

118TH CONGRESS
1ST SESSION

S. 138

To amend the Tibetan Policy Act of 2002 to modify certain provisions
of that Act.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2023

Mr. MERKLEY (for himself and Mr. YOUNG) introduced the following bill;
which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the Tibetan Policy Act of 2002 to modify certain
provisions of that Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting a Resolu-
5 tion to the Tibet-China Conflict Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) It has been the long-standing policy of the
9 United States to encourage meaningful and direct
10 dialogue between People’s Republic of China au-

1 thorities and the Dalai Lama or his representatives,
2 without preconditions, to seek a settlement that re-
3 solves differences.

4 (2) Ten rounds of dialogue held between 2002
5 and 2010 between the People’s Republic of China
6 authorities and the 14th Dalai Lama’s representa-
7 tives failed to produce a settlement that resolved dif-
8 ferences, and the two sides have not met since Janu-
9 ary 2010.

10 (3) An obstacle to further dialogue is that the
11 Government of the People’s Republic of China con-
12 tinues to impose conditions on His Holiness the
13 Dalai Lama for a resumption of dialogue, including
14 a demand that he say that Tibet has been part of
15 China since ancient times, which the Dalai Lama
16 has refused to do because it is false.

17 (4) United States Government statements that
18 the United States considers Tibet a part of the Peo-
19 ple’s Republic of China have reflected the reality on
20 the ground that the Government of the People’s Re-
21 public of China has exerted effective control over
22 Tibet.

23 (5) The United States Government has never
24 taken the position that Tibet was a part of China
25 since ancient times or that the means by which the

1 Government of the People’s Republic of China came
2 to exert effective control over Tibet was consistent
3 with international law or included the free or mean-
4 ingful consent of the Tibetan people.

5 (6) United States Government documents dated
6 January 9, 1919, June 1, 1944, June 17, 1949,
7 April 4, 1951, December 3, 1951, March 23, 1961,
8 and February 14, 1963, listed Tibet as an entity
9 separate and distinct from China.

10 (7) Article 1 of the International Covenant on
11 Civil and Political Rights and Article 1 the Inter-
12 national Covenant on Economic, Social and Cultural
13 Rights provide that “All peoples have the right of
14 self-determination. By virtue of that right they freely
15 determine their political status and freely pursue
16 their economic, social and cultural development.”.

17 (8) Under international law, including United
18 Nations General Assembly Resolution 2625, the
19 right to self-determination is the right of a people to
20 determine its own destiny and the exercise of this
21 right can result in a variety of outcomes ranging
22 from independence, federation, protection, some
23 form of autonomy or full integration within a State.

24 (9) United Nations General Assembly Resolu-
25 tion 1723, adopted on December 20, 1961, called for

1 the “cessation of practices which deprive the Tibetan
2 people of their fundamental human rights and free-
3 doms, including their right to self-determination.”.

4 (10) In a December 30, 1950, note to the Gov-
5 ernments of the United Kingdom and India, the De-
6 partment of State wrote that “The United States,
7 which was one of the early supporters of the prin-
8 ciple of self-determination of peoples, believes that
9 the Tibetan people has the same inherent right as
10 any other to have the determining voice in its polit-
11 ical destiny. It is believed further that, should devel-
12 opments warrant, consideration could be given to
13 recognition of Tibet as an independent State.”.

14 (11) In a June 2, 1951, telegram to the United
15 States Embassy in New Delhi, the State Depart-
16 ment wrote that Tibet should not “be compelled by
17 duress [to] accept [the] violation [of] its autonomy”
18 and that the Tibetan people should “enjoy certain
19 rights [of] self-determination, commensurate with
20 [the] autonomy Tibet has maintained since [the]
21 Chinese revolution.”.

22 (12) Secretary of State Antony Blinken, in a
23 May 26, 2022, speech entitled “The Administra-
24 tion’s Approach to the People’s Republic of China,”
25 said that the rules-based international order’s

1 “founding documents include the UN Charter and
2 the Universal Declaration of Human Rights, which
3 enshrined concepts like self-determination, sov-
4 ereignty, the peaceful settlement of disputes. These
5 are not Western constructs. They are reflections of
6 the world’s shared aspirations.”.

7 (13) The Tibetan Policy Act of 2002 (22
8 U.S.C. 6901 note), in directing the United States
9 Government “to promote the human rights and dis-
10 tinct religious, cultural, linguistic, and historical
11 identity of the Tibetan people” acknowledges that
12 the Tibetan people possess a distinct religious, cul-
13 tural, linguistic, and historical identity.

14 (14) Department of State reports on human
15 rights and religious freedom have consistently docu-
16 mented repression by the People’s Republic of China
17 authorities against Tibetans as well as acts of defi-
18 ance and resistance by Tibetan people against the
19 People’s Republic of China policies.

20 (15) Section 355 of the Foreign Relations Au-
21 thorization Act, Fiscal Years 1992 and 1993 (Public
22 Law 102–138; 105 Stat. 713) stated that it is the
23 sense of Congress that—

24 (A) “Tibet, including those areas incor-
25 porated into the Chinese provinces of Sichuan,

1 Yunnan, Gansu, and Qinghai, is an occupied
2 country under the established principles of
3 international law”;

4 (B) “Tibet’s true representatives are the
5 Dalai Lama and the Tibetan Government in
6 exile as recognized by the Tibetan people”;

7 (C) “Tibet has maintained throughout its
8 history a distinctive and sovereign national, cul-
9 tural, and religious identity separate from that
10 of China and, except during periods of illegal
11 Chinese occupation, has maintained a separate
12 and sovereign political and territorial identity”;

13 (D) “historical evidence of this separate
14 identity may be found in Chinese archival docu-
15 ments and traditional dynastic histories, in
16 United States recognition of Tibetan neutrality
17 during World War II, and in the fact that a
18 number of countries including the United
19 States, Mongolia, Bhutan, Sikkim, Nepal,
20 India, Japan, Great Britain, and Russia recog-
21 nized Tibet as an independent nation or dealt
22 with Tibet independently of any Chinese gov-
23 ernment”;

1 (E) “1949–1950, China launched an
2 armed invasion of Tibet in contravention of
3 international law”;

4 (F) “it is the policy of the United States
5 to oppose aggression and other illegal uses of
6 force by one country against the sovereignty of
7 another as a manner of acquiring territory, and
8 to condemn violations of international law, in-
9 cluding the illegal occupation of one country by
10 another”; and

11 (G) “numerous United States declarations
12 since the Chinese invasion have recognized Ti-
13 bet’s right to self-determination and the ille-
14 gality of China’s occupation of Tibet.”.

15 (16) The joint explanatory statement to accom-
16 pany division K of the Consolidated Appropriations
17 Act for Fiscal Year 2023 (Public Law 117–328)
18 states that “Funds appropriated by the Act shall not
19 be used to produce or disseminate documents, maps,
20 or other materials that recognize or identify Tibet,
21 including the Tibet Autonomous Region and other
22 Tibetan autonomous counties and prefectures, as
23 part of the PRC until the Secretary of State reports
24 to the appropriate congressional committees that the
25 Government of the PRC has reached a final nego-

1 tiated agreement on Tibet with the Dalai Lama or
2 his representatives or with democratically elected
3 leaders of the Tibetan people.”.

4 **SEC. 3. STATEMENT OF POLICY.**

5 It is the policy of the United States that—

6 (1) the Tibetan people are a people entitled to
7 the right of self-determination under international
8 law, including the International Covenant on Civil
9 and Political Rights and the International Covenant
10 on Economic, Social and Cultural Rights and that
11 their ability to exercise this right is precluded by the
12 current policies of the People’s Republic of China;
13 and

14 (2) the conflict between Tibet and the People’s
15 Republic of China is unresolved, and that the legal
16 status of Tibet remains to be determined in accord-
17 ance with international law.

18 **SEC. 4. SENSE OF CONGRESS.**

19 It is the sense of Congress that—

20 (1) claims made by officials of the People’s Re-
21 public of China and the Chinese Communist Party
22 that Tibet has been a part of China since ancient
23 times are historically false;

24 (2) the Government of the People’s Republic of
25 China has failed to meet the expectations of the

1 United States to engage in meaningful dialogue with
2 the Dalai Lama or his representatives toward a
3 peaceful settlement of the unresolved conflict be-
4 tween Tibet and the People’s Republic of China; and

5 (3) United States public diplomacy efforts
6 should counter disinformation about Tibet from the
7 Government of the People’s Republic of China and
8 the Chinese Communist Party, including
9 disinformation about the history of Tibet, the Ti-
10 betan people, and Tibetan institutions including that
11 of the Dalai Lama.

12 **SEC. 5. MODIFICATIONS TO THE TIBETAN POLICY ACT OF**
13 **2002.**

14 (a) TIBET NEGOTIATIONS.—Section 613(b) of the
15 Tibetan Policy Act of 2002 (22 U.S.C. 6901 note) is
16 amended—

17 (1) in paragraph (2), by striking “and” at the
18 end;

19 (2) in paragraph (3), by striking the period at
20 the end and inserting “; and”; and

21 (3) by adding at the end the following:

22 “(4) efforts to counter disinformation about
23 Tibet from the Government of the People’s Republic
24 of China and the Chinese Communist Party, includ-
25 ing disinformation about the history of Tibet, the

1 Tibetan people, and Tibetan institutions including
2 that of the Dalai Lama.”.

3 (b) UNITED STATES SPECIAL COORDINATOR FOR TI-
4 BETAN ISSUES.—Section 621(d) of the Tibetan Policy Act
5 of 2002 (22 U.S.C. 6901 note) is amended—

6 (1) by redesignating paragraphs (6), (7), and
7 (8) as paragraphs (7), (8), and (9), respectively; and

8 (2) by inserting after paragraph (5) the fol-
9 lowing:

10 “(6) work to ensure that United States Govern-
11 ment statements and documents counter, as appro-
12 priate, disinformation about Tibet from the Govern-
13 ment of the People’s Republic of China and the Chi-
14 nese Communist Party, including disinformation
15 about the history of Tibet, the Tibetan people, and
16 Tibetan institutions including that of the Dalai
17 Lama;”.

18 (c) GEOGRAPHIC DEFINITION OF TIBET.—The Ti-
19 betan Policy Act of 2002 (22 U.S.C. 6901 note) is amend-
20 ed by adding at the end the following:

21 **“SEC. 622. GEOGRAPHIC DEFINITION OF TIBET.**

22 “In this Act and in implementing policies relating to
23 the Tibetan people under other provisions of law, the term
24 ‘Tibet’, unless otherwise specified, means—

25 “(1) the Tibet Autonomous Region; and

1 “(2) the Tibetan areas of Qinghai, Sichuan,
2 Gansu, and Yunnan provinces.”.

3 **SEC. 6. AVAILABILITY OF AMOUNTS TO COUNTER**
4 **DISINFORMATION ABOUT TIBET.**

5 Amounts authorized to be appropriated or otherwise
6 made available to carry out section 201(c) of the Asia Re-
7 assurance Initiative Act of 2018 (22 U.S.C. 2292 et seq.)
8 are authorized to be made available to counter
9 disinformation about Tibet from the Government of the
10 People’s Republic of China and the Chinese Communist
11 Party, including disinformation about the history of Tibet,
12 the Tibetan people, and Tibetan institutions including that
13 of the Dalai Lama.

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