

CHERYL L. JOHNSON
CLERK

H-154 THE CAPITOL

GLORIA J. LETT
DEPUTY CLERK

ROBERT F. REEVES
DEPUTY CLERK

Office of the Clerk
U.S. House of Representatives
Washington, DC 20515-6601

January 15, 2021

The Honorable Zoe Lofgren
Chairperson
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Rodney Davis
Ranking Member
Committee on House Administration
1216 Longworth House Office Building
Washington, DC 20515

Dear Chairperson Lofgren and Ranking Member Davis,

As required by Section 503 of House Resolution 756 from the 116th Congress, agreed to by the House on March 10, 2020, I am required to submit an annual report about information on expiration of authorizations of programs.

The status of our work has not change significantly since we submitted our previous report, which I have attached for your reference.

If you or others on the Committee have questions about this matter, please do not hesitate to contact me.

Sincerely,



Clerk of the House

Enclosure

CHERYL L. JOHNSON
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H-154 THE CAPITOL

Office of the Clerk
U.S. House of Representatives
Washington, DC 20515-6601

July 8, 2020

The Honorable Zoe Lofgren
Chairperson
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Rodney Davis
Ranking Member
Committee on House Administration
1216 Longworth House Office Building
Washington, DC 20515

Dear Chairperson Lofgren and Ranking Member Davis,

As required by Section 503 of House Resolution 756, agreed to by the House on March 10, 2020, I am attaching this initial report about the establishment and maintenance of an up-to-date database of information on the expiration dates of all Federal programs.

If you or others on the committee have questions about this report, please do not hesitate to contact me.

Sincerely,



Clerk of the House

Enclosures

Information on Expiration of Authorizations of Programs

As required by Section 503 of House Resolution 756, agreed to by the U.S. House of Representatives on March 10, 2020, the Clerk of the House submits this initial report about the establishment and maintenance of an up-to-date database of information on the expiration dates of all federal programs.

Overview

House Rule XXI (2)(a)(1) generally requires that appropriations be for programs and activities previously authorized by law. However, identifying all programs, projects, and activities currently authorized by law and when they expire presents both conceptual and methodological issues, which make it challenging to compile an authoritative list. Both the Congressional Budget Office (CBO) and the Congressional Research Service (CRS) have explored such possibilities and have indicated to Clerk staff that there are significant challenges to creating a complete, authoritative list of programs and their expiration dates.

Congressional Budget Office

Annually, the CBO reports on programs whose authorizations of appropriations have already expired or will expire during the current fiscal year. This CBO report could be defined as a subset of the information requested in Section 503 of H. Res. 756, but not the complete list.¹ The CBO report includes only expired and expiring authorization of appropriation expenditures, not the authorization of the programs themselves. In other words, the CBO report follows appropriated funds and only those funds that expire (or are expiring). The report does not follow any subset of or all federal programs from when a program, project, or activity may have been created and if there is an explicit expiration date. Again, the CBO report tracks a small fraction of expenditures.

The current report is made available to the public and is included as an attachment to this document.

Congressional Research Service

In the past, the CRS has received requests to identify either statutes authorizing expenditures of appropriations or appropriations otherwise authorized by law. Rather than rewrite or summarize the CRS memorandum, we have included it as an attachment to this document. Items of interest include the difference between how the House and Senate define “authorized by law”; and how the law may authorize an agency to administer a program or engage in an activity either by organic law, explicit or implicit language in the law, or through annual appropriations (with or without prior authorization described in the law).

Committee Oversight Plans

Due to the current health emergency and priorities related to working remotely, Clerk staff have not yet met with any authorizing committees to understand how they record and track information on expiration

¹ Current report: Congressional Budget Office Report, “Expired and Expiring Authorizations of Appropriations: Fiscal Year 2020”: <https://www.cbo.gov/publication/56082>

of authorizations of programs. Understanding what information committees track and how they do it will inform project planning and scope.

As the Committee knows, H. Res. 5 for the 115th Congress added language to the House Rules (Clause 2(d)(2)(A) of Rule X) requiring House committee oversight plans² to explicitly include, “within the committee’s jurisdiction, and to the maximum extent practicable, a list of such programs or agencies with lapsed authorizations that received funding in the prior fiscal year or, in the case of a program or agency with a permanent authorization, which has not been subject to a comprehensive review by the committee in the prior three Congresses; a description of each such program or agency to be authorized in the current Congress.” This language was dropped from House Rule X for the 116th Congress.

Next Steps

The Office of the Clerk will continue our discussions with the CBO, CRS, House committees, and others about the possible creation of this database of information. We will continue to update the Committee about our discussions, findings, and recommendations and submit subsequent annual reports as required by H. Res. 756.

Attachments

- Congressional Budget Office Report, “Expired and Expiring Authorizations of Appropriations: Fiscal Year 2020”
- Congressional Research Memorandum, “CRS Identification of ‘Appropriations not Authorized by Law’” dated November 1, 2016

² 116th Congress Committee Oversight Plans: <https://www.congress.gov/116/crpt/hrpt40/CRPT-116hrpt40.pdf>; 115th Committee Oversight Plans: <https://www.congress.gov/115/crpt/hrpt69/CRPT-115hrpt69.pdf>

Expired and Expiring Authorizations of Appropriations: Fiscal Year 2020

Authorizations of appropriations are provisions of law that authorize funds to be provided through a future appropriation act to carry out a program or function. They are different from *appropriations*, which provide funding. Each year, the Congressional Budget Office reports to the Congress on the following:

- Programs and activities for which the authorizations of appropriations have expired before the current fiscal year, and
- Programs and activities for which the authorizations of appropriations will expire during the current fiscal year.

The requirement for this CBO report is specified in section 202(e)(3) of the Congressional Budget Act of 1974.¹ Ordinarily, CBO would have published this report by January 15, 2020. However, because the 12 regular full-year appropriation bills were not enacted until December 20, 2019, CBO did not have sufficient time to complete the required analysis before the statutory

1. See House Report 99-433 (December 10, 1985), p. 114, the conference report accompanying the Balanced Budget and Emergency Deficit Control Act of 1985, which amended the Congressional Budget Act of 1974 to include the requirement for this report. The stated purpose is “to help Congress use the early months of the year to adopt authorizing legislation which must be in place before the thirteen regular appropriation bills can be considered.” (Currently, there are 12 regular appropriation bills.)

deadline. With the agreement of the House and Senate Budget Committees, CBO delayed publication until the agency could fully analyze the funding provided in the appropriation bills for fiscal year 2020.

This edition of the report reflects legislation passed by the Congress during the first session of the 116th Congress, which ended on January 3, 2020.² Some of that legislation became law after that date. The latest public law analyzed for this report was the Securing American Nonprofit Organizations Against Terrorism Act of 2019 (Public Law 116-108), which was signed into law by the President on January 24, 2020.

CBO estimates that 1,046 authorizations stemming from 272 laws expired before the beginning of fiscal year 2020. In particular:

- About 70 percent of those authorizations specified amounts of annual funding—totaling \$169 billion

2. The information summarized in this report is drawn from CBO’s Legislative Classification System (LCS), a database of nonpermanent and explicit authorizations of appropriations. The underlying data are posted with the report on CBO’s website. That supplemental data file consists of instructions for sorting the data, a spreadsheet, and a glossary of relevant terms. The spreadsheet catalogs every authorization of appropriations contained in CBO’s LCS. The file also lists funding amounts provided for fiscal year 2020 for authorizations of appropriations that expired on or before September 30, 2019.

when the authorizations were last in effect; the others authorized indefinite appropriations of amounts needed to carry out particular programs or functions.

- CBO has identified \$332 billion in appropriations contained in 2020 appropriation legislation that can be attributed to those expired authorizations—\$233 billion for those authorizations with specified amounts and \$99 billion for indefinite authorizations.³

As of January 3, 2020, 143 authorizations of appropriations included in 30 laws were set to expire by the end of the fiscal year.

The Role of Authorizations

The term *authorization* is used to describe two types of laws. The first are *enabling* statutes (sometimes called organic statutes), which create a federal agency, establish a federal program, prescribe a federal function, or provide for a particular federal obligation or expenditure within a program. Such an authorization may allow a federal agency, program, or function to continue either indefinitely or for a specific period. It may authorize an agency to obligate and spend federal funds without further legislation, or it may simply specify a purpose for which a subsequent appropriation may be provided in a future law (usually, an annual appropriation act).

This report focuses on the second type of authorization: *authorizations of appropriations*, which authorize an agency to carry out a program or function established in an enabling statute, subject to the appropriation of funds in subsequent legislation. An authorization of appropriations constitutes guidance to the Congress about the funding that may be necessary to implement an enabling statute; it may be contained in that enabling statute or enacted separately. Such laws may authorize appropriations for one year, multiple years, or in perpetuity.

3. CBO identified the appropriations by reviewing the text and corresponding legislative history of the 2020 appropriation acts. The Consolidated Appropriations Act, 2020 (P.L. 116-93), contained 4 of the 12 regular appropriation acts. Divisions A through H of the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), contained the remaining 8 regular appropriation acts for fiscal year 2020. The legislative history reviewed for this report is predominantly from the joint explanatory statements in the conference reports that accompany the annual appropriation acts. Such statements typically are published in the *Congressional Record* when the appropriation acts are considered by the Congress.

Amounts authorized may be definite or indefinite: Some laws specify the amount of funding that may be provided; others authorize “such sums as may be necessary.” In either case, CBO refers to those laws as *explicit* authorizations.

House and Senate rules dating from the 19th century restrict the consideration of an appropriation if it lacks an authorization of appropriations.⁴ Whether an appropriation lacks authorization and whether it is in violation of a House or Senate rule are determined by the Speaker of the House or the Presiding Officer of the Senate on the basis of advice from the relevant chamber’s Office of the Parliamentarian. Although this report is intended to aid the Congress by identifying explicit authorizations of appropriations that have already expired or will expire this year, it is not and should not be considered definitive with respect to the application of House or Senate rules.

The Scope and Limitations of This Report

As specified by law, this report covers programs or functions that satisfy two conditions:

- At one time, the program or function had an explicit authorization of appropriations, and
- That authorization of appropriations has expired or will expire during fiscal year 2020.

Some activities are governed by a combination of explicit authorizations of appropriations and enabling laws, both of which may have a specified expiration date. This report accounts only for explicit authorizations of appropriations.

The estimates of funding for expired authorizations presented in this report include only appropriations that CBO can readily identify in legislative text or legislative history. It is possible that additional amounts of 2020 funding are available for activities or programs with expired authorizations of appropriations. For example, the legislative text of some appropriations may be sufficiently broad to support a range of activities that might

4. See clause 2(a)(1) of Rule XXI of the Rules of the House of Representatives, H.R. Doc. 114-192 (2016), p. 868; and clause 1 of Rule XVI of the Standing Rules of the Senate, S. Doc. 113-18 (2013), p. 11.

Table 1.

Summary of 2020 Appropriations With Expired Authorizations, by House Authorizing Committee

House Authorizing Committee	Number of Laws ^a	Expired Authorizations of Appropriations ^b	Identifiable Appropriations (Millions of dollars) ^c
Agriculture	3	3	321
Education and Labor	18	110	44,471
Energy and Commerce	52	282	13,661
Financial Services	22	46	44,153
Foreign Affairs	29	99	38,986
Homeland Security	7	19	5,122
House Administration	3	4	97
Natural Resources	60	160	4,393
Oversight and Reform	8	14	122
Science, Space, and Technology	17	58	42,666
Small Business	3	8	683
The Judiciary	37	141	38,259
Transportation and Infrastructure	29	78	16,235
Veterans' Affairs	13	18	83,074
Ways and Means	4	6	208
Total	272	1,046	332,450

Source: Congressional Budget Office.

This table shows only the committees that have jurisdiction over expired authorizations of appropriations in CBO's Legislative Classification System; therefore, not all House committees are included.

a. Includes laws containing expired authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations that are under the jurisdiction of more than one House authorizing committee are counted only once.

b. Number of explicit authorizations of appropriations within the jurisdiction of each House authorizing committee that expired on or before September 30, 2019.

c. Identifiable amounts specified in statute or legislative history; those amounts are related to 407 expired authorizations in 160 laws.

include those governed by explicit authorizations that have expired.

More broadly, the total number of expired and expiring authorizations presented in this report, as well as aggregate estimates of authorized and appropriated funding, are subject to considerable uncertainty. A federal agency's activities may be governed by several authorizations of appropriations that may interact or overlap. For example, some authorizations may specify funding for narrow and specific activities that might also be permitted under a broader authorization of appropriations. In some cases, the narrow authorization might effectively be a portion of a broader authorization; in others, it might be additive. CBO has attempted to provide the most detail by separately tracking each authorization of appropriations and the full amount of appropriations attributable to

it, which may result in some double counting of the amounts authorized or appropriated.

Expired Authorizations of Appropriations

Table 1, Table 2, and Table 3 summarize information about the number of expired authorizations identified in this report, and the amount of appropriations for 2020 that CBO was able to associate with them, by the House or Senate authorizing committee and by the appropriations subcommittee.

Number of Expired Authorizations

CBO identified 1,046 authorizations of appropriations—stemming from 272 laws—that expired before the beginning of fiscal year 2020 and had not been reauthorized as of January 3, 2020. Combined, 727 contained specified authorizations of annual funding that

Table 2.

Summary of 2020 Appropriations With Expired Authorizations, by Senate Authorizing Committee

Senate Authorizing Committee	Number of Laws ^a	Expired Authorizations of Appropriations ^b	Identifiable Appropriations (Millions of dollars) ^c
Agriculture, Nutrition, and Forestry	6	17	363
Banking, Housing, and Urban Affairs	20	41	43,265
Commerce, Science, and Transportation	42	145	49,464
Energy and Natural Resources	23	182	16,259
Environment and Public Works	42	75	4,006
Finance	5	7	220
Foreign Relations	28	98	38,986
Health, Education, Labor, and Pensions	42	234	50,181
Homeland Security and Governmental Affairs	17	35	6,677
Indian Affairs	15	41	942
Senate Rules and Administration	3	4	97
Small Business and Entrepreneurship	4	10	683
The Judiciary	38	139	38,233
Veterans' Affairs	13	18	83,074
Total	272	1,046	332,450

Source: Congressional Budget Office.

This table shows only the committees that have jurisdiction over expired authorizations of appropriations in CBO's Legislative Classification System; therefore, not all Senate committees are included.

- a. Includes laws containing expired authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations that are under the jurisdiction of more than one Senate authorizing committee are counted only once.
- b. Number of explicit authorizations of appropriations within the jurisdiction of each Senate authorizing committee that expired on or before September 30, 2019.
- c. Identifiable amounts specified in statute or legislative history; those amounts are related to 407 expired authorizations in 160 laws.

totaled \$169 billion when they were last in effect; the other 319 authorized indefinite amounts.⁵

Expired Authorizations With Identifiable Appropriations

For fiscal year 2020, CBO estimates that \$332 billion in appropriations can be associated with 407 expired authorizations—\$233 billion for specified authorizations and \$99 billion for indefinite authorizations. Those appropriations were identified by comparing the expired authorizations in this year's report with the relevant statutory text and associated legislative history accompanying the 12 annual appropriation bills. The \$233 billion in 2020 appropriations for specified authorizations was for 264 programs; when most recently in effect, those

laws authorized annual appropriations totaling \$146 billion. CBO associated the remaining \$99 billion in 2020 appropriations with 143 indefinite authorizations.

Expired Authorizations With No Identifiable Appropriations

CBO cannot identify appropriations in either the statutory text of fiscal year 2020 appropriation acts or in the accompanying legislative history for 639 other expired authorizations. Among them, 463 authorizations stem from laws that, when most recently in effect, contained specified authorizations of appropriations totaling \$22 billion. The other 176 authorizations did not specify an amount of authorized annual appropriations.

5. In the LCS database, and in totals presented in this report, the amount of funding authorized by such indefinite authorizations of appropriations is recorded as zero.

Table 3.

Summary of 2020 Appropriations With Expired Authorizations, by Appropriations Subcommittee

Appropriations Subcommittee	Number of Laws ^a	Expired Authorizations of Appropriations ^b	Identifiable Appropriations (Millions of dollars) ^c
Agriculture, Rural Development, FDA, and Related Agencies	6	17	360
Commerce, Justice, Science, and Related Agencies	65	213	69,112
Defense	1	1	n.a.
Energy and Water Development and Related Agencies	17	164	11,037
Financial Services and General Government	25	40	3,742
Homeland Security	18	48	19,270
Interior, Environment, and Related Agencies	69	130	6,026
Labor, HHS, Education, and Related Agencies	52	243	58,869
Legislative Branch	1	1	1
Military Construction, Veterans Affairs, and Related Agencies	13	18	83,074
State, Foreign Operations, and Related Programs	30	98	38,970
Transportation, HUD, and Related Agencies	28	73	41,988
Total	272	1,046	332,450

Source: Congressional Budget Office.

FDA = Food and Drug Administration; HHS = Department of Health and Human Services; HUD = Department of Housing and Urban Development; n.a. = not applicable.

- a. Includes laws containing expired authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations for programs that are under the jurisdiction of more than one appropriations subcommittee are counted only once.
- b. Number of explicit authorizations of appropriations for programs within the jurisdiction of each appropriations subcommittee that expired on or before September 30, 2019.
- c. Identifiable amounts specified in statute or legislative history; those amounts are related to 407 expired authorizations in 160 laws.

Comparison With Last Year's Report

A comparison of CBO's March 2019 report and the February 2020 analysis leads to the following conclusions:⁶

- CBO estimates that 87 percent of the \$332 billion in appropriations identified for the current report is associated with expired authorizations attributable to 15 laws (see Table 4). Most of those authorizations

expired before 2019 and were also identified in last year's report as the major sources of expired authorizations with identified appropriations.

6. The 2019 amounts discussed here include appropriations provided in two supplemental appropriation acts that were enacted in June 2019 and July 2019, after CBO had released the March 2019 edition of this report. See Congressional Budget Office, *Expired and Expiring Authorizations of Appropriations: Fiscal Year 2019* (March 2019), www.cbo.gov/publication/55015. Specifically, the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20), and the Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019 (P.L. 116-26), provided \$1.5 billion in identifiable appropriations for programs with authorizations of appropriations that expired before fiscal year 2019.

- The amount of identifiable funding for programs with expired authorizations of appropriations increased by \$24 billion (or 8 percent)—from \$308 billion in 2019 to \$332 billion in 2020. CBO attributes \$13 billion of that difference to authorizations that expired during 2019, most of which were contained in the Frank LoBiondo Coast Guard Authorization Act of 2018 (P.L. 115-282). The remaining \$11 billion increase in 2020 appropriations was for authorizations that had expired before 2019. Most of that amount reflects an increase in appropriations that were previously authorized by the Veterans' Health Care Eligibility Reform Act of 1996 (P.L. 104-262).
- The amount of identified appropriations provided for programs and functions with expired definite authorizations of appropriations continues to exceed

Table 4.

Major Sources of Expired Authorizations of Appropriations With Identifiable Appropriations in Fiscal Years 2019 and 2020, by Public Law

Millions of Dollars

Public Law	Title	Identifiable Appropriations	
		2019 ^a	2020
104-262	Veterans' Health Care Eligibility Reform Act of 1996	73,339	82,586
105-276	Quality Housing and Work Responsibility Act of 1998	30,026	31,293
109-162	Violence Against Women and Department of Justice Reauthorization Act of 2005 ^a	29,452	31,245
107-228	Foreign Relations Authorization Act, Fiscal Year 2003	26,613	26,451
115-10	National Aeronautics and Space Administration Transition Authorization Act of 2017	21,390	22,629
111-152	Health Care and Education Reconciliation Act of 2010	22,475	22,475
111-358	America COMPETES Reauthorization Act of 2010	16,016	16,737
110-134	An act to reauthorize Head Start, to improve program quality, to expand access, and for other purposes	11,063	10,613
115-282	Frank LoBiondo Coast Guard Authorization Act of 2018 ^b	n.a.	10,485
99-83	International Security and Development Cooperation Act of 1985	7,275	6,887
109-58	Energy Policy Act of 2005	5,791	6,019
110-315	Higher Education Opportunity Act	5,553	5,672
102-550	Housing and Community Development Act of 1992	7,033	5,548
110-53	Implementing Recommendations of the 9/11 Commission Act of 2007	5,017	5,128
106-104	Amendments to the Immigration and Nationality Act, 1999	1,905	4,730
Subtotal (Amount)		262,949	288,499
Subtotal (Percent)		85	87
All Other Laws With Identifiable Appropriations ^a		45,269	43,951
Total		308,218	332,450

Source: Congressional Budget Office.

This table shows major statutory sources of expired authorizations of appropriations for which CBO could identify appropriations in 2019 and 2020.

n.a. = not applicable.

a. Includes the amounts in two supplemental appropriation acts enacted after the 2019 version of this report was released.

b. The Frank LoBiondo Coast Guard Authorization Act of 2018 contained authorizations of appropriations that expired before 2020 for which CBO identified nearly \$10.5 billion in appropriations in fiscal year 2020. Those authorizations of appropriations had not expired in fiscal year 2019.

previously authorized amounts. The \$233 billion appropriated in 2020 for those programs and functions is \$87 billion more than the specified authorization amounts most recently in effect for those activities. In 2019, that difference was \$78 billion.

Authorizations of Appropriations That Are Set to Expire By the End of the Fiscal Year 2020

As of January 3, 2020, 143 authorizations of appropriations from 30 laws were scheduled to expire on or before September 30, 2020: 126 are for specific amounts that total \$880 billion in 2020; the other 17 (from 7 laws) authorize indefinite amounts. Table 5, Table 6, and Table 7 summarize that

information by the House or Senate authorizing committee and by the appropriations subcommittee.

Most of that authorized funding—\$736 billion (or 84 percent)—is from authorizations contained in the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92).⁷ Typically, authorizations for defense funding are renewed annually. In dollar terms, the

7. The National Defense Authorization Act typically incorporates, by reference, tables including authorizations of appropriations for projects, programs, and activities to be funded from within broader categories of Department of Defense (DoD) spending. This report lists the authorizations of appropriations by major category of DoD spending, fewer than 10 in all, instead of the individual projects, programs, and activities, which number in the thousands.

Table 5.

Summary of Authorizations of Appropriations Expiring On or Before September 30, 2020, by House Authorizing Committee

House Committee	Number of Laws ^a	Authorizations of Appropriations ^b	Appropriations Authorized (Millions of dollars) ^c
Agriculture	1	1	n.a.
Armed Services	2	5	711,569
Education and Labor	3	51	38,859
Energy and Commerce	12	23	62,652
Foreign Affairs	2	6	540
Natural Resources	5	6	177
Oversight and Reform	1	1	15
Permanent Select Committee on Intelligence	1	8	1,080
Science, Space, and Technology	1	1	5
The Judiciary	4	6	156
Transportation and Infrastructure	6	26	64,580
Veterans' Affairs	1	8	69
Ways and Means	1	1	30
Total	30	143	879,730

Source: Congressional Budget Office.

This table shows only the committees that have jurisdiction over authorizations of appropriations expiring in 2020; therefore, not all House committees are included.

n.a. = not applicable.

a. Includes laws with expiring authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations that are under the jurisdiction of more than one House authorizing committee are counted only once.

b. Number of explicit authorizations of appropriations within the jurisdiction of each House authorizing committee that expire on or before September 30, 2020.

c. Amounts specified in statute or legislative history; excludes authorizations of appropriations that do not specify an amount.

second-largest source of expiring authorizations of appropriations is the Fixing America’s Surface Transportation Act (P.L. 114-94), with 21 authorizations totaling \$64 billion.

The largest number of individual authorizations of appropriations expiring by the end of fiscal year 2020 is in the Every Student Succeeds Act (P.L. 114-95)—the reauthorization of the Elementary and Secondary

Education Act of 1965—which contains 27 authorizations of appropriations totaling \$26 billion. The Workforce Innovation and Opportunity Act (P.L. 113-128), with 24 authorizations of appropriations totaling more than \$10 billion, is the next-largest source of individual authorizations of appropriations set to expire by the end of 2020.

Table 6.

Summary of Authorizations of Appropriations Expiring On or Before September 30, 2020, by Senate Authorizing Committee

Senate Authorizing Committee	Number of Laws ^a	Authorizations of Appropriations ^b	Appropriations Authorized (Millions of dollars) ^c
Agriculture, Nutrition, and Forestry	1	1	n.a.
Armed Services	2	5	711,569
Banking, Housing, and Urban Affairs	1	5	12,592
Commerce, Science, and Transportation	5	19	51,813
Energy and Natural Resources	8	15	25,697
Environment and Public Works	4	7	374
Finance	1	1	30
Foreign Relations	2	6	540
Health, Education, Labor, and Pensions	8	61	75,797
Homeland Security and Governmental Affairs	1	1	1
Select Committee on Intelligence	1	8	1,080
The Judiciary	4	6	170
Veterans' Affairs	1	8	69
Total	30	143	879,730

Source: Congressional Budget Office.

This table shows only the committees that have jurisdiction over authorizations of appropriations expiring in 2020; therefore, not all Senate committees are included.

n.a. = not applicable.

a. Includes laws with expiring authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations that are under the jurisdiction of more than one Senate authorizing committee are counted only once.

b. Number of explicit authorizations of appropriations within the jurisdiction of each Senate authorizing committee that expire on or before September 30, 2020.

c. Amounts specified in statute or legislative history; excludes authorizations of appropriations that do not specify an amount.

Table 7.

Summary of Authorizations of Appropriations Expiring On or Before September 30, 2020, by Appropriations Subcommittee

Appropriations Subcommittee	Number of Laws ^a	Authorizations of Appropriations ^b	Appropriations Authorized (Millions of dollars) ^c
Agriculture, Rural Development, FDA, and Related Agencies	1	1	n.a.
Commerce, Justice, Science, and Related Agencies	7	9	190
Defense	2	5	695,203
Energy and Water Development and Related Agencies	7	14	25,782
Financial Services and General Government	4	4	359
Homeland Security	2	2	1
Interior, Environment, and Related Agencies	4	7	295
Labor, HHS, Education, and Related Agencies	9	62	75,847
Military Construction, Veterans Affairs, and Related Agencies	2	9	16,115
State, Foreign Operations, and Related Programs	3	6	520
Transportation, HUD, and Related Agencies	5	24	65,418
Total	30	143	879,730

Source: Congressional Budget Office.

This table shows only the subcommittees that have jurisdiction over authorizations of appropriations expiring in 2020; therefore, not all appropriations subcommittees are included.

FDA = Food and Drug Administration; HHS = Department of Health and Human Services; HUD = Department of Housing and Urban Development; n.a. = not applicable.

- Includes laws with expiring authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations for programs that are under the jurisdiction of more than one appropriations subcommittee are counted only once.
- Number of explicit authorizations of appropriations for programs within the jurisdiction of each appropriations subcommittee that expire on or before September 30, 2020.
- Amounts specified in statute or legislative history; excludes authorizations of appropriations that do not specify an amount.

This annual report of the Congressional Budget Office satisfies the requirements of section 202(e)(3) of the Congressional Budget Act of 1974, as amended. The report is intended to assist the Congress by identifying authorizations of appropriations that have expired or will expire in the current fiscal year. Previous editions, until 2016 titled *Unauthorized Appropriations and Expiring Authorizations*, are available on CBO's website under "Major Recurring Reports," <https://go.usa.gov/xnp7r>.

The information presented in this report was prepared by Joanna Capps, George McArdle, Justin Riordan, Mark Sanford, Esther Steinbock, and J'neil Blanco Suchy. Justin Riordan wrote the report with guidance from Megan Carroll. Shane Beaulieu, Tia Caldwell, Madeleine Fox, Sofia Guo, Arin Kerstein, and Patt Watson of CBO and many staff members of Congressional committees provided assistance.

Theresa Gullo, Mark Hadley, and Robert Sunshine reviewed the report; Kate Kelly was the editor; and Robert Rebach was the graphics editor.

This report is available on CBO's website (www.cbo.gov/publication/56082).

CBO seeks feedback to make its work as useful as possible. Please send comments to communications@cbo.gov.



Phillip L. Swagel
Director



MEMORANDUM

November 1, 2016

Subject: CRS Identification of “Appropriations not Authorized by Law”

From: James V. Saturno
Specialist on Congress and the Legislative Process
7-2381
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This memorandum responds to multiple requests for CRS to identify either statutes authorizing appropriations or those appropriations that are not authorized by law. The rules of the House and Senate generally require that appropriations be for programs and activities previously authorized by law.¹ Identifying all programs and activities currently authorized by law, however, presents both conceptual and methodological issues which prevent CRS from compiling an authoritative list. These issues are discussed below. There are resources, however, that address issues and questions associated with appropriations for purposes that may not be authorized by law. This memorandum includes a description of these resources: the annual Congressional Budget Office (CBO) report on unauthorized appropriations and expiring authorizations, and the House and Senate Appropriations committee reports accompanying each annual appropriations bill.²

For general information on procedural and legal issues related to the authorization of appropriations, see also CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by James V. Saturno and Brian T. Yeh.

Although the U.S. Constitution grants Congress the “power of the purse” by prohibiting expenditures “but in Consequence of Appropriations made by Law,”³ it does not prescribe specific practices or procedures to carry this out. As a result, the manner in which the House and Senate have chosen to exercise this authority is a construct of congressional rules and practices, which have evolved pursuant to the

¹ House Rule XXI, clause (2)(a)(1) and Senate Rule XVI(5).

² Section 202(e)(3) of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344) requires that the CBO provide an annual report listing “(A) all programs and activities funded during the fiscal year ending September 30 of that calendar year for which authorizations for appropriations have not been enacted for that fiscal year, and (B) all programs and activities for which authorizations for appropriations have been enacted for the fiscal year ending September 30 of that calendar year but for which no authorizations for appropriations have been enacted for the fiscal year beginning October 1 of that calendar year.” House Rule XIII, clause (3)(f)(1) requires each Appropriations committee report on a general appropriations bill list “all appropriations contained in the bill for expenditures not currently authorized by law for the period concerned...” Senate Rule XVI(7) requires each Appropriations committee report on a general appropriations bill list for each recommended amendment each proposed “item of appropriations which is not made to carry out the provisions of an existing law, treaty stipulation, or an act or resolution previously passed by the Senate during that session.” These are discussed further in the “Resources” section of this memorandum.

³ Article 1, Section 9.

constitutional authority of each chamber to “determine the Rules of its Proceedings.”⁴ One way that both chambers have chosen to exercise this authority is to adopt rules and practices that generally limit appropriations to purposes previously authorized by law. This requirement allows Congress to distinguish between legislation that addresses questions of policy and that which addresses questions of funding, and to provide for their separate consideration. In common usage, the terms used to describe these types of measures are *authorizations* and *appropriations*, respectively.

- An *authorization* may generally be described as any statutory provision that defines the authority of the government to act. It can establish or continue a federal agency, program, policy, project, or activity. Further, it may establish policies and restrictions and deal with organizational and administrative matters. It may also, explicitly or implicitly, authorize subsequent congressional action to provide appropriations. By itself, however, an authorization does not provide funding for government activities.
- An *appropriation* may generally be described as a statutory provision that provides budget authority, thus permitting a federal agency to incur obligations and make payments from the Treasury for specified purposes, usually during a specified period of time.

It is therefore important to note that the concept of “unauthorized appropriations” is a procedural construct rather than a legal one because it reflects the procedural status of an appropriation in relation to other statutes and not the legality of either the appropriation or the associated federal activities. As a result, it is House and Senate rules, practices, and precedents that guide its interpretation and application. Furthermore, it has evolved over the years, so that the two chambers have developed divergent understandings in a number of significant respects regarding what constitutes “authorized by law.”

One area of difference is under what circumstances appropriations may be considered to be for purposes not authorized by law, and therefore, prohibited. The House prohibition in Rule XXI, clause (2)(a)(1) broadly applies to provisions in any general appropriations bill or amendment thereto. The Senate prohibition in Rule XVI(1) is comparatively more narrow. Because it is framed in terms of amendments that would increase the amount for an item in the bill or add a new item, it does not apply to House passed language, measures originated by the Senate Appropriations Committee, amendments to a House-passed bill reported by the committee, or amendments offered by direction of the authorizing committee with relevant jurisdiction, which have been reported and referred to the Committee on Appropriations at least one day before consideration.⁵ In other words, the Senate prohibition applies most significantly to amendments offered by individual Senators during floor consideration of a general appropriations bill.

A second area of difference is the timing of when a program or activity may be considered authorized by law. In the House, Rule XXI, clause (2)(a)(1) requires that an authorization be *enacted* prior to consideration of the relevant general appropriations bill⁶ in order to be considered authorized.⁷ In the Senate, Rule XVI(1) requires an authorization to have been *passed by the Senate* during the current

⁴ Article 1, Section 5.

⁵ Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S. Doc. 101-28 (Washington: GPO, 1992), [Hereafter *Riddick's Senate Procedure*], pp. 171, 189.

⁶ In the House, “general appropriations bills” are the annual appropriations acts (or any combination thereof) and any supplemental appropriations acts that cover more than one agency. Continuing resolutions are not considered to be general appropriations bills. See W[illia]m Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents and Procedures of the House*, 112th Cong., 1st sess., (Washington: GPO, 2011), [Hereafter *House Practice*], chapter 4, section 3, p. 73.

⁷ See *House Practice*, chapter 4, section 10, for a further discussion of this requirement.

session of Congress prior to consideration of the relevant general appropriations bill⁸ in order to be considered authorized.⁹

A third area of difference is the types of projects and activities for which the rules provide an exception and thereby allow an appropriation to be in order, even in the absence of prior legislation providing for an authorization. For example, House Rule XXI, clause (2)(a)(1) contains a provision that excepts appropriations that would continue “public works and objects already in progress” from the prohibition on unauthorized appropriations. The Senate rule provides no such exception. Senate Rule XVI(1), however, allows appropriations for projects and activities “proposed in pursuance of an estimate submitted in accordance with law.”¹⁰ Such estimates can be provided in the President’s annual budget request, as required by 31 U.S.C. §§ 1105(a) and 1107, or through deficiency and supplemental appropriations requests made after the President’s budget request has been submitted to Congress.¹¹ The House has no such exception.

A fourth area of difference arises because each chamber necessarily relies on a different body of precedents, and uses different practices in applying those precedents.¹² As a result, an appropriation that is for a purpose considered authorized by law within the meaning applied in one chamber might not be considered as such by the other.

These differences in definitions and conceptions prevent compilation of a list of appropriations authorized by law that would be definitive.

Methodological Issues

The primary purpose of authorization statutes or provisions is to provide authority for an agency to administer a program or engage in an activity. These are sometimes referred to as “organic” or “enabling” authorizations. It is generally understood that such statutory authority to administer a program or engage in an activity also provides an *implicit* authorization for Congress to appropriate for such program or activity. Appropriations may also be authorized *explicitly* for definite or indefinite amounts (i.e., “such sums as may be necessary”), either through separate legislation or as part of an organic statute. These are sometimes referred to as “authorizations of appropriations.” If such an authorization is present, it may expire even though the underlying authority in the organic statute to administer such a program or engage in such an activity does not.

In most cases, the purpose of an appropriation is said to be authorized when there is explicit language defining the legal authority for a federal agency, program, policy, project, or activity that will be applicable in the same fiscal year for which the appropriation is to be enacted. In contrast, the purpose of an appropriation is said to be unauthorized when no such authority has been enacted or, if previously enacted, has terminated or expired. The application of this principle to specific items, however, may depend on additional distinctions, including whether appropriations for the program are implicitly

⁸ In the Senate, “general appropriations bills” are the annual appropriations acts (or any combination thereof) and any supplemental or continuing appropriations acts that cover more than one agency or purpose. See *Riddick’s Senate Procedure*, p. 159.

⁹ *Riddick’s Senate Procedure*, p. 187.

¹⁰ *Ibid.*, p. 180.

¹¹ *Ibid.*, p. 155.

¹² In the House, see, for example, *House Manual* sections 1045-1051; *House Practice*, chapter 4, sections 10-26; and Lewis Deschler, *Deschler’s Precedents of the U.S. House of Representatives*, 94th Cong., 1st sess., H.Doc. 94-661 (Washington: GPO, 1977-1991), vol. 8, chapter 26, sections 7-21. In the Senate, see, for example, *Riddick’s Senate Procedure*, pp. 155-156, 178-182, 187-189, 191-192, 194, 210-212.

authorized through an organic statute, or explicitly through an authorization of appropriations. In instances where an explicit authorization of appropriations has expired or terminated, subsequent appropriations for such a program or activity may be regarded as “unauthorized” under House and Senate rules,¹³ despite the fact that the underlying legal authority for a project or activity in the organic statute remains, and carries with it implicit legal authority to appropriate.¹⁴

The interaction between authorizations and appropriations can also be affected by how specific or general an authorization is. For example, some statutes that provide an explicit authorization of appropriations place a limit on the amount that is authorized, either generally for a class of “programs, projects, or activities” (PPAs), or for a more specifically designated PPA. In these instances, appropriations in excess of such limits are generally considered to be unauthorized. Appropriations that address only some of the PPAs framed more generally in the authorization of appropriation, or do so in more specific terms, however, are said to be authorized, as long as the budget authority that is provided falls within any limits prescribed by the authorization.¹⁵

A significant methodological challenge in determining whether the purpose of an appropriation is authorized by law stems from the fact that the authority for individual accounts or PPAs is often provided in more than one authorization law. For example, while the United States Geological Survey’s (USGS) operating expenses are currently provided in a single appropriations account (“United States Geological Survey—“surveys, investigations, and research,” Title I of Division G, P.L. 114-113), its website lists over 100 separate statutes governing USGS activities.¹⁶ Because the authority for most governmental PPAs stems from this type of “patchwork” of laws, determining which authorizations apply to the particular PPAs in an appropriations account may require complex, and often case-by-case, legal determinations. In many instances, the volume of laws authorizing one or more aspects of a PPA or account may be more than could be reasonably compiled, preventing the making of such determinations.

An additional difficulty in compiling a list associating appropriations with the laws that authorize those purposes stems from the fact that authorization laws may evolve after they are initially enacted through further revision by subsequent statutes. Because the explicit authorization of appropriations is not generally the primary purpose of authorization laws, many such laws do not contain provisions explicitly

¹³ In the House, implicit authority in an organic statute is considered sufficient to meet the requirement that appropriations be for purposes authorized by law unless a periodic scheme of authorization has been enacted or at some point in time “occupied the field” (*House Manual*, section 1045). In these instances, if an authorization is of limited duration and not reauthorized when it expired, subsequent appropriations would not be considered to be for a purpose “authorized by law” (*House Practice*, chapter 4, section 38). While the Senate recognizes the distinction between the implicit authority to appropriate in an organic statute and an explicit authorization of appropriations (*Riddick’s Senate Procedure*, p. 179), the organic statute may not be superseded by a periodic authorization of appropriations in every circumstance.

¹⁴ From a legal perspective, however, GAO guidance states that “the existence of a statute (organic legislation) imposing substantive functions upon an agency that require funding for their performance is itself sufficient legal authorization for the necessary appropriations, regardless of whether the statute addresses the question of subsequent appropriations.” If an authorization of appropriations expires, Congress may still choose to appropriate money to fund a particular program, agency, or activity; and that enactment of an appropriation would provide a “sufficient legal basis to continue the program during that period of availability, absent indication of contrary congressional intent.” (Government Accountability Office, Office of the General Counsel, *Principles of Federal Appropriations Law*, Volume I, at 2-41, 2-69 [3d ed. 2004]).

¹⁵ Note, however, that an appropriations act generally carries with it a legal authority to engage in the activities funded therein. “Where authorizations are not required by law, Congress may, subject to a possible point of order, appropriate funds for a program or object that has not been previously authorized or which exceeds the scope of a prior authorization, in which event the enacted appropriation, in effect, carries its own authorization and is available to the agency for obligation and expenditure (GAO Red Book, at 2-69, citing Matter of: Department Justice - Bureau of Justice Assistance - Project Authorized by Appropriation Act, 67 Comp. Gen. 401 (1988); see also 36 Comp. Gen. 240, 242 (1956)).

¹⁶ United States Geological Service, “Laws and Regulations Governing USGS Activities: Authorizations,” <http://www.usgs.gov/laws/index.html> lists. This may not be all of the laws that govern USGS activities.

authorizing appropriations, although they might still provide sufficient implicit authorization. As authorization laws generally do not correspond to the appropriations account structure, and the language and form of these laws changes over time, there is no single or systematic methodology available to compile and associate them with the relevant PPA or appropriations account.

Appropriations for the Department of Treasury are illustrative of these methodological issues. The Act of September 2, 1789 is the organic authorization that created the Department of Treasury. Since that time, some of the provisions in this Act have been amended by more specific laws (including those listed below), while other parts remain in effect today.¹⁷

- Act of March 3, 1791;
- Act of May 8, 1792;
- Act of March 3, 1809, chap.28;
- Act of November 22, 1814;
- Act of March 3, 1817, chap.45;
- Act of February 24, 1819, chap. 43;
- Act of May 1, 1820, chap. 50; and
- Act of May 15, 1820, chap. 107.

The Department of Treasury is currently divided into nine offices that conduct a variety of programs and activities. While some of these projects and activities may be generally authorized by the revised Act of September 2, 1789, others may be more specifically addressed in separate statutes. While appropriated funding for these programs and activities is currently provided in a single appropriations account (See, for example, Department of Treasury—Departmental Offices—“salaries and expenses,” in Title I of Division E, P.L. 114-113, providing funds for FY2012, below), this account contains a number of line items related to specific programs and activities.

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; executive direction program activities; international affairs and economic policy activities; domestic finance and tax policy activities, including technical assistance to Puerto Rico; and Treasury-wide management policies and programs activities, \$222,500,000: Provided, That of the amount appropriated under this heading—

- (1) not to exceed \$350,000 is for official reception and representation expenses;
- (2) not to exceed \$258,000 is for unforeseen emergencies of a confidential nature to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on the Secretary's certificate; and
- (3) not to exceed \$22,200,000 shall remain available until September 30, 2017, for—
 - (A) the Treasury-wide Financial Statement Audit and Internal Control Program;
 - (B) information technology modernization requirements;
 - (C) the audit, oversight, and administration of the Gulf Coast Restoration Trust Fund; and
 - (D) the development and implementation of programs within the Office of Critical Infrastructure Protection and Compliance Policy, including entering into cooperative agreements.

¹⁷ This list is drawn from the Department of Treasury website (<http://www.treasury.gov/about/history/Pages/act-congress.aspx#a>). It may not be a complete list of all revisions to the Act of September 2, 1789.

To evaluate under which laws appropriations for these programs and activities are authorized, each PPA in this account would need to be assessed separately to determine if it is authorized under the original organic statute, generally through a different authorization statute, or explicitly through an authorization of appropriations.

In addition to the programs and activities undertaken by the nine departmental offices, the Department of the Treasury also oversees twelve bureaus, nine of which are funded through annual appropriations (below):¹⁸

- The Alcohol and Tobacco Tax and Trade Bureau;
- The Bureau of the Public Debt;
- The Community Development Financial Institution Fund;
- The Financial Crimes Enforcement Network;
- The Financial Management Service;
- The Inspector General;
- The Treasury Inspector General for Tax Administration;
- The Internal Revenue Service; and
- The U.S. Mint.

In many instances, the authority and activities of these bureaus are addressed more specifically in other statutes, rather than in the revised Act of September 2, 1789 directly. In addition, these bureaus are currently funded in at least thirteen different appropriations accounts, which do not always correspond to the administrative structure outlined above. For example, funding for the Internal Revenue Service is provided in at least four accounts.

The lack of direct correspondence between the fourteen Department of Treasury appropriations accounts and relevant authorization laws for each PPA presents significant methodological challenges. At a government-wide level, there likely would be many instances where compiling all of the laws that correspond to an individual PPA, and subsequently determining if a PPA was authorized, would be impractical.

Resources

While there is no practical way in which all possible authorizing statutes can be identified for every appropriation, there are at least three generally available resources that address the issue of appropriations and their authorizations: an annual CBO report on unauthorized appropriations and expiring authorizations, and the reports from the House and Senate Appropriations committees that accompany each annual appropriations bill.

Congressional Budget Office—*Unauthorized Appropriations and Expiring Authorizations*

Section 202(e)(3) of the Congressional Budget and Impoundment Control Act of 1974 requires that CBO provide an annual report on unauthorized appropriations and expiring authorizations.¹⁹ The report lists

¹⁸ The Bureau of Engraving and Printing, The Office of the Comptroller of the Currency, and the Office of Thrift Supervision are funded through sources other than annual appropriations.

¹⁹ This report is due on or before January 15 of each year.

“all programs funded through the annual appropriation process that at one time had an explicit authorization of appropriations that has expired ... or that will expire this year.”²⁰ To assemble this report, CBO tracks provisions that explicitly authorize appropriations for a specified time period. The information in the report appendices is provided in three forms, identifying such provisions categorized by:

- House authorization committee of origin
- Senate authorization committee of origin
- Appropriations subcommittee

The attached example is the list from the January 2016 edition of the report listing programs under the jurisdiction of the Military Construction, Veterans’ Affairs and Related Agencies subcommittee with expired authorizations that were funded for FY2016, as well as those with authorizations expiring during FY2016.

CBO is able to track the status of authorizations of appropriations with a specified duration because such provisions constitute positive law of a limited life span. The CBO report does not cover explicit authorizations of appropriations that are not about to expire or do not expire, appropriations implicitly authorized by organic statutes, or appropriations for purposes that have never been covered by an authorization statute. As a result, limited conclusions can be drawn from the CBO report beyond which explicit authorizations of appropriations have expired or are about to expire. It is not intended to comprehensively identify all cases of appropriations that would be considered to be for purposes not authorized by law under House and Senate rules.²¹

Appropriations Committee Reports

House Rule XIII, clause (3)(f)(1) requires that reports from the Appropriations Committee on general appropriations bills include:

a list of all appropriations contained in the bill for expenditures not currently authorized by law for the period concerned (excepting classified intelligence or national security programs, projects, or activities), along with a statement of the last year for which such expenditures were authorized, the level of expenditures authorized for that year, the actual level of expenditures for that year, and the level of appropriations in the bill for such expenditures.

The House Appropriations Committee currently includes this information in a report section entitled “Appropriations not Authorized by Law.” The determination as to what is included in this list is made by the Committee. The example below is the list in the committee report accompanying the FY2017 Agriculture appropriations bill (H.R. 5054, H.Rept. 114-531, p. 171).

²⁰ Congressional Budget Office, *Unauthorized Appropriations and Expiring Authorizations*, January 2016, p. 2, available at <https://www.cbo.gov/publication/51131>. Reports from earlier years are also available on the CBO website.

²¹ *Ibid*, p. 1.

APPROPRIATIONS NOT AUTHORIZED BY LAW

Pursuant to clause 3(f)(1)(B) of rule XIII of the Rules of the House of Representatives, the following table lists the appropriations in the accompanying bill which are not authorized by law for the period concerned:

Agency/Program	Last year of authorization	Authorization level	Appropriation in last year of authorization	Appropriations in this bill
CFTC	2013	Such sums	205,000,000	250,000,000
Food and Nutrition Service: Farmers' Market Nutrition Program:	2015	Such sums	16,548,000	18,548,000
State Administrative Ex- penses	2015	Such sums	263,686,000	279,058,000
Summer Food Service Pro- gram	2015	Such sums	495,521,000	628,484,000
WIC	2015	Such sums	6,623,000,000	6,350,000,000

Similarly, Senate Rule XVI(7) requires that reports from the Appropriations Committee on general appropriations bills identify:

each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previous passed by the Senate during that session.

The Senate Appropriations Committee currently includes this information in the report section "Compliance with Paragraph 7, Rule XVI of the Standing Rules of the Senate." The determination as to what is included in this list is made by the Committee. The example below is from the committee report accompanying the FY2017 Agriculture appropriations bill (S. 2956, S.Rept. 114-259, pp. 97-98).

**COMPLIANCE WITH PARAGRAPH 7, RULE XVI OF THE
STANDING RULES OF THE SENATE**

Paragraph 7 of rule XVI requires that Committee reports accompanying general appropriations bills identify each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

The Committee is filing an original bill, which is not covered under this rule, but reports this information in the spirit of full disclosure.

The Committee recommends funding for the following programs or activities which currently lack authorization for fiscal year 2017:

- Child Nutrition Program State Administrative Expenses
- Farmers Market Nutrition Program
- Grain Inspection Service
- Multi-family Housing Revitalization Program

- Special Supplemental Nutrition Program for Women, Infants and Children
- Summer Food Service Program

In addition to those items not authorized by law identified in the reports of the Appropriations Committees, unauthorized appropriations may be identified through points of order raised during consideration on the House or Senate floor. While such points of order would indicate whether a particular appropriation is considered out of order as being for a purpose not considered authorized by law under the rules and precedents of the respective chamber, because such points of order are not often raised, they would not likely add a significant number of cases beyond those listed in the reports. If a point of order is not raised in a timely fashion, however, the House or Senate may consider and agree to an appropriation, regardless of whether it might otherwise be considered out of order.

The House and Senate have specific procedures for handling points of order raised against appropriations for not being in compliance with their respective chamber's rule concerning authorization. In the House, if a point of order is raised against a provision of an appropriations bill as being for a purpose not authorized by law, the burden of proof would be on the manager (normally the chair or ranking member of the committee that reported the measure) to identify the provision of law under which the appropriation is authorized. If a point of order is raised against a provision in an amendment, the burden of proof would be on the Member who offered the amendment.²² Likewise, in practice, the burden of proof in the Senate is on the Member who offered the amendment to identify the provision of law under which the appropriation is authorized.

In the House, the prohibitions against appropriations for purposes not authorized by law may be waived by unanimous consent, suspension of the rules, or special rule. In the Senate, these prohibitions may be waived by unanimous consent or suspension of the rules. Provisions specifically identified in one of these actions would, in most cases, also be identified in the Appropriations Committee reports, and therefore not add to their number.

²² *House Manual* section 1044a.



Unauthorized Appropriations and Expiring Authorizations

EXCERPT

(In This Version, Appendix Material Is Sorted by
Appropriations Subcommittee)

Appendix A:
List of Programs Funded in Fiscal Year 2016 With
Expired Authorizations of Appropriations

**Programs Funded in FY 2016
With Expired Authorizations of Appropriations**

Military Construction, Veterans Affairs, and Related Agencies Subcommittee

P.L. 113-59 VA Expiring Authorities Extension Act of 2013

- * Monthly assistance allowance for disabled veterans selected for or invited to compete for a slot on the U.S. Paralympics team, for any month the veteran is in training or competing in a sanctioned event (sec. 4(a))

FY 2015 Appropriation Authorized:	2,000,000
Unauthorized FY 2016 Appropriations:	Not Available

P.L. 112-56 VOW to Hire Heroes Act of 2011

- * Grants for collaborative training, mentoring, and placement of veterans

FY 2013 Appropriation Authorized:	4,500,000
Unauthorized FY 2016 Appropriations:	Not Available

P.L. 112-37 Veterans Health Care Facilities Capital Improvement Act of 2011

- * Grants program to train and provide technical assistance to participating eligible entities in the planning, development, and provision of supportive services to very-low-income veteran families occupying permanent housing (sec. 604(e)(3))

FY 2012 Appropriation Authorized:	1,000,000
Unauthorized FY 2016 Appropriations:	Not Available

P.L. 111-275 Veterans' Benefits Act of 2010

- * Veterans Energy-Related Employment Program pilot

FY 2014 Appropriation Authorized:	1,500,000
Unauthorized FY 2016 Appropriations:	Not Available

P.L. 111-163 Caregivers and Veterans Omnibus Health Services Act of 2010

- * For the purposes of improving how the Department of Veterans Affairs measures quality in individual facilities, to develop an aggregate quality metric from existing sources of data, to ensure that existing measures of quality are monitored and analyzed routinely and thoroughly, and to encourage research and development in the area of quality metrics (sec. 505)

FY 2012 Appropriation Authorized:	25,000,000
Unauthorized FY 2016 Appropriations:	Not Available

**Programs Funded in FY 2016
With Expired Authorizations of Appropriations**

Military Construction, Veterans Affairs, and Related Agencies Subcommittee

P.L. 110-387	Veterans' Mental Health and Other Care Improvements Act of 2008
	* Pilot program for Internet-based substance use disorder treatment for veterans of Operation Iraqi Freedom and Operation Enduring Freedom
	FY 2011 Appropriation Authorized: 1,500,000
	Unauthorized FY 2016 Appropriations: Not Available
	* Research program on comorbid post-traumatic stress disorder and substance use disorders
	FY 2012 Appropriation Authorized: 2,000,000
	Unauthorized FY 2016 Appropriations: Not Available
	* Pilot program on provision of readjustment and transition assistance to veterans and their families in cooperation with Veterans' Centers
	FY 2011 Appropriation Authorized: 1,000,000
	Unauthorized FY 2016 Appropriations: Not Available
P.L. 109-461	Veterans Benefits, Health Care, and Information Technology Act of 2006
	* Blind rehabilitation outpatient specialists
	FY 2012 Appropriation Authorized: 3,500,000
	Unauthorized FY 2016 Appropriations: Not Available
	* Readjustment counseling and related mental health services through centers under section 1712A, Title 38, United States Code
	FY 2007 Appropriation Authorized: 180,000,000
	Unauthorized FY 2016 Appropriations: 258,000,000
P.L. 108-422	Veterans Health Programs Improvement Act of 2004
	* Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries (sec. 302)
	FY 2008 Appropriation Authorized: 8,000,000
	Unauthorized FY 2016 Appropriations: Not Available
	* Enhancement of medical preparedness of Department of Veterans Affairs: medical preparedness centers authorization (sec. 303)
	FY 2007 Appropriation Authorized: 10,000,000
	Unauthorized FY 2016 Appropriations: Not Available
P.L. 108-183	The Veterans Benefits Act of 2003
	* Veterans Advisory Committee on Education (sec. 307)
	FY 2009 Appropriation Authorized: Indefinite
	Unauthorized FY 2016 Appropriations: Not Available

**Programs Funded in FY 2016
With Expired Authorizations of Appropriations**

Military Construction, Veterans Affairs, and Related Agencies Subcommittee

P.L. 107-287 Department of Veterans Affairs Emergency Preparedness Act of 2002

- * Department of Veterans Affairs: medical emergency preparedness centers

FY 2007 Appropriation Authorized:	20,000,000
Unauthorized FY 2016 Appropriations:	Not Available

P.L. 104-262 Veterans' Health Care Eligibility Reform Act of 1996

- * Veterans' medical care: hospital care and medical services; authorizing committee states that the language was intended only to cap the program in fiscal years 1997 and 1998

FY 1998 Appropriation Authorized:	17,900,000,000
Unauthorized FY 2016 Appropriations:	61,136,492,000

- * Centers for Mental Illness Research, Education, and Clinical Activities

FY 2001 Appropriation Authorized:	6,250,000
Unauthorized FY 2016 Appropriations:	Not Available

Appendix B:
List of Authorizations of Appropriations
Expiring During Fiscal Year 2016

Military Construction, Veterans Affairs, and Related Agencies Subcommittee

P.L. 114-92 National Defense Authorization Act for Fiscal Year 2016

- * Military construction and family housing

FY 2016 Appropriations Authorized: 8,404,610,000
Expiration Date: 09/30/2016

- * Armed Forces Retirement Home

FY 2016 Appropriations Authorized: 64,300,000
Expiration Date: 09/30/2016

Military Construction, Veterans Affairs, and Related Agencies Subcommittee

P.L. 114-58 Department of Veterans Affairs Expiring Authorities Act of 2015

- * Comprehensive assistance for family caregivers and general caregiver support services (sec. 103)

FY 2016 Appropriations Authorized: 625,000,000
Expiration Date: 09/30/2016
- * Pilot program on assistance for child care for certain veterans receiving health care

FY 2016 Appropriations Authorized: 1,500,000
Expiration Date: 09/30/2016
- * Pilot program on counseling in retreat settings for women veterans newly separated from service in the armed forces

FY 2016 Appropriations Authorized: 2,000,000
Expiration Date: 09/30/2016
- * Grants for adaptive sports programs for disabled veterans and members of the Armed Forces

FY 2016 Appropriations Authorized: 8,000,000
Expiration Date: 09/30/2016
- * Grants for veterans service organizations to provide transportation for veterans living in highly rural areas

FY 2016 Appropriations Authorized: 3,000,000
Expiration Date: 09/30/2016
- * Reintegration programs for homeless veterans

FY 2016 Appropriations Authorized: 50,000,000
Expiration Date: 09/30/2016
- * Financial assistance for supportive services for very-low-income veteran families in permanent housing

FY 2016 Appropriations Authorized: 300,000,000
Expiration Date: 09/30/2016
- * Reintegration grant program for homeless women veterans and homeless veterans with children

FY 2016 Appropriations Authorized: 1,000,000
Expiration Date: 09/30/2016