



Answers to Questions for the Record Following a Hearing on Unauthorized Appropriations Conducted by the Senate Budget Committee

On February 3, 2016, the Senate Budget Committee convened a hearing at which Keith Hall, Director of the Congressional Budget Office, testified about appropriations with expired authorizations. After the hearing, Chairman Enzi and Senator Perdue submitted questions for the record. This document provides CBO's answers.

Chairman Enzi

Question. We know that some programs whose authorization is current do not have specific authorization levels; they are authorized to receive “such sums” as the appropriators deem appropriate. But by authorizing no specific level of funding, no budgetary guidepost is created for funding decisions. Should we do away with “such sums” authorization levels? Is a “such sums” authorization level more useful than having no authorization at all?

Answer. A “such sums” authorization provides no guidance about the amount of funding that may be appropriate, but if it specifies a certain number of years, it at least sets a time horizon for the authorization. An authorizing committee can use a “such sums” authorization to formally indicate that it does not have a strong basis for providing specific guidance to the appropriations committee about the funding needed for programs for a particular period of time. It may prefer to focus its efforts during the authorization process on addressing policy issues that it directly controls rather than on advising the appropriations committees on dollar amounts. But if a “such sums” authorization has no time horizon, then when the committee would be expected to revisit the substance of the program or its funding in the future is unclear. (CBO does not make recommendations about what the Congress should do.)

Question. Some of the programs in CBO's report have been unauthorized for decades. It is one thing for a program's authorization to expire before it can be renewed, but these programs are persistently unauthorized for long periods of time. Congress has for one reason or another not come to consensus on renewing their charter, and yet never fails to provide them annual funding. Does it make sense to have a period of time after which the ability to fund an expired program without authorization sunsets?

Answer. There is certainly value in reassessing spending programs—both mandatory and discretionary—and tax provisions on a regular basis as circumstances change and as more information becomes available about how those programs or provisions are functioning. If, after a certain period of time beyond the expiration of an explicit authorization of appropriation, a discretionary program could no longer be funded through appropriations, more attention would probably be paid to such authorizations. (Again, CBO does not make recommendations about what the Congress should do.)

Question. Senator Rand Paul (R-KY) recently introduced the Legislative Performance Review Act, S. 2454. Among other provisions, this bill would “wind down” programs over two years once their authorization expires. And it would create a surgical point of order—with a 3/5 vote necessary to waive—against a provision in an appropriations bill funding a program for a fiscal year in which it is not specifically authorized. What do you expect the practical impact of S. 2454 would be, if it were to become law?

Answer. With such a point of order available to Members, more attention would probably be paid to ensuring that programs, particularly those that might be controversial, had current authorizations of appropriations.

Question. One authorization that never fails to occur on an annual basis is the defense authorization bill. That is why our discussion today is focused on non-defense discretionary spending. What is it about the defense authorization bill that enables it to clear Congress each year, when so many other authorization laws expire before they can be addressed?

Answer. CBO has not attempted to analyze differences between Congressional processes used to determine defense and nondefense discretionary funding. One analyst from the Congressional Research Service who has studied that question argues that “a complex mixture of committee traditions, rules, processes, a robust hearing schedule, bipartisanship, professional staff relationships, floor strategy, and a widely shared belief in the overall mission contribute to the outcome.”¹

Senator Perdue

Question. Since 2011, the GAO has produced a yearly report on “Opportunities to Reduce Fragmentation, Overlap, and Duplication.” Over the past five annual reports, GAO has recommended approximately 440 actions that Congress and the executive branch could take to improve fragmentation, overlap, and duplication within the Federal government to help achieve financial benefits. Could your office work with the GAO to assess how many of these actions were related to programming whose authorization lapsed?

Answer. Yes, CBO will consult with the staff of the Government Accountability Office and assess the feasibility of determining which explicit authorizations of appropriations that have expired were also identified in GAO’s analyses of fragmentation, overlap, and duplication. Cross-walking the information in CBO’s report *Unauthorized Appropriations and Expiring Authorizations* with the information in GAO’s report on fragmentation, duplication, and overlap is likely to be quite challenging, but if we are able to find programs identified in both reports, we will work with the staff of the budget committee to determine the best way to make that information available.

1. See Colleen Shogan, “Defense Authorization,” in Jacob Straus, ed., *Party and Procedure in the United States Congress*, (Rowman & Littlefield, 2012), pp. 195–216, <https://rowman.com/ISBN/9781442211735/Party-and-Procedure-in-the-United-States-Congress>.