Public Law 94-141
94th Congress

An Act

Nov. 29, 1975
[S. 1517]

To authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes.

Foreign Relations Authorization Act, Fiscal Year 1976.
22 USC 2687 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1976".

TITLE I—ADMINISTRATION OF FOREIGN AFFAIRS

PART 1—DEPARTMENT OF STATE

AUTHORIZATION

SEC. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1976, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for the "Administration of Foreign Affairs", $439,055,000; and

(2) such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c) The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, is further amended by adding at the end thereof the following new section:

22 USC 2687.

"SEC. 17. The Secretary of State is authorized to use appropriated funds for unusual expenses similar to those authorized by section 5913 of title 5, United States Code, incident to the operation and maintenance of the living quarters of the United States Representative to the Organization of American States.".

TRAVEL DOCUMENT AND ISSUANCE SYSTEM

SEC. 102. (a) Except as provided in subsection (b), no part of any funds authorized to be appropriated by this title may be used for the development or implementation of the Travel Document and Issuance System which has been proposed by the United States Passport Office (and which involves a restructuring of the passport issuance function and the issuance of machine readable passport books), or of any other new passport system.

Study.

(b) Not to exceed $100,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available for a study of the desirability and cost implications of the Travel Document and Issuance System described in subsection (a). Such study shall be transmitted to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate.

Transmittal to Speaker of the House and Senate committee.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

BEQUEST OF AMBASSADOR THURSTON

SEC. 103. There is authorized to be appropriated to the Department of State for fiscal year 1976 the sum of $125,000, to remain available until expended, for the purpose of furnishing or refurnishing the diplomatic reception rooms of the Department of State, such sum representing the amount bequeathed by the late Ambassador Walter Thurston to the United States of America.

Appropriation authorization.

CRITERIA REGARDING SELECTION AND CONFIRMATION OF AMBASSADORS

SEC. 104. The Act of August 1, 1956 (Public Law 84-885; 70 Stat. 890) is amended by adding at the end thereof the following new section:

"SEC. 18. It is the sense of the Congress that the position of United States ambassador to a foreign country should be accorded to men and women possessing clearly demonstrated competence to perform ambassadorial duties. No individual should be accorded the position of United States ambassador to a foreign country primarily because of financial contributions to political campaigns.".

22 USC 2688.

REOPENING OF UNITED STATES CONSULATE AT GOTHENBURG, SWEDEN

SEC. 105. (a) It is the sense of the Congress that the United States Consulate at Gothenburg, Sweden, should be reopened as soon as possible after the date of enactment of this Act.

(b)(1) There are authorized to be appropriated for the Department of State for fiscal year 1976, in addition to amounts authorized under section 101 of this Act, such sums as may be necessary for the operation of such consulate.

Appropriation authorization.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

AGRICULTURAL ATTACHÉ IN CHINA

SEC. 106. It is the sense of the Congress that the President should establish an agricultural attaché in the People's Republic of China.

PART 2—ARMS CONTROL AND DISARMAMENT AGENCY

AUTHORIZATION

SEC. 141. Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended by inserting in the second sentence thereof immediately after "$10,100,000," the following: "and for fiscal years 1976 and 1977 the sum of $23,440,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs),".

STUDY REGARDING IMPACT OF CERTAIN ARMS CONTROL MEASURES UPON MILITARY EXPENDITURES

SEC. 142. Of the amount appropriated under the amendment made by section 141 of this Act, not to exceed $1,000,000 shall be used by the Director of the Arms Control and Disarmament Agency to conduct a study of the impact upon military expenditures of arms control measures mutually agreed to by the United States and the Soviet Union. The Director of the Arms Control and Disarmament Agency shall

Reports to Speaker of the House and Senate committee.

submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate—

(1) from time to time, reports with respect to such study, and

(2) not later than December 31, 1976, a final report setting forth the findings and conclusions of such study.

RESEARCH REGARDING DEVELOPMENT OF NUCLEAR SAFEGUARD TECHNIQUES

SEC. 143. In addition to amounts otherwise available under the amendment made by section 141 of this Act, $440,000 may be used for the purpose of conducting research, in consultation with the International Atomic Energy Agency, with respect to the development of nuclear safeguard techniques.

PURPOSES OF ARMS CONTROL AND DISARMAMENT ACT

SEC. 144. Section 2 of the Arms Control and Disarmament Act (22 U.S.C. 2551) is amended by striking out "It must be able" in the second sentence of the third paragraph and inserting in lieu thereof "It shall have the authority, under the direction of the President and the Secretary of State,".

NATIONAL SECURITY COUNCIL

SEC. 145. Section 22 of the Arms Control and Disarmament Act (22 U.S.C. 2562) is amended by inserting ", the National Security Council," immediately after "Secretary of State" in the first sentence.

ARMS CONTROL AND DISARMAMENT IMPACT STATEMENT

SEC. 146. Title III of the Arms Control and Disarmament Act (22 U.S.C. 2571-2575) is amended by adding at the end thereof the following:

"ARMS CONTROL IMPACT INFORMATION AND ANALYSIS

22 USC 2576.

"SEC. 36. (a) In order to assist the Director in the performance of his duties with respect to arms control and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

"(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,

"(2) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

"(A) an estimated total program cost in excess of $250,000,000, or

"(B) an estimated annual program cost in excess of $50,000,000, or

"(3) any other program involving weapons systems or technology which such Government agency or the Director believes may have a significant impact on arms control and disarmament policy or negotiations,

shall, on a continuing basis, provide the Director with full and timely access to detailed information, in accordance with the procedures

established pursuant to section 35 of this Act, with respect to the nature, scope, and purpose of such proposal.

22 USC 2575.

"(b)(1) The Director, as he deems appropriate, shall assess and analyze each program described in subsection (a) with respect to its impact on arms control and disarmament policy and negotiations, and shall advise and make recommendations, on the basis of such assessment and analysis, to the National Security Council, the Office of Management and Budget, and the Government agency proposing such program.

Program assessment and analysis.

"(2) Any request to the Congress for authorization or appropriations for—

"(A) any program described in subsection (a) (1) or (2), or

"(B) any program described in subsection (a)(3) and found by the National Security Council, on the basis of the advice and recommendations received from the Director, to have a significant impact on arms control and disarmament policy or negotiations,

shall include a complete statement analyzing the impact of such program on arms control and disarmament policy and negotiations.

"(3) Upon the request of the Committee on Armed Services of the Senate or the House of Representatives, the Committee on Appropriations of the Senate or the House of Representatives, the Committee on Foreign Relations of the Senate, or the Committee on International Relations of the House of Representatives or the Joint Committee on Atomic Energy, the Director shall, after informing the Secretary of State, advise such committee on the arms control and disarmament implications of any program with respect to which a statement has been submitted to the Congress pursuant to paragraph (2).

"(c) No court shall have any jurisdiction under any law to compel the performance of any requirement of this section or to review the adequacy of the performance of any such requirement on the part of any Government agency (including the Agency and the Director).".

SECURITY REQUIREMENTS FOR CERTAIN CONSULTANTS AND CONTRACTORS

SEC. 147. (a)(1) The second sentence of section 45(a) of the Arms Control and Disarmament Act (22 U.S.C. 2585(a)) is amended by striking out "The Director" and inserting in lieu thereof "Except as provided in subsection (d), the Director".

(2) The fifth sentence of section 45(a) of such Act is amended by striking out "No person" and inserting in lieu thereof "Except as provided in subsection (d), no person".

(3) Section 45 of such Act is amended by adding at the end thereof the following new subsection:

"(d) The investigations and determination required under subsection (a) may be waived by the Director in the case of any consultant who will not be permitted to have access to classified information if the Director determines and certifies in writing that such waiver is in the best interests of the United States.".

Waiver.

(b) Section 45(b) of such Act (22 U.S.C. 2585(b)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing and the provisions of subsection (a), the Director may also grant access to classified information to contractors or subcontractors and their officers and employees, actual or prospective, on the basis of a security clearance granted by the Department of Defense, or any agency thereof, to the individual concerned; except that any access to Restricted Data shall be subject to the provisions of subsection (c).".

Contractors or subcontractors, access to classified information.

PUBLIC INFORMATION

Repeal.

SEC. 148. Section 49(d) of the Arms Control and Disarmament Act (22 U.S.C. 2589(d)) is repealed.

REPORT TO CONGRESS; POSTURE STATEMENT

SEC. 149. Section 50 of the Arms Control and Disarmament Act (22 U.S.C. 2590) is amended by adding at the end thereof the following new sentence: "Such report shall include a complete and analytical statement of arms control and disarmament goals, negotiations, and activities and an appraisal of the status and prospects of arms control negotiations and of arms control measures in effect.".

CONSULTATION REGARDING ARMS TRANSFERS

SEC. 150. (a) Section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934) is amended by adding at the end thereof the following new section:

"(f) Decisions on issuing licenses for the export of articles on the United States munitions list shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.".

Coordination with Director of U.S. Arms Control and Disarmament Agency.

(b) Section 42(a) of the Foreign Military Sales Act (22 U.S.C. 2791(a)), is amended by striking out "(3)" and inserting in lieu thereof "(3) in coordination with the Director of the United States Arms Control and Disarmament Agency, the Director's opinion as to".

(c) Section 511 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321(d)) is amended by striking out the words "take into account" and inserting in lieu thereof "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to".

22 USC 2321d.

PART 3—FOREIGN SERVICE BUILDINGS

AUTHORIZATION

SEC. 171. (a) Subsection (g) of section 4 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295) is amended—

(1) in subparagraph (1)(A), by striking out "$2,190,000" and inserting in lieu thereof "$850,000";

(2) in subparagraph (1)(B), by striking out "$375,000" and inserting in lieu thereof "$240,000";

(3) in subparagraph (1)(C), by striking out "$4,780,000" and inserting in lieu thereof "$682,000";

(4) in subparagraph (1)(D), by striking out "$2,585,000" and inserting in lieu thereof "$1,243,000"; and

(5) in subparagraph (1)(E), by striking out "$3,518,000" and inserting in lieu thereof "$10,433,000".

(b) Section 4 of such Act is further amended—

(1) by redesignating subsection (h) as subsection (i) and by inserting immediately after subsection (g) the following new subsection:

Appropriation authorization.

"(h) In addition to amounts authorized before the date of enactment of this subsection, there is authorized to be appropriated to the Secretary of State—

"(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

"(A) for use in Africa, not to exceed $865,000 for the fiscal year 1977;

"(B) for use in the American Republics, not to exceed $2,450,000 for the fiscal year 1977;

"(C) for use in Europe, not to exceed $6,725,000 for fiscal year 1977;

"(D) for use in East Asia, not to exceed $875,000 for the fiscal year 1977;

"(E) for use in the Near East and South Asia, not to exceed $8,005,000, of which not to exceed $3,985,000 may be appropriated for the fiscal year 1976;

"(F) for facilities for the United States Information Agency, not to exceed $3,745,000, of which not to exceed $2,800,000 may be appropriated for the fiscal year 1976; and

"(G) for facilities for agricultural and defense attaché housing, not to exceed $420,000 for the fiscal year 1977; and

"(2) for use to carry out the other purposes of this Act for fiscal years 1976 and 1977, $71,600,000, of which not to exceed $32,840,000 may be appropriated for fiscal year 1976."; and

(2) by striking out paragraph (2) of subsection (i) as so redesignated by paragraph (1) of this Act and inserting in lieu thereof the following new paragraph:

"(2) Not to exceed 10 per centum of the funds authorized by any subparagraph under paragraph (1) of subsections (d), (f), (g), and (h) of this section may be used for any of the purposes for which funds are authorized under any other subparagraph of any of such paragraph (1).".

TITLE II—INTERNATIONAL ORGANIZATIONS, CONFERENCES, AND COMMISSIONS

GENERAL AUTHORIZATIONS

SEC. 201. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1976, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for "International Organizations and Conferences", $250,228,000;

(2) for "International Commissions", $19,993,000; and

(3) such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to remain available until expended.

EXCEPTION TO LIMITATION ON PAYMENTS TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Appropriation authorization.

SEC. 202. Notwithstanding the proviso in the seventh paragraph of title I of the Act of October 25, 1972 (86 Stat. 1110), there is authorized to be appropriated $366,675 for the contribution of the United States toward the calendar year 1974 budget of the International Civil Aviation Organization.

LIMITATIONS ON CONTRIBUTIONS AND PAYMENTS TO IAEA, ICAO, AND UNITED NATIONS PEACEKEEPING ACTIVITIES

22 USC 287e note.

SEC. 203. Public Law 92-544 (86 Stat. 1109, 1110) is amended, in the paragraph headed "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" under "INTERNATIONAL ORGANIZATIONS AND CONFERENCES", by inserting a period after "organization", striking out the text following and inserting in lieu thereof the following: "Appropriations are authorized and contributions and payments may be made to the following organizations and activities notwithstanding that such contributions and payments are in excess of 25 per centum of the total annual assessment of the respective organization or 33⅓ per centum of the budget for the respective activity: the International Atomic Energy Agency, the joint financing program of the International Civil Aviation Organization, and contributions for international peacekeeping activities conducted by or under the auspices of the United Nations or through multilateral agreements.".

INTERPARLIAMENTARY UNION

Appropriation authorization.

SEC. 204. (a) The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276), is amended to read as follows: "That there is authorized to be appropriated for fiscal year 1976 and for each subsequent fiscal year—

"(1) for the annual contribution of the United States toward the maintenance of the Bureau of the Interparliamentary Union for the promotion of international arbitration, an amount equal to 13.61 per centum of the budget of the Interparliamentary Union for the year with respect to which such contribution is to be made if the American group of the Interparliamentary Union has approved such budget; and

"(2) to assist in meeting the expenses of the American group for such fiscal year, $45,000, or so much thereof as may be necessary.

Funds made available under paragraph (2) shall be disbursed on vouchers to be approved by the president and the executive secretary of the American group.".

(b) Such Act of June 28, 1935, is further amended by adding at the end thereof the following new section:

22 USC 276a-1.

"SEC. 3. After January 1, 1976, there shall be not to exceed nine delegates from the House of Representatives to each Conference of the Interparliamentary Union, such delegates to be appointed by the Speaker of the House of Representatives. Not more than five delegates from the House of Representatives to any such Conference may be of the same political party.".

22 USC 276c.

(c) The Act of June 30, 1958 (Public Law 85-474; 72 Stat. 244) is amended by adding at the end thereof the following new sentence: "Not less than two Senators so designated shall be members of the Committee on Foreign Relations.".

UNITED STATES CONTRIBUTION TO THE UNITED NATIONS UNIVERSITY ENDOWMENT FUND

Appropriation authorization.

SEC. 205. There is authorized to be appropriated, upon request of the President, to the President for fiscal year 1977, $10,000,000 to be used for a contribution of the United States to the United Nations

University Endowment Fund, such contribution to be made on such terms as the President finds will promote the purposes of the University as stated in University Charter approved by the General Assembly of the United Nations in December 1973; except that the contribution of the United States to the United Nations University Endowment Fund may not exceed 25 per centum of the total amount actually contributed to such fund by other members of the United Nations. Amounts appropriated under this section are authorized to remain available until expended.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

SEC. 206. Section 2 of the Act of June 4, 1936 (49 Stat. 1463), is amended—

(1) by striking out "$3,000,000" and inserting in lieu thereof "$4,500,000"; and

(2) by striking out "$4,000,000", and inserting in lieu thereof "$5,500,000".

TITLE III—EDUCATIONAL EXCHANGE

AUTHORIZATION

SEC. 301. (a) There are authorized to be appropriated for the Department of State for fiscal year 1976, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for "Educational Exchange", $78,800,000; and

(2) such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c) No funds from the Government and Relief in Occupied Areas (G.A.R.I.O.A.) Account are authorized to be appropriated under this section.

TITLE IV—FOREIGN SERVICE

ASSIGNMENT OF FOREIGN SERVICE OFFICERS TO PUBLIC ORGANIZATIONS

SEC. 401. (a) Section 576 of the Foreign Service Act of 1946 (22 U.S.C. 966) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) A substantial number of Foreign Service officers shall, before their fifteenth year of service as such officers, be assigned in the United States, or any territory or possession thereof, for significant duty with a State or local government, public school, community college, or other public organization designated by the Secretary. Such duty may include assignment to a Member or office of the Congress, except that of the total number of officers assigned under this section at any one time, not more than 20 per centum may be assigned to Congress.

"(2) To the extent practical, assignments shall be for at least twelve consecutive months and may be on a reimbursable basis. Any such reimbursements shall be credited to and used by the appropriations made available for the salaries and expenses of officers or employees.".

(2) Strike out the second and third sentences of subsection (b).

(3) At the end thereof add the following new subsections:

Report to Speaker of the House and Senate committee.

"(e) Not later than six months after the date of enactment of this subsection, the Secretary shall transmit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate describing the steps he has taken to carry out the provisions of this section; and he shall transmit such reports annually thereafter.

Effective date.

"(f) The provisions of this section shall apply only to a Foreign Service officer who has completed his tenth year of service as such an officer on or after October 1, 1975.".

Repeal.

(b) Section 9(b) of the State Department/USIA Authorization Act, Fiscal Year 1975 (22 U.S.C. 966 note) is repealed.

ELIMINATION OF CERTAIN AFFIDAVIT REQUIREMENTS FOR FOREIGN SERVICE OFFICERS WHO ARE PROMOTED

SEC. 402. Section 621 of the Foreign Service Act of 1946 (22 U.S.C. 991) is amended by adding at the end thereof the following new sentence: "The affidavit requirements of sections 3332 and 3333(a) of title 5 of the United States Code shall not apply with respect to a Foreign Service officer who has complied with such requirements and who is subsequently promoted by appointment to a higher class without a break in service.".

WITHIN-CLASS SALARY INCREASES OF FOREIGN SERVICE OFFICERS AND RESERVE OFFICERS

SEC. 403. Section 625 of the Foreign Service Act of 1946 (22 U.S.C. 995) is amended to read as follows:

"SEC. 625. (a) Any Foreign Service officer or any Reserve officer, whose services meet the standards required for the efficient conduct of the work of the Service and who shall have been in a given class for a continuous period of nine months or more, shall, on the first day of the first pay period that begins on or after July 1 each year, receive an increase in salary to the next higher rate for the class in which such officer is serving. Credit toward such nine-month period may be granted to an officer in accordance with such regulations as the Secretary may prescribe for any civilian service of such officer with the Government or with the government of the District of Columbia which was performed subsequent to any break in service in excess of three calendar days and subsequent to the officer's last equivalent increase in pay. As used in this subsection, the term 'equivalent increase in pay' means—

"Equivalent increase in pay."

"(1) any increase in basic salary resulting from—

"(A) a grade or class promotion,

"(B) a regularly scheduled within-grade or within-class step increase, or

"(C) a salary adjustment or combination of adjustments—

"(i) made since the last equivalent increase in pay,

"(ii) resulting from conversion from one pay system to another, and

"(iii) equal to or greater than the amount of the within-class increase for the class to which the officer was appointed; or

"(2) such other increases in salary as the Secretary may by regulation designate;

but does not include any general increase in salary granted by law or any within-grade or within-class increase in salary awarded for meritorious performance.

"(b) Without regard to any other law, the Secretary is authorized to grant to any Foreign Service officer or any Reserve officer additional increases in salary, within the salary range established for the class in which such officer is serving, based upon especially meritorious service.".

GRIEVANCE PROCEDURE

SEC. 404. (a) Title VI of the Foreign Service Act of 1946 (22 U.S.C. 981) is amended by adding at the end thereof the following new part:

"PART J—FOREIGN SERVICE GRIEVANCES

"STATEMENT OF PURPOSE

"SEC. 691. It is the purpose of this part to provide officers and employees of the Service and their survivors a grievance procedure to insure a full measure of due process, and to provide for the just consideration and resolution of grievances of such officers, employees, and survivors. 22 USC 1037.

"REGULATIONS OF THE SECRETARY

"SEC. 692. The Secretary shall, consistent with the purposes stated in section 691 of this Act, implement this part by promulgating regulations, and revising those regulations when necessary, to provide for the consideration and resolution of grievances by a board. No such regulation promulgated by the Secretary shall in any manner alter or abridge the provisions of due process established by this section for grievants. The regulations shall include, but not be limited to, the following: 22 USC 1037a.

"(1) Procedures for the resolution of grievances in accordance with the purposes of this part shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not otherwise resolved under agency procedures within ninety days of presentation, a grievant shall be entitled to file a grievance with the board for its consideration and resolution. For the purposes of the regulations— Definitions.

"(A) 'grievant' shall mean any officer or employee of the Service who is a citizen of the United States; or for purposes of subparagraphs (C) and (D), a former officer or employee of the Service; or in the case of death of the officer or employee, a surviving spouse or dependent family member of the officer or employee;

"(B) 'grievance' shall mean any act or condition subject to the control of the Department of State, United States Information Agency, or the Agency for International Development (hereafter in this part referred to as the foreign affairs agencies, or agencies) which is alleged to deprive the grievant of a right or benefit authorized by law or regulation, or is otherwise a source of concern or dissatisfaction to the grievant; and grievances shall include but not be limited to complaints against separation of an officer or employee allegedly contrary to law or regulation or predicated upon alleged inaccuracy (including inaccuracy resulting from omission of any relevant and material document) or falsely prejudicial character of any part of the grievant's official personnel record; other alleged violation, misinterpretation, or misapplication of applicable law, regulation, or published policy affecting the terms and conditions of the grievant's employment or career status; allegedly wrongful disciplinary action against

an employee constituting a reprimand or suspension from official duties; dissatisfaction with any matter subject to the control of the agency with respect to the grievant's physical working environment; alleged inaccuracy, error, or falsely prejudicial material in the grievant's official personnel file; and action alleged to be in the nature of reprisal for an employee's participation in grievance procedures; but grievances shall not include complaints against individual assignments or transfers of Foreign Service officers or employees which are ordered in accordance with law and regulation, judgments of Selection Boards pursuant to section 623 or of equivalent bodies in ranking Foreign Service officers and employees for promotion on the basis of merit or judgments in examinations prescribed by the Board of Examiners pursuant to section 516 or 517, termination of time limited appointments pursuant to section 638 and the pertinent regulations prescribed by the employing agency, or any complaints or appeals where a specific statutory appeal procedure exists (other matters not specified in this paragraph may be excluded as grievances only by written agreement of the agencies and the exclusive representative organization);

22 USC 993.

22 USC 911, 912.
22 USC 1008.

"(C) except as provided in paragraph (D), when the grievant is a former officer or employee or a surviving spouse or dependent family member of a former officer or employee, 'grievance' shall mean a complaint that an allowance or other financial benefit has been denied arbitrarily, capriciously, or contrary to applicable law or regulation;

"(D) when the grievant is a former officer who was involuntarily retired pursuant to sections 633 and 634 of this Act within six years prior to the enactment of this part, 'grievance' shall mean a complaint that such involuntary retirement violated applicable law or regulation effective at the time of the retirement or that the involuntary retirement was predicated directly upon material contained in the grievant's official personnel file alleged to be erroneous or falsely prejudicial in character; and

22 USC 1003, 1004.

"(E) 'party' shall mean the grievant or the foreign affairs agency having control over the act or condition forming the subject matter of the grievance.

Board membership.

"(2)(A) The board considering and resolving grievances shall be composed of independent, distinguished citizens of the United States, well-known for their integrity, who are not active officers, employees or consultants of the foreign affairs agencies (except as members of the Grievance Board established under 3 Foreign Affairs Manual 660) but may be retired officers or employees. The board shall consist of not less than five members including a Chairman. Membership of the board, selection of the Chairman, and terms of the service of the members shall be determined by the foreign affairs agencies and the organization accorded recognition as the exclusive representative of the officers or employees of the Service in accordance with procedures agreed pursuant to paragraph (1). If the agencies and organization do not agree on membership of the board prior to the effective date of this part, the members shall be chosen by elimination, in equal numbers from a list submitted by the agencies and a list submitted by the organization, and the Chairman shall be chosen, by alternate striking by the agencies and the organization, from a separate list obtained from the Federal Mediation and Conciliation Service. Unless otherwise agreed upon, the term of service shall be two years, renewable. All members of the board shall act as impartial individuals in considering grievances. The board may act by or through panels or indi-

Term.

vidual members designated by the Chairman, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. Members including the Chairman who are not employees of the Federal Government shall receive compensation for each day they are performing their duties as members of the board (including traveltime) at the daily rate paid an individual at GS-18 of the General Schedule under section 5332 of title 5 of the United States Code.

Compensation.

5 USC 5332 note.

"(B) In accordance with this part, the board may adopt regulations concerning the organization of the board and such regulations as may be necessary to govern its proceedings. The board may obtain facilities, services and supplies through the general administrative services of the Department of State. All expenses of the board shall be paid out of funds appropriated to the Department for obligation and expenditure by the board. At the request of the board, officers and employees on the rolls of the foreign affairs agencies may be assigned as staff employees for the board. Within the limit of appropriated funds, the board may appoint and fix the compensation of such other employees as the board considers necessary to carry out its functions. The officers and employees so appointed or assigned shall be responsible solely to the board and the board shall prepare the performance evaluation reports for such officers and employees. The records of the board shall be maintained by the board and shall be separate from all other records of the foreign affairs agencies.

Recordkeeping.

"(3) A grievance under such regulations is forever barred, and the board shall not consider or resolve the grievance, unless the grievance is presented within a period of three years after the occurrence or occurrences giving rise to the grievance, except that if the grievance arose earlier than two years prior to the date the regulations are first promulgated or placed into effect, the grievance shall be so barred, and not so considered and resolved, unless it is presented within a period of two years after the effective date of the regulations. There shall be excluded from the computation of any such period any time during which the grievant was unaware of the grounds which are the basis of the grievance and could not have discovered such grounds if he or she had exercised, as determined by the board, reasonable diligence.

"(4) The board shall conduct a hearing, at the request of a grievant, in any case which involves disciplinary action or a grievant's retirement from the Service under section 633 of this Act or which in the judgment of the board can best be resolved by a hearing or by presentation of oral argument. The grievant, a reasonable number of representatives of the grievant's own choosing, and a reasonable number of representatives of the foreign affairs agency concerned are entitled to be present at the hearing. The board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given by oath or affirmation, which any board member or person designated by the board shall have authority to administer (and this paragraph so authorizes). Each party (A) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition, and (B) shall be entitled to serve interrogatories upon another party and have such interrogatories answered by the other party unless the board finds such interrogatory irrelevant or immaterial. Upon request of the board, or upon a request of the grievant deemed relevant and material by the board, the foreign affairs agencies shall promptly make available at the hearing or by deposition any witness under the control, supervision, or responsibility of the foreign affairs agencies, except that if the board determines that the presence of

Hearing.

22 USC 1003.

such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing.

"(5) Any grievant filing a grievance, and any witness or other person involved in a proceeding under the regulations adopted pursuant to paragraph (1), shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them. The grievant has the right to a representative of his own choosing at every stage of the proceedings. The grievant and his representatives who are under the control, supervision, or responsibility of the foreign affairs agencies shall be granted reasonable periods of administrative leave to prepare, to be present, and to present the grievance of such grievant. Any witness under the control, supervision, or responsibility of the foreign affairs agencies shall be granted reasonable periods of administrative leave to appear and testify at any such proceeding.

Access to agency records.

"(6) In considering the validity of a grievance, the board (except as provided in paragraph (8)) shall have access, to the extent permitted by law, to any agency record considered by the board to be relevant to the grievant and the subject matter of the grievance.

"(7) The agency shall, subject to applicable law, promptly furnish the grievant any agency record which the grievant requests to substantiate his grievance and which the board determines is relevant and material to the proceeding. When deemed appropriate by the board, a grievant may be supplied with only a summary or extract of classified material.

"(8) Notwithstanding paragraphs (6) and (7), nothing in this Act shall be construed to require the disclosure of any official agency record to the board or a grievant where the head of agency or his deputy determines in writing that such disclosure would adversely affect the foreign policy or national security of the United States.

"(9) The agencies shall use their best endeavors to expedite security clearances whenever necessary to insure a fair and prompt investigation and hearing.

"(10) During any hearings held by the board, any oral or documentary evidence may be received but the board shall exclude any irrelevant, immaterial, or unduly repetitious evidence as determined under section 556 of title 5 of the United States Code. A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings. In those grievances in which the board holds no hearing, the board shall offer to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to its decision. The board decision shall be based exclusively on the record of proceedings.

"(11) If the board determines that the agency is considering any action of the character of separation or termination of the grievant, disciplinary action against the grievant, or recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the board, and that such action should be suspended, the agency shall suspend such action until the board has ruled upon such grievance. Other matters not specified in this paragraph may be made subject to suspension of action by the procedures established by agreement under paragraph (1). Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude an officer or employee from official premises or from the performance of specified duties when determined in writing to be essential to the functioning of the post or office to which the employee is assigned.

"(12) Upon completion of the hearing or the compilation of such record as the board may find appropriate in the absence of a hearing, the board shall expeditiously decide the grievance on the basis of the record of proceedings. In each case the decision of the board shall be in writing, shall include findings of fact, and shall include the reasons for the board's decision. The grievant shall have access to the record of proceedings including the decision.

"(13) If the board finds that the grievance is meritorious, the board shall have authority, within the limitations of the authority of the head of the agency, to direct the agency (A) to correct any official personnel record relating to the grievant which the board finds to be inaccurate or falsely prejudicial; (B) to reverse an administrative decision denying the grievant compensation or any other perquisite of employment authorized by law or regulation when the board finds that such denial was arbitrary, capricious, or contrary to law or regulation; (C) to retain in service an employee whose termination would be in consequence of the matter by which the employee is aggrieved; (D) to reinstate with back pay, under applicable law and regulations, an employee where it is clearly established that the separation or suspension without pay of the employee was unjustified or unwarranted; and (E) to take such other remedial action as may be provided in the procedures agreed pursuant to paragraph (1). Such orders of the board shall be final, subject to judicial review as provided in section 694, except that reinstatement of former officers who have filed grievances under paragraph (1)(D) shall be presented as board recommendations, the decision on which shall be subject to the sole discretion of the agency head or his designee who shall take into account the needs of the Service in deciding on such recommendations, and shall not be reviewable under section 694.

Post, p. 770.

"(14) If the board finds that the grievance is meritorious and that remedial action should be taken that directly relates to promotion or assignment of the grievant or to other remedial action not provided in paragraph (13), or if the board finds that the evidence before it warrants disciplinary action against any officer or employee, it shall make an appropriate recommendation to the head of the agency, and forward to the head of the agency the record of the board's proceedings including the transcript of the hearing if any. The head of the agency (or his designee, who shall not have direct responsibility for administrative management) shall make a written decision on the board's recommendation. A recommendation of the board may be rejected in part or in toto if the action recommended would be contrary to law, would adversely affect the foreign policy or security of the United States, or would substantially impair the efficiency of the Service. If the decision rejects the recommendation in part or in toto, the decision shall state specifically any and all reasons for such action. Pending the decision, there shall be no ex parte communication concerning the grievance between the agency head (or his designee) and any person involved in the grievance proceeding.

"(15) The board shall have authority to insure that no copy of the determination of the agency head or his designee to reject a board recommendation, no notation of the failure of the board to find for the grievant, and no notation that a proceeding is pending or has been held, shall be entered in the personnel records of the grievant (unless by order of the grievance board as a remedy for the grievance) or any other officer or employee connected with the grievance. Nothing contained herein shall prevent the agency from maintaining grievance records under appropriate safeguards to preserve confidentiality.

"(16) A grievant whose grievance is found not to be meritorious by the board may obtain reconsideration by the board only upon presenting newly discovered or previously unavailable material evidence not previously considered by the board and then only upon approval of the board.

"RELATIONSHIP TO OTHER REMEDIES

Filing of grievances. 22 USC 1037b.

"SEC. 693. (a) A grievant may not file a grievance under this part if he has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved, and relief provided, under a provision of law, regulation, or Executive order (other than under this part) and the matter has been carried to final decision thereunder on its merits or is still under consideration.

"(b) If a grievant is not prohibited from filing a grievance under this part by subsection (a), he may file a grievance within the jurisdiction of the board under this part notwithstanding the fact that such grievance may be eligible for consideration, resolution, and relief under a regulation or Executive order other than under this part, but such election of remedies shall be final upon the acceptance of jurisdiction by the board.

"JUDICIAL REVIEW

22 USC 1037c.

"SEC. 694. Notwithstanding any other provision of law, any aggrieved party may obtain judicial review of regulations promulgated by the Secretary under section 692 of this Act, revisions of such regulations, and final actions of the agency head or the board pursuant to such section, in the District Courts of the United States, in accordance with the standards set forth in chapter 7 of title 5 of the United States Code. Section 706 of title 5 shall apply without limitation or exception.".

Ante, p. 765.

5 USC 701.
5 USC 706.

22 USC 1037a note.

(b) The Secretary of State shall promulgate and place into effect the regulations required by section 692 of the Foreign Service Act of 1946 (as added by subsection (a) of this section) and shall establish the board and appoint the members of the board provided for by such section 692, not later than one hundred and twenty days after the date of enactment of this Act.

PREDEPARTURE LODGING ALLOWANCE

SEC. 405. Paragraph (2) of section 5924 of title 5, United States Code, is amended by striking out clause (A) thereof and inserting in lieu thereof the following:

"(A) a foreign area (including costs incurred in the United States prior to departure for a post of assignment in a foreign area); or".

AUTHORITY OF CERTAIN OFFICERS AND EMPLOYEES TO CARRY FIREARMS

SEC. 406. The Act of June 28, 1955 (22 U.S.C. 2666) is amended by striking out all after the enacting clause and inserting in lieu thereof the following: "That, under such regulations as the Secretary of State may prescribe, security officers of the Department of State and the Foreign Service who have been designated by the Secretary of State and who have qualified for the use of firearms, are authorized to carry firearms for the purpose of protecting heads of foreign states,

official representatives of foreign governments, and other distinguished visitors to the United States, the Secretary of State, the Deputy Secretary of State, official representatives of the United States Government, and members of the immediate families of any such persons, both in the United States and abroad. The Secretary shall transmit such regulations to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate not more than twenty days before the date on which such regulations take effect.".

Regulations, transmittal to Speaker of the House and Senate committee.

DEATH GRATUITIES FOR CONSULAR AGENTS AND UNITED STATES REPRESENTATIVES TO INTERNATIONAL ORGANIZATIONS

SEC. 407. (a) Paragraph (1) of section 14(d) of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended to read as follows:

"Foreign Service employee." 22 USC 2679a.

"(1) the term 'Foreign Service employee' means any national of the United States who is a chief of mission, a Foreign Service officer, a Foreign Service information officer, a Foreign Service Reserve officer of limited or unlimited tenure, a Foreign Service staff officer or employee, a consular agent, or a United States representative to an international organization or commission;".

(b) The amendment made by subsection (a) shall apply with respect to deaths occurring on or after January 1, 1973.

Effective date. 22 USC 2679a note.

TITLE V—GENERAL

MIGRATION AND REFUGEE ASSISTANCE

SEC. 501. (a) Section 2(c) of the Refugee and Migration Assistance Act of 1962 is amended to read as follows:

22 USC 2601.

"(c)(1) Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs.

"(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed $25,000,000. Amounts appropriated hereunder shall remain available until expended.

U.S. Emergency Refugee and Migration Assistance Fund. Establishment. Appropriation authorization.

"(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.".

(b)(1) There are authorized to be appropriated for the Department of State for fiscal year 1976, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

Appropriation authorization.

(A) for "Migration and Refugee Assistance," $10,100,000; and

(B) such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

Appropriation authorization.

(c) In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of State for fiscal year 1976 not to exceed $20,000,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorizations Act of 1972 (relating to Russian refugee assistance) and to furnish similar assistance to refugees from Communist countries in Eastern Europe. Not to exceed 20 per centum of the amount appropriated under this subsection may be used to resettle refugees in any country other than Israel. Appropriations made under this subsection are authorized to remain available until expended.

86 Stat. 489.

TRANSFER OF APPROPRIATION AUTHORIZATION

SEC. 502. In addition to the amount authorized under section 101(a), 201(a), 301(a), or 501(b) of this Act, any unappropriated portion of the amount authorized under any such section is authorized for appropriation under any other such section, provided the amount authorized under such section is not increased by more than 10 per centum.

UNITED NATIONS COOPERATION REGARDING MEMBERS OF UNITED STATES ARMED FORCES MISSING IN ACTION IN SOUTHEAST ASIA

SEC. 503. (a) The President shall direct the United States Ambassador to the United Nations to insist that the United Nations take all necessary and appropriate steps to obtain an accounting of members of the United States Armed Forces and United States civilians missing in action in Southeast Asia.

Presidential report to Speaker of the House and President of the Senate.

(b) Not later than six months after the date of enactment of this section, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a report on actions taken by the United Nations to obtain such an accounting.

Approved November 29, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-139 accompanying H.R. 4510, No. 94-140 accompanying H.R. 5810, No. 94-264 accompanying H.R. 7500, and No. 94-281 accompanying H.R. 7567 (Comm. on International Relations) and No. 94-660 (Comm. of Conference).

SENATE REPORT No. 94-337 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 121 (1975):

May 6, H.R. 4510 and H.R. 5810 considered and passed House.
June 23, H.R. 7500 considered and passed House.
July 9, H.R. 7567 considered and passed House.
Sept. 10, 11, considered and passed Senate.
Nov. 4, considered and passed House, amended, in lieu of H.R. 4510, H.R. 5810, H.R. 7500 and H.R. 7567.
Nov. 13, Senate agreed to conference report.
Nov. 18, House agreed to conference report.