had not passed a State Department authorization law for nearly 15 years. A frequently cited impediment to enacting such laws is the potential for controversial provisions to be raised, particularly when one party does not control both the House and Senate.[73] Both the House Foreign Affairs Committee and Senate Foreign Relations Committee (the "authorizing committees") drafted State Department authorization bills intended to provide oversight of different components of the Redesign initiative. Neither measure saw floor action.[74] Congress carried out oversight of the Redesign initiative largely through reporting requirements and policy measures included in annual appropriations measures. Many of these requirements obligated the State Department to consult with and notify the authorizing committees regarding organizational changes. Congress's decision to conduct oversight through the appropriations process may have enabled the House and Senate appropriations committees to have a more significant role than they did during the George H.W. Bush and Clinton Administration reorganization efforts.

Among other provisions enabling Congress to oversee the Redesign initiative, Section 7081 of the Department of State, Foreign Operations, and Related Programs (SFOPS) Appropriations Act, 2018 (Division K of P.L. 115-141), prohibited the State Department from using appropriated funds to implement a reorganization or redesign without prior consultation with and notification to Congress.[75] The law broadly defined "reorganization" or "redesign" to include not only the elimination, consolidation, or downsizing of the State Department and bureaus and offices therein (including through the transfer of the authorities and responsibilities of such bureaus and offices to other agencies), but also efforts to downsize the U.S. overseas presence or reduce the size of the State Department's workforce from the levels in place at the end of calendar year 2017.[76] The law required the State Department to provide a detailed justification in submitting formal notification. This justification included an assessment of how the proposed action would improve the efficiency and effectiveness of the State Department and, separately, an analysis of the impact of any such change on the ability of the United States to advance its national interests through diplomacy.[77] The law also obligated the State Department to provide regular reports to Congress

[71] U.S. Congress, Senate Committee on Foreign Relations, *Senate Foreign Relations Committee - As Released By The U.S. Congress*, hearings, 115th Cong., 1st sess., July 17, 2017, https://plus.cq.com/doc/congressionaltranscripts-5820735?3.

[72] See, for example, H.R. 5592 (115th Congress).

[73] CRS In Focus IF10293, *Foreign Relations Reauthorization: Background and Issues*, by Cory R. Gill and Emily M. Morgenstern.

[74] For example, see S. 1631 and H.R. 5592 (115th Congress).

[75] The Joint Explanatory Statement accompanying Division K of P.L. 115-141 noted that the term "prior consultation" shall mean a predecisional engagement between a relevant federal agency and the Committees on Appropriations during which such committees are provided a meaningful opportunity to provide relevant facts and opinions to inform the use of funds; the development, content, or conduct of a program or activity; or a decision to be taken. It added that "notification" entailed informing such committees "not less than 15 days in advance of the initial obligation of funds."

[76] For additional detail on this requirement, see Section 7081 of P.L. 115-141.

[77] To review both these and related requirements in full, see Section 7081 of P.L. 115-141 and U.S. Congress, House of Representatives, Committee on Rules, "Senate amendment to H.R. 1625 - TARGET Act [Consolidated Appropriations Act, 2018]," Division K – Department of State, Foreign Operations, and Related Programs Act, 2018, joint explanatory statement accompanying P.L. 115-141, http://docs.house.gov/billsthisweek/20180319/DIV%20K%20SFROPSSOM%20FY18-OMNI.OCR.pdf, pp. 71-73.

detailing the on-board personnel, hiring, and attrition levels of the State Department's Civil Service and Foreign Service at the bureau level, and a separate report analyzing and justifying State Department personnel cuts during calendar year 2017.[78]

In accordance with the process laid out in Executive Order 13781 (EO 13781) and related OMB memoranda, the State Department released the details of the Leadership and Modernization Impact Initiative (hereafter, the Impact Initiative), which served as the implementation phase of the Redesign, in its FY2019 Congressional Budget Justification.[79] The Impact Initiative consisted of several programs to improve the State Department's information technology and human resources operations, modernize the U.S. overseas presence, and realize efficiencies in areas such as human resources service delivery and real property management.

When discussing the Impact Initiative, State Department officials noted that all of the projects predated the Trump Administration-initiated reorganization of the executive branch and added that the Administration's reform-related directives helped focus attention and resources needed for implementation.[80] Some observers cited congressional skepticism of or outright opposition to Secretary Tillerson's Redesign plans as a key factor to what they perceived as the limited scope of the Impact Initiative relative to what Secretary Tillerson and senior Trump Administration officials may have first envisioned.[81] In this view, Congress was able to leverage its oversight authorities to prevent the Trump Administration from implementing a major reorganization of the State Department that faced broad congressional opposition. To carry out the Impact Initiative, the State Department requested $246 million in funding in FY2019 to implement several projects through three separate funding accounts.[82] Congress did not provide any line-item funding for the projects and did not expressly prohibit the State Department from using appropriated funds for such purposes in the FY2019 SFOPS Appropriations Act. This flexibility enabled the State Department to move forward, as long as it complied with consultation and notification requirements in law where necessary.

Potential Applicability of Past Organizational Reform Efforts for the 117th Congress

Importance of Legislative and Executive Branch Prerogatives

The legislative and executive branches each maintain closely guarded prerogatives allowing them to influence the State Department's organization and functions. Primary constitutional

[78] See Section 7081(b)(1)(B) and Section 7081(b)(1)(C) of P.L. 115-141. The law required the State Department to provide personnel information "on an operating unit-by-operating unit basis." The primary operating unit of the State Department is the bureau, and the State Department provides this information at the bureau level.

[79] U.S. Department of State, *Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs – Fiscal Year 2019*, February 12, 2018, pp. 7-16.

[80] Government Accountability Office, *State Department - Leadership Focus Needed to Guide Agency Reform Efforts*, GAO-19-450, August 1, 2019, p. 6.

[81] Nahal Toosi, "Tillerson scales back State Department restructuring plan," *Politico*, February 7, 2018, https://www.politico.com/story/2018/02/07/tillerson-state-department-restructuring-downsizing-397612.

[82] FY2019 State, Foreign Operations, and Related Programs budget request presentation slides, prepared by the State Department and shared with Congress in February 2018, slide 9. The accounts for which the State Department requested funds were the IT Central Fund (funded through the Capital Investment Fund appropriations account and expedited passport fees), the Diplomatic Programs appropriations account, and the Embassy Security, Construction, and Maintenance appropriations account.

responsibility for the structural organization of the executive branch, as well as the creation of the executive branch's principal components, such as the Department of State, rests with Congress.[83] Congress has in turn delineated both the authorities of the Secretary of State and the State Department's broad organizational structure through statute.[84] However, the Constitution explicitly affords the President foreign affairs-related authorities, through which Presidents have leveraged so-called "implied powers." For example, the Constitution's explicit conferral on the President of the authority to appoint and receive ambassadors has generally been interpreted as allowing the President to conduct U.S. diplomacy more generally.[85] Such implied powers, coupled with the numerous administrative tools that the President and appointed agency heads can use to make statutorily permitted structural and procedural changes, allow the executive branch to influence the State Department's organization and day-to-day management practices.[86]

The case studies used in this report show that when the legislative and executive branches successfully negotiated a statutory State Department reorganization, the laws either reflected this status quo regarding executive and legislative branch prerogatives or sought to restore it following a period where seemingly targeted provisions may have cumulatively altered the long-standing balance. For example, Congress's decision in 1994 to clearly provide the Secretary of State near-exclusive responsibility to delegate authorities to subordinate officials marked a return to previous arrangements, as this responsibility was largely vested in the Secretary until Congress appeared to begin vesting authorities directly in subordinate officials in the 1960s and 1970s. The 1998 agency consolidation law also reinforced existing prerogatives of both branches. Congress specified the key parameters of agency consolidation, principally the abolition of USIA and ACDA, and the statute gave the executive branch the flexibility to develop and implement more granular reorganization measures to further improve the State Department's management practices and align them with the statute's goals.[87]

The nature of past State Department reorganization laws, wherein legislative and executive branch prerogatives were typically reinforced or restored rather than challenged, may provide the 117th Congress with insights into the potential scope and purpose of a future statutory reorganization. The branches may be less likely to reach a consensus on a future reorganization if the prerogatives of one branch seem to impinge on those of the other. For example, some Members of Congress expressed concern during the Trump Administration that Secretary Tillerson's Redesign initiative risked fundamentally changing the State Department's organizational structure, including the transfer of State Department bureaus responsible for consular and refugee matters to other federal agencies and significant cuts to the number of State Department Foreign Service and Civil Service personnel.[88] In response, Congress sought to reassert its authority in this area by including provisions in annual appropriations laws intended to prevent the Administration from unilaterally carrying out such actions. Congressional concerns regarding the possible scope of the Trump Administration's reforms, coupled with what some in Congress saw as limited executive branch communication on such matters, may have precluded

[83] CRS Report R44909, *Executive Branch Reorganization*, by Henry B. Hogue, p. 1.

[84] See 22 U.S.C. §2651a.

[85] Jonathan Masters, "U.S. Foreign Policy Powers: Congress and the President," *Council on Foreign Relations*, March 2, 2017, https://www.cfr.org/backgrounder/us-foreign-policy-powers-congress-and-president.

[86] CRS Report R44909, *Executive Branch Reorganization*, by Henry B. Hogue, p. 2.

[87] See Sections 1601 and 1611 of Division G of P.L. 105-277.

[88] Senate Committee on Appropriations, *Department of State, Foreign Operations, and Related Programs Appropriations Bill, 2018*, p. 6; House Committee on Foreign Affairs, *House Foreign Affairs Committee State Department Redesign - (Hearing) - As Released By The U.S. Congress*.

the Trump Administration from securing broad congressional support for a wide-ranging reorganization initiative.

Transparency and Identifying Shared Goals

The nature of past executive and legislative branch efforts to pursue a comprehensive statutory reorganization of the State Department indicates that the branches are more likely to agree on the course of a reorganization if they are forthcoming regarding their plans and work to identify shared priorities. As noted previously, bipartisan congressional concern regarding the Trump Administration's allegedly limited communication and consultation with Congress on Secretary Tillerson's Redesign effort may have contributed to the initiative's ultimately limited scope. For example, when calling on the Administration to "enhance its transparency" regarding the Redesign efforts, Senators Benjamin Cardin and Todd Young warned that "reforms conducted without Congress, or in opposition to the will of Congress, will be small-scale, temporary, or both."[89] Similarly, Representative Howard Berman stated in 1991 that he and other Members generally supported the goals of the George H.W. Bush Administration's reorganization initiative. However, Representative Berman added that he and other Members had decided that they could not provide the Administration the authority to implement the initiative without what they characterized as a "detailed reorganization plan."[90]

The Clinton Administration attempted to link its proposed reforms with concrete strategic priorities of interest to Congress. For example, when proposing organizational reforms in 1993, Secretary Christopher's stated intention to strengthen the State Department's capacity to engage on transnational issues resonated with some Members, especially given long-standing concerns within Congress and among other observers that the State Department was giving short shrift to such matters.[91] In a memorandum Secretary Christopher transmitted to the State Department's staff in February 1993, he said he wanted the State Department "to be able to deal more effectively with the new issues of critical importance to our nation's foreign policy," including "fighting international crime and terrorism" and "dealing more effectively with global environmental problems."[92] The following month, Representative Berman similarly noted that the Foreign Service should "embrace its new transnational challenges," including those pertaining to the environment and counterterrorism, in order to "become a larger, more dynamic, more publicly relevant organization."[93] While the Clinton Administration's proposed reorganization was substantively similar to the George H.W. Bush Administration plan that Congress rejected, the Clinton Administration's emphasis on identifying and emphasizing shared goals with Congress may have influenced Congress's decision to enact many of the requested statutory changes. Other key factors, principally the partisan alignment between the congressional majorities in the Senate and the House of Representatives and the Clinton Administration during this time (a condition

[89] Letter from Senator Benjamin L. Cardin and Senator Todd Young to John Sullivan, Deputy Secretary of State, December 5, 2017.

[90] House Committee on Foreign Affairs, *Authorizing Appropriations for Fiscal Years 1992-93 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and For Other Purposes*, p. 696.

[91] House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, pp. 2, 10, 16, 139-140, 179, 189.

[92] Memorandum from Secretary of State Warren Christopher to all State Department employees, February 2, 1993.

[93] House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, pp. 177-178.

that did not exist when the George H.W. Bush Administration issued its proposed reorganization initiative), may have also been instrumental to the Administration's success.

The interests of Congress and the State Department also appeared to converge during debate over the consolidation of foreign affairs agencies in the mid- and late 1990s. In this case, the process was more gradual and may have more clearly reflected a degree of deal-making rather than genuine ideological alignment between the branches.[94] Such conditions may have owed in part to changes in Congress, where Republicans secured majorities in the Senate and the House of Representatives in the 1994 midterm elections. For Congress, budget savings generally served as the primary force driving advocacy for agency consolidation. Critics of U.S. foreign policy management during this time, including some Members of Congress, also identified what they saw as a need for a streamlined U.S. foreign policy mechanism that eliminated similarly structured bureaus across different agencies.[95] The inverse situation emerged in the executive branch—those who supported agency consolidation emphasized that doing so would foster a more coherent U.S. foreign policy apparatus, although they noted that consolidation would additionally enable the remaining foreign affairs agencies to maximize limited congressional funding.[96] Support for agency consolidation appears to have increased after President Clinton reportedly concluded that the experiences of U.S. interventions in Haiti and Bosnia justified consolidation on strategic grounds.[97] To some observers, the Clinton Administration appeared willing to move forward with an agency consolidation on agreeable terms given congressional support of other elements of its foreign policy agenda, such as provision of Senate advice and consent to ratification of the Chemical Weapons Convention.[98]

Members of Congress who are inclined to support a statutory State Department reorganization in the 117th Congress may cite the Clinton Administration's congressional engagement strategy if they advise or consult with Biden Administration officials on such matters. Congressional reaction to the Bush Administration's reorganization proposal may suggest that an absence of engagement risks undermining prospects for reorganization, regardless of the substantive content of the reorganization package. Both Members of Congress and executive branch officials who support a reorganization also may seek to apply lessons learned from the process through which agency consolidation was considered in the late 1990s. Connecting a reorganization measure with other legislative and executive branch priorities requiring congressional action may increase prospects for passage.

Negotiations and Maintaining Communication

In the case studies examined in this report, neither the legislative nor the executive branch immediately endorsed or implemented the first version of an organizational reform proposal that the other branch transmitted for consideration. In cases where the branches reached a consensus on reorganization, lengthy periods of consideration and negotiation, both within and between the branches, were required. For example, although the Clinton Administration began informing

[94] CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, pp. 2, 3; and John F. Harris and Thomas W. Lippman, "Clinton Agrees to Shift Foreign Policy Agencies."

[95] CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, pp. 3, 8-9.

[96] Ibid., p. 2.

[97] Ibid., p. 3; John F. Harris and Thomas W. Lippman, "Clinton Agrees to Shift Foreign Policy Agencies."

[98] Ibid.

Congress of its intent to restructure the State Department to better address post-Cold War foreign policy priorities in early 1993, the Administration was not able to implement many of its reorganization initiatives until April 1994, with the enactment of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236).[99] During this period, the Senate Foreign Relations Committee and the House Foreign Affairs Committee convened over a dozen total hearings or markups focusing at least in part on the organization of the State Department and other foreign affairs agencies, and Congress considered and debated the legislation that was eventually enacted into law for over 10 months.[100]

The following year, Congress began advancing legislation to eliminate USAID, ACDA, and USIA while transferring many of their remaining functions to the State Department. The Clinton Administration opposed this approach. Congress passed compromise legislation in 1996 that would have required President Clinton to abolish only one agency, reflecting concerns among some Members that the State Department needed more flexibility in implementing a consolidation of the foreign affairs agencies. However, President Clinton vetoed this compromise bill due to concerns that it jeopardized his ability to manage the foreign affairs agencies.[101] President Clinton's views regarding the strategic efficacy of consolidating foreign affairs agencies apparently shifted in 1997, a development that appears to have been among the factors leading the Administration to reach an agreement with Congress on a consolidation plan in 1998. Negotiations remained intense in the months leading to the final agreement, as Members of Congress disagreed with both one another and the executive branch on significant matters, principally the degree to which USAID should be integrated into the State Department and subject to the authority of the Secretary of State.[102]

When considering the protracted negotiations required for the executive and legislative branches to reach consensus on the content of statutory State Department reorganizations in 1994 and 1998, Members of the 117th Congress may conclude that another statutory reorganization will require significant time and political capital. Any new, mutually agreed-upon reorganization law may also reflect concessions from both branches. For example, while Congress acceded to the Clinton Administration's request for additional authorized Assistant Secretary of State positions in the 1994 measure, Congress provided only a third of the Administration's requested positions. Compromise was apparent in the 1998 agency consolidation: the final measure sought to incorporate executive branch concerns, by requiring the Clinton Administration to abolish only two of the three agencies Congress initially targeted, and did not include many of the prescriptive measures present in earlier bills regarding the State Department's organizational structure.

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[99] Secretary Christopher publicly shared details regarding his organizational reform plans with Congress as early as January 1993. See U.S. Congress, Senate Committee on Foreign Relations, *Nomination of Warren M. Christopher to be Secretary of State,* hearing, 103rd Cong., 1st sess., January 13 and 14, 1993, pp. 25, 74, 83-84, 88, 97, 196.

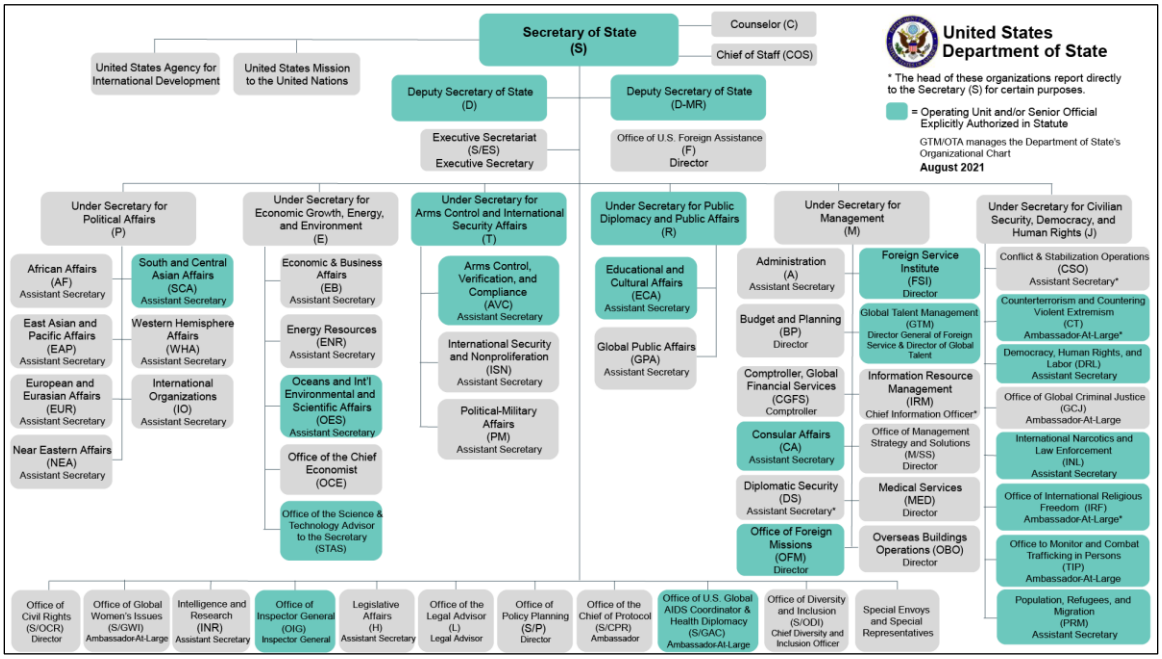
[100] For example, see U.S. Congress, House Committee on Foreign Affairs, Subcommittee on International Operations, *The State Department, USIA, and Related Agencies Authorization Act for Fiscal Years 1994-1995*, hearings, 103rd Cong., 1st sess., February 23, 1993, March 10, 1993, March 17, 1993, March 23, 1993, March 24, 1993, April 1, 1993, April 20, 1993, May 26, 1993, June 8, 1993; U.S. Congress, Senate Committee on Foreign Relations, *U.S. Arms Control Disarmament Agency Authorization and Consideration of the Agency's Future Status and Responsibilities*, hearings, 103rd Cong., 1st sess., July 14, 1993; U.S. Congress, Senate Committee on Foreign Relations, *Fiscal Year 1994 Foreign Relations Authorization Act: Budget Requests*, hearings, 103rd Cong., 1st sess., May 12, 1993, June 9, 1993, June 17, 1993; and U.S. Congress, House Committee on Foreign Affairs, Subcommittee on International Security, International Organizations and Human Rights, *Arms Control and Disarmament Agenc*y, hearings, 103rd Cong., 1st sess., April 27, 1993.

[101] CRS Report 97-538, *Foreign Policy Agency Reorganization in the 105th Congress*, by Susan B. Epstein, Larry Nowels, and Steven A. Hildreth, pp. 3-4.

[102] Ibid., p. 18.

Members of the 117th Congress may consider using their own authorities to reorganize the State Department's bureaucratic structure without executive branch support. Precedent for such action exists. For example, during consideration of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (P.L. 102-138), Congress rejected the Bush Administration's reorganization proposal and, separately, required the State Department to create an Assistant Secretary of State for South Asian Affairs, despite Bush Administration opposition. Some observers may argue that Congress should avoid mandating reorganization measures that the State Department opposes, especially when the executive and legislative branches generally agree that a statutory reorganization is necessary but have not reached a consensus on its precise terms. Unilateral action by either branch under such circumstances, this argument follows, may prompt a veto by the President (in the case of legislative action) or risk diminishing prospects for agreement on broader reforms.

Appendix. State Department Operating Units and Senior Positions



Source: U.S. Department of State, "Department of State Organization Chart," https://www.state.gov/wp-content/uploads/2021/09/DOS-Org-Chart-August-2021.pptx.

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