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Changes in the Purposes and Frequency of Authorizations of Appropriations

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Summary

The congressional budget process distinguishes between "authorizations," which establish or define the activities of the federal government, and "appropriations," which finance those activities. The purpose of this report is to discuss the changes in the form and frequency of authorization laws that have occurred over the past century.

As the congressional approach to authorizations and appropriations developed over the nineteenth century, distinct roles for these types of laws were established. However, that approach began to shift in the early twentieth century as the size and scope of federal government activities increased, and the legislative committees began to explore new methods of influencing budgetary outcomes, both with respect to the action of the appropriators and for the agencies under their jurisdiction. Toward that end, those committees began to include provisions that explicitly authorized appropriations in authorization acts. In addition, these committees began to use these provisions to establish periodic schedules of review for revisions to authorization laws for certain agencies and departments, instead of enacting such laws on an as-needed basis.

The types of provisions periodically authorizing appropriations that were developed during the mid-twentieth century have continued to be in use through the present day. Such provisions can generally be divided into two schedules of review: "annual" and "multiyear." *Annual* authorizations of appropriations explicitly authorize appropriations for a single fiscal year. *Multiyear* authorizations of appropriations explicitly authorize appropriations for more than one fiscal year at a time, typically between two and five of them.

The evolution of the form and frequency of authorizations since the 1920s have been characterized by a number of general themes. Annual reauthorization schedules were often adopted due to the legislative committee's desire for increased involvement in agency and congressional budgetary decisions. Annual authorizations tended to be characterized by more incremental program changes, whereas multiyear authorizations tended to involve more widespread policy changes. Over the past thirty years many agencies on annual schedules have been transitioned to multiyear or long-term schedules. These transitions have often been motivated by delays in the enactment of annual authorizations each year, or the legislative committee's decision to conduct more extensive reviews of agency programs and policies on a less frequent schedule. The amounts annually authorized have tended to be more similar to the amount eventually appropriated when compared to multiyear authorizations. In particular, the outyears of multiyear authorizations have tended to be characterized by a growing gap between the amount authorized and amount appropriated.

To illustrate the themes identified in the first section of the report, the second section describes aspects of the authorization histories of the National Science Foundation, the National Aeronautics and Space Administration, and the Peace Corps. In general, all three of these agencies experienced eras of annual reauthorization, and then most recently transitioned to a more long-term or intermittent schedule.

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Introduction

A basic principle underlying the congressional budget process is the separation between money and policy decisions. One means through which this division of labor has been observed is through congressional rules and practices that distinguish between provisions that establish the activities of government, and those that fund those activities—"authorizations" and "appropriations," respectively.[1] An *authorization* generally provides legal authority for the government to act, usually by establishing, continuing, or restricting a federal agency, program, policy, project, or activity. It may also, explicitly or implicitly, authorize subsequent congressional action to provide appropriations for those purposes. By itself, however, an authorization does not provide funding for government activities. An *appropriation* generally provides both the legal authority to obligate future payments from the Treasury, and the ability to make subsequent payments to satisfy those obligations. Since the adoption of a formal rule in the House in 1835, the distinction between authorizations and appropriations has been based on limiting the provisions of appropriations measures to funding those programs or activities previously established by law. The form in which those programs or activities are established, however, is not prescribed by House or Senate rules or practices so that the language and specificity of such provisions as varied greatly over time.[2]

During the nineteenth century, authorizations generally were used for the initial establishment of programs, while control over the details of particular activities and amounts was achieved through the annual appropriations process. Authorization laws were enacted on a permanent basis to provide broad grants of authority to government departments and agencies. In these laws, the authorization of subsequent congressional action to provide appropriations was implied and did not include specific amounts to be appropriated. That is, the general authorization in these laws included both the legal authority to act, as well as the authority under congressional rules to appropriate funds for such activities. Temporary authorizations were rare and were generally reserved for programs that were intended to be of a limited duration. In contrast, annually enacted appropriations laws contained the details as to what agencies were able to do and how much they would have to spend.[3]

Developments in the House and Senate committee systems that occurred during this same period also served to strengthen this authorization-appropriations distinction. From the earliest Congresses the "legislative committees" had jurisdiction over authorization measures while the House Ways and Means Committee and Senate Finance Committee were responsible for most appropriations bills. During the Civil War, however, when the workload of these committees and

[1] The current congressional practices and legal principles associated with authorizations and appropriations are summarized in CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh.

[2] This report's summary of the general development of these congressional rules and practices is largely based on Alan Schick, *Legislation, Appropriations, and Budgets: The Development of Spending Decision-making in Congress*, Congressional Research Service, May, 1984 [hereinafter, *Legislation, Appropriations, and Budgets*]; and Louis Fisher, "Annual Authorizations: Durable Roadblocks to Biennial Budgeting," *Public Budgeting and Finance*, Spring, 1983 [hereinafter, "Annual Authorizations"].

[3] *Legislation, Appropriations, and Budgets*, p. 8.

size of federal expenditures increased considerably, both chambers chose to create separate Appropriations Committees that would be responsible for the annual appropriations measures.[4]

As the size and scope of federal government activities increased during the nineteenth and early twentieth centuries, the congressional practices related to authorizations and appropriations began to change. Authorization laws began to specify the details of broad classes of federal government programs and activities in consolidated legislation, instead of in multiple pieces of stand-alone legislation that addressed only some aspects of such programs and activities. At about the same time, appropriations, which used to be almost entirely comprised of specific line-items, shifted to more general lump-sums for purposes that were usually identified simply by referencing the statutory authorization. In other words, appropriations began to rely on the authorization statutes to specify and limit how the funds would be used. Although jurisdiction over some appropriations was dispersed during the late nineteenth century, Congress continued to keep appropriations separate and distinct from authorizations.[5] The reconsolidation of appropriations jurisdiction, and the reorganization of regular annual appropriations bills in the House in 1920 (and in the Senate in 1922), also reinforced this distinction.[6]

The choice to separate money and policy decisions and vest control over them in different congressional committees has meant long-standing tensions between the authorization and appropriations processes. In term of both what the Federal government should do and at what level its activities should be funded, these tensions have significantly influenced how the processes have evolved, as each attempts to exercise a greater role in congressional and agency funding decisions. In the early twentieth century, as a consequence of the changes that were discussed in the previous paragraph, the legislative committees began to assert their role in fiscal decision-making through two particular mechanisms. First, these committees began to include provisions that explicitly authorized appropriations in authorization acts, such as language that "hereby authorized to be appropriated" for certain purposes. Second, associated with these provisions, these committees began to conduct reviews and enact revisions to authorization laws for certain agencies and departments on periodic schedules, instead of on an as-needed basis.[7]

This report discusses general principles in how the language concerning the purposes and frequency of authorizations of appropriations has changed over the past century. These general principles are illustrated through case studies on the authorizations of appropriations that were enacted during this period for three agencies: the National Science Foundation, the National Aeronautics and Space Administration, and the Peace Corps.

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[4] The House Appropriations Committee was established in 1865; the Senate Appropriations Committee was established in 1867. The events leading to the establishment of these committees are discussed in Charles H. Stewart, III, *Budget Reform Politics: The Design of the Appropriations Process in the House of Representatives, 1885-1921*, New York, N.Y.: Cambridge University Press, 1989, pp. 53-83 and U.S. Senate, Committee on Appropriations, *Committee on Appropriations: 1867-2008*, 110th Cong., 2nd Sess., Doc. No 14 (Washington, DC: GPO, 2008), pp. 4-6.

[5] Stewart, pp. 89-132.

[6] Background on these changes is provided in U.S. House of Representatives, Committee on Appropriations, *A Concise History of the House of Representatives Committee on Appropriations*, 111th Cong., 2nd Sess. (Washington, DC: GPO, 2010), pp. 7-11; U.S. Senate, Committee on Appropriations, *Committee on Appropriations: 1867-2008*, 110th Cong., 2nd Sess., Doc. No 14 (Washington, DC: GPO, 2008), pp. 9-16.

[7] *Legislation, Appropriations, and Budgets*, pp. 28-31, 37-41.

Evolution of Authorizations during the Twentieth Century

Coincident with the enactment of the Budget and Accounting Act of 1921, jurisdiction over general appropriations increased the role of the Appropriations Committees in congressional decisions about spending. In response, the legislative committees began to explore new legislative language that would influence budgetary outcomes, both with respect to the action of the appropriators, and also in their oversight of the agencies under their jurisdiction. This resulted in significant changes in the content and timing of authorization laws over the next several decades.

Emergence of Explicit Authorizations of Appropriations

The first significant change in the form of authorization laws occurred after the 1920s, when authorization laws began to include provisions that explicitly "authorized to be appropriated" future budgetary resources tied to certain purposes. By one estimate, this practice grew so rapidly that in 1937, there were more than 100 measures enacted into law with explicit authorizations of appropriations for definite amounts.[8] At a minimum, such provisions were a recommendation of the legislative committees as to the level of future appropriations. This practice, however, had broader implications for the role of the legislative committees in budgetary decision-making because existing House and Senate rules that prohibited appropriations not authorized by law had to be applied in new ways.[9] Although these prohibitions were longstanding, having been first adopted during the previous century, authorization provisions that established an entity, project, or activity were considered to be sufficient to implicitly authorize subsequent appropriations under the terms of these rules.[10] However, when the legislative committees started to include explicit provisions authorizing appropriations, this effectively enabled them to create procedural ceilings on subsequent appropriations, and thus exert greater influence over subsequent funding decisions.[11]

As language specifically authorizing appropriations was increasingly used, various practices started to emerge. First, the legislative committees began to authorize definite amounts to be appropriated for specific fiscal years. In their early use, such provisions were typically tied to minor or temporary programs. Second, because provisions that limited the amount or duration of future appropriations were considered to be inappropriate for permanent or large-scale government programs, provisions authorizing appropriations for "such sums as are necessary"

[8] Ibid., pp. 28-29.

[9] These prohibitions are current located in House Rule XXI(2)(a) and Senate Rule XVI(1). For further information on the operation of these rules, see CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh, Authorization of Appropriations: Procedural and Legal Issues, by Jessica Tollestrup and Brian T. Yeh, pp. 4-8.

[10] The first formal rules that required a prior authorization by law for appropriations were adopted by the House in 1837. The Senate followed suit with the adoption of its first formal rules on the topic in 1850. *Legislation, Appropriations, and Budgets*, pp. 7, 9, 11, and 15-17.

[11] The legislative committees also employed other mechanisms during this period to influence fiscal decision-making, such as so-called "backdoor spending," which included borrowing authority, contract authority, mandatory entitlements, and permanent appropriations. For a further discussion if these and other such mechanisms, see Louis Fisher, "The Authorization-Appropriation Process in Congress: Formal Rules and Informal Practices," *Catholic University Law Review*, Vol. 29, 1979-1980, pp. 51-105.

were typically used for such programs. These provisions were also used to address multiple programs under the auspices of a single agency.[12]

Periodic Reauthorization

At the end of WWII, an estimated 5% of programs, excluding one-time projects, had explicit authorizations of appropriations that applied to specific fiscal years.[13] Over the postwar period, however, as the legislative committees continued to increase their use of such provisions, they began to apply such provisions to programs of a more large-scale or permanent nature.

The types of provisions periodically authorizing appropriations that were developed during this period have continued to be used through the present day. These provisions generally indicate two schedules of legislative review: "annual" and "multiyear." *Annual* authorizations of appropriations explicitly authorize appropriations for a single fiscal year. *Multiyear* authorizations of appropriations explicitly authorize appropriations for more than one fiscal year at a time (typically between two and five).

Annual Authorizations

As the legislative committees began to experiment with provisions authorizing appropriations for a single fiscal year, one motivation was to better oversee and influence agency spending decisions. Annual authorizations of appropriations were first applied to newly created agencies or programs, in part, because these annual provisions were believed to encourage close review and oversight early in an agency or program's development.[14] Later, in response to perceived issues with existing agencies or the congressional oversight of them, legislative committees sometimes added annual authorization provisions to the underlying statute governing these agencies, thereby converting them to an annual reauthorization schedule.[15] For example, annual authorizations were used in some instances for programs or agencies that were undergoing "rapidly changing conditions," giving the legislative committees the opportunity to weigh in on a frequent basis.[16] Programs that had a direct effect on states or districts, such as those that govern military construction or grants, also were candidates for annual authorizations. Legislative committees often sought close oversight of such programs because of the constituency issues involved and a desire to address any problems as they arose.[17] As a consequence of this frequent legislative attention, agencies subject to annual reauthorization tended to experience more incremental program changes in their authorizing laws when compared to those agencies on a longer reauthorization schedule.[18]

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[12] Ibid., pp. 28-32.

[13] U.S. Senate, Committee on Government Operations, Subcommittee on Budget, Management, and Expenditures, *Improving Congressional Control over the Budget*, Committee Print, 93rd Cong., 1st Sess. (Washington, DC: GPO), 1973, [hereinafter, *Improving Congressional Control over the Budget*], p. 262.

[14] "Annual Authorizations," p. 34.

[15] Ibid., p. 37.

[16] Ibid., p. 31.

[17] Ibid., p. 30.

[18] *Legislation, Appropriations, and Budgets*, p. 40.

Another motivation for the legislative committees to choose annual authorization schedules during the post-World War II period was dissatisfaction with the funding levels or program structure as provided through the congressional appropriations process.[19] At this time, the authorization laws that were enacted on an as-needed basis tended to be primarily focused on policy issues, and not budgetary decision-making. In addition, any authorized levels for future fiscal years might have been considered to be less relevant when it came time to appropriate due to changing congressional priorities. Under an annual authorization approach, however, the congressional debate over the funding levels in the context of the authorization for that fiscal year would occur more immediately ahead of the consideration of appropriations for those programs. This sequence and timing of events—authorizations are to precede appropriations—was believed to provide the legislative committees with greater leverage to prevent their framework and authorized funding levels from being disregarded during subsequent appropriations decision-making.[20]

The proportion of agencies that were subject to annual reauthorizations expanded significantly during the mid-twentieth century. Prior to 1950, military construction and mutual security were the only annual authorizations, both constituting the conversion of a permanent authorization to a temporary one. A few programs were added to that list in the 1950s, but it was not until two decades later that a number of both small and large-scale government programs, such as the remaining activities of the Department of Defense authorization, the Department of Justice, and the Department of State, were added to the group of government programs that received an annual authorization in response to developments such as the Vietnam War.[21] Also during this period, the number of annual authorizations that applied to only some programs within an agency were expanded to include additional programs or activities of a like character.[22]

Multiyear Authorizations

During the same period that annual authorizations of appropriations were increasingly used, provisions authorizing appropriations on a multiyear basis to facilitate a longer-term reauthorization schedule were also enacted. The length of these schedules varied, from as little as two years, to five or more fiscal years. The agency oversight motivations for the legislative committees to adopt such a schedule were similar to those for an annual reauthorization, with some exceptions.[23] For example, a legislative committee might choose a multiyear reauthorization schedule over an annual one if it believed that a program or agency required a comprehensive reevaluation of its activities and objectives on longer time intervals. Also, as a consequence of the greater time allotted by this schedule, multiyear reauthorizations tended to involve more widespread policy changes per reauthorization law when compared to annual reauthorizations.[24]

As was the case for annual authorizations, multiyear authorizations may have been motivated, in some instances, by dissatisfaction on the part of the legislative committees with the funding that

[19] Ibid., p. 39.

[20] Ibid.

[21] "Annual Authorizations," pp. 26-27.

[22] For example, within the Department of Defense, the first temporary authorization was for military construction, and then the practice was expanded sequentially to military procurement, research and development, the Coast Guard and the Maritime Administration, and then finally to military operation and maintenance. "Annual Authorizations," p. 32.

[23] *Improving Congressional Control over the Budget*, p. 261.

[24] "Legislation, Appropriations, and Budgets," p. 40.

was being provided in appropriations. In many cases, multiyear authorizations assumed some degree of a funding increase over the period covered by the authorization, and so their enactment had the potential to build congressional support for such an increase. In many such cases, however, the difference between the amounts authorized and that ultimately appropriated increased in the latter years, perhaps because the congressional vote on authorization levels was neither recent, nor in the context of current funding constraints.[25]

Summary of Most Recent Developments

Starting in the 1980s, some of the programs that had been subject to an annual or short-term authorization schedule were changed to longer-term multiyear schedules.[26] Others had authorizations that expired for a number of fiscal years between reauthorizations, or were not renewed at all.[27] With the formation of new agencies, it has been most typical that only specific activities within them, as opposed to the entire agency, have been given explicit authorizations of appropriations.[28] For example, while some of the agencies and activities created or consolidated by the Homeland Security Act of 2002 were already subject to temporary authorizations of appropriations, there were few provisions explicitly authorizing appropriations for the new agencies and activities included in the act, and none that were effective on an annual basis (P.L. 107-296). In general, the reauthorization process for many agencies and programs has become more focused on addressing policy concerns, with less of an emphasis on funding level or the legislative committee's role in budgetary decision-making.

Various reasons have been suggested for the shift to longer term reauthorization schedules and the gaps between reauthorization intervals. For example, some have argued that reauthorization legislation was effectively "crowded out" by new mechanisms for budgetary decision-making (such as the budget resolution and reconciliation) and were given less of a priority in the congressional calendar. Others began to express concern that annual authorizations led to a perception that they were merely duplicate votes for Members on funding levels for federal government activities.[29] In addition, continued delays in the enactment of reauthorization legislation, which affected Congress' ability to consider and enact appropriations measures in a timely manner, was also a likely factor.[30]

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[25] *Improving Congressional Control over the Budget*, p. 268; *Legislation, Appropriations, and Budgets*, p. 41.

[26] For example, both the NSF and NASA were transitioned to multiyear schedules, as discussed in the sections below.

[27] One potential measure of the extent to which previously routine authorizations of appropriations for programs have expired is the enactment of appropriations for such programs. CBO is required to compile this information each year under Section 202(e)(3) of the Congressional Budget Act. For FY1988, CBO identified a total of 45 laws with expired authorizations of appropriations (CBO, *Report on Unauthorized Appropriations and Expiring Authorizations*, January 15, 1988). That total grew to 270 such laws for FY2014 (CBO, *Unauthorized Appropriations and Expiring Authorizations*, February 21, 2014).

[28] See, for example, the data in James H. Cox, *An Analysis of the Congressional Reauthorization Process* (Westport, CT: Praeger, 2004), pp. 55-59.

[29] For a discussion of these and other reasons for this shift, see, for example, Alan Schick, *The Federal Budget: Politics, Policy, Process*, 3rd Ed. (Washington, DC.: Brookings Institution Press, 2007), pp. 200-202; Lawrence J. Haas, "Unauthorized Action," *National Journal*, January 2, 1988, p. 17.

[30] This is illustrated by the NSF and NASA case studies below.

Changes to Authorizations of Appropriations in Practice: Selected Examples

The historical development of the form and timing of authorizations over the past century has been characterized by a number of themes:

- The legislative committee's adoption of an annual reauthorization schedule was due to a desire for increased involvement in both agency and congressional budgetary decisions. The motivation for increased agency involvement was typically because the agency was new or because annual authorizations were believed to strengthen Congress's oversight functions.
- Annual authorizations tended to be characterized by incremental program changes, whereas multiyear authorizations tended to involve widespread policy changes.
- The amounts authorized in annual measures tended to be more similar to the amount eventually appropriated when compared to multiyear authorizations. The out-years of multiyear authorizations tended to be characterized by a growing gap between the amount authorized and amount appropriated.

To illustrate one or more of these general themes, the following subsections summarize aspects of the authorization histories of the National Science Foundation, the National Aeronautics and Space Administration, and the Peace Corps. These three agencies were selected because they have experienced variation in the purposes and frequency of their explicit authorizations of appropriations since their establishment. These case studies also discuss the reasons for the shifts to the new authorization schemes, such as the legislative committee's decision to review and make policy changes to the program on a less frequent schedule, or difficulties in enacting annual authorizations prior to appropriations. During this period, the form of the authorization laws governing these agencies changed in a number of other significant ways that affected the ability of the legislative committees to influence budgetary outcomes, which are not discussed in this report. This report only summarizes the general trends associated with the timing and purposes of these reauthorizations to provide a basis for further research and understanding.

National Science Foundation

The National Science Foundation was established in 1950, but was not reauthorized on a periodic basis until 1968, when a requirement for specific authorization of appropriations each future fiscal year became law. Authorizations of appropriations were enacted annually covering a single fiscal year from FY1969 through FY1982, and intermittently through FY1988. Starting in FY1989, the agency has been reauthorized for periods of between three and five fiscal years, with some lapses in authorization between those multiyear laws. The most recent reauthorization was from FY2011 through FY2013. [31]

[31] For an overview of historical policy issues associated with the NSF and its authorization, see CRS Report R43585, *The National Science Foundation: Background and Selected Policy Issues*, by Heather B. Gonzalez.

Establishment and Transition to a Permanent Authorization of Appropriations

The National Science Foundation (NSF) was established by the National Science Foundation Act on May 10, 1950 (S. 247; P.L. 81-507). During congressional consideration in the 81st Congress, both the Senate and House proposals (S. 287, H.R. 12, and H.R. 359, 81st Congress) contained provisions providing a permanent indefinite authorization of appropriations for the agency. During debate on the House floor, however, the bill was amended to provide a definite authorization of appropriations for FY1951, and a $15 million authorization for each fiscal year thereafter. The rationale for this approach was that it would promote increased agency fiscal accountability to Congress, because the agency would be required to justify to Congress a higher authorization level once its annual budgetary needs exceeded $15,000,000.[32] The House version of that provision was subsequently enacted into law.[33]

The first reauthorization was enacted three years later, on August 8, 1953 (S. 32; P.L. 83-223). This law replaced the $15 million authorization limit with an indefinite authorization of appropriations. The Senate Labor and Public Welfare Committee report accompanying S. 32 (83rd Congress) explained that this indefinite authorization was to provide the NSF greater flexibility in both their annual budget request and fiscal planning for its operations. Because the committee believed that removing this limitation would not lead to an overall increase in government research expenditures, this change to the law was recommended.[34]

There were no further laws authorizing NSF appropriations for the next fifteen years. During that period, the few laws that made any changes to the statutory programs and policies governing the NSF typically included only minor modifications to existing programs and policies.[35] The more significant changes to the Foundation came through Administration action, such as executive orders and the Government Reorganization Plan No. 2 of 1962.[36] Legislative committee oversight of the agency occurred on a more informal basis.

Transition to Annual Reauthorization

Starting in 1965, the House Committee on Science and Astronautics began a three-year review of the NSF to write a new charter for the agency. This review involved hearings, studies, and a

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[32] House debate, *Congressional Record*, vol. 96, part 2 (February 28, 1950), p. 2517. Although the form and frequency of reauthorization has shifted over the history of the NSF, the President's budget submission has typically played a significant role in budgetary decision-making. For further information, see CRS Report R43585, *The National Science Foundation: Background and Selected Policy Issues*, by Heather B. Gonzalez.

[33] P.L. 81-507, Section 16(a), "To enable the Foundation to carry out its powers and duties, there is hereby authorized to be appropriated to the Foundation, out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 for the fiscal year ending June 30, 1951, and not to exceed $15,000,000 for each fiscal year thereafter ... "

[34] S.Rept. 83-396, pp. 1-2.

[35] See, for example, P.L. 85-510, which related to weather modification, and P.L. 85-864, which related to science information.

[36] See, for example, Executive Order 10521 (March 17, 1954), which broadened NSF's role to encompass national scientific policymaking, and Executive Order 10807 (March 29, 1962) which refocused the Foundation's mission on original research. See also Reorganization Plan No. 2 of 1962, June 8, 1962 (27 Federal Register 5419), which transferred elements of government-wide policymaking and program evaluation from NSF to a new Office of Science and Technology. For background on reorganization plans, see CRS Report R42852, *Presidential Reorganization Authority: History, Recent Initiatives, and Options for Congress*, by Henry B. Hogue.

subcommittee report that was to be the basis of the committee's eventual legislative proposal.[37] In 1967, the committee report accompanying, H.R. 5404 (90th Congress), explained a variety of motivations for this review and the recommended changes to the agency:

> A significant change began to take place in the post-*Sputnik* era. From a technological point of view, public opinion crystallized around the concept that basic science was no longer an ancillary, but a primary, instrument needed to guard the public safety, health and economy.... It becomes apparent, upon review of the hearings en bloc, that the most crucial point—in fact, what some would call the essence of the bill—was the issue of policy control [of the National Science Board].... (H.Rept. 90-34, pp. 2 and 13)[38]

While the changes to the NSF proposed by the House did not involve any alterations to the current authorization of appropriations, the Senate Labor and Public Welfare Committee amended H.R. 5404 to include both a definite authorization of appropriations for FY1969, and a permanent requirement for a specific authorization of appropriations for every fiscal year thereafter:

> The committee is concerned that there has been no thorough review of the authorization for NSF since the passage in 1950 of the National Science Foundation Act. During this period, the appropriations have grown from $225,000 in 1951 to $495 million in 1968—a more than 2,000-fold increase. The committee believes that a change to annual authorization is desirable, and provides for this in section 13 of the bill. An authorization of $523 million is provided for fiscal year 1969. This committee will set authorizations for future years after appropriate hearings. (S. Rept. 90-1137, p. 19) [39]

The ability for annual authorizations to influence subsequent funding decisions is affected by the extent to which they are enacted ahead of appropriations. After the NSF's requirement for an annual authorization was enacted (P.L. 90-407),[40] the 15 subsequent annual reauthorizations became law an average of almost one month after the beginning of the fiscal year, and only three times were they enacted before the beginning of the fiscal year (FY1978, FY1980, and FY1986).[41] The enactment of appropriations, however, usually waited until the annual authorization was completed with only three of the 15 being enacted ahead of it (FY1972, FY1977, and FY1979).

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[37] This process is discussed in U.S. House of Representatives, Committee on Science and Technology, *Toward the Endless Frontier: History of the Committee on Science and Technology, 1959-79*, Committee Print (Washington, DC: GPO, 1980) [hereinafter, House Science Committee History], p. 143.

[38] Congressional concern over policy control had been in existence almost since the establishment of the NSF. For background on these concerns, see *House Science Committee History*.

[39] For further background on the FY1969 annual authorization, see *House Science Committee History*, p. 146.

[40] P.L. 90-407, Section 14(a), "To enable the Foundation to carry out its powers and duties, there is hereby authorized to be appropriated to the foundation for the fiscal year ending June 30, 1969, the sum of $525,000,000; but for the fiscal year ending June 30, 1970, and each subsequent fiscal year, only such sums may be appropriated as the Congress may hereafter authorize by law.... " At the time that the requirement for an annual authorization was being debated by Congress, both the Johnson Administration and House Appropriations Committee expressed concerns that an annual schedule might delay the enactment of appropriations (S.Rept. 90-1137, p. 34 and floor debate [114 Cong Rec. part 15, June 27, 1968, 90th Cong, 2nd sess., p. 19068]).

[41] These laws were for each fiscal year from FY1970 to FY1982, FY1987, and FY1988. No reauthorization laws were enacted for the fiscal years from FY1983 to FY1986; the reason for this lapse in authorization does not appear to have been related to any disputes over the time interval.

In general, these annual authorizations were followed by appropriations that were at somewhat lower levels than the amount authorized.[42] Of the 12 annual authorizations that were enacted prior to appropriations, all but one (FY1986; P.L. 99-383) subsequently received lower level of appropriations.[43] In those 11 instances, the amount appropriated was an average of almost 7% lower than the amount authorized, ranging from about 1% lower in FY1980, to almost 24% lower in FY1969.[44]

Transition to Multiyear Reauthorization

Starting in 1977, Congress began to actively debate transitioning the NSF to a multiyear authorization of appropriations. This change was advocated by the Carter Administration and some Senators on the Committee on Human Resources because it was believed that a multiyear authorization would promote continuity for planning basic research and more time to assess the effectiveness of programs.[45] Many members of the House Science Committee argued, however, that an annual authorization would promote better congressional control and oversight of the Foundation.[46] Although the conference report for the FY1978 reauthorization addressed the possibility of a two-year authorization of appropriation, it concluded that it was not suitable at that time.[47] The following fiscal year, while the Senate committee proposed authorizations of appropriations for both FY1979 and FY1980 (S. 2549), authorization levels for only a single fiscal year were ultimately enacted into law (P.L. 96-44). Over the next ten years, most legislative proposals covered only a single fiscal year, and all that were enacted were annual in nature.

In FY1989, both the House and Senate proposed multiyear authorizations, and the enacted law authorized appropriations through FY1993 (P.L. 100-570). One of the primary purposes of this reauthorization was to promote the "doubling" of the NSF budget over the next five fiscal years and to establish a program directed at academic facility modernization. The next reauthorization, for FY1998-FY2000, authorized modest increases for the agency—about 10% in FY1999 and growth slightly above projected inflation in FY2000 (P.L. 105-207).[48] The next reauthorization advocated more substantial increases in the agency budget—from about $5 billion in FY2003, to almost $10 billion in FY2007 (P.L. 107-368). The most recent two laws, for FY2008-FY2010 and FY2011-FY2013, were enacted as part of the America COMPETES Act and its reauthorization, which broadly sought to invest in innovation and improve United States' competitiveness. It authorized funds for research and development in the physical sciences and engineering, as well

[42] The amount appropriated each fiscal year upon which these and similar calculations in this report are based from National Science Foundation, Budget Internet Information System, "NSF Requests and Appropriations History," NSF.gov, (http://dellweb.bfa.nsf.gov/NSFRqstAppropHist/NSFRequestsandAppropriationsHistory.pdf), and additional data compiled in CRS Report R43585, *The National Science Foundation: Background and Selected Policy Issues*, by Heather B. Gonzalez.

[43] In FY1986, the amount of appropriations exceeded the authorized level by less than one (0.44) percent.

[44] Despite the fact that the amounts annually appropriated tended to be less than the authorization, however, the amount of such annual appropriations doubled twice in the decades between FY1970 and FY1988.

[45] U.S. Senate, Committee on Human Resources, Subcommittee on Health and Scientific Research, "National Science Foundation Authorization Legislation, 1977," March 1, and 3, 1977, Washington, DC: Government Printing Office, 1977, p. 112 and 117.

[46] *House Science Committee History*, pp. 537-538.

[47] H.Rept. 95-509, pp. 7-8.

[48] The authorizations of appropriations in P.L. 105-207 were effectively for two fiscal years because they were enacted over nine months after the start of FY1998.

as certain science, technology, engineering, and mathematics (STEM) education programs.[49] Both reauthorizations recommended appropriations at a rate to double agency funding over a seven-year period starting in FY2008, and an 11-year period starting in FY2011.

When compared to the period for which the NSF was authorized on an annual basis, NSF appropriations after FY1989 tended to be much lower than the amount authorized. Gaps between the authorization and subsequent appropriations also widened in the latter years of the authorization period, particularly when the authorization assumed significant budgetary increases over that multiyear period. For example, FY1989-FY1993, the first attempt at doubling, the difference between the authorization and subsequent appropriations began as about 6% for FY1989 and increased to 22% by FY1993.[50] The more modest increases proposed by the FY1998 reauthorization resulted in a much smaller appropriations gap—almost 3% less than the authorized level for FY1999, and almost 1% more than authorized for FY2000. Even though the projected increases in the two most recent doubling proposals (FY2008-FY2010 and FY2011-FY2013) were over a longer time horizon, these also experienced increasing gaps in the outyears.[51]

National Aeronautics and Space Administration

The National Aeronautics and Space Administration (NASA) transitioned to an annual authorization schedule three years after it was established in 1958, and was reauthorized each fiscal year from FY1961 through FY1986. Starting in FY1982, however, the agency's annual authorization schedule began to experience increasing delays, culminating in a six-year gap in reauthorization from FY1994 through FY1999. In recent years, the agency has been periodically reauthorized for between one and three fiscal years, with the most recent reauthorization covering FY2011-FY2013.[52]

Establishment and Transition to Annual Reauthorization

When the National Aeronautics and Space Act ("the Space Act," P.L. 85-568) established NASA in 1958, it explicitly authorized permanent, indefinite appropriations for agency operations. It also required specific authorization for capital expenditures.[53] At the beginning of the 85th

[49] P.L. 110-69 and P.L. 111-358. For information on the other agencies that were reauthorized as part of these laws, see CRS Report RL34328, *America COMPETES Act: Programs, Funding, and Selected Issues*, by Deborah D. Stine, and CRS Report R41819, *Reauthorization of the America COMPETES Act: Selected Policy Provisions, Funding, and Implementation Issues*, by Heather B. Gonzalez.

[50] Actual annual appropriations during this five-year period experienced about a 70% increase, but fell short of the doubling goal.

[51] For FY2008, appropriations were about 7% less than the authorization, but were 15% less two years later. The gap between the authorization and appropriation was about 8% in FY2011, and grew to about 17% in FY2013. The actual increase in appropriations between FY2008 and FY2013 was about 12%.

[52] For an overview of historical policy issues associated with NASA and its authorization, see CRS Report R43144, *NASA: Issues for Authorization, Appropriations, and Oversight in the 114th Congress*, by Daniel Morgan.

[53] P.L. 85-568, Section 307(a), "There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act, except that nothing in this Act shall authorize the appropriation of any amount for (1) the acquisition or condemnation of any real property, or (2) any other item of a capital nature (such as plant or facility acquisition, construction, or expansion) which exceeds $250,000. Sums appropriated pursuant to this subsection for the construction of facilities, or for research and development activities, shall remain available until expended."

Congress, a few months prior to the enactment of the Space Act, the House had established the Committee on Science and Astronautics (now Science, Space, and Technology) to oversee this new agency. The Senate also created the Committee on Aeronautical and Space Sciences for a similar purpose.[54] As these new committees were developing an understanding of NASA's programmatic capabilities and fiscal requirements, it was thought that frequent reauthorization was a process through which this understanding could be achieved more expeditiously.[55]

NASA's transition to an annual authorization of appropriations occurred in stages over the next few years. First, the FY1958 supplemental appropriations bill for NASA (P.L. 85-766) included a provision that required the enactment of a specific authorization of appropriations for each fiscal year through the end of FY1960. As initially drafted, this provision provided a permanent requirement for a specific authorization, under the rationale that such a requirement, which would presumably have been carried out through an annual reauthorization schedule, would provide accountability and oversight to the legislative committees of jurisdiction. The provision was revised prior to enactment to allow a one-year trial run of the concept after criticism that it would place an unnecessary burden on NASA and lead to duplication in congressional efforts.[56] The first reauthorization of NASA, for FY1959 supplemental appropriations, did not address the general requirement for specific authorization, set to expire the following fiscal year (P.L. 86-12). In the process of considering reauthorization legislation for FY1960, however, both the House and Senate proposed extensions of the specific requirement for the purpose of imposing an annual authorization process. The House Science Committee, in H.R. 70007 (86th Congress), included an extension of the requirement through FY1965.[57] Subsequently, the Senate Science Committee removed the House's termination date for the provision:

> Because of the nature of the space program, rapid and substantial changes as to magnitude, direction, and detail can be expected to continue indefinitely. For this reason the committee deleted the terminal date of July 30, 1965, on the authorization requirement, thereby making the requirement of indefinite duration. (S.Rept. 86-332, p. 47)

The same arguments that had been made against the temporary requirement were made against making it permanent, in particular, that an annual reauthorization process for the agency would lead to delays in the completion of annual appropriations.[58] Nevertheless, the enacted law included the Senate's version, and this requirement has continued to apply to NASA appropriations to the present day.[59]

For FY1961 through FY1981, NASA was reauthorized on an annual basis, and the appropriations authorized by these annual laws almost always covered only a single fiscal year.[60] The annual

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[54] Jurisdiction over NASA was transferred to the Commerce, Science, and Transportation Committee when the Senate Science Committee was dissolved in 1977.

[55] Thomas P. Jahnige, "The Congressional Committee System and the Oversight Process: Congress and NASA," The *Western Political Quarterly*, Vol. 21, No. 2 (June 1968), pp. 222-239.

[56] The negotiations and various congressional perspectives on this requirement are discussed in *House Science Committee History*, p. 24.

[57] The House rationale for this provision is discussed in H.Rept. 86-321, p. 35.

[58] Ibid, pp. 49-50.

[59] P.L. 86-45, Section 4, "Notwithstanding the provisions of any other law, no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Congress."

[60] The one exception occurred in the FY1976 reauthorization (P.L. 94-39), which authorized appropriations for FY1976 (continued...)

reauthorizations were enacted after the beginning of the fiscal year just over half of the time during this period. However, they were enacted ahead of appropriations each fiscal year except for FY1979 (P.L. 95-401), which was signed into law on the same day as the appropriations measure. On average, these reauthorizations were enacted about two months in advance of appropriations (67 days).

The consistent enactment of annual authorizations in advance of appropriations may have been a factor in minimizing the difference between the total amount authorized and the funding subsequently provided. The amount of appropriations was on average less than 1% below the authorized level for the agency.[61] The most that appropriations ever exceeded the authorized level was almost 6% in FY1980; the most they fell short of the authorization was also almost 6% in FY1968. In total, for 13 out of the 20 fiscal years during this period, the amount authorized was higher than the amount appropriated. In the remaining seven fiscal years, the appropriations equaled or exceeded the authorized level.[62]

In general, NASA tended to receive program direction from Congress through authorization report language, as well as the appropriations process during this period. Substantive, non-administrative policy changes to the agency or associated programs were only occasionally enacted through the annual reauthorizations. For example, the FY1976 law (P.L. 94-39) enacted a new program authorization for upper atmospheric research. Occasionally, changes to the agency or its associated programs would also occur as part of broader laws that covered multiple agencies, such as the Government Employees Salary Reform Act of 1964 (P.L. 88-426) and the Electric Vehicle Research, Development, and Demonstration Act (P.L. 94-413).

Transition to Periodic Reauthorization

During the 1980s, space-related public policy concerns rapidly expanded into new areas. Some significant events for NASA included the completion of the first Space Shuttle *Columbia* flight on April 12, 1984, and President Reagan's announcement of plans to build a space station within the next decade.[63] Stand-alone authorization laws initiating new programs that involved NASA were also enacted. For example, the Commercial Space Launch Act, which created a government entity to regulate private launch companies, was enacted in 1984 (P.L. 98-575). Other issues related to international cooperation became both more important and controversial.[64] NASA reauthorizations were increasingly used as a means to enact significant space policy changes or

(...continued)

and FY1977 for specific categories in both the Research and Development, and Construction/Facilities accounts.

[61] A list of authorization and appropriation laws was provided by the NASA Office of Legislative Reference and Analysis. The appropriated amounts used for the calculations in this section of the report are from *National Aeronautics and Space Report of the President*, 2008, Appendix D-1A, p. 146.

[62] During the early part of this period, until FY1970, the agency budget increased more than sevenfold. Although this budgetary growth slowed considerably during the next ten fiscal years, the increase over that period was still about 63%.

[63] For further information, see Roger Launius, Colin Fries, and Abe Gibson, "Defining Events in NASA History, 1958-2006," National Aeronautics and Space Administration, updated January 2, 2012, available at http://www.hq.nasa.gov/office/pao/History/40thann/define.htm.

[64] For example, at the beginning of the Reagan presidency, the Administration decided to cancel the International Solar Polar Mission, which was to have involved the construction of two spacecraft by NASA and the European Space Agency. The conference report accompanying the FY1982 and FY1983 reauthorizations expressed disapproval of the ISPM cancellation (H.Rept. 97-351, p. 9; H.Rept. 97-897, p. 8).

expansions of NASA. For example, the FY1985 reauthorization established the National Commission on Space (P.L. 98-361), an advisory body to develop a long-term national space strategy.

The increasing focus on space policy, as well as the fiscal constraints affecting federal budgeting during this era, may have both been factors in the delays in completing NASA reauthorization laws after FY1981.[65] In general, reauthorizations after this time were enacted much closer to appropriations than in the first two decades of the agency—two days ahead of the appropriation in FY1982, 15 days behind the appropriation in FY1983, 27 days ahead in FY1985, two days ahead in FY1985, and 10 days behind in FY1986. In FY1987, no reauthorization was enacted, because H.R. 5495 (99th Congress) was pocket vetoed by the President over the inclusion of provisions that would reestablish the National Aeronautics and Space Council.[66] The broader policy context for this dispute related to the Space Shuttle *Challenger* explosion, which had occurred nine months before the start of the fiscal year, and congressional dissatisfaction with the Administration's response to it.

In the latter part of the 1980s, reauthorization laws continued to address broad space policy issues. They also experienced further delays in enactment. While the FY1988 reauthorization was enacted 54 days ahead of appropriations, for all other fiscal years through FY1993, the reauthorization was enacted an average of about 42 days after appropriations. No reauthorization was enacted at all for FY1990, as the House and Senate failed to resolve their differences over their respective versions of the legislation (H.R. 1759 and S. 916, 101st Congress).

Perhaps related to these difficulties in enacting reauthorizations in a timely manner, the House Science Committee started in FY1989 to propose authorizations of appropriations for three fiscal year periods for many major activities, such as line items under the Research and Development and Space Flight accounts. These multiyear reauthorizations also typically included proposals for long-term program or policy initiatives. In contrast, the Senate Commerce Committee versions continued to recommend authorizations of appropriations for a single fiscal year only, and tended to include fewer long-term policy proposals.

While the authorizations continued to provide funding amounts for a single fiscal year,[67] the groundwork was laid for a longer-term authorization schedule through other means. For example, the FY1989 reauthorization required NASA to compile a five-year capital development plan and a 10-year strategic plan. The act also directed that, starting in FY1990, NASA submit a three-year budget request. In FY1992, this directive appears to have been superseded by a new requirement for a five-year budget submission for all programs that exceed $200 million (P.L. 102-195).

During the past fifteen years, NASA reauthorizations have been enacted on a periodic basis, typically covering more than a single fiscal year, but not on any set schedule. These laws were often in response to policy developments instigated by the Administration, such as the Vision for

[65] The effect of these fiscal constraints on the NASA authorization is discussed, for example, in H.Rept. 97-351, p. 8, and H.Rept. 99-379, p. 9.

[66] President Reagan explained this veto thus: "The establishment of a National Space Council in the Executive Office of the President would constitute unacceptable interference with my discretion and flexibility in organizing and managing the Executive Office as I consider appropriate.... " ("President Ronald Reagan, "Memorandum of Disapproval of the National Aeronautics and Space Administration Funding Bill," November 14, 1986.) The congressional rationale for this Council is discussed in H.Rept 99-829, p. 15.

[67] An exception to this was in FY1989, when the Space Station was reauthorized for FY1989-FY1991 (P.L. 100-685).

Space Exploration program in 2004.[68] For the FY2000-FY2002 reauthorization (P.L. 106-391), the multiyear interval for reauthorization appears to have been uncontroversial, as both the House (H.R. 1654) and Senate (S. 342) versions authorized appropriations for that three-year period. The second reauthorization to be enacted during this period was for FY2007-FY2008 (P.L. 109-155).[69] While the House version (H.R. 3070) provided a two-year authorization of appropriations, the Senate version (S. 1281) had authorizations on a longer time horizon, through FY2010. For the FY2009 reauthorization, both the House and Senate versions proposed funding amounts for only a single fiscal year (P.L. 110-422; H.R. 6063, 110th Congress). The most recent reauthorization law covered three fiscal years, FY2011-FY2013 (P.L. 111-267).

Along with the trend toward the periodic enactment of multiyear reauthorizations, there has been an increase in the difference between the amounts that were authorized and those that were subsequently appropriated. Appropriations for FY2001 and FY2002, enacted after the FY2000-FY2002 reauthorization, were slightly higher than the authorization. However, the gap between authorizations and appropriations became more pronounced during the FY2007-FY2008 period. The FY2009 reauthorization, enacted 15 days after the appropriations bill, was almost 14% higher than the actual funding level. And even though the FY2011-FY2013 reauthorization was enacted about five months ahead of appropriations for FY2011, appropriations subsequently enacted were about 3% lower than the authorization in FY2011, 9% lower than the authorization in FY2012, and about 12% lower than the authorization in FY2013.[70]

Peace Corps

Appropriations for the Peace Corps were annually authorized each fiscal year—from its establishment in 1961 through FY1981. Starting with the FY1982 reauthorization, which was for a two-fiscal year period, the agency began to experience gaps in its enactment of reauthorization and it transitioned to a multiyear schedule. Since that time, reauthorizations of appropriations have been enacted intermittently, most recently for the FY2000-FY2003 time period, but not thereafter.[71]

Establishment and Early Annual Reauthorizations

The Peace Corps was permanently established through the Peace Corps Act, which was enacted on September 22, 1961 (P.L. 87-293).[72] That act carried a provision that authorized a specific sum for FY1962 Peace Corps appropriations.[73] While this provision arguably indicated congressional

[68] For further information, see CRS Report R43144, *NASA: Issues for Authorization, Appropriations, and Oversight in the 114th Congress*, by Daniel Morgan.

[69] For FY2003-FY2006, little congressional action occurred to reauthorize NASA, and no such laws were enacted. In the 107th Congress, no action occurred on attempts to reauthorize in the House or Senate. In the 108th Congress, the Senate Commerce Committee reported S. 2541, to reauthorize appropriations for FY2005-FY2009, but no further action occurred.

[70] This calculation does not include the reduction in FY2013 appropriations due to the sequester ordered on March 1, 2013. In total, the appropriations increase between FY2001 and FY2013 was about 22%.

[71] For an overview of historical policy issues associated with the Peace Corps and its authorization, see CRS Report 98-215, *The Peace Corps: Background and Issues for Congress*, by Curt Tarnoff.

[72] The Peace Corps was first established on a temporary basis through Executive Order 10924 on March 1, 1961.

[73] P.L. 87-293, Section 3(b), "There is hereby authorized to be appropriated to the President for the fiscal year 1962 not to exceed $40,000,000 to carry out the purposes of this Act."

intent to reauthorize the agency the following fiscal year, there appears to have been little discussion in the legislative history of the act of any potential annual schedule for reauthorization.[74] In the broader context of foreign affairs authorization laws that were enacted during this period, congressional review of those programs and any associated legislative action had tended to occur on an as-needed basis. In addition, until the enactment of P.L. 91-671, which imposed a general requirement for explicit authorizations of appropriations on foreign affairs spending, few explicit authorizations of appropriations had ever been enacted for ongoing programs.[75] Consequently, the motivation for an annual schedule, at least initially, appears to have been driven by the newness of the agency.

The following year, the first reauthorization law for the Peace Corps was enacted, consisting of a single sentence that provided a definite authorization of appropriations for FY1963 (P.L. 87-442). In the lengthy report accompanying H.R. 10700, the committee explained the purpose of this legislation:

> The situation confronting the committee and the Congress is that there appear to be no developments during the first year of operation which give rise to any question as to the soundness of the Peace Corps concept, or which indicate that its program is too ambitious. The record of the managers of the Peace Corps merits continued confidence.
>
> The basic problem is, therefore, whether or not the requested authorization of $63,750,000 is justified. The committee has considered the method by which the financial requirements for fiscal 1963 were calculated, the nature of the programs to be financed and the foreign policy problems which confront the United States in the various countries involved. On the basis of this analysis, the planned rate of expansion appears to be realistic, the cost estimates reasonable, and the authorization requested to be justified. (H.Rept. 87-1470, p. 4)

The committee's report language also discussed the work of the Peace Corps the previous fiscal year, and potential developments for the upcoming fiscal year.

Over the next 15 years, FY1964-FY1979, the agency was reauthorized on an annual basis, almost always through a stand-alone authorization law.[76] About half the reauthorization laws during this period only updated the prior authorization of appropriations with regard to the fiscal year and amount, leaving the other parts of the law largely unchanged. In these instances, however, the House Foreign Affairs and Senate Foreign Relations Committees often used reauthorization as an opportunity to communicate to both Congress and the agency their assessment of a wide variety of other agency issues. For example, the Senate report language associated with the reauthorization for FY1969 addressed issues such as the current status of Peace Corps agency and

[74] For example, the reauthorization schedule was not discussed at any of the House Foreign Affairs Committee hearings on establishing the Peace Corps, nor was it addressed in the conference report for H.R. 7500. See U.S. House of Representatives, Committee on Foreign Affairs, *The Peace Corps*, House Hearings, August 11 and 15, 1961 (Washington DC: GPO, 1961); H.Rept. 97-1237.

[75] P.L. 91-672, the Foreign Military Sales Act amendments, contained the following provisions, codified at 22 U.S.C. 2412(a): "Notwithstanding any provision of law enacted before January 12, 1971, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—(1) unless the appropriation thereof has been previously authorized by law; or (2) in excess of an amount previously prescribed by law."

[76] Only the FY1973 Peace Corps reauthorization was enacted as part of an omnibus reauthorization act, Title IV of the Foreign Relations Authorization Act of 1972 (P.L. 92-352).

volunteer operations, as well as ongoing committee concern related to the administrative costs associated with various programs.[77]

The annual reauthorization process was also used to implement changes in the underlying law, often in response to new developments within the agency. For example, in 1971, the Peace Corps was merged into a new volunteer service agency called ACTION.[78] Although the Peace Corps' underlying mission remained the same, the annual authorization process, both before and after 1971, was used to oversee and structure its merger with ACTION and to review other agency concerns. In the FY1970 reauthorization (P.L. 99-199), provisions were included to restrict the use of Peace Corps funds for other volunteer and training programs. And the FY1975 and FY1976 reauthorizations (P.L. 93-302 and P.L. 94-76) mandated statutory transfers of Peace Corps appropriations to finance increases in certain volunteer benefits.

Both the frequency of the reauthorization, as well as its funding specificity, was viewed by Congress as an important tool of agency oversight. Late in this period, there was some dispute between Congress and the President with regard to both issues. In FY1977, the President's budget submission requested a two-year authorization for the Peace Corps, with a definite amount for FY1977, and such sums as may be necessary for FY1978. The House Foreign Affairs Committee responded to the Administration's request in the committee report accompanying H.R. 12226:

> The Executive Branch requested a two-year authorization for the Peace Corps—$67,155,000 for fiscal 1977 and such sums as may be necessary for fiscal 1978. Because the Committee has believed that such open-ended authorizations are unwise and because it was not possible for the Peace Corps to come forward with firm fiscal 1978 figure, the authorization was limited to a single year. (H.Rept. 94-874, p. 3)

The Senate version provided a definite one-year authorization of appropriations and did not comment on the Administration's proposal.[79] The Administration requested a "such sums" two-year authorization of appropriations the following year, which was also rejected by the House and Senate. The next year, when this two-year proposal was suggested and rejected yet another time, the Senate noted, "Each year the Peace Corps has submitted a request for an open-ended authorization, and each year the Congress has rejected these requests on the basis that congressional oversight responsibilities are best exercised through the annual authorization and appropriations processes."[80]

Transition to Intermittent Reauthorization

Starting in FY1980, a number of significant changes for the Peace Corps occurred, both in terms of its status as an agency as well as congressional practices associated with its reauthorization. After the Peace Corps was reestablished as an independent agency, provisions in the FY1981 reauthorization further facilitated this transition (P.L. 96-533), and subsequent reauthorizations became focused on new policy developments within that agency.[81] During this period, Congress

[77] S.Rept. 90-1095.

[78] This reorganization was made effective by Executive Order 11603, which was issued pursuant to Reorganization Plan 1.

[79] S.Rept. 94-757.

[80] S.Rept. 95-807, p. 8.

[81] The Peace Corps was reestablished as an independent agency by Executive Order 12137 on May 16, 1979.

also experimented with changes in the vehicle and timing of the reauthorization. The first such change occurred with the FY1980 and FY1981 reauthorizations (P.L. 96-53 and P.L. 96-533), where the Peace Corps was reauthorized as part of a larger omnibus foreign aid vehicle. The FY1981 reauthorization was notable for at least two other reasons. First, it was enacted after the start of the fiscal year, on December 16, 1980, which was much later than typical. Second, it was enacted on the same day as FY1981 Peace Corps appropriations. The next reauthorization, also enacted on the same day as FY1982 appropriations, included further changes in practice, in authorizing appropriations for both FY1982 and FY1983 (P.L. 97-133). While there was no indication given at that time of a broader change in the authorization interval, the next authorization of appropriations was also for two fiscal years (FY1986 and FY1987), and was enacted after almost a four-year lapse.[82] These authorized levels were updated a year later through a provision in the foreign relations reauthorization.[83]

There appear to be a number of factors that could account for these significant changes in practice. First, with the Peace Corps reorganization at the beginning of the decade, the focus of each reauthorization increasingly addressed agency policy concerns, and the practice of enacting laws that only authorized appropriations was generally discontinued. Second, the change in the vehicle to a multi-agency foreign aid authorization may have also affected the frequency of the authorization, both because the foreign aid authorizations tended to authorize multiyear appropriations for other programs, and the potential for delays due to policy disputes unrelated to the Peace Corps. Finally, both the late enactment of the authorizations compared to appropriations, and the gaps in the authorization of appropriations, may have also further undermined the role of provisions explicitly authorizing appropriations in influencing budgetary decision-making.

Over the past 25 years, efforts to reauthorize the Peace Corps have occurred on an irregular basis. Moreover, these authorization measures have often been primarily directed at policy concerns with the agency, as opposed to reauthorizing appropriations. For FY1993, a stand-alone law was enacted that both reauthorized appropriations and established the Peace Corps foreign exchange fluctuations account (P.L. 102-565). This law had been enacted about one month after the Peace Corps appropriations for that fiscal year; the amount authorized and appropriated were identical. About eighteen months later, provisions were carried in the FY1995/FY1996 Foreign Relations Authorization Act that provided a two-year authorization of appropriations for the Peace Corps, along with minor technical changes to the program (P.L. 103-236). The most recent authorization of appropriations enacted for the Peace Corps covered four fiscal years, FY2000-FY2003 (P.L. 106-30), but the primary purpose of this law was to authorize the expansion of the Peace Corps beyond the goal of 10,000 volunteers and make technical updates. Since that time, legislation that would reauthorize appropriations for the Peace Corps has received little congressional action.[84]

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[82] The Senate version, S. 960, carried an authorization of appropriations for FY1986 only, while the House version carried a two-year authorization of appropriations. In the conference report, the committee explained, "The Senate bill contained authorizations for only fiscal year 1986, while the House amendment authorized funds for both fiscal year 1986 and 1987. The executive branch requested such sums as may be necessary for fiscal year 1987. The committee of conference agreed to extend the fiscal year 1986 authorization to fiscal year 1987, at the same levels. The Committees on Foreign Affairs of the House and Foreign Relations of the Senate will give full consideration to any additional recommendations by the executive branch for fiscal year 1987 [H.Rept. 99-237, p. 108]."

[83] This provision was added during the Senate Foreign Relations Committee markup of the foreign relations reauthorization (S. Rept. 99-304, p. 25) and was enacted into law unchanged (P.L. 99-399).

[84] See, for example, S. 12 (107th Cong.), S. 1426 (112th Cong.) and H.R. 2583 (112th Cong.).

The most recent law to make major program changes to the Peace Corps, involving volunteer safety, included no provisions authorizing appropriations (P.L. 112-57). [85]

Conclusion

The evolution in the form of authorizations during the twentieth century allowed the legislative committees to not only address policy questions but also to exercise a greater role in congressional and agency funding decisions. While these committees have a number of tools at their disposal with which to exercise this influence, one such tool that was chosen and developed during this period was the use of explicit authorizations of appropriations. As the needs of these committees and Congress have changed over time, the extent to which this tool has been used has also shifted.

The legislative committees' desire for increased involvement in both agency and congressional budgetary decisions was a significant factor in the adoption of periodic reauthorization schedules, and played a role in the authorizations for all three agencies in this study. The Peace Corps and NASA received annual authorization schedules soon after being created as a means to facilitate congressional oversight during this critical time in the agency's development. While the transition to an annual reauthorization for NSF occurred many years after the agency's establishment, it too was motivated by oversight concerns that had developed in the interim. For all three agencies, annual authorizations also had the advantage allowing the legislative committees to formally weigh in on the agency's budgetary needs each fiscal year through the legislative process.

During the period prior to the 1980s, the annual authorizations for the NSF, NASA, and the Peace Corps were all characterized by relatively incremental program changes, with the more significant alternations generally being made outside the annual reauthorization process. As the NSF and NASA transitioned to a more long-term reauthorization schedule over the past thirty years, their reauthorization laws have become more policy-focused and contained more instances of significant program changes. This transition in the focus of reauthorizations was even more pronounced for the Peace Corps, with reauthorizations during the past few decades being enacted intermittently, and recent legislative proposals to make significant program changes containing no explicit authorizations of appropriations.

In general, the evolution of authorizations in recent years has moved away from annual reauthorizations to longer periods. This has allowed Congress to address some criticisms about the impact of lapsed authorizations and focus instead on policy issues. This evolution parallels larger institutional patterns of change and innovation and the development of institutional capacity. In general, the choice of certain institutional tools over others may be driven both by the requirements of a particular context, as well as to serve broader purposes.[86] The extent to which the separation between the authorization and appropriations processes continues to be a feature of congressional rules and practices, the balance that results from the tension this separation creates will likely shift again and lead to further procedural adaptations.

[85] For a discussion of these issues, see CRS Report RS21168, *The Peace Corps: Current Issues*, by Curt Tarnoff.

[86] Eric Schickler, *Disjointed Pluralism* (Princeton, New Jersey: Princeton University Press, 2001), pp. 15-18.

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