Over the past half-century, the use of temporary authorizations – authorizations of funding or operations that expire at a given point – has proliferated. Congress began using temporary authorizations as a control mechanism in the 1960s, in an effort to gain effective oversight control over the military. Later in the decade, many scholars came to think that temporary authorizations gave authorizing committees leverage over appropriators in the fight over how much money various programs should receive. By the end of the decade, this mechanism was being used across the domestic and international policy domains.

Using data for the years 1970 to 1994, I test whether temporary authorizations do in fact increase program oversight or influence the level of funding that public programs receive. The results of several multi-variate analyses show that temporary authorizations do not improve the level of funding that a program receives. Additionally, the analyses show that temporary authorizations do not facilitate *ex post* oversight – committees hold hearings at a relatively consistent level over time. However, temporary authorizations do facilitate *ex ante* oversight by opening up the legislation governing the program for adjustment.

If temporary authorizations do not facilitate oversight or improve the level of funding a program receives, why does Congress use this mechanism? In chapter 3, I argue that temporary authorizations serve as a control mechanism for creating a stable policy environment by channeling policy change into discrete times when the
authorization expires. By having reauthorizations, members of Congress can be assured that deals that have been struck in the legislative bargaining process will remain in place for the length of the authorization.

The results of several multi-variate analyses show that temporary authorizations do serve in large measure to determine when legislative policy change does occur. Data show that the expiration of an authorization is the strongest factor in determining when legislative change will occur. This factor is more powerful than other factors such as the volume of hearings held or the amount of media coverage that is conducted. These findings show how temporary authorizations serve to allow Congress to control its internal and external environments by channeling the times during which policy change occurs.

INDEX WORDS: Congress, Policy Change, Public Policy, Budgeting, Bureaucratic Control, American Politics, Oversight
WHEN THINGS REALLY HAPPEN: THE ROLE OF REAUTHORIZATIONS
IN THE PROCESS OF POLICY CHANGE

by

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This dissertation brought together the two halves of my life – the academic who is interested in puzzles about American politics and the political operative who enjoys working in the Washington, D.C. policy world. In fact, my dissertation topic comes directly from a decision I made in February 1996 to leave the Ph.D. program at UGA to move to Washington, D.C. to take a position as a policy analyst for the Southern Governors’ Association. While working in this job, I found myself lobbying on the reauthorization of surface transportation legislation and noticed how everyone involved in this process had been gearing up for this reauthorization for several years, planning for the fight over how to make the policy work better for them. I also saw how my friends were all bored stiff the year after the authorization ended. This observation led to my dissertation topic, a topic which my committee members and others in the academic world helped to nurture.

I therefore have two sets of people to thank. Inside the beltway, Doug Callaway of the Florida Department of Transportation taught me everything I know about surface transportation and about how the reauthorization process works in the real world. Many other lobbyists – especially, Becky Weber, Geoff Trego, David Soilou, Lydia Conrad, Debbie Marshall, and Dawn Levy – all helped to round out my Washington education. I am also most indebted to Elizabeth Schneider, executive director of the Southern Governors’ Association, for the trust she placed in my ability to work on transportation policy, which is the single largest federal policy on which the governors lobbied during my tenure at SGA.
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CHAPTER 1:
INTRODUCTION

During the 2000 presidential campaign, President Bush pledged to reform the nation’s elementary and secondary education programs. One component of his reform agenda was to move the federal Head Start program from the Department of Health and Human Services to the Department of Education. However, when President Bush unveiled his education agenda in January 2001, moving Head Start was not included. As The New York Times reported on February 10, 2001, “Mr. Bush’s aides said this week that they would not seek to move Head Start until the program is eligible for reauthorization by Congress, in 2003” (Steinberg 2001).

Why did they not include the transfer of Head Start to the Department of Education in the administration’s agenda for the largest education bill that will be considered by Congress during the President’s first term? The answer can be found in the nature of the congressional authorization process and the use of temporary authorizations to control when legislative action in Congress will occur.

Most scholars offer two reasons why Congress uses temporary authorizations. First, a temporary authorization provides a structured and scheduled time for conducting oversight hearings into the implementation and effectiveness of a policy (e.g., Fisher 1983, 1979; Oleszek 1989; Schick 1995, 1980; Shuman 1992; Tiefer 1989). By having the authorization expire, committees pre-commit to examining the program in the future. Second, temporary authorizations are supposed to give authorizing committees greater
control over the funding a policy receives vis-a-vis the Appropriations Committee (e.g., Fenno 1966; Ippolito 1981; Schick 1995; Shuman 1992; Wildavsky 1992).

If temporary authorizations serve to facilitate attempts by authorizing committees to influence appropriations and conduct oversight, then this would make them an important tool for committees. However, there is no evidence in the literature to support either of these claims, although, to be fair, neither has been explicitly tested in the past 30 years. In the last three decades, the only studies of the gap between authorizations and appropriations were conducted by the U.S. Advisory Commission on Intergovernmental Relations (ACIR). Their studies found a 20% gap between authorizations and appropriations in 1965 and a 35% gap in 1970. Similarly, Aberbach’s (1990) study of oversight found the authorization process to be one of many factors that influence the holding of oversight hearings.

If temporary authorizations do not serve the purposes that scholars have purported, why are they so ubiquitous on Capitol Hill? This analysis will show that temporary authorizations are important to committees because they are an effective tool for controlling when policy action occurs in a committee. Congressional committees face tremendous pressure from groups, constituents, and even their colleagues to address certain issues; temporary authorizations function as a framework within which these policies can be acted upon in a structured manner.

Consider the Head Start example posed earlier. Education has ranked as a top issue among the public for some time. By authorizing most education programs for five years, the education committees create opportunities for policymakers to revise education
policy at timely intervals. Thus, the committees are able to be seen as addressing the needs of the public, while also ensuring that there is continuity in education policy between authorizations. Without multiyear authorizations, the education committees would constantly feel pressure to modify education policy, making it difficult for state and local educators to implement these efforts effectively. Thus, Congress will not consider Head Start policy until the existing authorization expires, even if the president wants them to do so.

Although various hypotheses have been made regarding the purpose of temporary authorizations, none of them have been well tested. For example, the idea of temporary authorizations as an agenda tool is briefly mentioned by Kingdon (1995), who notes that temporary authorizations are an example of a factor that causes a predictable opening of a policy window. He does not, however, suggest that temporary authorizations control when policy action will occur. In this study, I first consider the impact of temporary authorizations on the appropriations process. Second, I test whether temporary authorizations influence the oversight process as measured by committee hearings. Third, I present an analysis of the main thesis – that temporary authorizations control the timing of when issues within a policy area change through legislation. Each of these analyses follows an exposition of how temporary authorizations fit into existing research related to Congress and the policy process at the federal level.

**Variations in Authorizations**

To familiarize readers with the concept of a temporary authorization, I present the following brief explanation. A temporary authorization provides a program with a time-
limited funding or operating authorization, with the understanding that the authorizing committee will reevaluate the program when the authorization expires (Oleszak 1989; Tiefer 1989). There is great variation in the time frames allowed for these temporary authorizations (Fisher 1983). Consider the following three federal programs and each program’s form of authorization:

1. The authorization for the Department of Defense lasts for only one year. The House and Senate Armed Services Committee must enact a new authorization for defense programs each year. These two committees are diligent in completing the defense authorization; the committee has never failed to renew the authorization.

2. The authorization for surface transportation programs—which include highways, interstates, and public mass transit—historically has lasted for five or six years. The House Transportation and Infrastructure Committee and the Senate Environment and Public Works Committee only have to act twice in a decade to keep this program authorized. Similar to the defense committees, the committees with jurisdiction over surface transportation are diligent in enacting legislation renewing these programs.

3. The Peace Corps began the 1990s with an expired authorization. In 1993 and 1995, the House International Relations Committee and the Senate Foreign Relations Committee renewed the law reauthorizing the Peace Corps, but these renewals expired after only one year. Since 1996, the Peace Corps has operated with an expired authorization, which means that the legislative language authorizing appropriations for the program has expired, but these programs have received

---

1 The renewal of a temporary authorization is referred to as a reauthorization.
funding anyway because the rules governing unauthorized appropriations have been waived.

Temporary authorizations are important in the contemporary policy process because a majority of federal programs and agencies operate under temporary authorizations (Fisher 1983). Since World War II, most new federal programs have been enacted with a temporary authorization. In addition, many existing federal programs have had their authorizations changed from permanent to temporary (Cox 1996). Dawson (1962) has suggested that the move to temporary authorizations was made by authorizing committees to increase their control over certain policies under their jurisdiction.

During the 1990s there was a change in the number of programs operating with expired authorizations. In 1990, approximately 40 programs with expired authorizations received an appropriation. By 1995, that number exceeded 100 and remained above 100 for the rest of the decade (Congressional Budget Office [CBO] 1990-2000). Although the number of programs operating with expired authorizations increased dramatically, this change in the policy environment was hardly noticed within the academic community, and with the notable exception of one article in the National Journal (Baumann 1999), it was hardly discussed within the Washington establishment.

The preceding overview illustrates that much, if not most, of the policy process at the federal level is government by temporary authorizations. Any scholar interested in such issues as defense policy, foreign policy (including international aid and the State Department), transportation policy, education policy, welfare policy, environmental policy, regulatory policy, tax policy, and agriculture policy is studying programs and
policies that function either totally or in part, with temporary authorizations. It is difficult
to understand the policy process in policy areas such as these without paying attention to
and understanding the authorization process.

Temporary authorizations do not affect all policy areas. Many programs,
especially entitlement programs that have permanent spending, are not subject to
temporary authorizations. When considered in the context of the size of the federal
government, this is not a trivial matter because entitlement programs account for more
than half of all spending by the federal government. However, federal entitlement
spending is limited to a small number of large programs such as Social Security and
entitlements remain outside the scope of the annual appropriations process, which is
where the conflicts between authorizing and Appropriations Committees are played out.
Thus, a study of temporary authorizations necessarily misses some components of the
policy universe but it still captures the majority of domestic and international programs
the federal government administers. It also captures the only areas where legislators can
control discretionary spending.

Authorizations in Congress and Policy Theory

There has been little consideration given to how the various forms of
authorizations – and whether an authorization is expired or not – influence the policy
environment. This is not because of a failure to study issues in which temporary
authorizations play an important role. However, studies of issues such as opportunities
for members to bargain and enforce bargains (Weingast and Marshall 1988), demands by
interest groups for activity (e.g., Schlozman and Tierney 1986), influences on the timing
of the policymaking process (e.g., Baumgartner and Jones 1993; Sabatier and Jenkins-Smith 1993; Kingdon 1995), competition between authorizing and Appropriations Committees over policy (e.g., Fenno 1966; Kiewiet and McCubbins 1991), and congressional committee activities (e.g., Krehbiel 1991) have failed to consider any role for temporary authorizations in their analyses.

The irony in this failure to study temporary authorizations is that classic studies of Congress have recognized the influence that a procedure such as temporary authorizations can have on the policy process, lawmaking, and elections. The understanding that scholars have about Congress comes, in large measure, from an understanding of the rules, norms, precedents, and organizational structures that govern the institution.

Consider the following three examples of how temporary authorizations could influence the Congress and the policy environment. First, consider the role that temporary authorizations play in the ability of members to achieve their goals. Mayhew (1974) argues that Congress is organized to promote the reelection of members. Members may have other interests—such as making good public policy (Fenno 1973)—but “the goal [of being reelected] must be achieved over and over if other ends are to be entertained” (Mayhew 1974, 16). The committee system provides members with a forum in which to engage in advertising, credit claiming, and position taking, activities that are essential to a member’s quest for reelection. Other scholars (Fiorina 1977) suggest that a member’s reelection interests are best achieved through other activities such as lawmaking, pork barreling, and casework.
Temporary authorizations create opportunities for members to engage in all of these forms of reelection activities. Reauthorizations allow members to claim credit for past program successes; to take positions on existing policies and new initiatives; to advocate for new initiatives, including important projects for their district; and to advertise their views. Reauthorizations also often lead to actual lawmaking, with members afforded opportunities to claim credit for accomplishing something on an important issue.

Second, consider how temporary authorizations may influence the understanding scholars have of congressional committees. For example, Krehbiel (1991) argues that committees are designed to encourage members to gain expertise. Temporary authorizations can be understood as being a procedure designed to ensure that the expertise of members is kept current—by bringing an issue before its members at regular intervals—and that their expertise is used to improve existing policies. Committees can also give a program an authorization length that allows information to be used either immediately (e.g., defense) or to be collected with other data on the issue and used in the future (e.g., transportation policy). In addition, multiple committees may position themselves as experts and want to compete for control over a policy. This is especially likely to occur between authorizing committees and appropriators. Temporary authorizations may be a mechanism through which one committee or the other can gain leverage in determining who controls a specific policy.

Similarly, distributive theories of Congress note that legislators desire to capture gains from logrolling and trades and will create rules and institutions which ensure that
this occurs. Temporary authorizations can easily be seen as a mechanism for facilitating trades by ensuring that (a) legislative vehicles for trade emerge from a committee at given times, (b) trades made will be in place for a fixed period and members will not have to continually renegotiate trades, and (c) future opportunities will exist to punish those who cheat and do not uphold their end of the trade.

Third, consider how researchers of the policy process have studied how policies change over time (e.g., Baumgartner and Jones 1993; Sabatier and Jenkins-Smith 1993). These researchers examined the role played by the media, interest groups, and other stakeholders in bringing issues onto the government agenda and how these issues are framed and reframed. What these studies tend not to examine or consider is the role played by temporary authorizations in this process. Temporary authorizations may determine the time when Congress will act on an issue, and these various stakeholders would be well served to ensure that their actions are timed to coincide with the reauthorization schedule of the program in which they are interested.

Reauthorizations—and the recent trend toward not reauthorizing federal programs in a timely manner—may be changing both the policy environment in Washington and the electoral environment in which candidates operate. In fact, it is unlikely that strategic, goal-oriented stakeholders, such as committee members, agencies, and interest groups, would remain oblivious to this radically changing authorization environment. Unfortunately, scholars have not developed a clear understanding of the theoretical

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2 Examples of this argument include Evans (1994), Ferejohn (1986); Shepsle (1978) and Weingast and Marshall 1988).
principles underlying the concept of temporary authorizations, let alone developed a theory regarding how changes in authorization status affect the policy environment.

Scope of Study

This study examines reauthorizations in Congress across a variety of committees, including Agriculture, Armed Services, Energy and Commerce, Foreign Affairs, Education and Labor, and Public Works. This selection of committees includes those with targeted, uniform, and mixed externalities (Cox and McCubbins 1993); those with different levels of jurisdictional fragmentation, policy salience, and intracommittee conflict (Smith and Deering 1990); as well as committees that vary by power, policy, and reelection concerns (Fenno 1973). The committees also vary in the likelihood that they will reauthorize programs in a timely manner, and in the typical length of an authorization. In addition, in Krehbiel’s work (1991) the Agriculture and Armed Services committees performed best and worst, respectively, at reflecting floor preferences.

This study begins with an examination of the origins of temporary authorizations and the reasons why congressional committees began to use this tool. Chapter 2 provides an overview of the theory that temporary authorizations enhance oversight and the power of authorizing committees over appropriations. This chapter also considers the evolution in the use of temporary authorizations and the rapid growth in their use after World War II. Chapter 3 offers an alternative formulation of why temporary authorizations are used, highlighting the role they play in controlling when items on the policy agenda will be acted upon. I examine how various theories of the policy process fit into an
understanding of the reauthorization process and the role that temporary authorizations play in controlling the legislative activity in a given policy area.

After this theoretical exposition, I test various hypotheses regarding why temporary authorizations are used by committees. Chapters 4 and 5 provide tests to determine whether the theoretical benefits of temporary authorizations, over appropriations and in oversight respectively, match the reality of what happens within Congress. Chapter 6 tests the relationship between reauthorizations and policy action to determine whether temporary authorizations lead to control over when action is taken on a given policy. Finally, chapter 7 contemplates the implication of temporary authorizations over a range of situations, from oversight to floor activity to upholding the democratic process.
CHAPTER 2:

THE NATURE OF TEMPORARY AUTHORIZATIONS

In 1965, Congress created the Appalachian Regional Commission. Among other things, this legislation authorized the creation of the Commission by stating in Sec. 101 that

(a) There is hereby established an Appalachian Regional Commission...In carrying out the purposes of this Act, the Commission shall...develop...comprehensive and coordinated plans and programs.¹

The Act also contained the following section, which served to make the authorization temporary:

Sec. 401. In addition to the appropriations authorized in section 201 for the Appalachian development highway system, there is hereby authorized to be appropriated for the period ended June 30, 1967, to be available until expended, not to exceed $252,400,000 to carry out this Act.²

This illustrates three important general features of authorization legislation in the post-World War II era. First, authorization by nature creates or modifies a program, agency, or


activity. Second, an authorization also makes reference to the need to appropriate funds for the conduct of this activity. Third, the authorization may be limited in time, thus temporary in nature.

This chapter examines the history and use of authorizations, especially temporary authorizations, in Congress. First is a brief overview of the authorization process, including the historical separation of authorizations and appropriations and the development of rules governing unauthorized appropriations. Second is a discussion regarding the development of temporary authorizations, including an analysis of the potential political and electoral benefits that may have influenced the development of temporary authorizations. Third is a brief discussion of the way in which committees that are included in the analysis of temporary authorizations were selected.

Understanding Authorizations

“I think most people realize [that an authorization] is only a hunting license for an appropriation.”

Senator Mark O. Hatfield (R-OR), former Chairman of the Senate Appropriations Committee.³

The Constitution does not require that legislation authorizing spending and legislation appropriating funds be considered separately. However, since the first Congress, these two activities generally have been kept distinct so that policy and fiscal

³ As quoted in Oleszek (1989, 49).
conflicts could be conducted in separate venues. For example, the first Congress authorized the creation of a War Department and then appropriated funds for its operation (Schick 1995, 110). Passing authorization legislation is the first step in the budget process (Meyers 1988). Once the program is provided a legal basis from which to operate, it is generally eligible to receive an appropriation (Fisher 1979; Oleszek 1989; Schick 1980, 1995; Tiefer 1989).

As the example from the Appalachian Regional Commission Act illustrates, authorization legislation generally has two components. First, there is a substantive component that establishes a program and structures its operations so that it will be implemented in the manner that the committee desires. Second, authorizing legislation has a fiscal component that authorizes the appropriation of funds. This second component signals to appropriators and to other policy stakeholders, the funding levels that the authorizing committee thinks are appropriate for the program.

The idea of control is the basis for the two components of an authorization. In the first case, the committee wants to control how a program operates. In the latter case, it wants to influence how much money is spent on the program. Authorization committees

---

4 One reason for separating authorizations and appropriations is to keep Congress from agreeing to an inferior policy choice in order to ensure the funding of government operations (Schick 1995). However, this separation is much clearer in theory than in practice (Fisher 1979), and this separation of functions can be inefficient, leading some scholars (e.g., Meyers 1997) to suggest that the appropriations and authorization functions should be combined.

5 See Oleszek 1989; Schick 1995; Tiefer 1989 for additional discussion of authorizations. Chapter 4 contains a detailed analysis of the ways in which authorizing committees use rules and structures to constrain agencies.
structure authorizations in different ways in order to achieve different levels of control over an agency. One means that committees use to attempt to achieve control over programs they authorize is to make the authorization temporary. However, the special interest pressures to which authorizing committees have to be responsive often directly conflict with the efforts of appropriators and budget committee members, who strive to control federal spending.  

A Brief History of Authorizations

Although the House and Senate separated program authorization decisions from appropriations decisions starting with the First Congress, congressional rules have not always reflected this division between appropriations and authorizations. Scholars (e.g., Fisher 1979; Ippolito 1981; Stewart 1989; Tiefer 1989) have noted that it took more than 100 years before both the House and Senate developed committees with complete jurisdiction over appropriations decisions. These efforts evolved over the years, with the House commonly leading the way in reforming the authorization and appropriations processes.

The House was relatively successful in its initial effort to create a committee with control over appropriations. The House Ways and Means Committee, which initially had jurisdiction over revenue and appropriations decisions, was made a standing committee in

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6 For example, authorizers have attempted to circumvent appropriators by creating programs where benefits are an “entitlement” or where program spending increases are linked to adjustments for inflation (Tiefer 1989; Weaver 1988).

7 The House always acted before the Senate in revising its appropriations processes. The House created its Appropriations Committee in 1865. In 1920, the House gave its Appropriations Committee sole jurisdiction over appropriations decisions.
1802, having been first established seven years earlier. The Senate was much slower in developing a standing committee to handle appropriations. Prior to the establishment of the Senate Finance Committee in 1816, appropriations bills were handled by select committees. However, it was not until the 1830s that the Senate consolidated appropriations in the Finance Committee, with appropriations for the Navy, Revolutionary War Pensions, and the implementation of American Indian treaties being the last to be subsumed by the Finance Committee.

**Authorizing Committees Exert Control**

Roughly concomitant with the Senate Finance Committee consolidating control over appropriations in its chamber, the House first developed rules prohibiting unauthorized appropriations. In 1837, the House adopted a rule stating that “No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law (Fisher 1989, 54-55). One year later, the House modified the rule to allow unauthorized appropriations “in continuation of appropriations for such public works and objects as are already in progress and for contingencies for carrying on the several departments of government (Fisher 1979, 55). These new rules were adopted because riders for unauthorized appropriations were being added by House members to appropriations bills, and these

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8 For a detailed history and discussion of the development of House and Senate rules prohibiting unauthorized appropriations, see Burkhead, 1956; Fisher 1979; Oleszek 1989, 51; Tiefer 1989, 924-929.
riders were being rejected by the Senate. The interchamber conflict over these riders was delaying the appropriations process.\(^9\)

The Senate adopted a similar prohibition against unauthorized appropriations 10 years after the House. As was the case with the House, the Senate adopted the prohibition against unauthorized appropriations when it began to interfere with the efficient operation of the chamber. Specifically, in the aftermath of the Mexican War, senators began to bring forth private claims on the government. When the claims could not pass on their own merits, senators would add the claims to appropriations bills as amendments. In the high-deficit environment that followed the war, these private claims stressed the budget and, in 1850, the Senate adopted a new rule disallowing all unauthorized appropriations except those that funded existing laws. Standing committees in the Senate were allowed to recommend unauthorized appropriations when the rule was relaxed in 1852.

The new rules barring unauthorized appropriations enhanced the power of authorizing committees in both chambers. With the new rules, committee members were able to raise a point of order whenever members outside the committee attempted to tread on their jurisdictional turf. Being able to control policy in a specific area – to act as a gatekeeper regarding what policies will or will not be considered – is one important aspect of how committees gain and exercise power (Deering and Smith, 1997, 6-11). Committees do not want members outside the committee, or even members on the

\(^9\) Fisher (1979) notes that the prohibition against unexpired authorizations did not prohibit policy riders from being added to appropriations bills.
committee, dictating spending for programs that have not been approved by a majority of all committee members. Thus, the adoption of new rules prohibiting unauthorized appropriations provided a relatively simple yet effective means of ensuring that committees could set policy within their jurisdictions without being undercut through backdoor legislative efforts, such as unauthorized appropriations.

The House and Senate separated the appropriations process even further from other policymaking activities after the Civil War (See chapter 3 for a detailed discussion). However, the creation of new House and Senate Appropriations Committees was not initially effective as a means of separating appropriation and authorization decisions. From 1867, when the Senate created an Appropriations Committee, until 1922, when the Senate granted its Appropriations Committee sole jurisdiction over appropriations matters, many authorizing committees were successful in gaining control over appropriations decisions for programs under their jurisdiction. Authorizing committees wanted control over these programs because the Appropriations Committees consistently funded programs at levels below those desired by the authorizing committees.

The history of the authorization process up until World War II shows how, over time, members in both the House and Senate have seen a need to make authorization and appropriation decision making more distinct. This separation, and the rules that have been developed to facilitate it, illustrates several important features of the current authorization process. First, separating the authorization and appropriation processes creates certain redundancies in the policy process that allow Congress two opportunities
to influence policy in a given area. Second, separating authorization and appropriation functions reflects the conflict between authorizers (who want high levels of spending on their programs) and appropriators (who guard the till). This conflict has existed since the creation of the Appropriations Committees in the late 1800s, when authorizers initially rebelled against these new committees. Because of these conflicts, Congress has changed its rules, procedures, and organization several times in response to changes in the authorization or appropriation environment.

Temporary authorizations are also a tool for increasing congressional influence and control over executive branch implementation of public policies. This procedure ensures that appropriators continue to review a program’s funding annually, and also attempts to ensure that authorizing committees review the law underlying a program at regular intervals. In addition, temporary authorizations allow authorizing committees to attempt to influence appropriations, but in a way that does not upset the delicate separation between these two functions.

The pervasive use of temporary authorizations over the last 50 years has significantly altered the authorization process in the Congress. Prior to the Truman administration, program authorizations tended to be permanent, although there have been notable exceptions such as the Bank of the United States. The initial bank charter lasted 20 years; it expired in 1811 when Congress failed to renew the bank’s charter.11

10 An excellent discussion of the benefits of redundancy and sequential decision making can be found in Rogers (1998).

11 A succinct and interesting analysis of the history of the Bank of the United States can be found in Hamilton’s Blessing: The Extraordinary Life and Times of Our
However, the Bank of the United States is a unique case; there were few other programs that were designed to expire during the first 150 years of the nation’s history.

When authorizing committees write legislation creating a new program, the substance of the law is almost always permanent.\(^{12}\) However, the fiscal component of the authorization, which authorizes the appropriation of funds for the program, can be either permanent or temporary. With a permanent authorization, the authorizing committee provides that the program receive ‘such sums as necessary’ for operation of the program or agency. Thus the authorizing committee does not involve itself in the debate over funding; funding decisions are made solely by the Appropriations Committees. With a temporary authorization, however, the authorizing committee attempts to influence the actions of the Appropriations Committees by suggesting specific sums that should be appropriated for the program or agency.

There are two types of temporary authorizations: annual and multiyear. An annual authorization only approves appropriations for one year; the appropriations have to be authorized annually. Multiyear authorizations establish specific appropriations levels for each year of the program. As with annual authorizations, multiyear authorizations require renewal, albeit after a longer time period.

\(^{12}\) See Schick (1995). Although programs or agencies are normally permanent, albeit subject to amendment through the passage of new legislation, there have been several high-profile instances of programs that have expired because of congressional inaction. For example, the Independent Counsel Reauthorization Act of 1994 expired in 1999 and Congress did not reauthorize this legislation.
Temporary Authorizations: A Means of Increasing Control

Scholars of the budget and appropriations processes have offered two primary reasons why committees use temporary authorizations. First, as discussed in chapter 3, committees use temporary authorizations because they want to influence a program’s appropriations levels (e.g., Fenno 1966; LeLoup 1980; Schick 1980, 1995; Shuman 1992; Wildavsky 1992). Not surprisingly, the authorizing committee’s effort to enhance program spending through temporary authorizations is in concert with the desire of the executive branch agency for increased funding (LeLoup 1980; Wildavsky and Caiden 1997). Because the authorizing committees cannot determine the funding levels directly, they use a temporary authorization as a means of signaling to the Appropriations Committees the funding level they want a program to receive. One component of an authorization is a specific statement of how much money the authorizing committee believes the program should receive. By authorizing a program for only short periods, the authorizing committee can later revisit and revise the program’s recommended appropriations levels.

Second, as discussed in chapter 4, temporary authorizations provide authorizing committees with greater control over programs by facilitating systematic oversight (Fisher 1983, 1979; Schick 1995, 1983, 1980; Shuman 1992). By reviewing a program’s or agency’s performance at regular intervals, authorizing committees can force the

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13 LeLoup (1980) also notes, however, that if authorization levels exceed actual appropriations by a large amount, the authorization committee can lose credibility with appropriators. It also can diminish the ability of the committee to conduct effective oversight.
Scholars also have argued that the ability of a committee to develop expertise and enhances its ability to conduct more effective oversight (Dodd and Schott 1979). Fisher (1983) argues that annual and biennial authorizations are used primarily in defense and foreign policy because it is in these two policy areas that the president exercises the highest levels of discretion. These shorter authorizations allow Congress to evaluate presidential policy in these two areas frequently and to attempt to exert influence on the president’s policy choices. As Schick (1995, 117) notes, a temporary authorization allows “committees of jurisdiction frequent opportunities to make...changes in law...they deem appropriate. [It is] a short leash that Congress can pull to compel changes in an agency’s policies or actions.” The Department of State, the Department of Justice, the Central Intelligence Agency, and the Department of Defense were all put under annual authorizations in response to scandals or grave concern on the part of Congress about executive branch performance (Schick 1983).

There are competing ideas regarding whether annual authorizations fare better in the appropriations process than do multiyear authorizations, or if multiyear temporary authorizations more effectively allow committees to lay claim to future spending by clearly articulating a program’s future needs (Oleszak 1989; Schick 1980). On the one

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14 Scholars also have argued that the ability of a committee to develop expertise and to know critical information regarding program performance and likely program outcomes is what makes a committee powerful (Krehbiel 1991). If using a temporary authorization enhances a committee’s ability to gain expertise in a policy area, then the benefits authorizing committees gain extend beyond the desire to make good policy to increasing the committee’s power within the chamber.

15 Authorizing committees use a variety of other techniques as part of the authorization process to influence appropriations levels, including the use of earmarks for
hand, a one-year authorization creates a temporal closeness between the authorization and appropriation, which could improve the ability of the authorizing committee to influence appropriations decisions. Thus, some committees use one-year authorizations, with the hope that they will create a “presumption of adequate funding on the part of the Appropriations committees (LeLoup 1980, 113). However, supporters of multiyear authorizations hope to show both the short-term and longer-term needs of the program in question. Although appropriators or budgeteers are not bound by these projected funding levels, they provide a basis for lobbying by authorizing committees and outside groups when budgets and appropriations are being made.

Authorizing committees have other reasons for preferring temporary authorizations beyond their desire to influence a program’s appropriations levels. Temporary authorizations also allow an authorizing committee to curry favor with interest groups. If authorizing committees are populated with members who have a high demand for policy outputs from the committee (Shepsle, 1978; cf. Krehbiel, 1991), then these committees would have an incentive to authorize high levels of spending, as interest groups would like. This strategy forces the Appropriations Committee to make the tough choice and refuse to provide the total amount of funding authorized (Wildavsky and Caiden, 1997; Shuman, 1992).\textsuperscript{16}

\begin{flushright}
projects the authorizing committee deems to be important (Schick 1995).
\end{flushright

\textsuperscript{16} It is important to remember that less than half of the federal budget is subject to appropriations (Wildavsky and Caiden 1997).
The Shift to Temporary Authorizations

Tiefer (1989, 933) refers to temporary authorizations as an intrusion “on [the] appropriations’ [committees] former monopoly on the annual review and expression of congressional views.” Prior to the 1960s, when programs were created and almost always given a permanent authorization, the appropriations process was the primary locus of congressional review of programs and agencies. This is not to say that authorizing committees did not have hearings on these subjects, but they did not do so in a systematic or timely manner, except when a scandal occurred (Rockman 1984; Tiefer 1989). Thus, it was the appropriators, not the authorizers, who were best able to make adjustments to program policy and to expose program deficiencies.

Temporary authorizations helped authorizing committees shift the power back toward themselves. The authorizing committees were now able to gain the electoral benefits associated with legislative activity (e.g., Mayhew 1974). They also could attempt to put pressure on Appropriations Committees to fund programs at specific levels in order to achieve important program goals. After World War II, Congress first began to use temporary authorizations in foreign and defense policy, and then shifted their approach to the domestic policy arena.

The first major program subject to a temporary authorization was the Marshall Plan (Cox 1996). By making the authorization temporary, Republican members of Congress hoped to exert more control over the way in which President Truman implemented the Marshall Plan. The initial one-year authorization for the 1947 Foreign Aid Act ensured that, every year, Congress would review the way in which the Economic
Recovery Agency was implementing the aid package to rebuild Europe. This also ensured that Congress would be involved in policy changes that were necessary as the conditions in Europe changed; the State Department would be limited in its ability to act unilaterally. Thus, the foreign policy authorizing committees exercised greater control over both the monies that were expended and the form of the expenditures.

The Marshall Plan was a relatively unique use of temporary authorizations in the early post-war period. However, Senator Richard Russell (D-GA) set the stage for a broader change in the authorization environment when he added an amendment to the Military Construction Authorization Act for fiscal year 1960 that stated “[n]o funds may be appropriated after December 31, 1960...for the procurement of aircraft, missiles, or naval vessels unless the appropriation of such funds has been authorized by legislation enacted after such date” (Dawson 1962, 42).

This amendment was designed to make the Armed Forces Committee a more powerful player in the debate over military policy. In his case study of this change in defense policymaking, Dawson (1962, 42) argues that

[the Russell amendment] served to break the monopoly long held by the annual Department of Defense Appropriations Act as the single regular confrontation of Congress, as a decision-making participant through its Appropriations Committees, with the strategic issues and choices contained in defense policy.
Perhaps the most interesting aspect of Russell’s efforts to move important components of the defense authorization to an annual appropriation is that Russell, and the other senators who developed the proposal, served on both the Armed Forces Committee\textsuperscript{17} and the Appropriations Committee. Dawson argues that these senators made the defense authorization subject to an annual review because they wanted to exert more influence over defense policy and the military establishment. The current system of having defense policy analyzed annually by the Appropriations Committee was not providing the oversight and policy control that these senators desired.\textsuperscript{18} Dawson (1962, 44) notes that

\begin{quote}
[control over defense appropriations] has been a disappointing instrumentality.... [Senators] have, and can have, no adequate facilities for formulating alternative programs [to the administration’s proposal] in any systematic fashion.
\end{quote}

Defense appropriators recognized that they did not have the ability to evaluate defense policy in a comprehensive way, to determine the effectiveness of the various policies, and to craft alternative policies if necessary. The senators decided that in addition to the Appropriations Committee, the Armed Forces Committee, which had jurisdiction over defense authorizations, should serve as a repository of expertise on defense policy. By having an annual authorization, Senator Russell envisioned that the Armed Forces Committee

\textsuperscript{17} The Senate Armed Forces Committee is now known as the Armed Services Committee.

\textsuperscript{18} By the early 1980s, all defense programs were subject to annual authorization (Art 1985; Cox 1996).
Committee would be able to analyze Department of Defense policy proposals and craft alternate proposals that could be considered by the appropriators. By dividing the labor between the authorization and Appropriations Committees, Congress would have two independent sources of expertise on defense policy, making it harder for the Department of Defense to exert undue control over defense policy vis-a-vis Congress.

The movement of defense policy from a permanent to a temporary authorization with the passage of Russell’s amendment in 1959 began a trend toward temporary authorization. Most new agencies created after 1960 had a temporary authorization. In addition, authorizing committees changed many existing agencies from permanent to temporary authorizations. Cox (1996) identifies 36 new federal agencies created after 1960. Only nine of them (25%) were given a permanent authorization, and there is no clear pattern explaining which agencies would be given a permanent status. Of the four cabinet level agencies that were created—Housing and Urban Development, Transportation, Energy, and Education—two were given permanent authorizations and two were given temporary authorizations.\(^{19}\) Between 1969 and 1978, the total number of programs with an annual authorization increased from approximately 12 to more than 30, with many more programs having multiyear temporary authorizations. In fact, temporary authorizations had become so prevalent that by the 1970s, more than 25% of all laws enacted were reauthorizations (Schick 1983).

\(^{19}\) The Department of Housing and Urban Development and the Department of Education have permanent authorizations.
Beginning in the 1980s, the ability of Congress to reauthorize programs began to deteriorate. Part of the problem was that there was an abundance of temporary authorizations that committees had to consider. Although temporary authorizations allow Congress to evaluate how agencies are implementing federal programs, they also increase the workload for congressional committees. This is especially true for an annual authorization, which requires a committee to evaluate a program every year and then write new authorization legislation. Perhaps the most prominent annual authorization – the defense authorization – is the only major piece of legislation the Armed Services Committees considers each year.

Many committees use multiyear authorizations to minimize the costs associated with having to act to reauthorize these programs (LeLoup 1980). However, even committees with multiyear authorizations began to have problems reauthorizing the programs under their control. For example, there is a different piece of education legislation with a temporary authorization that expires each year. For a committee like House Commerce, there are always regulatory agencies – and regulatory policies – that are expiring.

Part of the problem associated with reauthorization politics in Congress in the 1980s was money. Oleszek (1989) argues that the influence of temporary authorizations on the budget process is linked to the availability of funds to pay for these programs. When money is tight and deficits exist, the budgeteers and the appropriators have most of the power. This makes being an authorizing committee member less important. One authorizing committee member summed up the situation by saying, “It’s no fun being an
authorization committee chairman anymore. They can’t get new programs passed. The best they can do is preserve their most beloved programs at some level that makes sense” (Oleszek 1989, 76).

In the 1980s, instead of proposing new programs or expanding existing ones, authorization committees were forced to cut program funding, to make programs more efficient, or to find ways of creating programs with no federal costs. Beginning with the Reagan Administration, the use of the reconciliation process put the budget committees and the Appropriations Committees in the position of instructing authorizing committees to cut program and entitlement expenditures (Tiefer 1989). The budget deficits in the 1980s also made it harder for authorizing committees to build legislative coalitions and distribute program benefits to committee members.

By the beginning of the 1990s, there were relatively few programs that had an expired authorization. According to the Congressional Budget Office (CBO), 49 programs received appropriations with an expired authorization in 1990. By 1995 there had been a 110% increase in the number of programs receiving unauthorized appropriations, with 103 programs being expired but receiving appropriations. Over this six-year period, the number of House committees with 10 or more expired authorizations went from one to four and, by the end of the decade, six House committees had 10 or more expired authorizations that received appropriations. Figure 2.1 shows the change in the total number of unauthorized appropriations over the past decade.

It is clear that, during the 1990s, there was a dramatic change in the ability of Congress to maintain the authorizations of federal programs. It is unclear, though, how
this change has affected the environment in which policy stakeholders operate. The next section discusses expired authorizations and the reasons why committees are often unable to reauthorize programs under their jurisdiction.

The New Policy Environment: Expired Authorizations

Virtually all of my bill has been unauthorized.

The Justice Department has not been reauthorized since I’ve been in Congress—almost 20 years. It makes my job triply difficult.

Representative Harold Rogers (R-KY), Appropriations Committee Subcommittee Chairman.20

The House and Senate both have rules that, on the surface, explicitly prohibit unauthorized appropriations. The language that was adopted by the House and Senate in the mid1800s prohibiting unauthorized appropriations has been retained, with only slight modification, to this date. As Tables 2.1 and 2.2 show, House rule XXI, clause 2,k and Senate rule XVI both state that (a) no appropriation shall be made for a program that does not have an authorization, and (b) no appropriation bill shall make changes to existing law (Schick 1995; Tiefer 1989).21 Although the Senate rules on unauthorized appropriations are more lenient than the rules of the House, both chambers have, for more than 150 years, attempted to limit substantially unauthorized appropriations.

As quoted in Baumann 1999, 688.

Both the House and Senate make an exception for continuing expenditures for public work projects and other capital projects for which construction is already in progress (Schick 1995).
Figure 2.1: The Number of Programs with Expired Authorizations: 1990 - 1999
Table 2.1: The Rules of the Senate Governing Expired Authorizations

<table>
<thead>
<tr>
<th>Standing Rules of The Senate</th>
<th>Rule XVI: Appropriations and Amendments to General Appropriations Bills</th>
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<tbody>
<tr>
<td>1. On a point of order made by any Senator, no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law... or unless the same be moved by direction of the Committee on Appropriations or of a committee of the Senate having legislative jurisdiction of the subject matter...</td>
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<tr>
<td>2. The Committee on Appropriations shall not report an appropriation bill containing amendments to such bill proposing new or general legislation or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if an appropriation bill is reported to the Senate containing amendments to such bill proposing new or general legislation or any such restriction, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations.</td>
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<td>4. On a point of order made by any Senator, no amendment offered by any other Senator which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency...</td>
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<td>6. When a point of order is made against any restriction on the expenditure of funds appropriated in a general appropriation bill on the ground that the restriction violates this rule, the rule shall be construed strictly and, in case of doubt, in favor of the point of order.</td>
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Table 2.2  The Rules of the House Governing Expired Authorizations

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<th>Rule XXI: RESTRICTIONS ON CERTAIN BILLS</th>
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<tr>
<td>2. (a) (1) An appropriation may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, for an expenditure not previously authorized by law, except to continue appropriations for public works and objects that are already in progress.</td>
</tr>
<tr>
<td>(2) A reappropriation of unexpended balances of appropriations may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, except to continue appropriations for public works and objects that are already in progress.</td>
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<tr>
<td>(b) A provision changing existing law may not be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that retrench expenditures by the reduction of amounts of money covered by the bill...and except rescissions of appropriations contained in appropriation Acts.</td>
</tr>
<tr>
<td>(c) An amendment to a general appropriation bill shall not be in order if changing existing law...Except as provided in paragraph (d), an amendment proposing a limitation not specifically contained or authorized in existing law for the period of the limitation shall not be in order during consideration of a general appropriation bill.</td>
</tr>
<tr>
<td>(d) After a general appropriation bill has been read for amendment, a motion that the Committee of the Whole House on the state of the Union rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the Majority Leader or a designee, have precedence over motions to amend the bill. If such a motion to rise and report is rejected or not offered, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments that retrench expenditures by reductions of amounts of money covered by the bill may be considered.</td>
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With these rules, one might wonder how unauthorized programs continue to receive appropriations. One answer is that the rules themselves contain exceptions that allow unauthorized appropriations to occur (Schick 1995; Tiefer 1989). First, continuing resolutions, which provide interim funding in cases where regular appropriations bills do not pass, are not covered by the prohibition against unauthorized appropriations. Second, the House Rules Committee can adopt a rule for an appropriations bill that waives the rule against unauthorized appropriations.

Before legislation comes to the House floor, it is assigned a rule by the Rules Committee. Appropriations bills can be assigned a special rule that waives the point of order on unauthorized appropriations.\textsuperscript{22} The rule can cover all or a limited number of unauthorized appropriations in a bill. For example, on July 24, 1991, the House of Representatives considered the Department of Transportation and Related Agencies Appropriations Act. The rule for this bill – House Resolution 200 – read, in part:

\begin{quote}
Resolved, That during the consideration of the bill (H.R. 2942) making appropriations for the Department of Transportation and related agencies...all points of order against provisions in the bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived. It shall be in order to consider the amendments printed in the report of the Committee on Rules accompanying this
\end{quote}

\textsuperscript{22} In some years, the percentage of the nondefense discretionary appropriations that are for unauthorized programs can be quite high (Meyers 1988).
resolution, if offered by the Member specified or his designee, and all points of order against the amendments for failure to comply with the provisions of clause 7 of rule XVI and clause 2 of rule XXI are hereby waived.²³

As the floor manager for this bill, Congressman Joe Moakley (D-MA) explained after the rule was read on the floor:

House Resolution 200 is the rule waiving points of order against certain provisions of the bill, H.R. 2942, the Department of Transportation and Related Agencies appropriations bill, for fiscal year 1992... [It] waives clause 2 and 6 of rule XXI, against the entire bill. Clause 2 of rule XXI prohibits unauthorized appropriations and legislative provisions in general appropriations bills...The waivers are necessary because legislation for programs of the Coast Guard and surface transportation programs have not yet been enacted.²⁴


The Rules Committee takes several factors into account when granting a waiver, including whether the authorizing committee has considered new authorization legislation that has been passed by the House but not enacted into law. If an unauthorized program or project is not granted a waiver, members on the floor can strike the unauthorized appropriation from the bill. When an authorizing committee has not authorized a program, problems can ensue when an appropriations bill receives an open rule, as points of order can be brought against unauthorized spending. However, this spending potentially can be restored in a conference committee.

How expired authorizations can cause problems in the appropriations process is illustrated in the following example. In 1993, the House Public Works Committee failed to authorize all components of the Department of Transportation. When the Appropriations Committee did not appropriate funds for several grants important to Public Works Committee Chairman Norm Mineta (D-CA), he asked for and received an open rule for the appropriations bill. The open rule allowed Mineta to offer amendments.

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25 One of the key factors the Rules Committee considers is how the waiver affects projects and programs in the districts of committee members. Special waivers are on occasion granted only to the programs or projects of Committee members, and all other projects are left open to being stricken by a point of order. See Tiefer (1989, 969-970) for a detailed discussion with examples.

26 Shepsle and Weingast (1987a and 1987b) argue that committees are powerful because they have an ex post veto over actions taken by the floor. This ex post veto is exercised when legislation goes to a conference committee. Committee members responsible for the bill are disproportionately represented on conference committees and they can veto changes made on the floor to their bill. However, Krehbiel (1987) suggests that the power of this ex post veto is limited. There are many procedural ways in which the floor can pressure committee members to accept changes made by members on the floor. Krehbiel presents data supporting his argument, although these data are interpreted differently by Shepsle and Weingast (1987a, 1987b).
to restore his projects, but it also allowed other members “to bring points of order against 18 unauthorized sections of the bill, including the entire office of the Transportation Secretary” (Congressional Quarterly Almanac [CQA] 1993, 668). Open warfare between the appropriators and authorization committee members ensued, with the appropriators attempting to strike unauthorized spending for projects, and authorization committee members attempting to strike authorizing language in an appropriations bill. This case shows that, without a special or closed rule, authorizing committee members can be in a precarious position when they ask for an open rule if there are unauthorized appropriations contained in the bill.

The Senate has weaker rules regarding unauthorized appropriations (Tiefer 1989, 972-977). The initial clause of Senate Rule VI is parallel to the House rule forbidding unauthorized appropriations. Senators are able to raise points of order against such appropriations. However, subsequent clauses in the Senate rule create exceptions that make it easier for the Senate to consider unauthorized appropriations. As is the case in the House, the failure of authorizing committees to authorize legislation can be problematic when appropriations bills are being considered on the Senate floor.27

27 Expired authorizations can lead to the Appropriations Committee issuing bills that include legislative riders. Representative Harold Rogers (R-KY), chairman of the subcommittee that writes the Commerce-Justice-State appropriations, notes that, when authorizing committees fail to reauthorize legislation, it puts pressure on the Appropriations Committee to legislate. Because there is no legislative vehicle other than the appropriations bill that will address the unauthorized legislation, members frequently offer substantive policy amendments – riders – to the appropriations bill for the unauthorized program (Meyers 1997). As Chairman Rogers explains, when an authorizing committee fails to take care of its business, that committee is saying to all members “come on, bring your riders. We’ve forgotten what [we] are supposed to do” (Baumann 1999, 691). Riders complicate the appropriations process, making it more
The loopholes that exist in the rules of the House and the Senate explain procedurally how unauthorized appropriations occur. It is important to recognize that in modern times the most common reason for an unauthorized appropriation to occur is because Congress fails to reauthorize a temporary authorization. Two complimentary reasons are generally offered for why Congress fails to reauthorize programs. One theory argues that committees fail to renew a temporary authorization because of high transaction costs associated with this action. The second theory argues that conflicts between the branches, or between the chambers in Congress, can cause the failure to reauthorize a program.

Cox (1996) notes that temporary authorizations are used by committees as a means of controlling policy, even though gaining control is not free of costs. Specifically, when House and Senate committees make an authorization temporary, they put themselves in the position of having to reauthorize the legislation in the future, and assembling new legislative coalitions can be quite costly. Of course, not only do the committees themselves have to agree on a policy when a program is reauthorized, but the committees then have to create floor coalitions that will support the reauthorization as well. The failure to act at any point in the legislative process means that the program difficult for appropriations bills to pass. In addition, riders are an expression of a loss of control over the policy process by authorizing committees.

Cox (1996) notes that committees sometimes realize when they create a new program that building legislative coalitions in the future will be extremely difficult. For example, when the bill to create the Occupational Safety and Health Administration (OSHA) was considered on the floors of the House and Senate, both authorizing committees lost control of the legislative process. The committees ensured that the new legislation made OSHA permanently authorized so that they did not have to consider this
will not be reauthorized. Not surprisingly, as conflict between parties increases, and when the average level of conflict among committee members is higher, it is harder to reauthorize legislation. In fact, Cox shows that authorization committees that historically have high levels of conflict among members tend to use permanent authorization for agencies, as compared to committees with lower levels of internal conflict.

Cox’s analysis shows that temporary authorizations are used to enhance Congress’s control over policy. However, this attempt to promote policy control comes at the cost of having to enact new legislative coalitions when authorizations expire. When the costs of coalition creation and maintenance are too high, reauthorization efforts fail. A slightly different argument is made by Krehbiel (1998), who points out that efforts to pass legislation often fail because the preferences of the House, Senate, and president do not coincide. All three sets of stakeholders have to agree for a change in the status quo to occur; the new policy has to be better than existing policy for all three stakeholders. Krehbiel notes that efforts to develop a proposal that all three stakeholders will agree should be enacted is further hindered by two supermajoritarian procedures. First, at least 60 senators have to agree on a proposal for a filibuster to be prevented. Second, if the House and Senate want to act without the support of the president, two-thirds of both chambers have to support the proposal in order to overcome a veto by the president.

 legislation in the future.

There are numerous points in the legislative process, other than the committee stage and floor stage, where a bill can stall. As Pressman and Wildavsky (1984, 102-110) show, even if there are relatively few points where a decision can be vetoed, the odds of successful action can quickly decline to less than 50%.
Two examples highlight the problem identified by Krehbiel (1998). President Clinton’s 1993 economic stimulus package was supported by a majority of senators and representatives. However, it was not enacted because of the supermajoritarian nature of the filibuster in the Senate; 60 Senators did not support the proposal (Krehbiel 1998, 28-31). Similarly, supermajorities of the House and Senate supported the Family and Medical Leave Act in 1991, but these majorities were not large enough to overcome President Bush’s veto of the bill; thus, the bill was not enacted (Krehbiel 1998, 31-33).

Krehbiel’s (1998) argument is explicitly nonpartisan, but other scholars have suggested that partisan differences can make reauthorizations more difficult. Tiefer (1989) suggests that conflicts between the legislative chambers in the reauthorization process began in 1981, when Republicans took over control of the Senate. Senate Republicans were interested in enacting the initiatives of the Reagan administration, preferably through permanent law. House Democrats, conversely, used the authorization process to critique and thwart the actions that Republicans were promoting. This form of intrabranch rivalry has been shown to be a major problem and an important cause of legislative inaction in recent years (Binder 1999).

Given the difficulty of crafting legislative agreements between the House, the Senate, and the president, the use of temporary authorizations can seem quite peculiar. Although there may be theoretical gains in control over a program that occur with temporary authorizations – as authorizing committees have more opportunities for oversight or to weigh in on the appropriations levels that programs under their jurisdiction receive – there is also the possibility that a program authorization may not
succeed, which leaves funding for the program even more at the whim of appropriators. The next chapter examines whether an additional factor regarding temporary authorizations – their ability to control the agenda over a program – is the true value that committees gain by having temporary authorizations.

Summary

There is a long tradition, dating back to the first Congress, of separating the authorization of a program – its function and laws governing agency behavior – and appropriations – which determine the amount of money that can be spent in a given year for a given activity. This division between substantive program legislation and appropriations legislation has resulted in competition between the authorizing committees and the Appropriations Committees, both of whom want to exert greater control over how programs function.

As Congress has evolved, so have the rules governing authorizations and appropriations. Congress adopted rules in the 1830s that prohibited unauthorized appropriations, which strengthened the hands of authorizers, who were able to exert jurisdiction over efforts to legislate outside the committee process. However, it was not until the end of World War II that authorizing committees made widespread use of temporary authorizations as a technique for increasing control over programs under their jurisdiction.

Beginning with the effort in the Senate to subject the authorization of all Department of Defense weapons programs to an annual authorization, there has been a trend toward making agencies and programs within agencies subject to review by making
some aspect of their authorization temporary. It has generally been argued that two benefits accrue from making a program’s authorization temporary. First, the authorization committee is able to signal to appropriators the level of funding the committee thinks is appropriate for the operation of a given program or agency. Second, the expiration of a program’s authorization is thought to facilitate oversight, with the committee holding hearings as the authorization ends to determine how effective a program has been and what actions should follow.

In chapter 4, I test to determine if temporary authorizations do in fact influence appropriations levels, and in chapter 5 I test whether the level of oversight, as measured in hearings held by a committee, are influenced by a program’s authorization being temporary. But first, in the next chapter, I consider how temporary authorizations serve as a mechanism for controlling a program’s agenda in Congress.
CHAPTER 3:
TEMPORARY AUTHORIZATIONS AS A CONTROL ON LEGISLATIVE ACTIVITY

As the previous chapter notes, most theories regarding the relationship between temporary authorizations and either oversight or budget processes have not been tested, though they are well articulated. However, there is little extant literature regarding how authorizations affect agendas in Congress or the behavior of congressional committees. Even less is known about how temporary authorizations control policy action in Congress and the timing of when legislation on a given topic will be considered.

This chapter provides a conceptualization of temporary authorizations as a mechanism for controlling when legislative activity will occur in Congress. This conceptualization builds on existing literature regarding both agenda setting and congressional committee activity. Although policy scholars often discuss agenda setting, few acknowledge the potential importance of temporary authorizations as an agenda-setting and agenda control mechanism. Similarly, congressional scholars often discuss the importance of rules, procedures, and institutions in the legislative process, but temporary authorizations are not a part of this analysis. By overlooking temporary authorizations as a mechanism for determining when explicit legislative action will take place – that is, when a bill on a topic will move, not when a committee will have hearings or otherwise talk about an issue – scholars may be missing an important indicator for
knowing when Congress will actually act on certain policy issues and when members will just discuss but not act.

**Theories of the Agenda Process**

Few scholars of the agenda-setting process even consider temporary authorizations in their analysis. One who does is Kingdon (1995), who provides a theory of agenda-setting in the federal policy process in his book *Agendas, Alternatives, and Public Policy*. He argues that three factors, or “streams of processes,” influence the agenda-setting process: problems, policies, and politics. Participants in the policy process – including lobbyists, members of Congress, agency personnel, White House personnel, think tank members, and academics – attempt to manipulate these streams to affect the policy agenda in Washington.

**Opening Windows**

What these policy players need in order to get their ideas moving is an opening in a “policy window.” This window is “an opportunity for advocates of proposals to push their pet solutions, or to push attention to their special problems” (Kingdon 1995, 165). According to Kingdon, there are two types of policy windows. The first kind is the unpredictable window. This window opens in response to other events, such as a change in administration, change in partisan control of Congress, change in the national mood on a specific issue, or a national crisis. When these windows open – and Kingdon argues that they do not stay open for long – political stakeholders have to be prepared to push their agenda item through that opening. Kingdon suggests that these unpredictable windows mostly open by accident and that when they do, policy stakeholders have to
“catch the wave” and follow the opportunity wherever it leads because one can never know if the opportunity for action will occur again in the near future.¹

The second type of policy window is the predictable window, which opens when a scheduled event occurs. Scheduled events would include the president’s State of the Union Address and changes in congressional sessions or presidential terms. Kingdon (1995, 186-188) also notes that the reauthorization of a program constitutes a predictable window opening. For stakeholders inside and outside of Congress, reauthorizations are likely to be the most common and reliable chance to promote activity in a given policy area, as a reauthorization is likely to produce a legislative vehicle for related issues.

Kingdon (1995) provides two examples of from his research of temporary authorizations as predictable windows: health manpower issues and surface transportation. Medical manpower issues were quite prominent in 1976, and surface transportation issues were quite prominent in 1978. His analysis, based on interviews with policymakers, is that activity occurred in both cases because these issues were up for reauthorization in those years. In each case, the expiration of the temporary authorization set off a flurry of activity among legislators, interest groups, and agency personnel. The expiration of these temporary authorizations almost certainly guaranteed that the authorizing committee would consider legislation to reauthorize the program, and this would create a legislative vehicle upon which interested parties could attempt to attach their own pet project.

¹ Downs (1972) makes a similar argument about the agenda process. He presents a five-stage theory that focuses on the inter-relationship between the media and the public’s perception of public policies.
One interesting aspect of Kingdon’s (1995) finding regarding increased levels of health manpower activity in 1976 and transportation policy activity in 1978 is that Kingdon could have known this was likely to occur when he was planning his study because the decision to make these two programs temporary had been made earlier. The fact that this activity Kingdon was measuring was previously planned also raises the question of whether all policy windows are equal as potential opportunities for legislative activity. Although his book focuses more on unpredictable windows as opposed to predictable ones, Kingdon does not provide any analysis of which is more likely to produce actual policy change through legislative activity. Clearly, groups would be interested in utilizing windows that were predictable as opposed to hoping that an unplanned event will occur to create an opening.

Closing Windows

The old adage that what goes up must come down is also true in the policy arena; policy windows that open must eventually close. In his survey of policy stakeholders, Kingdon (1995) observed that interest in an issue falls after the reauthorization process ends. In his metaphorical language, reauthorizing a program “closes” the policy window until the next reauthorization. Kingdon (1995, 167) notes that “without the prospect of an open window, participants [in the given policy area] slack off.” When a policy is reauthorized by Congress for a given period the committees of jurisdiction will not

\[2\] Also implicit in Kingdon’s (1995) argument is the idea that the appropriations process creates an opening in policy windows in all policy areas. Because annual appropriations affect most areas of domestic and foreign affairs, these bills create an opportunity for making policy change. However, he does not pursue the differences between authorization and appropriations windows in his discussion.
consider issues related to the reauthorized policy again until it is time for the current 
authorization to expire. After the reauthorization, little legislative activity in that policy 
area will occur until the program is authorized again.

Kingdon (1995, 170) also argues that sometimes no viable policy alternative 
comes to the fore; this failure to act will cause the policy window to close. For programs 
with temporary authorizations, there is a variety of reasons why Congress might fail to 
enact new legislation. As noted in chapter 2, more and more authorizations have expired 
and no legislation has been passed to reauthorize those activities. The failure to 
reauthorize can result from a variety of considerations, including intracommittee conflict, 
interchamber rivalries, and disagreements between the executive and legislative branches. 
For unpredicted windows, similar conflicts can cause Congress to fail to act, as can 
changes in public perception of the event that caused the window opening.

Kingdon’s metaphor of a closing window may be perfectly appropriate to describe 
the failure of Congress to enact legislation in response to the event. In such a case, the 
level of policy activity related to the unpredicted opening in the legislative process is 
likely to fade and the opportunity will cease. However, Kingdon’s metaphor on this point 
may be less than robust. The failure – often a repeated failure – to reauthorize a program 
may not make a policy window close. Instead, this failure to act may make the policy 
window ‘stick’ open, with various stakeholders using a variety of means and vehicles to 
propose legislative alternatives designed to ‘close’ the window.

For instance, political stakeholders may push riders to appropriations bills or use 
other similar techniques as a mechanism for achieving policy change. Consider the
following example: the National Endowment for the Arts has not been reauthorized since 1990, but reforms have been made to the program through appropriations riders (Baumann 1999). In addition, committees continue to hold hearings related to the NEA annually. In this case, the window of opportunity to enact legislation may have opened with the expiration of the NEA’s temporary authorization in 1990, but this has not stopped committees from holding hearings or legislators from trying to modify the program through other means and using other legislative vehicles. Thus, authorizers, appropriators, and other interested stakeholders still have to be vigilant and alert to the possibility of activity related to this program.

In recent years there has also been a dramatic rise in the number of programs with expired authorizations, but there has been no research analyzing how policy windows operate when authorizations are not renewed. Just as in the case of the NEA, it is likely that, even if Congress did not act, interest groups would have to remain vigilant in order to ensure that other policy stakeholders did not get the upper hand in developing potential solutions to the problem or in finding a legislative vehicle for addressing the issue.

Unfortunately, beyond the survey done by Kingdon (1995) in the mid1970s, there have been no tests of the propositions that Kingdon develops regarding the authorization process and its effect on the agenda-setting and policy process. Furthermore, the implications of Kingdon’s discussion of the authorization process on the activities of interest groups, agencies, and congressional committees have yet to be studied fully. The next section examines the views of other scholars of the agenda-setting process to discern how they address the issue of temporary authorizations.
Longitudinal Analyses of Agendas and Policy

Over the past decade, studies of agenda setting have moved from short cross-sectional analyses to longitudinal analyses of agenda change. One of the first sets of scholars to do this were Baumgartner and Jones (1993), who examined the factors that lead to instability in agendas over time. They argue that the focus on incrementalism and stability in the policy process has led scholars to overlook the “punctuations” in the policy equilibria over time. So, what causes policy stability and then policy change?

Baumgartner and Jones argue that policy stability arises, in part, because a limited number of stakeholders come to dominate a given policy area, gaining “monopoly control” over the issue area. The stakeholders in the policy monopoly are able to define the policy in a specific way, and that policy definition remains the dominant view of the issue by most stakeholders in the issue area. These stakeholders are also able to control the venue – for example, the congressional committee – in which the policy is discussed. In fact, iron triangles or issue networks can be understood as often being a part of, or supporting, a policy monopoly. As long as the policy monopoly exists, change in the given issue area is likely to occur incrementally, if any change occurs at all.

However, the policy world is dynamic; a policy monopoly can deteriorate over time. Several factors can facilitate dramatic change in a policy area. New stakeholders can be mobilized and enter the policy debate. These new stakeholders then are likely to

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3 See D. Stone (1997) and Edelman (1985) on the importance of issue definition in the policy process.

4 An excellent summary of the literature on iron triangles can be found in Browne and Paik (1993).
Various aspects of the ACF theory have been tested more than 30 times by different scholars (Sabatier and Jenkins-Smith 1999). Attempt to change the policy definition of the issue, from one favorable to the existing coalition to one more favorable to the newly mobilized stakeholders. The newly mobilized are also likely to seek out new venues for this debate. As a policy comes to prominence in the public agenda, or as it comes to be viewed by the public and policy stakeholders in a different light, “existing policies can be either reinforced or questioned. Reinforcement creates great obstacles to anything but modest change, but the questioning of policies at the most fundamental levels creates opportunities for reversals in policy outcomes” (True, Jones, and Baumgartner 1999, 97-98). At some point, the pressure in the policy area can become too great, and the policy may change dramatically (a punctuation in the previous state of equilibrium) and then stabilize again. Baumgartner and Jones support their theory with an analysis of change in several policy areas – including nuclear energy, pesticides, and tobacco – over a long period.

A second and related model of agenda change over time can be seen as a component in the larger theory of the policy process that has been developed by Sabatier and Jenkins-Smith (1993). Their advocacy coalition framework (ACF) is designed to be a broad theory of the policy process that goes beyond the often-used description of the policy process as a series of stages, including agenda setting, implementation, and evaluation. What they desired instead was to create a dynamic theory of the policy process that is nuanced and can better explain the factors that influence changes in public policy over time.5

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5 Various aspects of the ACF theory have been tested more than 30 times by different scholars (Sabatier and Jenkins-Smith 1999).
The ACF views the policy process quite broadly, both in terms of how policy networks are defined and the size of the policy domains studied. This theory examines policy change by studying policy domains e.g., education policy) and not a program or institution, such as education for the disabled or education policy within the U.S. Department of Education. It is not that the disabled or the department are not important components to education policy, but a broader examination of education policy is needed to appreciate why specific changes occur in these programs. Similarly, the policy networks they examine are quite broad as well. Important stakeholders in the policy process include not only the usual suspects – interest groups, legislators, and administrative agencies – but also include journalists, policy analysts, researchers, and stakeholders from all levels of government. These different groups all contribute to our understanding of an issue and often try to shape public perceptions through their pronouncements and actions.

As these groups work to shape policy, they also add to the general knowledge about an issue. The ACF is premised on the idea that policy change is based on learning that comes from the availability of technical information about the policy issue in question. Scientific analyses and other studies often change the collective perceptions of an issue as new information comes to the fore. This information also shapes the understanding of how an issue is interrelated and the ways in which the problem can best be addressed. Specifically, Sabatier and Jenkins-Smith (1999, 119-120) believe that public policies “incorporate specific theories about how to achieve their objectives [and] involve value priorities, perceptions of important causal relationships...and
perceptions...concerning the efficacy of various policy instruments.” Not surprisingly, changes in technical knowledge can change perceptions of an issue and the understanding of the causal relationships that underlie a policy problem.

As with the punctuated equilibrium theory, the key to understanding policy change is to examine a given policy area for an extended period. Time is required for seeing how the stakeholders involved in the policy process in a given domain aggregate into advocacy coalitions. These coalitions consist of like-minded stakeholders who work together to make policy change and are held together because the coalition members all believe in a similar theory about how the policy should be designed and implemented. Coalition members contribute to the understanding of the issue through their research and their public efforts to frame the issue in terms most favorable to them.

The success or failure of these coalitions is, in part, based on their ability to shape the debate in terms that favor their theory of policy. One thing that groups do in their efforts to achieve success is to “venue shop” in order to find a political institution that supports their world view. For example, transportation groups want their issue addressed by an agency or level of government that most supports their view of what transportation policy should be. In general speaking, there is often a perception that state transportation departments view transportation as being a highway capacity problem that is based on their historical role in building roads that dates back to their initial inception as state highway departments. Conversely, cities are often viewed as being hostile to road building and being much more interested in building transit systems. As might be predicted, road advocates tend to like to see transportation policy made at the state level,
but environmental and transit groups tend to like to see cities more involved in the process. Decisions about which venue is appropriate are often established in law, as one coalition or another attempts to lock in an advantage they have regarding where policy decisions are made.

One interesting feature of both the ACF and punctuated equilibrium theories is that they fail to consider a key component of the process of agenda setting and policy change. Specifically, although these theories are quite adept at explaining when the monopoly control over a policy’s image may change, or when the coalitions that are involved on each side of the policy debate may change, they fail to consider what factors will lead to actual changes in policy. This is not a trivial matter. If there are fluctuations in how a policy is understood, how it is framed, or the coalitions on either side, it can result in a change to the actual policy being debated. Furthermore, the ability to change policy in the future can be greatly influenced by the way in which the rules are set in law. If one set of policy stakeholders or another is able to turn its advantage into law, they can make it more difficult for their opponents to achieve success in the future. As Kingdon (1995) rightly notes, what is needed for policy change to occur is an opportunity, an opening in the policy window.

As it so happens, for almost all major public policies – from agriculture to defense to transportation – the process of a temporary authorization expiring is the most common opportunity for a policy window to open, creating the possibility for actual policy change.
through legislative activity to occur. This makes a temporary authorization like a lock on a vault that is set to open on a timer. Only when the timer goes off and the vault doors open can anyone hope to get to the treasure – in this case, their desired policy outcome enacted in law. Whichever side won the policy debate the last time serves as a guard, trying to keep change from occurring, as their opponents fight to steal away with the outcome they want.

Unfortunately, neither the ACF nor punctuated equilibrium theories consider whether reauthorizations are a point that policy stakeholders recognize as being strategic for making dramatic policy change. This failure to consider the role of temporary authorizations in the process of agenda change is even more exceptional considering that both theories have been directly tested on programs with temporary authorizations, but the authorization status of the programs in question was not a variable considered in the analysis.

Over the long term, reauthorizations are the most consistent and important opportunity to change public policy that groups get in most policy areas. Consider, for instance, the 1991 reauthorization of the federal surface transportation programs (i.e., highways and transit) and how it fits into both the ACF and punctuated equilibrium theories. The environmental groups that had just finished work lobbying on the Clean Air Act Amendments used this “open window” to make the transportation reauthorization

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6 Obviously, there are other means of changing policy that do not include legislative activity, such as executive orders, administrative rule making, and the like. However, most dramatic policy change, and even activities as simple as reorganizing an agency or a program, can require congressional approval.
into a vehicle for environmental activism. Working through Senator Daniel Patrick Moynihan (D-NY), the environmentalists used the Senate Environment and Public Works Committee, which has a broader jurisdiction than its House counterpart (previously named the House Public Works Committee), as a venue for changing the issue in the 1991 reauthorization from building roads to mitigating the environmental impact of highways.

In this example, the expiration of the surface transportation authorization created the opportunity for one advocacy coalition to change the monopoly view of transportation as being an issue of moving people and goods around the country to one of moving people and goods in an environmentally sound manner. More importantly, the winners in the debate were able to lock in their gains through legislative action, ensuring that all states and localities would have to act as the winning coalition desired. This legislative win made it almost impossible for advocates on the other side to venue shop, to reframe the debate, and to change the view of the issue until the next authorization, or even longer. Without this (fortuitously timed) opportunity that arose from an action scheduled in law by a congressional committee five years earlier, the environmental groups might not have had the chance to promote these changes.

In addition, it is not clear that changes in policy equilibria occur outside of the reauthorization process. Information is lacking about whether the learning that goes on about a policy, or changes in a policy’s definition by the public, lead to changes in the law when there is an existing temporary authorization that is scheduled to expire at some point in the relatively near future.
Fundamental Tensions: Reauthorizations Versus Gatekeeping on Committees

The transportation example noted earlier raises a fundamental question about the agenda setting aspects of reauthorizations. Specifically, why do committees use temporary authorizations when doing so can in some way limit their future powers of gatekeeping? This is not a trivial question; gatekeeping powers have been recognized by many scholars as being a key source of power for committees. It is therefore important to understand why a rule or procedure that interferes or conflicts with the gatekeeping powers of committees is included in a law.

Why is a committee’s negative power to stop change in the policy areas under its jurisdiction among its most important? As Shepsle and Bonchek (1997, 327) note, “exclusive gatekeeping authority [makes it] practically impossible for the full legislature to consider changes in the status quo in a committee’s jurisdiction unless the committee consents to open the gates. This makes a committee an agenda monopolist in its jurisdiction.” A committee wants to ensure that – in the policy areas under its jurisdiction – no legislation comes to the floor that will not also leave the floor still reflecting the policy preferences of the majority of the committee. The rules in both the House and the Senate, along with historical precedents, ensure that legislation in a particular policy area is referred to the same committees year after year. Thus, a committee can, within certain limits, ensure that legislative change in a policy area will occur only if the committee of jurisdiction wants it to occur. In general, committees only offer changes to the status quo when they are sure that the floor median voter will not alter the legislation, thereby allowing the committee to structure the final policy outcome.
The literature examining congressional committees and committee power notes that gatekeeping affects several aspects of committee behavior, extending beyond the commonly understood power to decide whether or not to originate a piece of legislation (Deering and Smith 1997, 6-10). For example, a committee is typically sensitive to the type of rule a piece of legislation will receive (Denzau and Mackay 1983). Normally, committees want legislation they originate to receive as restrictive a rule as possible in order to keep their mischievous colleagues from modifying it on the floor through amendments. They also want to be able to control the treatment of their legislation in conference committees (Shepsle and Wiengast 1987a, 1987b; cf., Krehbiel 1987).

A temporary authorization runs counter to gatekeeping because it mandates a date certain when legislation will be considered by an authorizing committee. As Kingdon (1995) notes, the renewal of a temporary authorization causes a predictable opening of the policy window. The committee has to determine if it can address the policy issue without losing control of the legislation on the floor or creating a situation where policy stakeholders can use the reauthorization legislation as a vehicle for their own pet project. The use of temporary authorizations suggests that committees see a benefit to be gained by using this procedure, but the failure of many committees to reauthorize programs in timely manner suggests that problems exist in opening up the policy process at fixed points in time, as reauthorization requires. Expired program authorizations reflect a conflict in an authorizing committee between a desire for control over an agency and a desire to use gatekeeping power to control policies emerging from its jurisdiction.
Even though there are costs for committees associated with temporary authorizations, there are also benefits. As noted in chapter 2, it would be completely logical for committees to use temporary authorizations if doing so results in either an ability to influence the appropriations levels of programs under their jurisdiction or to facilitate oversight over programs. However, committees could use mechanisms to achieve these goals other than having the authorizing language within a bill expire. The Legislative Reorganization Act of 1946 clearly states that congressional committees are to conduct oversight in a systematic manner, and it does so without referencing temporary authorizations (Galloway 1951). Committees are expected to engage in oversight as a part of their work schedule. Similarly, an authorizing committee can signal the funding levels it thinks are appropriate for a program without specifying a dollar amount in a piece of legislation.

Synthesizing Agenda Setting and Committee Control: Temporary Authorizations As a Control Mechanism

Scholars who study the budget and appropriations processes have developed a theory to explain the existence of temporary authorizations (to facilitate oversight and signal desired appropriations levels); they just have not systematically tested these theories. Policy and congressional scholars have not developed theories regarding how temporary authorizations influence the policy process, yet the works referenced earlier point toward a cogent conceptualization for explaining the policy rationale for temporary authorizations. Specifically, temporary authorizations accomplish two goals for authorizers. First, they serve to create systematic, planned opportunities to revise
Members of Congress have a variety of reasons for wanting systematic opportunities to revise legislation in a given policy area. Examining two programs handled by the Transportation and Infrastructure (T&I) Committee (previously the Public Works Committee) – surface transportation policy (i.e., highway and transit policy) and highway traffic safety (i.e., programs under the National Highway Traffic Safety Administration) provides examples of the benefits that arise from both pre-planning opportunities to revise legislation and of taking legislation off of the policy agenda.

Consider first the advantages members gain from revising legislation at planned intervals. For members of the T&I Committee, the temporary nature of the surface transportation authorization serves well the needs of members with high demands for transportation. Even though the T&I Committee is the largest in Congress, not every member with large transportation needs can be on the committee. During the reauthorization process, the legislation being crafted has specific provisions of legislation on a given policy. Second, temporary authorizations serve to take an issue off the legislative agenda for a specified time period (until the authorization expires), thus serving to ensure that the trades made by legislators and enshrined in the new law do not come unraveled in the interim.

Committees are limited in size and there are tradeoffs in making them larger (e.g., Munger 1988). In the 105th Congress, almost 20% of the House was on the Transportation and Infrastructure Committee. Still, not every member can be seated on their first committee of choice. However, the argument made in this section is not contingent on committees being comprised of preference outliers (e.g., Shepsle 1978; Weingast and Marshall 1988) or being more heterogenous in preferences (e.g., Hall and Grofman 1990; Krehbiel 1990, 1991).
importance to members, as there are peculiar benefits that individual members can ascertain through the distribution of “high priority projects.”

Projects have value to the members, helping them to achieve their re-election goals. Two points are worth noting here. First, these projects allow members to achieve many of the goals noted by scholars such as Mayhew (1974) and Fenno (1973). They can engage in credit claiming, position taking, and advertising. They also get to make good public policy (at least in their districts). Second, by distributing these projects with some regularity (roughly twice a decade), members can get several “bites at this apple” during their service in Congress. Also, when transportation projects are not being allocated, another committee, perhaps agriculture or education, is distributing some benefit through a different reauthorization, from which members can benefit. Projects also have value to a committee because they are an important tool in building winning policy coalitions (e.g., Evans 1994) and helping committee members increase their own influence as they vote on which members get projects.

Second, once deals have been struck and transportation projects have been distributed – and broader determinations have been made about how the transportation

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8 High Priority Project is the technical term for the special projects, or “pork projects” for which members submit requests to the committee. Authorizations for these projects are specifically earmarked in the legislation.

9 The power of the Transportation and Infrastructure/Public Works Committees is largely based on the power of the committee members, especially senior members, to determine the distribution of projects. It is generally recognized that Jim Wright became majority leader in the late 1970s because of the tremendous power base he developed as a senior member of the Public Works Committee. The vote on leaders that year occurred roughly concomitant with the reauthorization of various surface transportation programs (CQ 1977).
funding formulas will distribute billions of dollars each year among states and localities is established – the members have an incentive for surface transportation policy to be taken off the legislative agenda so that their deals do not unravel. According to Kingdon (1995, 167), temporary authorizations serve to “close” the policy window until the authorization expires. Thus, committee members could point to an authorization’s expiration as the time where those who want to change the policy can know that they will have an opportunity to change it, thus relieving pressure to change the policy sooner. In addition, the temporary nature of the authorization also means that, should individuals involved in a legislative deal renege on the trade they made, there would be a clear point when the other parties can retaliate.

Similar benefits from using temporary authorizations accrue in transportation safety policy as accrue in surface transportation policy. Legislators involved in creating and overseeing regulatory agencies make decisions that are very sensitive to issues of agency control and information asymmetries.\(^{10}\) Specifically, members want to know that the decisions being made by regulators are sound, both politically and scientifically. The reauthorization process helps to provide focus to this information gathering process, beyond the conventional view that temporary authorizations facilitate oversight. Because the coalitions on both sides of the issue know when an authorization will expire, they can spend the time between authorizations studying the issues, gathering data, and developing arguments for their position. They will then inform Congress of their work through a variety of formal channels (e.g., committee hearings) and informal ones (e.g., individual

\(^{10}\) A thorough review of this literature can be found in O’Toole and Hall (2002).
staff and member briefings). Thus, members are able to tweak the legislation during the reauthorization process using the best data possible.

Furthermore, if there is conflict in what is the best course of action to take – as was the case in the 1980s during the debate over whether the National Highway Traffic Safety Administration should require airbags in cars – the authorization can be allowed to remain expired until the members are confident that they have made the correct policy decision. In such a situation, the policy window remains “stuck open” until legislative activity (i.e., a new reauthorization is crafted). Both sides in the debate, and other more independent organizations like the General Accounting Office and the Congressional Research Service, have incentives to continue to study the issues and inform Congress about their findings. Because the window can close at any time, once a majority coalition can be formed around a given policy solution, both sides have to remain vigilant, carefully tracking the issue and proposed policy solutions.

Examining the workload of committees in a given policy area is one way of seeing how temporary authorizations serve to place items on the legislative agenda and then take them off the agenda. Figure 3.1 shows the schedule of program authorizations for education policy for the years 1992 through 2002. From this, it is possible to see how temporary authorizations put an item on the agenda, take it off the agenda, and schedule future consideration of the policy. Consider, for example, three key education programs: Head Start, the Individuals with Disabilities Education Act (IDEA) and the Elementary and Secondary Education Act (ESEA). Note how Head Start is on the legislative agenda in 1994 and then not on the agenda again until 1998. Similarly, ESEA is on the agenda in
1993, extended for one year to 1994, and then taken off the agenda until 2000. Finally, IDEA is on the agenda in 1994 but then is off the agenda until its authorization expires in 2002.

Similar findings arise when considering the legislation that is reported from committee. Figure 3.2 shows all bills that were reported out of the Education and the Workforce Committee from the 103rd to 107th Congresses. Program reauthorizations tend to make up a large number of the bills considered each Congress, with the exception of the 104th Congress. By examining the content of these bills more closely, it is also possible to discern that these reauthorization bills also tend to consist of larger policy issues than the other legislation considered by the committee.

Summary

Temporary authorizations are important not just as an agenda-setting tool but as an agenda-control tool. The expiration of a temporary authorization is perhaps the single most common predictable opening of a policy window for most federal programs. These openings are critical points in the policy process for the various stakeholders in advocacy coalitions, who are attempting to lock in their view of the policy world through legislative activity. Temporary authorizations do not just result in issues being put on the table, they also are a mechanism for forcing policy action. Once this action occurs, the length of the authorization shuts the door on legislative activity in that area during the interim. By taking the issue off the agenda for this specified time period, members – and outside
Figure 3.1: Education Programs and the Year Their Authorization Expired

<table>
<thead>
<tr>
<th>Year</th>
<th>Programs and Acts</th>
</tr>
</thead>
</table>
| 1992 | Dropout Prevention  
Reauthorization of the Tribally Controlled College Act  
Higher Education Act |
| 1993 | STAR Schools  
Drug Free Schools  
Elementary and Secondary Education Act (ESEA) |
| 1994 | National Center for Education Statistics  
Individuals with Disabilities Education Act (IDEA)  
Even Start  
Head Start  
Library Services and Construction Act  
Drug Free Schools  
Elementary and Secondary Education Act (ESEA)  
School to work Grants |
| 1995 | Library Services and Construction Act  
National Literacy Act  
School to Work Grants  
Vocational and Applied Technology Education |
| 1996 | National and Community Service Trust Act  
Adult Education Act  
Environmental Education Act |
| 1997 | National Assessment of Educational Progress  
Higher Education Amendments |
| 1998 | National Education Goals Panel  
Head Start |
| 1999 | Even Start  
National Center for Education Statistics  
Bilingual Education  
Impact Aid  
School to Work Grants |
| 2001 | Charter School Education Program |
| 2002 | Individuals with Disabilities Education Act (IDEA)  
Library Services and Construction Act |
Figure 3.2: All Education Programs Emerging From the House Education Committee

<table>
<thead>
<tr>
<th>Congress</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>103rd</td>
<td>HR 6 - extends Elementary and Secondary Education Act (ESEA) R&lt;br&gt;HR 8 - amends Child Nutrition Act of 1966 and National School Lunch Act R&lt;br&gt;HR 1804 - provides framework for all federal education programs&lt;br&gt;HR 2339 - Technology Assistance for Individuals with disabilities R&lt;br&gt;HR 2351 - Arts foundations, humanities, and museum services R&lt;br&gt;HR 2884 - develops School to Work Opportunities in all states&lt;br&gt;HR 4250 - appropriates for Head Start and community service R</td>
</tr>
<tr>
<td>104th</td>
<td>HR 1557 - National Foundation on Arts and Humanities Act R&lt;br&gt;HR 1617 - consolidates vocational and adult education R&lt;br&gt;HR 1720 - cuts federal funding for part of Higher Education Act&lt;br&gt;HR 2066 - gives schools more flexibility in providing meals&lt;br&gt;HR 3055 - continues grants to historically black grad schools&lt;br&gt;HR 3268 - amends and funds IDEA R&lt;br&gt;HR 3269 - amends Impact aid program&lt;br&gt;HR 3863 - allows lenders to pay origination fees on unsubsidized loans</td>
</tr>
<tr>
<td>105th</td>
<td>HR 5 - amends and funds IDEA R&lt;br&gt;HR 6 - Higher Education Act R&lt;br&gt;HR 914 - corrects graduation data disclosures&lt;br&gt;HR 1385 - consolidates adult education programs R&lt;br&gt;HR 1853 - amends vocational and applied technology act R&lt;br&gt;HR 2535 - consolidates student loans into 2 programs R&lt;br&gt;HR 2614 - improve literacy through teacher training&lt;br&gt;HR 2616 - improves and expand charter schools&lt;br&gt;HR 2846 - no funding for national testing&lt;br&gt;HR 3248 - education funding&lt;br&gt;HR 3254 - clarifies state IDEA requirements&lt;br&gt;HR 3892 - establish program for children learning English</td>
</tr>
<tr>
<td>106th</td>
<td>HR 2 - education funding R&lt;br&gt;HR 800 - provides education flexibility partnerships&lt;br&gt;HR 1995 - empower and train teachers R&lt;br&gt;HR 2300 - allow states to combine some education funds&lt;br&gt;HR 3222 - family literacy projects R&lt;br&gt;HR 3616 - continue impact aid R&lt;br&gt;HR 4141 - amend Elementary and Secondary Education Act (ESEA) R&lt;br&gt;HR 4504 - technical adjustments, Higher Education Act</td>
</tr>
<tr>
<td>107th</td>
<td>HR 1 - accountability and choice, no child left behind (ESEA) R&lt;br&gt;HR 1992 - more telecom higher education&lt;br&gt;HR 3394 - computer and network security R&amp;D&lt;br&gt;HR 3784 - extend Museum and Library Services Act R&lt;br&gt;HR 3801 - improve federal educations research and stats R</td>
</tr>
</tbody>
</table>

Note: R means the legislation is part of a reauthorization.
stakeholders on each side of an issue – can be confident that the agreements that have been made will remain in place until the scheduled end of the authorization.

Chapters 2 and 3 have presented three theories regarding why temporary authorizations may be important to the policy process. The next three chapters test these theories. Chapter 4 investigates the relationship between temporary authorizations and appropriations levels. Chapter 5 examines the way in which temporary authorizations facilitate oversight. Chapter 6 tests whether temporary authorizations serve as a mechanism for controlling lawmaking in a given policy area. Before these analyses are considered, this chapter concludes with a brief discussion of the methods used to test these theories.

A Note on Research Methods

The research design used in this analysis is similar to those of other scholars who have studied interest groups (e.g., Bauer, Pool, and Dexter 1972; Hansen 1991; Heinz et al. 1993), the policy process (e.g., Baumgartner and Jones 1993; Kingdon 1995), and the behavior of committees in Congress (Fenno 1973; Hall 1996; Kiewiet and McCubbins 1991). It combines the advantages of examining several specific policy areas so that changes can be compared across policies and committees with the benefit of examining change over time.

There are two time frames for the data included in the analysis. Fiscal years (FY) 1977 thought 1998 are used for the budgeting and appropriations data included in chapter 4. The data begin in FY 1977 because that is the year in which the beginning of the federal fiscal year moved from July 1 to October 1, and other aspects of the
Congressional Budget and Impoundment Control Act of 1974 were fully implemented by then. The data on oversight and agenda setting include the years 1970 through 1994. This analysis provides a 25-year time frame in which to consider policy change. It is important to note there are data limitations that constrain the analysis to this period. On the front end, the Congressional Information Service (CIS) hearings data only go back to 1970, which limits gaining information about hearing type before that date. On the back end, the Agenda Project data, which are discussed more thoroughly in chapter 5, only exist through 1994.

The policies and programs included in the analysis were selected based on different characteristics. First, I attempted to select policy areas that are well-defined and that fit generally within the jurisdiction of a single committee. By doing so, I can examine issues associated with temporary authorizations – especially oversight and agenda setting – in a clearer manner. In addition, I can leverage the research of scholars of committees to ensure that there is diversity in the environments in which various policies are considered. Drawing on the work of several scholars, the factors that are used to differentiate among committees are (1) fragmentation, (2) salience, (3) conflict, (4) committee goals, (5) external effects, (6) outlier status, and (7) average number of unauthorized appropriations, 1990-1999. Each factor is discussed below.

Fragmentation considers the breadth of a committee’s jurisdiction. Two factors—the number of departments and agencies that are under the committee’s jurisdiction and the number of issues listed in the chamber’s rules—are used to measure fragmentation. The importance of fragmentation is that it “considers the degree to which
a committee attracts the attention of outsiders who perceive their interests as unrelated to each other” (Smith and Deering 1990, 77). The more issues a committee has to consider, the greater the number of different outside interests acting to pressure the committee.

Salience takes into account how important the public and members of Congress view the issues within a committee’s jurisdiction. An issue’s salience is in part based on how many people it affects. For instance, Social Security is a high-salience issue because it affects all Americans. Salience can be measured by considering the amount of news coverage an issue receives (Smith and Deering 1990, 78-85).

Conflict considers the level of competition among interest groups with issues before a committee. The higher the level of conflict, the more members must choose between the interests of one group of stakeholders to the exclusion of the interests of other groups of stakeholders. Members often find high levels of conflict to be problematic politically because it requires members “to vote...on matters that make people unhappy” (Smith and Deering 1990, 84).11

Committee goals come from Fenno (1973), who identified three goals that members desire to achieve when they serve on a committee: re-election, good public policy, and influence within the chamber. Smith and Deering (1990) quantified Fenno’s work by surveying members and member staff regarding which committees they viewed as being most appealing. Through the survey, it was possible to determine which

11 Representative Richard Durbin (D-IL) made this comment in regards to being a member of the Budget Committee.
Constituency committees reflect the re-election considerations mentioned by Fenno. Additionally, several committees, such as the Ethics Committee, were not requested, but the committees in this category are also not authorizing committees as traditionally defined (Smith and Deering 1990, 85-90).\textsuperscript{12}

External effects considers how the average policy produced by agencies under a committee’s jurisdiction affect members who are not on the committee. If a committee has uniform externalities, the average policy affects all non-committee members equally. The Appropriations Committee is an example of one with uniform externalities. If a committee has targeted externalities, the average policy tends to affect significantly a limited number of non-committee members. Resources, the House committee that handles federal lands, has targeted externalities. Committees that do not fall in either category are considered to have mixed externalities. The Judiciary Committee is an example of a committee with mixed externalities (Cox and McCubbins 1993, 191-202).

Outlier status considers if the membership of a legislative committee is dominated by members with policy preferences that are extreme compared with the average member of the House. Because individual members have, to a limited extent, the opportunity to self-select onto committees, some scholars argue that committees are comprised of individuals who have a high demand for the policies that a committee produces (Shepsle 1978; cf. Cox and McCubbins 1993). For example, members on the Agriculture Committee want more agriculture policy than the average House member. The outlier

\textsuperscript{12} Constituency committees reflect the re-election considerations mentioned by Fenno. Additionally, several committees, such as the Ethics Committee, were not requested, but the committees in this category are also not authorizing committees as traditionally defined (Smith and Deering 1990, 85-90).
status of a committee’s members can be measured through the use of interest group scores and ideology scores.

Table 3.1 shows how committees rank based upon these six factors. For the analysis of budgeting and appropriations conducted in chapter 4, six policy areas are included in the analysis: (1) agriculture, (2) defense, (3) regulatory/commerce, (4) education, (5) international relations, and (6) transportation. For chapters 5 and 6, almost all of the analysis focuses on regulatory/commerce, education, transportation, and defense policies, with Social Security policy used as a control case. The committees that have primary jurisdiction over these policy areas vary across the factors noted above. There are committees with high and medium levels of fragmentation, and committees with high, medium, and low levels of conflict and issue salience. Both policy and constituent committees are represented in the data. Committees with targeted, uniform, and mixed externalities also are represented. These committees also vary regarding how well their membership reflects the ideology of the average member on the floor.

These committees do vary in the likelihood that they will reauthorize programs in a timely manner, and the typical length of authorizations under their jurisdiction. During the period analyzed in this study, three of the committees – Agriculture, Armed Services, and International Relations – had relatively few programs under their jurisdiction functioning with expired authorizations. Both the Education and the Workforce Committee and the Transportation and Infrastructure Committee had a moderate number of programs operating with expired authorizations. And one committee in the study – the
Commerce Committee – ranks as the committee with the most programs operating with expired authorizations.

By selecting committees that represent a cross-section of the entire Congress, I think that it is possible to examine only these six committees but still gain an understanding of how the authorization environment affects the entire Congress. Fenno (1973) was able to accomplish this same sort of representativeness in his classic study *Congressmen in Committees*. By choosing committees with certain representative characteristics, Fenno was able to draw broader conclusions about all committees. This study aims to emulate this approach by also selecting a limited number of representative committees that reflect the broader population of committees in Congress.

Although this study examines policy making in Congress, the hearing variables used in the analyses are only for the House of Representatives. Although this is a weakness in the analysis, it is not a serious one. Recent studies of congressional oversight (e.g., Aberbach 1990; Taylor 2001) find that there is little difference between House and Senate oversight. Thus, using data both chambers would be ideal, but there are costs associated with doing so, including the time needed to gather the data and in possible multicollinearity between House and Senate variables.

After selecting the policy areas, for some of the programs I then select a set of subcategories that fit within these policy areas. For example, for education policy, I examine early childhood education, special education, vocational education, and arts and humanities funding. By examining these subcategories, I am better able to consider how Congress makes policy in a more meaningful way since congressional activity rarely
focuses on a broad policy, such as education or health care, but instead is more focused on an aspect of that policy, such as special education or health insurance. Most issues are too large to be considered en banc, so instead they are broken into smaller, more meaningful components. As one congressional staff person noted, “Every time we do an authorization, we produce a huge bill; the last one was several hundred pages. You cannot combine this issue with another one. We can only handle doing one at a time.”

For the regulatory programs included in the analysis, it was not necessary to divide the policies into programs, but for education and transportation, I considered programmatic aspects of these policies.

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13 This interview, and all subsequent interviews noted, were conducted by the author. The interviews were conducted under rules of my project approval by the Human Subjects Office, Office of the Vice President of Research, University of Georgia. This approval included a stipulation that I would provide all interview subjects with confidentiality for agreeing to submit to an interview.
Krehbiel (1991) finds that, when using interest group scores, only one committee, the Armed Services Committee, was composed of “high demanders.” In the table above, I use Krehbiel’s findings (1991, 128-130) regarding the general ideology of committee members.

### Table 3.1: Characteristics of House Committees

<table>
<thead>
<tr>
<th>Committee</th>
<th>Fragmentation</th>
<th>Salience</th>
<th>Conflict</th>
<th>Goals</th>
<th>External Effects</th>
<th>Outlier Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Medium</td>
<td>Low</td>
<td>Low</td>
<td>Constituent</td>
<td>Targeted</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Appropriations</td>
<td>High</td>
<td>Medium</td>
<td>Medium</td>
<td>Prestige</td>
<td>Uniform</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Armed Services</td>
<td>Medium</td>
<td>Medium</td>
<td>Medium</td>
<td>Constituent</td>
<td>Mixed</td>
<td>Outlier</td>
</tr>
<tr>
<td>Banking</td>
<td>Medium</td>
<td>Medium</td>
<td>Medium</td>
<td>Policy</td>
<td>Mixed</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Budget</td>
<td>############</td>
<td>High</td>
<td>High</td>
<td>Prestige</td>
<td>############</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Commerce</td>
<td>High</td>
<td>High</td>
<td>High</td>
<td>Policy</td>
<td>Uniform</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Education</td>
<td>High</td>
<td>High</td>
<td>High</td>
<td>Policy</td>
<td>Mixed</td>
<td>Outlier</td>
</tr>
<tr>
<td>Government</td>
<td>Medium</td>
<td>Low</td>
<td>Low</td>
<td>Policy</td>
<td>Uniform</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Operations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International</td>
<td>High</td>
<td>High</td>
<td>Medium</td>
<td>Policy</td>
<td>Mixed</td>
<td>Outlier</td>
</tr>
<tr>
<td>Relations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judiciary</td>
<td>High</td>
<td>High</td>
<td>High</td>
<td>Policy</td>
<td>Mixed</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Resources</td>
<td>High</td>
<td>Medium</td>
<td>Medium</td>
<td>Constituent</td>
<td>Targeted</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Science</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>Constituent</td>
<td>Uniform</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Transportation</td>
<td>High</td>
<td>Medium</td>
<td>Medium</td>
<td>Constituent</td>
<td>Uniform</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Veterans</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>Constituent</td>
<td>Uniform</td>
<td>Non-outlier</td>
</tr>
<tr>
<td>Ways and Means</td>
<td>Low</td>
<td>Medium</td>
<td>High</td>
<td>Prestige</td>
<td>Uniform</td>
<td>Non-outlier</td>
</tr>
</tbody>
</table>

Note: Dashes indicate that data are not available.
CHAPTER 4:

AUTHORIZATIONS AND APPROPRIATIONS

“Appropriators, they are a mysterious bunch.”

If you ask a player in the policy process about authorizations and appropriations, two things inevitably come up in the conversation. First, there is a reference to Bob Packwood’s famous quote about authorization legislation just being a hunting licence for an appropriation. Second, the person will say something similar to what a transportation lobbyist, who is also a former congressional staffer said, “Part of [making funding decisions] is ego for being an appropriator. They just want to be able to control the money.” Members of authorization committees typically work hard to put meaningful funding levels in their programs because they recognize that there is a disincentive for appropriators to fund fully any program because of competing pressures. The authorization sets a precedent; the question is whether appropriators pay any attention to this effort.

There are many scholars (e.g., Fenno 1966; LeLeoup 1980; Schick 1995; Shuman 1992; Wildavsky 1992) who have entered this argument, agreeing that committees use temporary authorizations because they want to influence a program’s appropriations

\[1\] From an interview with a congressional staff person who has worked on education policy, February 20, 2002.

\[2\] From an interview with a person who has been involved in transportation policy and lobbying, February 18, 2002.
levels. When an authorizing committee writes an authorization, proposed funding levels for the program are often included in the law. The funding levels included in the authorization act as a signaling mechanism for communicating the authorizing committee’s funding desires to the Appropriations Committees. Because the success of a program can often depend on the funding a program receives (e.g., Montjoy and O’Toole 1979), it is understandable that members of the authorization committee want to ensure that the programs they design and oversee receive adequate funding. Committee power comes, in part, from the ability to know what will be the outcome of policy initiatives made in their jurisdiction (Krehbiel 1991). Committees, therefore, have an incentive to ensure that programs they sponsor are effective.

This chapter examines the success of authorization committees in sending signals to the Appropriations Committees regarding the level of funding that programs should receive. Specifically, programs with temporary authorizations that are expired or active are compared with programs that have permanent authorization language. The objective of the analysis is to determine if there are differences in the way in which Appropriations Committees make funding decisions among these three types of programs. First, does the use of temporary authorizations on the part of authorizing committees influence the amounts appropriated by the Appropriations Committee? Second, does the expiration of a temporary authorization affect its appropriations levels?

These propositions are tested by examining the differences in appropriated levels between programs with temporary authorizations and expired authorizations, and among programs with different authorization lengths. This analysis will help explain the impact
of different authorization techniques on the ability of authorizing committees to control the levels of appropriations their programs receive. It will also show how Appropriations Committees treat programs with expired authorizations. This analysis follows a discussion of the dynamics of appropriations and authorizations in Congress.

The Authorization Process

As was discussed in chapter 2, the substance of a law is typically permanent, but the fiscal component of the authorization can be either permanent or temporary. Scholars have previously claimed that temporary authorizations allow authorizing committees to influence the program’s appropriations levels (e.g., Fenno 1966; LeLoup 1980; Schick 1995; Shuman 1992; Wildavsky 1992). By including funding levels in authorization legislation, committees communicate to the Appropriations Committees the funding level they think a program should receive. Thus, some committees communicate to the Appropriations Committees their preferences regarding proposed program funding levels more frequently than others, based on the length of the temporary authorizations they use. Some committees use annual authorizations under the presumption that yearly reviews and statements of a program’s funding needs are the most effective way of communicating to the Appropriations Committees. Other committees use multiyear authorizations because they presume that this tactic shows how a program’s funding needs will change in the future (LeLoup 1980; Oleszak 1989; Schick 1980).

The authorization process illustrates the division of labor within Congress regarding the allocation of resources. The competition between authorizers and appropriators over money has been fierce since the Civil War. The following section
examines how the balance of power between authorization committees and committees responsible for appropriations has changed over time and affected the way in which funding decisions within Congress are made.

Changes in the Appropriations Process over Time

“Authorizers and appropriators are just different types of cats.”

In Congress, the appropriations process has been subject to a series of changes. There is a long history of conflict in both the House and the Senate between authorizing committees and committees with jurisdiction over appropriations. Much of this conflict can be traced to the division of labor between the two types of committees and differences in their goals.

Prior to the Civil War, no committees had exclusive and sole jurisdiction over appropriations. In the House, the Ways and Means Committee considered both spending and revenue matters. The Senate Finance Committee’s jurisdiction paralleled that of the House Ways and Means Committee (Ippolito 1981). During this period, the Congress was less concerned with controlling overall spending levels and more concerned with controlling the way in which executive branch agencies spent appropriated funds. Specifically, administrative agencies tried to exert control over spending by shifting funds from one purpose to another and, in response, Congress would attempt to micromanage agency budgets and activities (Burkhead 1956; Fisher 1975; Kiewiet and McCubbins 1991). Congressional appropriations were made very detailed, with specific line items

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3 Interview with a person who has been involved in education policy for the U.S. Department of Education, February 20, 2002.
and explicit limitation language. This conflict between Congress and administrative agencies continued until the Civil War (Burkhead 1956; Ippolito 1981).

The large debt that resulted from the Civil War shifted the budgeting and appropriations debate from micromanaging spending to controlling overall spending levels. The House and Senate created Appropriations Committees because congressional leaders thought that the new committees would create efficiencies by dividing appropriations and taxation policy; the Appropriations Committees would focus solely on constraining spending. However, this focus on controlling spending created tensions between the authorizing committees and the new Appropriations Committees (Ippolito 1981; Stewart 1989). Perhaps the most controversial power given to the House Appropriations Committee came from the so-called Holman Amendment, which gave the committee the power to change existing authorization laws if these changes would result in economies and cost savings being achieved. When the Appropriations Committees used their power to interfere with the operations of authorizing committees, there was a general rebellion against the appropriators. Starting in the late 1870s, authorizing committees had the appropriations for policies they deemed important removed from the jurisdiction of the Appropriations Committees, and spending for those programs increased dramatically. For example, Ippolito (1981) notes that spending for rivers and harbors roughly doubled – increasing from $7.4 million annually to $13.6 million annually – almost immediately after the Appropriations Committees lost control of this policy.
Over the next 40 years, Congress wrestled with how to control spending and the power over appropriations. After years of trying to devise a way in which to control spending and make policy in a fiscally responsible manner, in 1921 Congress passed the Budget and Accounting Act (BAA). The BAA systematically structured the executive-congressional relationship regarding the appropriations and budget process (Shuman 1992). The Act created several institutions that are still important today in the budget process. On the executive side, the Bureau of the Budget – the precursor to the Office of Management and Budget – was created. This institution was created largely because the BAA also required the president to create an executive budget to be presented to Congress each year. On the congressional side, the General Accounting Office was created to audit appropriated funds (Shuman 1992, 25-33).

For the 50 years after the passage of the BAA, much of the change in the political environment affecting the relationship between appropriators and authorizers occurred on the authorization side. During this period, authorizing committees began to change the policy landscape in Congress by using temporary authorizations. As Fenno (1966) noted in his seminal work, *The Power of the Purse*, the use of temporary authorizations broke up the monopoly power that the Appropriations Committees had over information about various programs. Annual and multiyear authorizations served to “develop a body of subject-matter experts in addition to the Appropriations Committee” (Fenno 1966, 71). Fenno notes that authorizing committees were attempting to be seen within the chamber as the power brokers, the informational experts who could use their power to influence the appropriations process. This power move by authorizing committees, and the ability
of these committees to complete their work in a timely manner, affected the business of appropriations in both the House and Senate.

Whereas the BAA was designed to structure the executive-congressional component of the budget process, the 1974 Congressional Budget and Impoundment Control Act (CBICA) was designed to create a meaningful budget process internal to Congress (Collender 1997; Havemann 1978; Oleszek 1989). In addition to creating new institutions within the legislative branch to support a legislative budget process (e.g., the Congressional Budget Office and the House and Senate Budget Committees), the CBICA also was intended to provide structure and a timetable to the authorization and appropriations processes. Authorizations were to be completed in a timely manner, prior to the completion of the appropriations process, so appropriations could be made based on complete information. However, this has not been the result. In fact, authorization legislation is often completed concomitant with appropriations bills (Fisher 1983; Meyers 1997, 1988).

The CBICA does not seem to have changed the balance of power between appropriators and authorizers. However, the 1990 Budget Enforcement Act (BEA) was designed to change this dynamic (Collander 1997, esp. Ch. 5; Thurber 1997). The BEA was passed in the aftermath of Gramm-Rudman-Hollings (GRH), and in large measure in response to its failures. Unlike GRH, which attempted to control the deficit by setting

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4 According to the report *Unauthorized Appropriations and Expiring Authorization*, published annually by the Congressional Budget Office, the number of unauthorized appropriations has increased from fewer than 40 in 1990 to more than 115 in 1999.
deficit targets for each year, BEA shifted the focus to limiting spending. BEA also shifted the power over controlling the deficits from the Office of Management and Budget (OMB) to the Appropriations Committees. BEA placed caps on appropriations for various categories of discretionary spending and gave to the Appropriations Committees the responsibility for determining how spending would remain under each discretionary spending cap.\(^5\) This change in the law put the Appropriations Committees in the position of having to balance the levels of funding received by all programs, regardless of the amounts authorized. This is not to say that appropriators always stayed within the funding caps – they rarely have – but formally, the law did shift power to the Appropriations Committees.

The deficits also create special incentives to under fund programs that have trust funds attached to them. For example, the major transportation programs (e.g., highways, transit, and aviation) all have trust funds attached to them, with the funds derived from user fees. Under the budget rules that operated for much of the period 1986 to 1997, there was an incentive to use balances in these trust funds to make the deficits look smaller. This allowed the budget deficits to look smaller, even though it meant underfunding transportation needs.\(^6\) Appropriators are also known for being much less

\(^5\) Discretionary spending was divided into three categories: defense, international, and domestic. For 1991-1993, the caps were kept distinct and appropriations limits were measured for each category separately. For the years 1993-1994, the caps were aggregated and discretionary spending limited under this single cap. Since 1994, spending has been categorized as either defense or non-defense (Collender 1997, especially 25-28).

\(^6\) All four people involved in transportation policy that I interviewed made this point.
concerned with the overall level of funding a program receives and much more concerned with ensuring that their home-state projects, what some call “pork,” are included in the appropriations bills.\textsuperscript{7}

The Authorization Process: Six Short Examples

The history of reform of the appropriations process illustrates the ongoing conflict between those who are given power to control spending (appropriators) and those who create programs and then, typically, desire high levels of spending for their creations (authorizers). However, the actions of authorizers and appropriators in regards to specific programs illustrate that theory and practice do not always mesh. In the next section, I provide several examples of how authorizers treat different programs. Factors such as changes in a policy environment, the requirement of multiple committee sign-offs for an authorization to function, and petty competition between the House and Senate can lead to dramatic differences in how a program is treated.

The Reliable Forefather: Defense

As discussed in chapter 2, defense policy was one of the first programmatic areas to be brought under a temporary authorization. Each year, the main product to emerge from the Armed Services Committees is the annual defense authorization. Both the House and Senate Armed Services Committees hold numerous hearings that address all aspects of defense policy – including required overall and branch-specific force levels, troop readiness, military construction needs, procurement, and research – and develop a

\textsuperscript{7} This insight came from interviews with two former staffers to appropriators who now lobby Congress, February 18, 2002 and February 20, 2002.
As a lobbyist, the author experienced this firsthand. When the Armed Services Committees refused to authorize the National Guard Youth Challenge Program in FY 1997 at levels desired by the states, National Guard representatives approached the Appropriations Committees. When the appropriators included the funding desired by the states, the authorization that emerged from the Armed Services Committees reflected the appropriation.  

The Republican desire for a limited federal role in education, and examples of the “sums as necessary” authorizations that education programs often receive, can be reviewed in the *Congressional Quarterly Almanac* 1994b, “Lawmakers Renew and Revamp 1965 Education Act.”

The authorizing committees with jurisdiction over education are faced with this debate only every four to five years because they use multiyear authorizations for...
education programs. Like defense, these authorizations are typically renewed promptly, but unlike defense, specific funding levels are not requested in the authorizations. These programs receive “such sums as are necessary” authorization language, which puts the onus on the appropriators to determine what funding level is appropriate. This strategy also means that education appropriators are subject to pressure by interest groups for ensuring that education programs receive “enough” money, without any cover from authorization language regarding the level of funding that would be “enough” according to the authorizers.

Transportation and Trust Funds: A (Short) Tale of Two Programs

Transportation programs have historically been funded, in part, through specific taxes that flow into specified trust funds. Thus, gas taxes pay for highways and transit programs, and ticket taxes pay for airport improvements. However, the implementation of these two programs has been quite different. Gas taxes are typically permanent; money is constantly flowing into the Highway Trust Fund and authorizations can be made knowing that there is a constant flow of money from which authorizations can be made. The fight here for authorizers has been to ensure that all gas tax revenues are spent on transportation projects and not used for other purposes. Because transportation programs are viewed as being one of the best sources of “special projects” for members of Congress – and highway construction generally is a major employer – this legislation is delayed in
being reauthorized only when authorizers use the delay to leverage very high guaranteed funding levels out of the Budget and Appropriations Committees.\textsuperscript{10}

The airline ticket tax, however, is not permanently authorized. In fact, this tax is normally on a shorter authorization cycle than the authorizations for the Federal Aviation Administration and for the Airport Improvement Program (AIP). This leads to an interesting problem: the AIP often is fully authorized, but there is no funding for the program from the trust fund.\textsuperscript{11} Since 1976, the ticket tax has expired numerous times, and airport improvements have gone dormant until the Ways and Means Committee authorizes the tax. Only recently was the ticket tax given a 10-year authorization, thereby ensuring funding for airport improvements throughout the decade.

The Forgotten and the Hostages

For some programs, their authorization legislation is simply not renewed by Congress. Two reasons why this occurs are because programs are no longer important, or because one chamber decides to hold the program hostage until the other chamber capitulates regarding a specific demand. The Appalachian Regional Commission (ARC)  

\textsuperscript{10} A recent example of this type of action by transportation authorizers occurred in 1998, with the passage of the Transportation Equity Act. See \textit{Congressional Quarterly Almanac}, 1998b, “Transportation Law Benefits Those Who Held the Purse Strings.”

\textsuperscript{11} During the 1990s, the ticket tax was allowed to expire to thwart budget rules. Under the rules, when a tax expired, the CBO assumed it would not be renewed. If it was renewed, this new money was not counted against the spending caps. Allowing the tax to expire and then renewing it allowed airport projects to be funded at higher levels. However, the cycle of renewals and expirations made project planning difficult at the local level. See \textit{Congressional Quarterly Almanac}, 1998a, “Dispute Over Competition Leads to Interim Six-Month Reauthorization of FAA,” and \textit{Congressional Quarterly Almanac}, 1994a “FAA Reauthorized for Three Years.”
is an example of the forgotten program. Created as part of the Great Society, this program was designed to target funding in rural Appalachia to help the region address the large pockets of poverty that exist there. In 1980, the Congress authorized the program for three years (including authorizing spending for the previous fiscal year, which was almost complete) and then never addressed the issue again. ARC authorizations have been considered in committee on several occasions but have not reached the floor of either chamber in more than a decade.

The Consumer Product Safety Commission (CPSC) and National Highway Traffic Safety Administration (NHTSA) are two agencies that have been held hostage for long periods. In the case of the CPSC, the problem centered on the desire of the agency to regulate certain all-terrain vehicles and an electric-shock device used to capture worms for bait. Senators from states where these products were manufactured held up the agency’s authorization over this issue. Similarly, the NHTSA was not authorized from 1982 to 1991 because of a debate over whether NHSTA should be able to require automobile manufacturers to require airbags in automobiles. Once the auto industry agreed to include airbags in new cars, the agency’s authorization passed easily.

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12 Idaho’s senators said that the “agency should not be reauthorized as long as its leaders insisted on trying to halt sales of a device, made by an Idaho company, designed to assist commercial harvesters of earthworms...[they] said a commercial worm probe...posed no safety risk.” *Congressional Quarterly Almanac* 1988, 581.

13 See “Air Bag Mandates Moved,” *Congressional Quarterly Almanac* (1991) for a discussion of the debate that kept the NHTSA from being reauthorized. During this time, certain programs under the NHTSA, especially grants to states for safety programs, were authorized as a part of the surface transportation authorization passed by Congress.
These examples illustrate that authorizing committees have a variety of policy concerns to contend with when passing authorizations that are as or more important than ensuring that a program receives the funding that it should. The fact that funding authorizations are sometimes passed after the fiscal year in question has ended illustrates this point clearly. With this understanding of the authorization process, the next section poses several research questions regarding whether authorizing committees influence the appropriations process.

**Research Questions**

On the basis of the previous discussion, a simple set of research questions can be developed to examine the influence that specific authorization funding levels have on the behavior of the Appropriations Committees. It is expected that the Appropriations Committee will make its appropriation decision independently, regardless of the behavior of the authorizing committees. Fenno (1966) argued that appropriators view the authorization levels that come from substantive committees as being only ceilings for what can be appropriated, nothing more. This expectation is tested through the following three hypotheses.

**Hypothesis One:** Authorizing committees will authorize higher levels of spending than ultimately will be appropriated by the Appropriations Committee.

**Hypothesis Two:** The annual change in appropriations for programs with temporary authorizations will not be different from the change in appropriations for programs with permanent authorizations.
Hypothesis Three: Programs with expired temporary authorizations will not receive different funding consideration from the Appropriations Committee compared with programs with active temporary authorizations.

Data and Methods

These three hypotheses are tested using two related data sets. The first is a time series for the FY 1977 to 1998 created using data for programs from four policy areas: commerce, defense, education, and transportation. The programs included in this data set are shown in Table 4.1. Of the 562 cases included in this analysis, 280 (49.8%) had an active temporary authorization, 144 (25.6%) had an expired temporary authorization, and 138 (24.6%) had a “such sums as necessary” authorization. This data set begins in FY 1977 because this is the first year in which the appropriations cycle began on October 1, as required under the CBICA, providing comparable numbers through FY 1998.

A second time series was also used, covering a shorter period, FY 1989 to 1998. As was noted previously, there has been a sharp increase in the number of expired authorizations over time, and this data set examines programs from a broader cross-section of policy areas funded through discretionary spending. Six policy areas – agriculture, commerce, defense, education, foreign affairs, and transportation – are included in this analysis. The specific programs included in this data set are reported in Table 4.1. Of the 378 cases included in this analysis, 113 (32.0%) had an active temporary authorization, 117 (33.1%) had an expired temporary authorization, and 123 (34.8%) had a “such sums as necessary” authorization.
Table 4.1: Programs Included In The Budget Analysis

[Note: Items marked with an * appear in the FY 1977 - 1998 data set.]

<table>
<thead>
<tr>
<th>AGRICULTURE</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal and Plant Inspection Program</td>
<td>Impact Aid*</td>
</tr>
<tr>
<td>Commodity Credit Corp – Export and Operations</td>
<td>Rehabilitation Services*</td>
</tr>
<tr>
<td>Food Safety Inspection Program</td>
<td>Vocational Education*</td>
</tr>
<tr>
<td>Food Stamps</td>
<td>Natl Endowment for the Arts and Humanities*</td>
</tr>
<tr>
<td>Women, Infants, and Children Program</td>
<td>Pell Grants*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMMERCE</th>
<th>INTERNATIONAL RELATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commodity Futures Trading Commission*</td>
<td>Arms Control and Disarmament Agency</td>
</tr>
<tr>
<td>Consumer Product Safety Commission*</td>
<td>State Department – Admin, Foreign Affairs</td>
</tr>
<tr>
<td>Federal Communication Commission*</td>
<td>State Department – Funding, Intl Org.</td>
</tr>
<tr>
<td>Federal Trade Commission*</td>
<td>Peace Corps</td>
</tr>
<tr>
<td>Nuclear Regulatory Commission*</td>
<td>U.S. AID</td>
</tr>
<tr>
<td>Securities and Exchange Commission*</td>
<td>U.S. Information Agency</td>
</tr>
<tr>
<td>U.S. Travel and Trade Administration</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DEFENSE</th>
<th>TRANSPORTATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military Construction*</td>
<td>Amtrak*</td>
</tr>
<tr>
<td>Naval Oil Reserves*</td>
<td>Appalachian Regional Commission*</td>
</tr>
<tr>
<td>Operation and Maintenance*</td>
<td>Coast Guard*</td>
</tr>
<tr>
<td>Personnel*</td>
<td>Federal Aviation Administration*</td>
</tr>
<tr>
<td>Procurement*</td>
<td>Mass Transit*</td>
</tr>
<tr>
<td>Research and Development*</td>
<td>Natl Highway Traffic Safety Administration*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EDUCATION</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporation for Public Broadcasting*</td>
<td>National Transportation Safety Board*</td>
</tr>
<tr>
<td>Bilingual Education*</td>
<td></td>
</tr>
</tbody>
</table>
Data for these analyses were collected from several sources. For the years 1988 to 1998, programs with expiring authorizations can be found in the annual CBO report *Unauthorized Appropriations and Expiring Authorizations*. Prior to this time, a program’s authorization status was determined by tracking the program using three sources: the *Congressional Quarterly Almanac*, the *United States Code Congressional and Administrative News*, and the Library of Congress’s *Thomas* website. Data on the budget authority and appropriations made to each program or agency included in the analysis were ascertained from the annual budget submitted by the president to Congress each year. Data regarding the actual appropriations levels for each program and the total budget authority allowed by the appropriations act were included in the data set.\(^\text{14}\) Data were collected for FY 1977 through 1998. Authorization amounts also were collected for each fiscal year. Programs with permanent authorizations, which are authorized with “sums as needed,” do not have authorization amounts to include in the analysis. The authorization levels for programs with temporary authorizations were collected from the public law that contains the authorization levels.

The data for each time series were entered and pooled. Pooling allows for the observation of variation of appropriations over time and increases the total number of observations \((N)\) of the data set. The first data set includes data from 27 programs over 21 periods; the second data set examines 38 programs over 10 periods. Pooling,

\(^{14}\) For most agencies included in this analysis, the appropriations amount and the total budget authority allocated by the Appropriations Committee were the same. In certain cases, however, the numbers varied.
therefore, increases the N for the first data set 21-fold, and there is a 10-fold increase in the number of cases for the second data set.

There are several statistical assumptions that must be addressed in a pooled time series analysis, including autoregression, autocorrelation and heteroscedasticity (Sayrs, 1989). The presence of any of these can result in biased and unreliable statistical outcomes. The most effective means of testing these problems is to create a fixed effects model (Greene 1997; Kennedy 1998). In a fixed effects analysis, four ordinary least squares (OLS) regressions are run. The first regression incorporates the dependent and independent variables that are of primary interest to the researcher. The second regression includes the major dependent and independent variables, but also includes dummy variables for N-1 of the cross sections. The third regression is the same as the second, but includes dummy variables for T-1 of the time series instead of the cross-sections. The fourth regression includes the major dependent and independent variables, along with dummy variables controlling for both the cross-sections and time.\(^{15}\) The regressions are then compared to determine if there are statistical problems with the data associated with the cross-sections or time series. In this case, these tests showed no problems with heteroscedasticity, autoregression, or autocorrelation. In such situations, reporting the results of the OLS is appropriate (Beck and Katz, 1995).

\(^{15}\) As Kennedy (1998: 226-227) notes “dummy variables are sometimes used in the context of panel, or longitudinal data...In this context it is often assumed that the intercept varies across the N cross-sections and/or across the T time periods. In the general case (N-1) + (T-1) dummies can be used for this. The dummy variables reflect ignorance – they are inserted merely for the purpose of measuring shifts in the regression line arising from unknown variables.”
The two dependent variables in the pooled time series analysis were the percent change in appropriations levels from year to year. A percent change was computed for both (a) the amount appropriated by Congress and (b) the total budget authority granted to the program or agency by Congress. It was appropriate to use the percent change as the dependent variable because the changes in program appropriation levels vary greatly on the basis of the size of the program, and using the percent change normalizes these variations. The effect of several independent variables are tested in the analysis that follows. Several dummy variables are included in the analysis: (a) if the program was permanent (coded 1) or temporary, (b) if the temporary program authorization was expired (coded 1) or active, (c) if the temporary authorization contained a specific appropriation amount (coded 1) or not, (d) if Democrats controlled Congress (coded 1), and (e) if the Democrats controlled the presidency (coded 1). The last two variables are included to ensure that change in party control of different branches does not independently influence the findings. In the longer data set, two additional dummy variables were included. The first noted the years in which Gramm-Rudman-Hollings was in effect (coded 1), the second noted the years in which the Budget Enforcement Act was in effect (coded 1).

One important methodological factor that has to be taken into account in this analysis is that the statistical tests in this analysis examine the possibility of no relationship between two variables. In such situations, it is important to recognize that other research hypotheses may explain the finding (Gill 1999). However, the literature on authorizations clearly states that there should be a relationship between the variables; the
failure to find a relationship brings into question the theories on which the current understanding of authorizations and appropriations is based.

Findings

This analysis begins with an examination of the differences that exist between the levels of funding requested by authorizing committees for specific programs and the amount of funding providing to those programs. It is hypothesized that the amounts authorized for a program will be much higher than the levels appropriated for these programs. This gap between authorization amounts and actual appropriations is expected because committees are thought to be populated by members who want high spending levels for the programs for which they are responsible. This finding would be in keeping with a 20% gap between authorizations and appropriations in 1965 and a 35% gap in 1970 found by the U.S. Advisory Commission on Intergovernmental Relations (ACIR).

Table 4.2 shows the percent difference between the levels authorized for each program with a temporary authorization and the subsequent amount appropriated using both the 1977 to 1998 data set and the broader 1989 to 1998 data set. From 1977 to 1998, the mean difference between authorizations and appropriations was 5.57%; the gap between authorizations and budget authority was slightly lower. These numbers are markedly lower than the gaps found by the ACIR during the Great Society. Even if consideration is given to the fact that the ACIR analysis focused on authorizations for Great Society programs and the 1977 to 1998 analysis includes both domestic and defense programs, the gap is still much lower today than it was at the end of the 1960s.
The gap between appropriations and authorizations for domestic discretionary programs included in this analysis is still less than 5%.

When examining the data from FY 1989 to 1998 (with more cross-sections), there is a much wider gap between authorizations and appropriations, similar to the levels seen in the ACIR study. However, the primary source of the gap between authorizations and appropriations in the 1990s can be traced to the fact that appropriations data do not include unappropriated sources of revenue (such as fees charged to regulatory targets) that are available to independent regulatory agencies. These revenues are often added to the appropriated amounts to determine the total budget authority a program will receive. Thus, during this period, examining the gap between authorizations and budget authority data are more appropriate, and the gap between the budget authority granted to programs and the authorized budget amount is relatively low. It is also the case that there is no significant difference between the levels authorized and the budget authority allocated for defense and non-defense programs.

Although the difference between authorized and appropriated amounts is lower for defense programs compared with domestic programs, the size of the gap between authorizations and appropriations for domestic programs today compared with programs in the 1960s is dramatic. Schick (1980, 176) notes that the ACIR explained the gap between authorizations and appropriations as a function of the pressure that Congress was under in the late 1960s to divert funding to the war in Vietnam. However, Congress in the 1990s was under similar pressure to limit deficits and to constrain spending, so one might question whether the smaller gap between authorizations and appropriations
### Table 4.2: Mean Difference Between Authorizations and Appropriations, FY 1976 - 1998

<table>
<thead>
<tr>
<th>FY 1977 - 1998</th>
<th>Mean Difference</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Difference between authorization and appropriations</td>
<td>-5.57</td>
<td>295</td>
</tr>
<tr>
<td>Difference between authorization and budget authority</td>
<td>-3.91</td>
<td>295</td>
</tr>
<tr>
<td>Defense authorization compared to budget authority</td>
<td>-2.12</td>
<td>91</td>
</tr>
<tr>
<td>Non-Defense authorization compared to budget authority</td>
<td>-4.71</td>
<td>204</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FY 1989 - 1998</th>
<th>Mean Difference</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Difference between authorization and appropriations</td>
<td>-30.54</td>
<td>89</td>
</tr>
<tr>
<td>Difference between authorization and budget authority</td>
<td>-3.54</td>
<td>89</td>
</tr>
<tr>
<td>Defense authorization compared to budget authority</td>
<td>-3.94</td>
<td>47</td>
</tr>
<tr>
<td>Non-Defense authorization compared to budget authority</td>
<td>-4.54%</td>
<td>42</td>
</tr>
</tbody>
</table>
between the later 1960s and the 1990s can be explained by considering the environment in which Congress was operating.

Another possible explanation for the smaller gap between authorizations and appropriations today compared to the 1960s is the increase in the number of programs that are operating with an expired authorization. Since the CBO began collecting data on unauthorized appropriations in 1985, the number of programs operating with an expired authorization has grown steadily. Many programs that historically have been contentious and difficult for Congress to address no longer have active authorizations, and it is these programs that likely would have received lower funding compared with their authorized levels. However, these expired programs no longer have authorized levels of spending. Clearly, there is a marked change in the dynamic between authorizations and appropriations today compared to 20 years ago. The ACIR study demonstrates that the gap between authorizations and appropriations was quite dramatic. Today, there are still gaps, but these gaps are much less profound. However, many more programs today operate with expired authorizations. The agencies in this situation have to be concerned about the security of their appropriations because appropriating without an authorization opens up the appropriation up to points of order on the floor.

The second question to be addressed is the difference that exists in annual changes in budget authority and appropriations between programs with temporary authorizations and those with more permanent, “such sums as necessary,” authorizations. It is hypothesized that the annual change in appropriations for programs with temporary authorizations will not be different from the change in appropriations for programs with
authorizations for “such sums as necessary.” For programs that have either an expired or “such sums as necessary” authorization, it is not possible to compare directly the express funding desires for these programs as stated by an authorizing committee with the funding levels allocated by the Appropriations Committees. It is possible, however, to examine the percent annual change in appropriations and in budget authority for each type of program to determine if there is any difference between how appropriators treat different programs.

Both descriptive statistics and an analysis of variance (ANOVA) were used to test for differences among the three groups.\(^\text{16}\) Initial differences between authorization levels for different programs can be seen by comparing the mean and median annual change in appropriations and budget authority for each type of program. Table 4.3 shows the findings from these analyses for FY 1977 to 1998, and Table 4.4 shows the same findings for the broader cross-sectional analysis for FY 1989 to 1998. In both cases, the analysis of variance (ANOVA) examining the between group differences for the change in budget authority for the three programs shows that these differences are not statistically significant. Focusing on Table 4.3, the “such sums as necessary” programs have the largest median change among the three programs, more than 2 percentage points higher than the active temporary authorizations. However, the mean growth in active temporary authorizations is higher than the other programs.

\(^{16}\) The differences between these programs are similar whether all three types of programs are compared together in an ANOVA, or in two-way comparisons between active authorizations and either expired or permanent authorizations.
Table 4.3: Annual Percent Change in Budget Authority and Appropriations for Programs with Different Authorization Statuses, FY 1976 - 1998

<table>
<thead>
<tr>
<th>Temporary, expired authorizations</th>
<th>Change in budget authority</th>
<th>Change in appropriations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>Median</td>
</tr>
<tr>
<td>Temporary, expired</td>
<td>7.87</td>
<td>2.04</td>
</tr>
<tr>
<td>authorizations</td>
<td>(144)</td>
<td>(144)</td>
</tr>
<tr>
<td>Temporary, active</td>
<td>9.20</td>
<td>2.74</td>
</tr>
<tr>
<td>authorizations</td>
<td>(280)</td>
<td>(280)</td>
</tr>
<tr>
<td>“Sums as necessary”</td>
<td>6.62</td>
<td>4.89</td>
</tr>
<tr>
<td>authorizations</td>
<td>(138)</td>
<td>(138)</td>
</tr>
</tbody>
</table>

ANOVA, between group results

<table>
<thead>
<tr>
<th>Sum of squares</th>
<th>Mean square</th>
<th>F</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual change in budget authority</td>
<td>0.064</td>
<td>0.032</td>
<td>0.081</td>
</tr>
<tr>
<td>Annual change in appropriations levels</td>
<td>0.086</td>
<td>0.043</td>
<td>0.107</td>
</tr>
</tbody>
</table>
Table 4.4: Annual Percent Change in Budget Authority and Appropriations for Programs with Different Authorization Statuses, FY 1989 - 1998

<table>
<thead>
<tr>
<th>Authorization Status</th>
<th>Change in budget authority</th>
<th>Change in appropriations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>Median</td>
</tr>
<tr>
<td>Temporary, expired authorizations</td>
<td>1.99%</td>
<td>1.72</td>
</tr>
<tr>
<td>Temporary, active authorizations</td>
<td>2.68</td>
<td>2.03</td>
</tr>
<tr>
<td>“Such sums as necessary” Authorizations</td>
<td>14.68</td>
<td>3.13</td>
</tr>
</tbody>
</table>

ANOVA, between group results

<table>
<thead>
<tr>
<th></th>
<th>Sum of squares</th>
<th>Mean square</th>
<th>F</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual change in budget authority</td>
<td>10513.7</td>
<td>5356.9</td>
<td>1.56</td>
<td>0.233</td>
</tr>
<tr>
<td>Annual change in appropriations levels</td>
<td>15875.6</td>
<td>7938</td>
<td>2.29</td>
<td>0.104</td>
</tr>
</tbody>
</table>
Focusing on Table 4.4, the data from 1989 to 1998 show that programs with expired authorizations have the lowest annual growth rate in both appropriations levels and in budget authority. Active temporary authorizations grow slightly faster than do expired temporary authorizations. “Such sums as necessary” authorizations fare better than the other two types, although the median increase in the annual change in budget authority and appropriations is much closer to the other two types of authorizations than is the average. One program, the Commodity Credit Corporation Export Program, is largely responsible for the high average annual growth in budget authority and appropriations for “such sums as necessary” programs. In general, the “such sums as necessary” programs in this analysis are primarily education and agriculture programs, which have relatively high levels of support, among the public at-large and important national constituencies. ANOVA results show, however, that there is little statistical difference between the three types of authorizations.

By using OLS regression, it is possible to examine further the factors that influence annual changes in appropriations. Tables 4.5 and 4.6 show the results of OLS equations examining (a) change in total budget authority and (b) change in appropriated budget authority for both data sets. In Table 4.5, no variable in either equation is statistically significant. In Table 4.6, the only variable in either equation that is statistically significant is the variable for programs with “such sums as necessary” authorizations, though it is only significant in one model. These findings suggest that the Appropriations Committee makes decisions independently of the authorization status of a program. In
Table 4.5: Factors Influencing Annual Change in Appropriations and Budget Authority, FY 1976 - 1998

<table>
<thead>
<tr>
<th>Factor</th>
<th>Change in annual budget authority</th>
<th>Change in annual appropriated authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent authorization</td>
<td>-0.020</td>
<td>-0.018</td>
</tr>
<tr>
<td>(1 = permanent)</td>
<td>(0.663)</td>
<td>(0.696)</td>
</tr>
<tr>
<td>Expired authorization</td>
<td>-0.071</td>
<td>-0.092</td>
</tr>
<tr>
<td>(1 = expired)</td>
<td>(0.276)</td>
<td>(0.161)</td>
</tr>
<tr>
<td>Democratic president</td>
<td>0.090</td>
<td>0.084</td>
</tr>
<tr>
<td>(1 = Democratic president)</td>
<td>(0.105)</td>
<td>(0.127)</td>
</tr>
<tr>
<td>Democratic Congress</td>
<td>0.069</td>
<td>0.082</td>
</tr>
<tr>
<td>(1 = Democratic Congress)</td>
<td>(0.224)</td>
<td>(0.149)</td>
</tr>
<tr>
<td>Time since last authorization</td>
<td>0.078</td>
<td>0.092</td>
</tr>
<tr>
<td></td>
<td>(0.216)</td>
<td>(0.145)</td>
</tr>
<tr>
<td>Gramm-Rudman Hollings in effect</td>
<td>-0.044</td>
<td>-0.044</td>
</tr>
<tr>
<td></td>
<td>(0.418)</td>
<td>(0.422)</td>
</tr>
<tr>
<td>Budget Enforcement Act in effect</td>
<td>-0.076</td>
<td>-0.091</td>
</tr>
<tr>
<td></td>
<td>(0.174)</td>
<td>(0.106)</td>
</tr>
<tr>
<td>Adjusted R²</td>
<td>0.004</td>
<td>0.008</td>
</tr>
</tbody>
</table>

Note: Each cell contains the standard beta for the variable and the significance, shown in parenthesis.

**Statistically significant at the .05 level**
Table 4.6: Factors Influencing Annual Change in Appropriations and Budget Authority, FY 1989 - 1998

<table>
<thead>
<tr>
<th></th>
<th>Change in annual budget authority</th>
<th>Change in annual appropriated authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent authorization</td>
<td>19.417 (0.077)</td>
<td>21.984 (0.048)**</td>
</tr>
<tr>
<td>(1 = permanent)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expired authorization</td>
<td>-1.232 (0.927)</td>
<td>-6.164 (0.653)</td>
</tr>
<tr>
<td>(1 = expired)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Democratic president</td>
<td>-6.837 (0.568)</td>
<td>-7.087 (0.559)</td>
</tr>
<tr>
<td>(1 = Democratic president)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Democratic Congress</td>
<td>-8.401 (0.511)</td>
<td>-5.939 (0.646)</td>
</tr>
<tr>
<td>(1 = Democratic Congress)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time since last authorization</td>
<td>-0.894 (0.561)</td>
<td>-0.473 (0.761)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted R^2</td>
<td>0.001</td>
<td>0.006</td>
</tr>
</tbody>
</table>

Note: Each cell contains the standard beta for the variable and the significance, shown in parenthesis.

**Statistically significant at the .05 level
general, government spending grows relatively equally across government, as would be predicted by incremental models of decision making in budgeting.

The final question to be addressed is the differences that exist in annual changes in budget authority and appropriations between programs with temporary authorizations. Specifically, if a program with a temporary authorization expires and it is not renewed, what is the effect of this action on the amount of total budget authority and appropriated budget authority the program receives? It is hypothesized that programs with expired temporary authorizations will not receive different funding consideration from the Appropriations Committee compared with programs with active temporary authorizations.

As was suggested by the OLS equations in Tables 4.5 and 4.6, there is not a statistically significant difference in how programs with temporary authorizations are treated. Tables 4.7 and 4.8 show both the mean change in annual total budget authority and total appropriations for expired and active temporary authorizations in both sets of data. The tables also show the results of a difference of means test between the two groups. The results of these tests show that the expiration of a temporary authorization does not doom that program to second-class treatment by the Appropriations Committees. In fact, there is only a minor difference in the annual change in total budget authority granted to each type of temporary authorization. The difference in actual appropriations between programs with active and expired temporary authorizations is somewhat greater, although much of the difference in appropriations exists because some of the expired
Table 4.7: Changes in Annual Budget Authority For Programs with Temporary Authorizations, FY 1976 - 1998

<table>
<thead>
<tr>
<th></th>
<th>Total budget authority</th>
<th>Total appropriations authority</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>N</td>
</tr>
<tr>
<td>Temporary active authorization</td>
<td>9.2</td>
<td>280</td>
</tr>
<tr>
<td>Temporary expired authorization</td>
<td>7.87</td>
<td>144</td>
</tr>
</tbody>
</table>
Table 4.8: Changes in Annual Budget Authority For Programs with Temporary Authorizations, FY 1989 - 1998

<table>
<thead>
<tr>
<th></th>
<th>Total Budget Authority</th>
<th></th>
<th>Total Appropriations Authority</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>N</td>
<td>Statistical difference in means</td>
<td>Mean</td>
</tr>
<tr>
<td>Temporary active authorization</td>
<td>3.01%</td>
<td>105</td>
<td>0.475</td>
<td>1.79</td>
</tr>
<tr>
<td>Temporary expired authorization</td>
<td>1.70%</td>
<td>106</td>
<td>-2.17</td>
<td>-</td>
</tr>
</tbody>
</table>
programs are independent regulatory agencies that have other sources of revenue that are used to cover their costs.

**Summary**

A temporary authorization is intended to allow the authorizing committee to send a signal to the Appropriations Committees regarding the level of funding that is appropriate for a specific program. However, budget scholars and scholars of the appropriations process have long argued that appropriations decisions are made independently of authorization decisions. In essence, this line of argument suggests that temporary authorizations are symbolic but generally substantively meaningless.

The results of the analysis in this chapter suggest that, for the programs with active temporary authorizations included in this study, there was relatively little loss between the amount authorized to be spent on the program and actual spending. The gap between authorization and appropriation was generally less than 4%. This gap is much smaller than gaps found in research on authorizations conducted in the late 1960s and early 1970s, which found a difference of up to 35% between authorizations and appropriations.\(^\text{17}\) This analysis suggests that authorizations could act as a cue for appropriators when they are making decisions about funding for a program.

Subsequent analyses cast doubt on the idea that the Appropriations Committees are influenced by the authorization status of a program. Specifically, when programs with active temporary authorizations are compared with programs with expired authorizations

\(^{17}\) It is important to reiterate that one problem with previous research is that it examined appropriation levels. It is likely to be more accurate to examine appropriated budget authority, which includes non-appropriated funding agencies receive.
and programs with authorizations of appropriations for “such sums as are necessary,” it becomes clear that the Appropriations Committees treat all programs, regardless of authorization status, roughly the same. There are small differences in the growth rates between programs. Programs with “such sums as necessary” authorizations tend to grow at about 3% per year and programs with expired authorizations grow at about half that rate. However, the gap in the amount of change in budget authority and appropriations levels from year to year among the three types of programs is not statistically meaningful.

There are several possible implications regarding authorizations that follow from these analyses. First, the recent increase in expired authorizations can in part be explained by the lack of consequences for the authorizing committee that lets a program expire. When a policy is difficult to address, an authorizing committee can allow the program’s authorization to expire without having to be concerned with what will happen to the program. Although both House and Senate rules would suggest that letting a program’s authorization expire would be problematic, the reality is that the program’s funding should continue to grow at the same rate as before it expired. The expired program will continue to receive funding and the committee does not have to address the difficulty of developing a winning coalition for reauthorizing the program.

Second, because allowing a program’s authorization to expire normally has no practical effect on the program and its status, other policy stakeholders cannot be assured of an opportunity to influence the policy or program in question. If there was pressure on a committee to either reauthorize a program or see it truly expire, interest groups and other policy stakeholders could be assured that legislation regarding the program would
come before Congress at a fixed point in time, and groups could lobby accordingly. When programs expire, interest groups are put in a position of having to expend more resources over a longer period of time monitoring the status of a program and attempting to make changes to the program that benefit the group.

Third, budgeting has long been viewed as an incremental activity, and this analysis suggests that there was little statistical difference across programs in any given year in the percentage increase in funding that programs received even though the level of the increase would change year to year. Furthermore, the period under analysis in this study was one were there were large budget deficits, and there was a great emphasis on deficit reduction. In such an environment, the power of the appropriators is often much greater because the Congress delegates to them the power to determine how much funding various programs will receive. Appropriators had even more incentive than normal in this environment to ignore the pleas of their colleagues regarding what authorizers think is an appropriate level of funding.
CHAPTER 5:
FACILITATING OVERSIGHT WITH TEMPORARY AUTHORIZATIONS

The previous chapter examined the first of the two primary reasons why Congress uses temporary authorizations. The analyses show that the level of funding appropriated to programs with specific temporary authorizations closely reflects the amounts authorized by the committees. However, the data also show that the change in growth from year to year among programs with specific temporary authorizations closely mirrors the growth rates for programs with expired authorizations and for programs with permanent authorizations. The data suggest that, even though appropriations actually track the level of funding requested in temporary authorizations, the annual change in appropriations levels for such programs is not different from the growth for other programs. It is therefore not clear that authorizing committees gain a great deal of leverage over the levels of funding appropriated to programs by using temporary authorizations.

This chapter examines the way in which temporary authorizations shape the oversight environment in Congress. Specifically, the timing of oversight activities among programs with temporary authorizations, both expired and active, is compared. The effects of different authorization lengths on the level of oversight a program receives is analyzed as well. The objective of the analysis is to determine if there are differences in oversight
among different forms of temporary authorizations. It also considers the competition
between authorizing committees and Appropriations Committees regarding how
programs are overseen, as oversight historically has been the purview of both authorizers
and appropriators. The annual appropriations process does allow appropriators to review
the actions of agencies every year, which can be much more often than the review
programs receive from authorizing committees.¹

How the Reauthorization Process Facilitates Oversight

When members of Congress create new programs, they often want to control how the
program is implemented. Congress generally does this in two ways: through ex post or ex
ante controls over agency behavior. Ex ante controls attempt to limit or to influence
agency choices prior to a final action being taken.² The Administrative Procedures Act is
an example of an ex ante control mechanism because it requires agencies to publish
proposed rules, to receive comments about proposed rules, and to notify Congress about
new rules that are being promulgated. Ex post controls attempt to limit or influence an
agency after the agency has already taken action. Congressional committee oversight
hearings are an example of an ex post control mechanism; these hearings allow the

¹ Scholars (e.g., Banks 1989; Banks and Weingast 1992) have argued that the
appropriations process is a mechanism through which Congress can repeatedly retaliate
against deceitful or problematic agencies in a meaningful way by cutting their
appropriations.

² McCubbins (1985) notes that when an agency is designed, ex ante controls are
created. These controls can include limiting the scope of an agency’s activities, the
implementation tools (e.g., direct provision of a good v. contracting) they can use in
meeting their goals, and the settings in which regulatory activities can occur.
committee to pressure an agency regarding how it is acting with regard to a given policy or program.

Although they are not commonly thought of in these terms, temporary authorizations promote and facilitate both *ex post* and *ex ante* controls. First, the substantive component of the legislation structures a program’s operations so that it will be implemented in the manner that the committee desires. When crafting this substantive language, a committee uses its powers to constrain agencies so that they will behave in the manner that the committee prefers (e.g., McCubbins, 1985; McCubbins, Noll, and Weingast, 1987; Moe, 1984; Weingast 1984). Congress can inhibit certain agency behaviors and promote others, depending on how the agency is structured and the powers the agency is given in its authorization.³

Second, the fiscal component of the authorization legislation is the component of an authorization that is most often temporary in nature. When a component of the authorization is temporary, it allows Congress to enhance control over a program because the expired authorization commits an authorizing committee to review the funding and operation of the program in the future (e.g., Fisher 1983, 1979; Oleszek 1989; Schick 1995, 1983, 1980; Shuman 1992; Tiefer 1989). Temporary authorizations, either annual or multiyear, force authorizing committees to review a program or agency at a specific

³ For example, Hammond (1986) provides a theoretical argument regarding how different agency structures can result in different policy outcomes than would result if the agency was organized in an different manner. In a concrete example of this in practice, Cook (1989) notes that the Congress has not allowed the president to reorganize the Environmental Protection Agency because it felt that the way in which the agency was to be reorganized would markedly affect the agency’s policy outcomes.
time. During the reauthorization process, interest groups and agency stakeholders have the opportunity to bring to the authorization committee concerns that they have about how the program or agency is operating. The committee also has an opportunity to adjust the underlying authorizing legislation, forcing the stakeholders implementing the program to respond in a different manner.

It is clear that temporary authorizations are designed to facilitate oversight. In the next section, a brief history of congressional-executive disputes over agency and program control is discussed, and the ways in which Congress conducts oversight are considered.

Congressional Oversight of Executive Agencies: A Brief History

Congress began to exercise its oversight capabilities in the early years of the Republic, with the election of President Thomas Jefferson. The Federalists who preceded Jefferson believed in a strong executive and a strong federal government. They worked assiduously to achieve their goal of a strong government with a strong executive and, during the first two presidential administrations, the executive branch dominated the legislative branch (Aberbach, 1990; Schick 1983; White 1948).

However, the period of executive dominance did not last a year into the 19th century. President Jefferson did not believe in the idea of executive dominance and encouraged his Jeffersonian followers in the Congress to scrutinize more carefully the activities of the executive branch. One clear manifestation of this increased control was that Congress exercised more control over appropriations to executive agencies, making them much more detailed (White 1951). Scholars generally argue that the desire for a legislative
branch stronger than the executive branch was the reality until the New Deal (e.g., White 1951). Schick (1983, 157-158) notes that:

Congress initiated and drafted most legislation...and it often legislated in great detail. Individual positions and their salaries were itemized in law; post roads were plotted by Congress...Congress could penetrate at will to the smallest administrative detail, giving the affected agency no course other than to follow its dictates.  

By the late 1800s, however, the federal government had changed, as had opinions regarding the need for congressional control of the executive. From 1870 to 1880, the number of federal employees increased from 50,000 to 100,000. By the 1920s, civilian government employment had increased to the point that there were 550,000 workers on the government payroll (Schick 1983, 158). With so many federal workers and positions, it was no longer possible for Congress to be as meticulous in its control over every item in the budget. Issues and details that had previously been itemized in the federal budget were lumped together. The increased size of the federal bureaucracy required Congress to give away some of the control it previously had been able to exercise through the budget process. Also, during this same time, there was a tremendous growth in the regulatory capacities of the federal government and the complexity of the demands on the government. From roughly 1880 to 1920, the federal bureaucracy was expanded and

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4 Schick (1983) also argues that this detailed involvement by Congress in executive relations concerned Woodrow Wilson and shaped the arguments he made about Congressional dominance in his book, *Congressional Government.*
institutionalized. This period saw the birth of the independent regulatory agency, and an evolution toward an administrative state (Skowronek 1982).

In response to the new administrative complexity, Congress was forced to develop new processes and procedures. One solution to the problem was to delegate more decisions to executive agencies. For instance, after more than a century of setting tariff rates, the Congress delegated authority over setting tariff rates to the president in 1934 (Schick 1983). Congress also delegated more budget powers to the president, in an effort to strengthen congressional efforts to control agencies. With the creation of the Bureau of the Budget, the Congress empowered the president to control rogue agencies that were expanding rapidly. In essence, the Congress empowered the president to make an initial effort to control agencies—to constrain and to coordinate their budget requests—before Congress had to consider these budgetary matters.

As the federal government became larger and the policy concerns facing the nation became more complex, a new theory of governance came to the fore. The field of public administration has its intellectual roots in the late 1800s, with the writings of scholars such as Wilson (1887), Goodnow (1900), and White (1926). One proposition that runs through all of these works is that there should be some differentiation between the lawmaking process—which is clearly the purview of the Congress—and the implementation and administration of programs. The general argument made by these scholars, in various ways, is that the administration of federal programs is best left to the

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5 These early scholars are recognized in numerous texts as being the historical founders of public administration. See, for instance, Henry (1992, chapter 2), Ostrom (1989, chapter 2), and Shafritz and Hyde (1997, part one).
agencies, without the *partisan* political interference from other stakeholders, including Congress.⁶ Although these scholars recognize that Congress has the right to oversee administrative activities, there is also a view among some public administration scholars that too much congressional oversight results in the “micro-management” of federal programs (e.g., Fesler and Kettl, 1996, 320-321). However, as discussed in the next section, systematic oversight of federal programs by Congress did not occur until the 1960s, with the development of temporary authorizations.

**Modern Congressional Oversight and Temporary Authorizations**

Until the end of World War II, the primary focal point for congressional oversight was the budget process. However, as a part of the 1946 Legislative Reorganization Act, Congress called on its committees to “exercise continuous watchfulness of the execution...of any laws...by the agencies in the executive branch of the Government” (Aberbach 1990; see also Galloway 1951).⁷ Congress reiterated its desire to see committees perform effective oversight in 1971, when it amended the 1946 Act (Aberbach 1979). These efforts were designed to build the capacities within Congress for committees to conduct oversight. New staff, requirements for committees to develop oversight plans, and the creation of committees within Congress that are designed almost exclusively to conduct oversight all illustrate how these laws were intended to facilitate the oversight process.

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⁶ Finer (1941), however, argues that effective oversight of administrative agencies is critical to ensuring that these agencies are held accountable for their activities.

Although Congress acted several times to promote committee oversight of agency activities, many scholars of the oversight process have argued that Congress has not fulfilled its mandate to perform “continuous watchfulness” (e.g., Aberbach 1979; Dodd and Schott 1979; Ogul 1976; Scher 1963;). It is Ethridge’s (1984) contention that scholars who think that Congress fails in its oversight activities make this argument because they see both a lack of incentives and political barriers to carrying out oversight activities.

Scholars who argue that there is a lack of oversight generally give two reasons why this is the case. First, oversight is not conducted because committees lack the time to do so. Lawmakers would rather engage in lawmaking than oversight, because lawmaking more effectively leads to the achievement of their reelection goal (Mayhew 1974; Ogul 1976). In fact, oversight can antagonize agencies and impede their ability to get their constituent service requests met, which is also critical for members’ seeking re-election (Ethridge 1984; Fiorina 1977). Second, authorizing committees dislike oversight because it can undermine support for programs under their jurisdiction and anger interest groups who are key constituents to committee members. Thus, special oversight committees, such as the House Government Reform and Oversight Committee, are often pressured by authorizing committees to avoid topics that would create problems for the authorizers (Dodd and Schott 1976; Ethridge 1984).

The view that Congress does not conduct effective oversight is undermined by data showing that the amount of oversight Congress conducts has increased dramatically over time. From the early 1960s to the mid-1980s, the number of days of oversight conducted
by congressional committees increased by more than 300%. Oversight went from being less than one-tenth of the workload for congressional committees to being more than one-quarter of all activity. Likewise, during this period the number of bills passed by Congress declined markedly as the amount of oversight increased dramatically (Aberbach 1990, 34-39).

It should not be forgotten that one of the most effective means of conducting oversight is to legislate. As McCubbins (1985) notes, legislation allows Congress to place controls on the implementation mechanisms available to agencies. Congress can delegate powers through legislation or reign in powers that agencies have acquired. As discussed in greater detail in chapter 6, temporary authorizations can play a key role in facilitating oversight by facilitating legislative activity.

**Temporary Authorizations as an Oversight Tool in the Modern Congress**

Why has oversight increased so dramatically over this period? Committee staff explain the increase by suggesting that the government is more complex now than it was in the past, and therefore requires greater oversight. Of course, there is more staff, better staff, and more support from attached legislative organizations (e.g., GAO, CBO, CRS)\(^8\) that can facilitate oversight activities (Aberbach 1990, chapter 2). However, members of Congress state that – except for scandals (agency malfeasance) or a severe policy crisis – the expiration of a temporary authorization is the most likely way in which a program will be added to the oversight agenda (Aberbach 1990, 109-120). Because Congress uses

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\(^8\) The General Accounting Office (GAO), Congressional Budget Office (CBO), and Congressional Research Service (CRS) are all directly accountable to Congress.
temporary authorizations more often today than in the past, the normal expiration of a program’s authorization normally leads to oversight hearings. For example, the Armed Services Committees conduct oversight hearings annually as a part of the Department of Defense authorization. The House Commerce Committee has dozens of independent regulatory agencies under its jurisdiction; many of these programs have very short authorizations, which means some number of reauthorizations are always on the committee’s agenda.

Of course, the need to reauthorize programs is not the only reason for oversight hearings. Aberbach (1990, 109-118) finds that clientele complaints are an important reason why committees hold oversight hearings, although not the highest rated reason. Interest groups and other parties affected by agency decision making often request oversight to inform committees about concerns they have regarding the implementation of a program. One interesting part of Aberbach’s findings is that, when a factor analysis is conducted regarding how issues get on the oversight agenda, clientele complaints cluster with general public concerns and district concerns. This suggests the possibility that either (a) interest groups are very effective at reflecting the concerns of their members, or (b) interest groups are very effective at creating grassroots support for the issues of greatest concern to them.9

9 There is clear evidence that there has been a dramatic growth in the use of grassroots lobbying by interest groups (Faucheaux 1995; P. H. Stone 1997). Groups may be using this lobbying tactic to bring problematic policies to the attention of members in order to encourage greater oversight.
However, recent analyses (e.g., Aberbach 2001) note that, in the 1990s, there was a decline in the diligence with which Congress renewed expiring temporary authorizations. Because of this, Aberbach (2001: 8) warns that the “decline in legislative activities, particularly reauthorizations and amendments, represents a serious decline in the amount....and quality, of oversight.” Thus, the failure of Congress to renew programs undermines their control over these programs and the agencies that implement them.

There is a subtle irony to this, which Congressman Barney Frank (D-MA) identified when he said that “Republicans have spent less time in committees on programmatic oversight because they oppose many of the programs in the first place” (Aberbach 2001, 10). With their opposition to these programs, Republicans would be expected to want to hold even more hearings in order to control agencies and be more effective. Aberbach finds this not to be the case.

**Timing and Types of Oversight Hearings**

As some scholars of oversight have noted, there are different types of oversight hearings that congressional committees can conduct (e.g., Epstein and O’Halloran 1996; McCubbins and Schwartz 1984). The first type is referred to as police patrol oversight, in which members of Congress systematically review the effectiveness of programs and agencies. Although these scholars generally argue that this type of oversight does not occur often because it is inefficient, Aberbach’s (1990) data suggest that, for most programs and agencies, police patrol oversight is actually relatively common. One reason this type of hearing is common is because temporary authorizations, which are designed to foster systematic program review, are common. Whenever an authorization is set to
expire, committees hold hearings in conjunction with rewriting the legislation for the
program.

Except in the case of the few programs that have an annual authorization (e.g., the
operations of the Department of Defense) there is quite a bit of time that passes between
“police patrols.” During these intervening periods, problems may occur with the function
of a program, or interest groups may become concerned with the way in which an agency
is implementing the program. In such cases, groups may complain to the committee of
jurisdiction, requesting that the operations of the program be investigated. This type of
interest group initiated oversight is often referred to as fire alarm oversight. The fire
alarm is sounded when interest groups think that the agency has acted outside of its legal
mandate (Epstein and O’Halloran 1996; McCubbins and Schwartz 1984). Congress can
then determine if it should hold oversight hearings or otherwise intervene in order to rein
in the agency.

The scholars who advance the police patrol versus fire alarm theory suggest that fire
alarm oversight is quite prominent and more common than police patrol oversight. As
with the previously noted arguments regarding the supposed lack of agency oversight in
any form by Congress, fire alarm oversight is believed to be more common because it is
less costly than police patrol oversight. However, data show that (a) oversight is more
common than is typically acknowledged, and (b) temporary authorizations, which trigger
police patrol oversight, are quite common. Furthermore, the literature on agendas (e.g.,
Kingdon 1995) suggest that, once Congress has addressed a policy question, it is unlikely
to revisit the issue unless the “policy window” reopens because of a crisis or scandal.
Interest groups, especially those who were on the losing end of the last policy debate, obviously have an incentive to try to shape the debate in a way that benefits them before the policy window opens again. Oversight hearings can be one way of accomplishing this goal.

**Oversight and Temporary Authorizations: The Case of Defense**

The process of making defense policy is one in which the importance of temporary authorizations can be seen over time. Dawson (1962) carefully explains how the Senate Armed Forces Committee initially required authorizations before appropriations could be made for the procurement of aircraft, missiles, and naval vessels. He notes that this change in policy occurred because Congress wanted to exert more control over the way in which defense policy was made. Since 1959, when the initial action was taken to subject a component of defense policy to annual authorization, nine other legislative enactments have required other components of the defense budget to undergo an annual authorization (Art 1985). By 1970, all weapons systems were subject to a temporary authorization. The most recent major change was in 1982, when the Operations and Maintenance Account was brought under the annual defense authorization.

Does having almost the entirety of activities within the Department of Defense subject to temporary authorization facilitate quality oversight? The results are mixed. Art (1985) notes that the volume of report language issued by the Armed Services Committees grew rapidly from the 1960s through the 1980s. However, Art notes that this work by the policy committee with jurisdiction over defense was mainly focused on authorizing specific systems through procurement, research and development and not on
how these various systems fit into an overall defense strategy. As Senator Sam Nunn (D-GA) explains:

The budget cycle drives the Congress, and the Congress drives the executive branch to such an obsession that we don’t have time to think about strategy. We never had a strategy hearing since I’ve been in the Senate.\(^\text{10}\)

Senator Nunn’s concerns are reflected by his colleagues in the House, one of whom said “We don’t talk about strategy or tactics to my satisfaction...we should be concerned with a proper defense policy and its match with our foreign policy” (Art 1985, 235). In a different setting, Art (1989) has proposed biennial budgeting for defense policy to improve opportunities for planning and to facilitate more effective defense oversight.

One attribute that has surfaced from placing most defense programs under the annual defense authorization is that defense oversight has been routinized. Most hearings that occur in the Armed Services Committees are related to the defense authorization; few are event driven. For instance, in 1995, only 3 of 21 hearings held by the Senate Armed Services Committee were related to a specific military event, such as the conflict in Bosnia or the nuclear weapons threat in North Korea. Balla and Deering (2001) examine defense oversight in the 100\(^{th}\) and 104\(^{th}\) Congresses and find that more than 80% of all defense oversight in both the House and Senate Armed Services Committees is what can typically be referred to as police patrol oversight. This should not be surprising; with the

\(^{10}\text{Art (1985, 235), with the original quote coming from the National Journal, March 13, 1984: 614.}\)
annual defense authorization dominating the committees’ agenda, they have little time to consider other issues (Art 1985, 1989).

The analysis by Balla and Deering (001) demonstrates the type of oversight that occurs in the defense policy area under annual authorization. The annual nature of the defense authorization strongly suggests that having an authorization creates the environment for police patrol oversight because the committee is examining one issue in great detail year in and year out. However, other data in the Balla and Deering analysis, which examine overall levels of oversight in other committees suggest, that there is much more police patrol oversight in Congress than is traditionally thought. For these other committees, which typically will have agendas consisting almost entirely of programs with multiyear authorizations, it is not possible to know if there is any link between the levels and timing of police patrol or fire alarm oversight and the timing of the expiration of a program’s authorization because their study does not specifically test that hypothesis. For the annual defense policy, however, the oversight environment is clearly dominated by police patrols.

Research Questions

It is not known how temporary authorizations affect the oversight hearing environment, but the previous discussion suggests that temporary authorizations cause several important changes in the oversight hearing environment. The following hypotheses are drawn from the literature discussed above.
Hypothesis One: The expiration of a program’s authorization will cause the authorizing committee to hold hearings in which they will hear from interest groups and agency stakeholders from across the spectrum of interests.

If a temporary authorization is designed to facilitate oversight, then the two activities should be concomitant. A program with a temporary authorization should receive close scrutiny when the authorization is about to expire, as interest groups from both sides want to weigh in on how effective the program is functioning, and the committee will want to have that information so it can make better decisions.

Hypothesis Two: Between authorizations, there will be a limited amount of fire alarm oversight that will be triggered by interest groups or programmatic crises.

To be responsive to interest groups operating in their jurisdiction, committees are expected to hold fire alarm hearings between authorizations as problems arise.\textsuperscript{11}

However, because committees incur high transaction costs when they build the legislative coalitions needed to enact a new authorization (Cox 1996), committees are not expected to engage in legislative activity as a result of these fire alarm hearings.

Hypothesis Three: Programs with an expired authorization will be subject to greater oversight scrutiny than will programs that are reauthorized in a timely manner.

\textsuperscript{11} Obviously, because committees should hold police patrol hearings when a temporary authorization expires, this type of hearing should not occur between reauthorizations.
The failure of a committee to reauthorize a program strongly suggests that the policy in question is controversial and that there is division within the committee (or between the committee and the floor) regarding what is the correct policy in this area. Therefore, it is expected that a program with an expired authorization will be subject to oversight hearings from two fronts. First, interest groups will want hearings to express support for, or opposition to, the existing policy. Second, the committee will hold hearings to discuss alternative legislative options in this area.

Data and Methods

Balla and Deering’s (2001) analysis provides a sound model for how to examine oversight. First, the data collected by the Agendas Project Data can be used to identify all of the hearings for a specific program. Second, using the Agendas data, it is possible to use the CIS/Annual: Abstracts of Congressional Documents to determine if a hearing should be coded as a police patrol or fire alarm hearing. There are six criteria used to determine into which category a hearing falls. These hearing data can then be combined with data on a program’s authorization status using the U.S. Code, Congressional and Administrative News (USCCAN). The annual USCCAN volumes contain actual

12 The data used here were originally collected by Frank R. Baumgartner and Bryan D. Jones, with the support of National Science Foundation (NSF) grant number SBR 9320922, and were distributed through the Center for American Politics and Public Policy at the University of Washington and/or the Department of Political Science at Pennsylvania State University. Neither NSF nor the original collectors of the data bear any responsibility for the analysis reported here.

13 The criteria for fire alarm hearings include: (a) if the hearing is time proximate to a specific event; (b) if the hearing is in response to a very specific problem or event; and (c) if the hearing calls specific individuals to account for specific events. Without time proximity to a specific event, a hearing is considered a police patrol.
legislation, from which authorization data can be obtained. These hypotheses are tested on data from four policy areas: education, transportation, regulatory, and Social Security. The data are analyzed by program type and program. Table 5.1 shows the specific programs from each policy area that are included in the analysis. The hypotheses are tested using two different data sets. One uses the year as the unit of analysis and examines hearings by program by year, and the other uses the hearing as a unit of analysis and examines each hearing by program.

Analysis

As hypothesis 1 states, the literature on temporary authorizations would suggest that authorizations should facilitate oversight. When examining hearings by program type, however, this becomes a questionable hypothesis. Consider three programs and the distribution of hearings across years where authorizations are permanent, temporary, or expired. Figure 5.1 shows the distribution of hearings by year for Social Security, a program with a permanent authorization. The number of hearings held is somewhat random and there is little correlation between hearings held and other factors, such as media coverage of the issue or divided control of government.

Programs with temporary authorizations provide similar hearing patterns, and these patterns do not seem to change even when the committee’s authorization patterns change. The Coast Guard provides an interesting example in this regard. The program had an annual authorization until the early 1980s, when it then switched to a temporary authorization. Figure 5.2 shows that, when the Coast Guard had an annual authorization, the committee alternated between having one hearing in one year, then two or three
Figure 5.1: The Number of Hearings Held Per Year Regarding Social Security
Figure 5.2: The Number of Hearings Held Per Year Regarding the Coast Guard and the Authorization Status of the Program
Table 5.1: Programs Included in the Analysis of Oversight

<table>
<thead>
<tr>
<th>Education</th>
<th>Transportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disability Education</td>
<td>Amtrak</td>
</tr>
<tr>
<td>Head Start</td>
<td>Coast Guard</td>
</tr>
<tr>
<td>National Endowment for the Arts</td>
<td>Federal Aviation Administration</td>
</tr>
<tr>
<td>Vocational Education</td>
<td>Mass Transit</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Regulatory</th>
<th>Social Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commodity Futures Trading</td>
<td>Social Security</td>
</tr>
<tr>
<td>Commission</td>
<td></td>
</tr>
<tr>
<td>Consumer Product Safety Commission</td>
<td></td>
</tr>
<tr>
<td>Nuclear Regulatory Commission</td>
<td></td>
</tr>
<tr>
<td>Securities and Exchange Commission</td>
<td></td>
</tr>
</tbody>
</table>
hearings the next. Once the Coast Guard authorization became a two-year authorization, the alternating hearing levels remained; just the volume changed, with the committee vacillating between holding two hearings in a year, followed by a year with three or four hearings. Interestingly enough, once the committee went to the two-year authorization, the off-year was the year in which more hearings were held.

The expiration of a temporary authorization does not necessarily mean that hearing patterns change dramatically. Consider the case of the Nuclear Regulatory Commission. Figure 5.3 shows the number of hearings held after the program’s authorization expired, first in 1980, and then in 1985. After the extremely large number of hearings held in 1979 in the wake of the incident at the Three Mile Island nuclear power facility, the number of hearings held on the issue stayed within a range between 10 and 20 through the 1980s, dropped to between 5 and 10 in the early 1990s, and then dropped almost to one by 1994.

The three figures illustrate that there is no clear pattern of when Congress will or will not hold hearings. If temporary authorizations are designed to facilitate oversight, there should be some correlation between hearings held and authorization years. Table 5.2 presents the correlations between hearing activity and the expiration of authorizations and of media coverage. When considering the correlation between hearings and other factors for each program type, the data show that hearings do not directly correlate with any of the factors. It is not as though committees wait for an authorization to expire to conduct hearings, nor do they hold hearings in a manner that is easily modeled. A multivariate
5.3: The Number of Hearings Held Per Year Regarding the Nuclear Regulatory Commission and the Authorization Status of the Program
analysis confirms this finding; there is no clear relationship between hearings and the factors included in Table 5.2.\textsuperscript{14}

Although it is difficult to predict the patterns associated with hearings, the actual composition of any given hearing is relatively easy to predict. Overall, the composition of hearings tends to be relatively similar across hearing types. The CIS Abstracts lists the witnesses that appear before Congress at each hearing, and it is possible to classify these individuals into categories. Wright (1996, chapter 2) provides a basic typology for classifying political interest groups, and five of the six types he identifies are used in this analysis: trade and professional associations, citizens groups, corporations, labor unions, and state/local governmental organizations. I then supplemented that list with three other types of witnesses that appear frequently before Congress: federal agencies, Members of Congress, and congressional staff, such as representatives of the General Accounting Office or the Congressional Budget Office.

The witnesses who testify at hearings reflect in part the desire of various policy stakeholders to participate in the political process regarding a specific topic, but also reflect the interest on the part of committee members and staff to hear specific viewpoints at a given hearing on a given topic. Even if a policy stakeholder wants to participate in a hearing, it is the prerogative of the committee to determine if this stakeholder can or cannot participate. Testifying is a key aspect of the work of interest

\textsuperscript{14} Although the initial regression suggested a relationship between the dependent variable – the number of hearings held – and two of the main independent variables – media coverage and it being an authorization year – these findings were not robust. Once measures were taken to control for the cross-sections and the time series, both variables lost statistical significance.
Table 5.2: Correlations of Factors Related to the Number of Hearings Held, by Policy Area

<table>
<thead>
<tr>
<th></th>
<th>Education</th>
<th>Transportation</th>
<th>Regulatory</th>
<th>Social Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization Year</td>
<td>0.01</td>
<td>-0.13</td>
<td>-0.05</td>
<td>__</td>
</tr>
<tr>
<td></td>
<td>(0.96)</td>
<td>(0.19)</td>
<td>(0.70)</td>
<td></td>
</tr>
<tr>
<td>Previous Year</td>
<td>-0.01</td>
<td>-0.18</td>
<td>0.10</td>
<td>__</td>
</tr>
<tr>
<td>Authorization Year</td>
<td>(0.98)</td>
<td>(0.08)</td>
<td>(0.31)</td>
<td></td>
</tr>
<tr>
<td>Expired Authorization</td>
<td>-0.06</td>
<td>0.5</td>
<td>-0.14</td>
<td>__</td>
</tr>
<tr>
<td></td>
<td>(0.56)</td>
<td>(0.66)</td>
<td>(0.20)</td>
<td></td>
</tr>
<tr>
<td>Number of Stories</td>
<td>0.02</td>
<td>0.77**</td>
<td>0.35</td>
<td>0.36</td>
</tr>
<tr>
<td></td>
<td>(0.83)</td>
<td>(0.00)</td>
<td>(0.00)</td>
<td>(0.08)</td>
</tr>
<tr>
<td>Unified Government</td>
<td>0.07</td>
<td>0.02</td>
<td>0.04</td>
<td>0.17</td>
</tr>
<tr>
<td></td>
<td>(0.43)</td>
<td>(0.87)</td>
<td>(0.67)</td>
<td>(0.43)</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>-0.30**</td>
<td>-0.02</td>
<td>-0.14</td>
<td>0.20</td>
</tr>
<tr>
<td></td>
<td>(0.00)</td>
<td>(0.84)</td>
<td>(0.15)</td>
<td>(0.33)</td>
</tr>
<tr>
<td>$N$</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>25</td>
</tr>
</tbody>
</table>

Note: Each cell contains the correlation coefficient and the statistical significance (in brackets).

** significant at the .05 level
groups (Schlozman and Tierney 1983), especially because of the role that it plays in conveying information to members. Hearings allow political stakeholders to provide political information to members (Ainsworth 1993), and this political information may be very helpful to off-committee members (Diermeier and Federsen 2000).

As Figures 5.1, 5.2, and 5.3 show, Congress holds hearings all of the time. However, it may be that the mix of voices it wants to hear varies between authorization years and off-years, or between police patrol hearings and fire alarm hearings. For example, it might be that Congress wants to hear the views of practitioners between authorizations, as it assesses how programs are functioning, but wants to hear the views of executive agencies during the actual authorization debates. Similarly, fire alarm hearings might be a preferred time to request testimony from agency personnel, who have allowed some crisis to occur.

Before presenting data on the frequency of appearance of various witnesses before committees, it is first beneficial to discuss the relative frequency of authorization hearings compared with off-year hearings, and police patrol hearings compared with fire alarm hearings. In this analysis, approximately one-third of all hearings are held in an authorization year, and the frequency of police patrol and fire alarm hearings is similar to the results obtained by Balla and Deering (2001). The congressional hearing process is dominated by police patrol hearings; only 11% of all hearings were fire alarm hearings. Finally, approximately 70% of fire alarm hearings occurred in off-years. The cases of fire alarm hearings during authorization years generally came from two sources of conflict. First, the Reagan budget of 1981 sparked hearings about how programs would be harmed
by the proposed reconciliation legislation. Second, the National Endowment for the Arts sparked several fire alarm hearings over allegations that the NEA funded obscene art.

As one policy player, who worked in education policy for more than a decade, noted:

Only a quarter of oversight actually examines the policy related specifically to programs. Most hearings focus on overall agency performance, financial oversight, appropriations, or the dreaded hearing on some fraud, waste, or abuse. The latter type of hearing is rare, but when they happen, they are so big. They require a tremendous amount of preparation time because we all have to think through the testimony strategically – what did we do about the problem, how rare is the problem, why is it not our fault, how will we ensure it never happens again.

Table 5.3 shows the distribution of witnesses for authorization years compared with off-years. All hearings tend to have approximately 12 witnesses and last approximately two days, with hearings in both authorization years and off-years being of similar length. Predictably, the data show that hearings tend to be dominated by agency personnel, trade associations, and citizen groups. Each of these groups tends to have between two and four witnesses per hearing. All other groups comprise a small part of the hearings process, rarely having more than one witness per hearing. The only policy area that shows great differences in witness composition between authorization years and
Table 5.3: Witness Variation Between Authorization and Off-Years, by Program, 1970 - 1994

<table>
<thead>
<tr>
<th>Witness Type</th>
<th>Authorization Status</th>
<th>All Programs</th>
<th>Transportation</th>
<th>Regulatory</th>
<th>Education</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mean Number of Witnesses</td>
<td>Off-Year</td>
<td>12.93</td>
<td>13.95</td>
<td>10.01</td>
<td>16.1</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>12.5</td>
<td>13.23</td>
<td>8.68</td>
<td>14.85</td>
</tr>
<tr>
<td>Agency Percent</td>
<td>Off-Year</td>
<td>2.39</td>
<td>2.41**</td>
<td>3.45</td>
<td>0.93</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>2.61</td>
<td>3.54**</td>
<td>2.77</td>
<td>0.88</td>
</tr>
<tr>
<td>Trade Percent</td>
<td>Off-Year</td>
<td>3.47</td>
<td>3.58</td>
<td>2.65</td>
<td>4.49</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>3.78</td>
<td>3.79</td>
<td>1.9</td>
<td>5.52</td>
</tr>
<tr>
<td>Citizen Percent</td>
<td>Off-Year</td>
<td>3.27</td>
<td>1.48</td>
<td>1.19</td>
<td>7.54</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>2.43</td>
<td>1.32</td>
<td>1.13</td>
<td>5.55</td>
</tr>
<tr>
<td>Inter-govt Percent</td>
<td>Off-Year</td>
<td>1.81</td>
<td>3.67**</td>
<td>0.22</td>
<td>2.49</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>1.37</td>
<td>1.73**</td>
<td>0.1</td>
<td>1.94</td>
</tr>
<tr>
<td>Labor Percent</td>
<td>Off-Year</td>
<td>0.31</td>
<td>.69*</td>
<td>0.06</td>
<td>0.35</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>0.24</td>
<td>.34*</td>
<td>0.03</td>
<td>0.27</td>
</tr>
<tr>
<td>Corporate Percent</td>
<td>Off-Year</td>
<td>1.08</td>
<td>0.84</td>
<td>1.99</td>
<td>0.01</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>1.17</td>
<td>1.2</td>
<td>2.35</td>
<td>0</td>
</tr>
<tr>
<td>Congress Member</td>
<td>Off-Year</td>
<td>0.5</td>
<td>1.19</td>
<td>0.35</td>
<td>0.16</td>
</tr>
<tr>
<td>Percent</td>
<td>Auth. Year</td>
<td>0.78</td>
<td>1.2</td>
<td>0.29</td>
<td>0.52</td>
</tr>
<tr>
<td>Congressional Staff</td>
<td>Off-Year</td>
<td>0.11</td>
<td>0.09</td>
<td>0.09</td>
<td>0.14</td>
</tr>
<tr>
<td>Percent</td>
<td>Auth. Year</td>
<td>0.13</td>
<td>0.13</td>
<td>0.1</td>
<td>0.18</td>
</tr>
<tr>
<td>N</td>
<td>Off-Year</td>
<td>253</td>
<td>64</td>
<td>109</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td>Auth. Year</td>
<td>120</td>
<td>56</td>
<td>31</td>
<td>33</td>
</tr>
<tr>
<td>Total Hearing</td>
<td>Off-Year</td>
<td>1.99</td>
<td>2.13</td>
<td>1.75*</td>
<td>2.25</td>
</tr>
<tr>
<td>Days</td>
<td>Auth. Year</td>
<td>2.02</td>
<td>2.05</td>
<td>2.05*</td>
<td>1.85</td>
</tr>
</tbody>
</table>

** Correlation is significant at the 0.05 level (2-tailed)

* Correlation is significant at the 0.10 level (2-tailed)
off years is transportation policy. For this policy area, agency personnel become a much more dominant force in authorization years, at the expense of intergovernmental representatives, who have more dominance in off-years.

The examination of police patrol and fire alarm hearings is slightly more difficult because of the dominance of police patrol hearings in the process. However, some basic trends can be seen in the data presented in Table 5.4. There are differences in the length of the hearings, with police patrol hearings being longer than fire alarm hearings. Fire alarm hearings tend to focus on a very specific topic and tend to have slightly fewer witnesses – approximately two fewer – than police patrol hearings, which likely accounts for the shorter hearing time. There is also one important difference in the composition of witnesses between the two types of hearings. Agency personnel are more likely to be brought before a congressional committee at a fire alarm hearing, and trade witnesses are less likely to testify at a fire alarm hearing. This witness dynamic fits one classic presentation of a hearing, where a congressional committee brings a recalcitrant agency head before them – or the head of the agency who has some responsibility over a policy area where there has been a terrible tragedy – and ruthlessly questions the witness about the agency’s malfeasance.

A final point about fire alarm hearings in this analysis is that 58% of the fire alarm hearings (22 total) occurred in regards to regulatory policies. Considering the nature of regulations, the effect that failures to regulate a policy area effectively can have, and the high volume of lobbyists and interests tracking issues in regulatory policy domains, it is
Table 5.4: Witness Variation Between Police Patrol and Fire Alarm Hearings by Program, 1970 - 1994

<table>
<thead>
<tr>
<th>Witness Type</th>
<th>All Programs</th>
<th>Transportation</th>
<th>Regulatory</th>
<th>Education</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Number of Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>12.99</td>
<td>13.44</td>
<td>9.92</td>
<td>16</td>
</tr>
<tr>
<td>Fire</td>
<td>11.11</td>
<td>17</td>
<td>8.64</td>
<td>13</td>
</tr>
<tr>
<td><strong>Agency Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>2.36*</td>
<td>2.89</td>
<td>3.13</td>
<td>0.89</td>
</tr>
<tr>
<td>Fire</td>
<td>3.32*</td>
<td>3.67</td>
<td>4.23</td>
<td>1.1</td>
</tr>
<tr>
<td><strong>Trade Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>3.73**</td>
<td>3.68</td>
<td>2.72</td>
<td>4.96*</td>
</tr>
<tr>
<td>Fire</td>
<td>2.08**</td>
<td>3.67</td>
<td>1.23</td>
<td>3.00*</td>
</tr>
<tr>
<td><strong>Citizen Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>3.07</td>
<td>1.43</td>
<td>1.30**</td>
<td>6.93</td>
</tr>
<tr>
<td>Fire</td>
<td>2.37</td>
<td>1</td>
<td>0.55**</td>
<td>7.2</td>
</tr>
<tr>
<td><strong>Inter-Govt Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>1.18</td>
<td>4</td>
<td>0.23</td>
<td>1.6</td>
</tr>
<tr>
<td>Fire</td>
<td>1.72</td>
<td>2.7</td>
<td>0.19</td>
<td>2.4</td>
</tr>
<tr>
<td><strong>Labor Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>0.28</td>
<td>0.43</td>
<td>0.06</td>
<td>0.36</td>
</tr>
<tr>
<td>Fire</td>
<td>0.39</td>
<td>2.33</td>
<td>0.05</td>
<td>0</td>
</tr>
<tr>
<td><strong>Corporate Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>1.08</td>
<td>0.99</td>
<td>2.11</td>
<td>0.01</td>
</tr>
<tr>
<td>Fire</td>
<td>1.29</td>
<td>1.33</td>
<td>1.86</td>
<td>0</td>
</tr>
<tr>
<td><strong>Congress Member Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>0.61</td>
<td>1.2</td>
<td>0.33</td>
<td>0.28</td>
</tr>
<tr>
<td>Fire</td>
<td>0.39</td>
<td>1</td>
<td>0.36</td>
<td>0.1</td>
</tr>
<tr>
<td><strong>Congressional Staff Witnesses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>0.12</td>
<td>0.11</td>
<td>0.08</td>
<td>0.17**</td>
</tr>
<tr>
<td>Fire</td>
<td>0.08</td>
<td>0</td>
<td>0.14</td>
<td>0.00**</td>
</tr>
<tr>
<td><strong>N</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>335</td>
<td>114</td>
<td>118</td>
<td>103</td>
</tr>
<tr>
<td>Fire</td>
<td>38</td>
<td>6</td>
<td>22</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total Hearing Days</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>2.30*</td>
<td>2.42</td>
<td>2.3</td>
<td>2.16</td>
</tr>
<tr>
<td>Fire</td>
<td>1.92*</td>
<td>2</td>
<td>1.91</td>
<td>1.9</td>
</tr>
</tbody>
</table>

** Correlation is significant at the 0.05 level (2-tailed)

* Correlation is significant at the 0.10 level (2-tailed)
not surprising that Congress would find regulatory policy a place where many fire alarms would sound. For regulatory policy, there is the same pattern of witnesses as was noted earlier – agency witnesses predominate at fire alarm hearings and trade association witnesses are less important. One other type of witness declines in importance as well, the citizen group. Citizen groups testify, on average, half as often as trade associations, and in the case of fire alarms, testify at about half of all hearings. Considering the importance that many people attach to citizen groups as watchdogs over the activity of corporations (e.g., Berry 2000), it is surprising that they play such a small role in fire alarm hearings, especially during a period of Democratic control of the House.

Summary

Congressional committee activity is dominated by hearing activity. For any given program, committees typically hold at least one hearing evaluating some aspect of the program. Perhaps a dozen witnesses, representing federal agencies, trade groups, corporations, citizen groups, and other policy stakeholders, come before a committee to present testimony about why a program is or is not working as it should. Several scholars have argued that the expiration of a temporary authorization plays an important role in facilitating oversight, and interviews with congressional staff elicit similar views. However, the examination of hearings over a 25-year period suggests that hearings occur throughout the life cycle of a program, regardless of its authorization status. Programs with expired authorizations continue to receive scrutiny, just as programs with active temporary authorizations are examined well before their authorization is about to expire. Committees have various incentives, including their desire to gain points in the media or
with various interest groups, for holding hearings beyond a desire to consider specific policy changes.
CHAPTER 6:
CONTROLLING LEGISLATIVE ACTIVITY WITH TEMPORARY AUTHORIZATIONS

“Getting something done between authorizations is a bitch.”

As the analysis in chapters 4 and 5 has shown, the traditional view of temporary authorizations as primarily facilitating oversight and influencing appropriations levels is not strongly supported by data. Programs with temporary authorizations grow at an incremental rate in the budget process roughly equal to that of programs with expired authorizations and “such sums as necessary” authorizations. The signaling value of including proposed spending levels in authorization legislation may be important to authorization committee members and to interest groups who support the programs being funded, but to appropriators, they are just a “license to hunt” for money in the appropriations process. Appropriators have to balance the interests of various stakeholders who represent an array of viewpoints while using their position to secure appropriations for their constituents back home. Similarly, the expiration of a temporary authorization does not facilitate oversight. Congress has many incentives for holding hearings on a given program, and most committees hold hearings throughout the life cycle of a program, whether the authorization is active, about to expire, expired, or

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1 Quote from a former transportation lobbyist discussing the difficulty in getting transportation policy issues considered between authorizations, February 18, 2002.
permanent. Hearings have value to committees beyond oversight, and they are used as tools for shaping agendas, changing the public’s perception of a given policy, and waging turf battles among committees.

The appropriations and oversight explanations for why congressional committees use temporary authorizations are both inadequate. This chapter tests an alternate conceptualization – that temporary authorizations serve as a mechanism for agenda and policy control for authorizing committees. This mechanism allows a particular policy to be placed on the agenda at a specific time for possible modification, and then takes the policy off the agenda for the life of the temporary authorization, ensuring that the status quo remains in effect and the policy has an opportunity to be implemented by various stakeholders. By having policies come onto and off of their agenda at specific times, committees are able to wield power within the chamber, affect a given policy domain on a regular basis, and ensure that policy in a given domain can remain stable long enough for success or failure to be established.

Using data from the Agendas Project, I test whether changes in authorization status, media coverage, and hearings influence legislative activity in a given policy area. Two specific questions are examined: (a) do temporary authorizations influence the timing of passage of legislative enactments in Congress, and (b) do they affect the way in which committees address policy issues?

The Similes and Metaphors of Agendas and Policy Change

Research on public policy is full of poetic language, with scholars using similes and metaphors to describe the policy process. This phenomenon holds true in the area of
agenda setting. In *Agendas, Alternatives, and Public Policy*, two metaphors are critical to Kingdon’s (1995) analysis. The first is the idea of “catching a wave.” This occurs when outside forces (e.g., the media, interest group pressure, or world events) bring an issue to the fore. The idea of catching a wave in this context comes from surfing. When the wave comes, a person can either catch the wave and ride it in, or she can wait and hope that a better wave comes. In the policy environment, when an idea gets onto the policy agenda, it provides an opportunity for interested stakeholders to push their pet projects. Legislation is crafted, and policymakers hope that the bill can make it through the legislative gauntlet. The problem faced by policymakers is that the policy environment is not as regular as the tides, so the policy “surfer” can not know whether or not a next wave will come soon. If she fails to catch the wave now, there is no assurance that she will not drown waiting for another one to come.

The second metaphor used by Kingdon is the idea that certain factors make “policy windows” open and close. As noted in chapter 2, a window is “an opportunity for advocates of proposals to push their pet solutions, or to push attention to their special problems” (Kingdon 1995, 165). Kingdon determined that certain factors led to routine openings in the policy windows, openings that might lead to subsequent legislative activity. Temporary authorizations were one of several items, with the president’s State of the Union address and the appropriations process being other factors. In addition to these routine openings in the policy window, there are also unpredictable windows that open. These openings occur in response to outside factors, such as a crisis or extended media coverage of an event. In either the case of predictable or unpredictable openings of
a policy window, stakeholders can use an open window as an opportunity to press their legislative agenda. From the perspective of policy stakeholders, one obvious advantage of predictable windows is that it is possible to know when the next chance for pushing their agenda will occur, making this type of opening far preferable to waiting for the unexpected.

Kingdon’s (1995) findings regarding routine and unpredictable openings is logical, but it is important to remember that his analysis was conducted 25 years ago during a period of unified government, which has not been the norm during the last half century. Since the Carter administration, when Kingdon did his work, there have been changes in the operation of Congress, with more legislative activity occurring through omnibus legislation and other procedures, which were once unusual but now occur quite often (Sinclair 1997). The short time frame for Kingdon’s study also leaves unclear the role that temporary authorizations play, over time, in affecting policy change. Recently, policy scholars have focused on how perceptions of policies change over time. This change in a policy’s image can occur entirely outside the legislative process; media coverage or academic studies alone could be responsible for changes in how the public understands a particular policy issue. However, given the incentives that members of Congress have to use hearings as a mechanism for gaining media coverage, it is not surprising that committees regularly hold oversight hearings on important issues.

Other scholars use the language of economics to frame the debate over policy change. Proponents of the theory of punctuated equilibrium and issue monopolies look to hearings as being an important source of policy change within Congress. Under this
theory, one of the factors that determines whether there will be policy change is the ability of policy stakeholders to change a policy’s image and to find a hospitable venue for this new image. Hearings are a means of promoting issue redefinition and for expanding the scope of conflict. For example, hearings may be used as a means for different committees to claim jurisdiction over some aspect of a policy (King 1997; Jones, Baumgartner, and Talbert 1993; Talbert, Jones, and Baumgartner 1995). These scholars do find considerable change occurring in jurisdictions over time. Legislative and non-legislative hearings have been found to be important to the process of changing a policy’s image and definition, in part by forcing committees with historic jurisdiction to consider the threat posed by other committees attempting to intrude on their turf.

Proponents of the Advocacy Coalition Framework (ACF) are also keen on examining how issues are framed and how the stability and size of these advocacy coalitions affect policy change over time (e.g., Jenkins-Smith, St. Clair, and Woods 1991; Sabatier and Jenkins-Smith 1993). The goal of a policy monopoly is to dominate the way in which an issue is defined and the venue in which policy making occurs for a given issue. Sabatier and Jenkins-Smith (1993) focus their attention on how policy stakeholders in a given policy area aggregate themselves into advocacy coalitions, which are held together by a common theory – a common definition – of how policy in a given area should be designed and implemented. Here, education and common knowledge play a key role in the creation, expansion, and growth of these coalitions. These coalitions use information to define the issues, promote specific policy recommendations, and to combat the views of other groups. As a policy is reshaped, it can greatly affect the way in
which policy stakeholders on opposite sides of the issue respond. For example, some stakeholders may defect from one position to another as the policy evolves. Others may withdraw from the policy area altogether. Still other stakeholders, previously uninterested in the issue, might join the debate as the reframed policy evolves into new policy spaces. Clearly, information of both a political and technical nature plays a critical role in the way a policy is shaped and framed, and determines whether policy stakeholders defect or remain with a given coalition.

**Temporary Authorizations and Policy Change**

The metaphors and descriptions of the policy process can be illuminating, and temporary authorizations can be seen as fitting nicely into this discussion. Consider Kingdon’s (1995) metaphors first. In a policy area without a temporary authorization, policy change occurs when an unplanned window opening occurs. Policy stakeholders “catch the wave” and hope their recommendations are accepted; change occurs at random. With temporary authorizations, the policy process is regularized, with change occurring at the same time as the scheduled, predictable openings of policy windows. An individual who works for the U.S. Department of Education noted that if the legislation undergirding education policy was permanent, it would make the policy process very difficult. “If there were not these reauthorizations, if the programs were permanent, then there would be these disjointed changes to programs that would not fit together into a coherent policy. Otherwise, you would have to pick and pull it apart in order to change anything.”

Policy coalitions have the opportunity to change policy at either point in the

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2 Interview with Department of Education staff person, February 2002.
policy process, putting their efforts to educate and to shape a policy’s definition to the test in the legislative arena.  

Scholars interested in policy change are correct to examine hearings and issues surrounding advocacy coalitions as being important to policy change. However, an important question is whether these factors lead to meaningful policy change, which typically manifests itself through changes to the underlying legislation.  

In interviews, individuals involved in the federal policy process suggested that reauthorization legislation are typically seen as the primary vehicles for facilitating policy change. One agency staffer noted that “everything needs a vehicle, and the reauthorization bills are the biggest around.”  

Reauthorization bills are especially important for members of the minority party in the House. One minority party staffer who handles education policy noted that “for people in the minority, life is driven by reauthorizations because they are the main vehicles that will come out of committee.”

To extend Kingdon’s (1995) metaphor, it may be that temporary authorizations not only lead to predictable openings and closings of policy windows but have the affect

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3 In fact, it is not clear that changes in policy equilibria occurring outside of the reauthorization process lead to changes in the law when there is an existing temporary authorization that is scheduled to expire at some point in the relatively near future. Obviously, hearings do result in learning and can result in changes in a policy’s definition. However, it is not clear that any legislative actions can be taken outside the authorization cycle.

4 Some scholars might dispute this assessment, noting that oversight hearings, in and of themselves, often shape the behavior of agencies (e.g., Weingast 1984).

5 Interview with a congressional staff person who has served on the Education and the Workforce Committee, February 2002.
of keeping unwanted changes from occurring for a set number of years. This could be thought of as unwanted drafts blowing through a policy window. Many policy stakeholders in a given domain have a strong interest in keeping out drafts between authorizations. The implementation of new laws can be complex and require coordination by a multiplicity of different stakeholders, all of whom can benefit from having just one set of rules to work from for the entire authorization period. Legislators who have made trades to gain a policy that garners support for passage may not want the deals that they have struck to be revisited and possibly undone. Congressional leaders have a limited amount of floor time in which to schedule legislation, and much of that time is filled by mandatory activities such as debate over the budget resolution and the 13 appropriations bills. To ensure that there is time for all of the legislation under consideration, leaders have an incentive to ensure that one policy is not returning to the floor when it is not necessary.

The lack of focus on the importance of authorizations may in part be influenced by the type of policies that the media and many scholars focus on in their studies. Much work has been done with a focus on cases, such as health care reform, where many groups are mobilized in a highly public way in the legislative process. In the case of the 1992-1994 health care debate, the argument was over how to create something new. However, as Schick (1983) noted, the normal world of legislative activity is dominated by temporary authorizations. In fact, temporary authorizations had become so prevalent by

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6 Hall and O’Toole (2000) provide a detailed discussion regarding the complexity of implementing new laws and the myriad of stakeholders who are involved in the process.
the 1970s that more than 25% of all laws enacted during that decade were renewals of temporary authorizations. With almost all programs created in recent years having a temporary authorization, that number is likely to be even greater today.

Hypotheses

The three existing schools of thought view different factors as being critical to policy change. The scholars of punctuated equilibrium have viewed hearings and media coverage as being key factors influencing policy change, with their argument more strongly emphasizing the former over the latter. The ACF school tends to view information and knowledge as being key factors for policy change, although their argument also clearly centers on the influence of changes in coalition memberships on policy change. Finally, Kingdon (1995) argues that it is only through the opening of a policy window that items come onto the action agenda for possible legislative consideration.

I argue that a specific kind of agenda-setting mechanism – the expiration of a temporary authorization – leads to legislative activity that results in lawmaking by Congress and the president. This last point is critical. As noted previously, there are many things that lead Congress to hold hearings, and scholars such as Baumgartner and Jones (1993) have aptly noted that hearings can play a critical role in shaping the way in which a given policy is viewed by Congress and the public at large. However, I hypothesize that policy change that fundamentally alters a policy domain generally requires legislative enactment, and Congress does not change policy in most policy domains until the expiration of a temporary authorization. That is, hearings, media
coverage, and other factors may influence the policy change process on a broad level, but temporary authorizations are the trigger, the point at which Congress actually allows the occurrence legislative change for a given policy actually to occur.

Each of these theories lead to specific hypotheses about the factors that should most strongly influence legislative activity.

Hypothesis 1: Increased hearing activity on a specific policy issue should lead to the passage of legislation by Congress to address this issue.

Hypothesis 2: Increased media coverage of a specific policy issue should lead to the passage of legislation by Congress to address this issue.

Hypothesis 3: The expiration of a temporary authorization will lead to the passage of legislation to reauthorize the program and to make changes in this specific policy area.

The first two hypotheses address specific concerns of the ACF and punctuated equilibrium theories of policy change. If these theories are complete, then shifts in the image of a policy, or about fundamental knowledge of a policy, should result in legislative action. If temporary authorizations are critical to the success of legislative change, then it should be the dominant variable in the model. In this case, temporary authorizations would serve as a mechanism for committees to control their environment. Although there might be no rhyme or reason to when hearings are held, which the data in chapter 5 suggest is possibly the case, there would be a specific rhyme and reason for legislative activity. Legislation would pass when an authorization expires, as the
committee has funneled policy activity for a given program into a specific fixed point in time, helping to augment gatekeeping by keeping the agenda free for other activities.

**Data and Method**

The data used for this analysis of temporary authorizations are the same as those used in chapter 5. Data from the Agendas Project at the University of Washington regarding hearings and legislative enactments were combined with data on authorization status from USCCAN and media data from the annual *Readers Guide to Periodical Literature*. The hypotheses noted previously are again tested in four policy areas: education, transportation, regulatory, and Social Security, with the specific programs used in the analysis listed in Table 5.1.

The data were analyzed using cross-sectional time series analysis, with data for each program entered by year, and then pooled with data for other programs. For the entire pooled data set ($N = 325$), the $N$ for each program totaling 100, except for Social Security ($N = 25$). A binary logistic regression model was used to test the hypotheses, with the dependent variable being whether legislation was enacted in a given year or not. It would be possible also to analyze these data using OLS regression, with the dependent variable being the number of legislative enactments passed in a given year. However, this variable is highly bounded; its value never exceeds 5 and in 91% of the cases the value is either zero, one, or two. In such cases, a logistic regression is the preferred method of analysis (Menard 1995).

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7 I did the analyses using OLS, with the dependent variable being the number of legislative enactments passed in a given year. The findings were consistent with those in the binary logistic regression model.
Several independent variables are tested in this analysis. The primary independent variable is whether it is an authorization year (authorization year = 1). The other two primary dependent variables are the number of hearings held and the number of media stories on the topic. Two control variables are included in the model to ensure that change in party control of different branches does not independently influence the findings, whether Democrats (coded 1) controlled Congress, and whether the Democrats controlled the presidency (coded 1).

Findings

Before examining the findings for all programs, it is beneficial to examine the impact of temporary authorizations on a policy area from its early inception, before there was a temporary authorization process, through the passage of specific legislation to address the policy in question. Consider, for example, education programs for people with disabilities. This is an illustrative example of the power of two features of the modern legislative process: consolidated programs and temporary authorizations. Prior to the passage of the Education of the Handicapped Act and Rehabilitation Act of 1973, programs for people with disabilities were handled on an ad hoc basis. Congress would pass a program here for the education of people who are blind, a program there for the education of people with mental retardation, and another program for the education of people with hearing impairments. These programs were permanent when created, and

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8 Media coverage was determined by using the Reader’s Guide. The topical headings for each program remained constant over time.
contained no authorization of appropriations language. Laws were passed whenever it seemed appropriate.

After the passage of the 1973 Act, Congress treats disability education in a structured manner. As a general rule, Congress begins passing disabilities laws in years when the authorization of a program is set to expire. Figure 6.1 shows that, after the consolidated act is passed, Congress considers programs for the education of people with disabilities in a consolidated fashion, and enacts legislation at the scheduled time – when the authorization is set to expire. The close relationship between the expiration of an authorization and the passage of a new law can be contrasted to the more random relationship between public laws passed and hearings being held, as seen in Figure 6.1. Hearings are held at various points over the years, with several hearings often being held in a Congress, but there seems to be less of a direct relationship between hearing activity and legislative activity. Of course, what goes on at these hearings can have a direct impact on how subsequent legislation is shaped, but the hearings themselves do not seem to move Congress to enact legislation unless the authorization of a program is about to expire.

The disability education case noted above is just one example of how temporary authorizations may serve to structure the environment in which policy change occurs. To examine this question more directly, I analyze how the five factors noted earlier – hearings, the expiration of an authorization, media coverage, partisan control of Congress, and divided government – correlate with the actual enactment of legislation in each issue
Figure 6.1: The Relationship Between the Expiration of Authorizations and Legislative Enactments for Disability Education, 1970 - 1994
Figure 6.2: The Relationship Between the Number of Hearings Held and Legislative Enactments for Disability Education, 1970 - 1994
area. Table 6.1 summarizes these correlations. The data show that two factors with the passage of laws in a given program area in a given year across all program areas. The first factor is the expiration of a program’s authorization, and the second factor is the amount of media coverage in that year. For all programs with temporary authorizations, the expiration of a temporary authorization strongly correlates with the enactment of legislation, with media coverage also correlating, but at a weaker level. Public hearings do correlate with the enactment of legislation in the overall model, but this is likely the result of the importance of hearings in one policy area, transportation. For other policy areas, hearings do not significantly correlate with the enactment of legislation. In addition, for the one permanently authorized program (Social Security) there are no significant variables that correlate with legislative activity.

The correlations present a preliminary indication of the role that temporary authorizations play in facilitating legislative change. A more comprehensive test of the hypotheses regarding policy change can be examined through a multivariate analysis of these data. Specifically, I use binary logistic regression with the enactment of legislation as the dependent variable, and the five factors noted earlier as independent variables. Table 6.2 shows the results of the logistic regression for the entire model, which has a pseudo $R^2$ of 0.49 and a 53.8% reduction of error. The model shows that the expiration of an authorization drives the legislative process in Congress and the decision to enact legislation. This is not to say that other variables are not important; media coverage is

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9 Although not noted in Table 6.1, the number of hearings held in the preceding year does not significantly correlate with the enactment of legislation.
Table 6.1: Factors That Correlate With Legislative Enactments, 1970 - 1994

<table>
<thead>
<tr>
<th></th>
<th>All Programs</th>
<th>Education</th>
<th>Transportation</th>
<th>Regulatory</th>
<th>Social Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization Year</td>
<td>0.56**</td>
<td>0.77**</td>
<td>0.56**</td>
<td>0.52**</td>
<td>----</td>
</tr>
<tr>
<td></td>
<td>(0.00)</td>
<td>(0.00)</td>
<td>(0.00)</td>
<td>(0.00)</td>
<td></td>
</tr>
<tr>
<td>Hearings Held</td>
<td>0.18**</td>
<td>0.06</td>
<td>0.26**</td>
<td>0.12</td>
<td>0.09</td>
</tr>
<tr>
<td></td>
<td>(0.00)</td>
<td>(0.59)</td>
<td>(0.01)</td>
<td>(0.23)</td>
<td>(0.68)</td>
</tr>
<tr>
<td>Media Coverage</td>
<td>0.26**</td>
<td>0.45**</td>
<td>0.17**</td>
<td>0.41**</td>
<td>0.02</td>
</tr>
<tr>
<td></td>
<td>(0.00)</td>
<td>(0.00)</td>
<td>(0.09)</td>
<td>(0.00)</td>
<td>(0.91)</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>0.07</td>
<td>-0.09</td>
<td>0.22**</td>
<td>0.09</td>
<td>-0.03</td>
</tr>
<tr>
<td></td>
<td>(0.25)</td>
<td>(0.37)</td>
<td>(0.03)</td>
<td>(0.40)</td>
<td>(0.88)</td>
</tr>
<tr>
<td>Divided Government</td>
<td>0.04</td>
<td>-0.06</td>
<td>0.06</td>
<td>0.10</td>
<td>0.03</td>
</tr>
<tr>
<td></td>
<td>(0.51)</td>
<td>(0.57)</td>
<td>(0.54)</td>
<td>(0.31)</td>
<td>(0.88)</td>
</tr>
</tbody>
</table>

Note: Dashes indicate that the variable is not included in a specific model.

** Correlation is significant at the 0.05 level (2-tailed)
Table 6.2: Logistic Regression: Factors Influencing the Passage of Legislation, Full Model

<table>
<thead>
<tr>
<th>Variables</th>
<th>Coefficient</th>
<th>Standardized Coefficient</th>
<th>Standard Error</th>
<th>Significance</th>
<th>Expected Change, Dep. Var. (No Law Passed; Law Passed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization Year</td>
<td>3.591</td>
<td>36.27</td>
<td>0.408</td>
<td>0.000</td>
<td>0.10, 0.80</td>
</tr>
<tr>
<td>Hearings</td>
<td>0.065</td>
<td>1.067</td>
<td>0.039</td>
<td>0.098</td>
<td>0.24, 0.40</td>
</tr>
<tr>
<td>Media Coverage</td>
<td>0.027</td>
<td>1.028</td>
<td>0.012</td>
<td>0.019</td>
<td>0.24, 0.35</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>0.764</td>
<td>2.147</td>
<td>0.399</td>
<td>0.056</td>
<td>0.24, 0.40</td>
</tr>
<tr>
<td>Divided Government</td>
<td>-0.304</td>
<td>0.738</td>
<td>0.401</td>
<td>0.448</td>
<td>0.30, 0.24</td>
</tr>
<tr>
<td>Constant</td>
<td>-2.204</td>
<td>0.110</td>
<td>0.396</td>
<td>0.000</td>
<td>----</td>
</tr>
</tbody>
</table>

Note: Dashes indicate that the variable is not included in a specific model.

\[ N = 300 \]

\[ \text{Log likelihood} = 263.054 \]

\[ \text{Negelkerke R}^2 = 0.527 \]

\[ \text{Correctly classified} = 81.3 \]

\[ \text{Reduction of Error} = 32.7 \]

\[ (\text{model-null})/(100-\text{null}) \]
also a significant variable in the equation. However, the impact of media coverage is significantly smaller compared with the expiration of an authorization.

The expected impact of the expiration of authorizations on the passage of a new law in a policy area when all other variables are held at their means is also significant. The far right column in Table 6.2 presents the likely expected change in the dependent variable when the independent variable moves either one standard deviation, in the case of continuous variables, or from zero to one in the case of dummy variables. In the model, moving from an off-year to an authorization year increases the likelihood of a law being passed from 0.10 to 0.80. The other variables impact the likelihood of a law passing, but the changes are smaller and statistically less significant. For example, the media variable increases the likelihood of passage from 0.24 to 0.35, still well below 0.50.

In the model shown in Table 6.2, the values in the far right column are computed when all variables are held at their mean. Because there are several dummy variables in the model, it is also necessary to examine what would happen if the variables were at either zero or one. Table 6.3 considers all possible conditions – a divided or unified government, a divided or unified Congress, an authorization year or off-year. The hearings and media coverage variables at most increase the likelihood that a law will pass by 14 percent. The expiration of authorization variable increases the likelihood that a law will pass by approximately 70 percent over all possible combinations.

The findings presented in Tables 6.2 and 6.3 suggest that the expiration of an authorization is an important factor in facilitating legislative changes to public policy. However, it may be that the findings in one policy area are strong, masking weaker
Table 6.3: Likely Percent Impact of Selected Variables on Whether Legislation Will Pass Under 6 Different Scenarios, All Policy Areas

<table>
<thead>
<tr>
<th></th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unified Cong</td>
<td>0.70</td>
<td>0.71</td>
<td>0.69</td>
<td>0.69</td>
<td>0.70</td>
<td>0.70</td>
</tr>
<tr>
<td>Unified Govt</td>
<td>0.10</td>
<td>0.08</td>
<td>0.09</td>
<td>0.10</td>
<td>0.14</td>
<td>0.05</td>
</tr>
<tr>
<td>Media</td>
<td>0.07</td>
<td>0.06</td>
<td>0.06</td>
<td>0.07</td>
<td>0.10</td>
<td>0.04</td>
</tr>
<tr>
<td>Divided</td>
<td>0.11</td>
<td>0.08</td>
<td>0.09</td>
<td>0.10</td>
<td>0.09</td>
<td>0.10</td>
</tr>
<tr>
<td>Divided Govt</td>
<td>-0.03</td>
<td>-0.05</td>
<td>-0.03</td>
<td>-0.05</td>
<td>-0.05</td>
<td>-0.03</td>
</tr>
</tbody>
</table>
findings in the remaining policy areas. I will therefore analyze each policy area separately
to determine if the results of the analysis remain robust across policies.

The findings for the analysis of education policy can be found in Table 6.4. In
this policy area, the model remains robust, with a pseudo $R^2$ of 0.70 and a reduction in
error of 84%. The coefficient for the expiration of an authorization variable is more than
25 times larger than the only other significant variable, which is for media coverage.
Additionally, the far right column in Table 6.4 shows that in education policy, moving
from an off-year to an authorization year increases the likelihood of a law being passed
from 7% in an off-year to 87% in an authorization year. Increase media coverage
increases the likelihood of a law being passed by 16%. Table 6.5 shows the same
scenarios presented in Table 6.3. Again, in six scenarios, hearings and media coverage
increase the likelihood that a law will pass by 13% or less. The expiration of an
authorization increases the likelihood that a law will pass by 78% across all scenarios.

These findings are also confirmed by interviews with staffers who have worked in
education policy. Consider how one agency person described her work:

When we came off of the ESEA [Elementary and Secondary
Education Act] reauthorization, we went straight into
preparing for the budget. Then, on the policy side, we have
the special ed reauthorization, and we are starting to prepare
for the higher ed and [vocational education]
reauthorizations.\textsuperscript{10}

\textsuperscript{10} Interview with Department of Education staff person, February 2002.
Table 6.4: Logistic Regression: Factors Influencing the Passage of Legislation, Education Model

<table>
<thead>
<tr>
<th>Variables</th>
<th>Coefficient</th>
<th>Standardized Coefficient</th>
<th>Standard Error</th>
<th>Significance</th>
<th>Expected Change, Dep. Var. (No Law Passed; Law Passed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization Year</td>
<td>4.638</td>
<td>103.362</td>
<td>0.929</td>
<td>0.000</td>
<td>0.07, 0.87</td>
</tr>
<tr>
<td>Hearings</td>
<td>-0.896</td>
<td>0.408</td>
<td>0.816</td>
<td>0.272</td>
<td>0.23, 0.34</td>
</tr>
<tr>
<td>Media Coverage</td>
<td>1.388</td>
<td>4.007</td>
<td>0.752</td>
<td>0.065</td>
<td>0.23, 0.39</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>-0.936</td>
<td>0.392</td>
<td>0.912</td>
<td>0.310</td>
<td>0.23, 0.18</td>
</tr>
<tr>
<td>Divided Government</td>
<td>-0.657</td>
<td>0.519</td>
<td>0.979</td>
<td>0.502</td>
<td>0.42, 0.23</td>
</tr>
<tr>
<td>Constant</td>
<td>-1.394</td>
<td>0.248</td>
<td>0.870</td>
<td>0.109</td>
<td>----</td>
</tr>
</tbody>
</table>

Note: Dashes indicate that the variable is not included in a specific model.

\[ N = 100 \]

Log likelihood = 57.916

Negelkerke $R^2$ = 0.699

Correctly classified = 90.0

Reduction of Error = 84.0

\( (\text{model-null})/(100-\text{null}) \)
Table 6.5: Likely Percent Impact of Selected Variables on Whether Legislation Will Pass Under 6 Different Scenarios, Education Policy

<table>
<thead>
<tr>
<th></th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unified Cong</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Govt</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Cong</td>
<td></td>
<td></td>
<td>Unified Cong</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Govt</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Cong</td>
<td></td>
<td></td>
<td>Divided Cong</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Govt</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unified Cong</td>
<td>Divided Cong</td>
<td></td>
<td>Divided Cong</td>
<td>Divided Govt</td>
<td>Divided Cong</td>
<td>Divided Govt</td>
</tr>
<tr>
<td>Unified Govt</td>
<td></td>
<td>Divided Govt</td>
<td></td>
<td></td>
<td>Divided Govt</td>
<td></td>
</tr>
<tr>
<td>Auth. Status</td>
<td>0.78</td>
<td>0.78</td>
<td>0.79</td>
<td>0.79</td>
<td>0.77</td>
<td>0.77</td>
</tr>
<tr>
<td>Hearings</td>
<td>0.09</td>
<td>0.03</td>
<td>0.05</td>
<td>0.05</td>
<td>0.04</td>
<td>0.07</td>
</tr>
<tr>
<td>Media</td>
<td>0.13</td>
<td>0.03</td>
<td>0.07</td>
<td>0.07</td>
<td>0.06</td>
<td>0.08</td>
</tr>
<tr>
<td>Congress Divided</td>
<td>-0.04</td>
<td>-0.02</td>
<td>-0.02</td>
<td>-0.04</td>
<td>-0.02</td>
<td>-0.04</td>
</tr>
<tr>
<td>Divided Govt</td>
<td>-0.09</td>
<td>-0.07</td>
<td>-0.09</td>
<td>0.07</td>
<td>-0.07</td>
<td>-0.09</td>
</tr>
</tbody>
</table>
Policy stakeholders often describe their lives as a series of reauthorizations. A person who has worked as a congressional staffer on education policy noted that the debate over reauthorizing the Head Start program does not even begin until the year the authorization expires because several other programs for children expire the year before the Head Start bill does: “Everyone may be talking about Head Start before it expires, but the fact of the matter is, nothing was going to be done about it until it expires.”

The typical authorization for an education policy is for five years, which many see as being optimal for this policy area. As one person noted, in education policy “reauthorizations allows Congress and the administration to change the law with some frequency... But the authorizations need to run long enough to take the idea, attach money to it, get the money out the door and implemented, and then evaluate the program’s performance. Then you can say, ‘this is good.’

Table 6.6 shows that findings for transportation policy are similar to those for education policy. The model has a pseudo $R^2$ of 0.56 and a reduction in error of 82%. The expiration of authorization and media variables are again significant, although the former variable has a standardized coefficient that is 50 times larger than the latter. The far right column in Table 6.6 shows that moving from an off-year to an authorization year increases the likelihood that a transportation law will be passed from 6% to 83%. The media variable increases the likelihood of a law passing by 12 points, and the hearings variable, which does not have statistical significance, increases the likelihood a law will

---

11 Interview with Education and the Workforce Committee staffer, February 2002.

12 Interview with U.S. Department of Education staff person, February 20, 2002.
Table 6.6: Logistic Regression: Factors Influencing the Passage of Legislation, Transportation Model

<table>
<thead>
<tr>
<th>Variables</th>
<th>Coefficient</th>
<th>Standardized Coefficient</th>
<th>Standard Error</th>
<th>Significance</th>
<th>Expected Change, Dep. Var. (No Law Passed; Law Passed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization Year</td>
<td>4.034</td>
<td>56.482</td>
<td>0.928</td>
<td>0.000</td>
<td>0.06, 0.83</td>
</tr>
<tr>
<td>Hearings</td>
<td>0.776</td>
<td>2.172</td>
<td>0.79</td>
<td>0.326</td>
<td>0.26, 0.62</td>
</tr>
<tr>
<td>Media Coverage</td>
<td>0.032</td>
<td>1.032</td>
<td>0.014</td>
<td>0.019</td>
<td>0.26, 0.34</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>2.441</td>
<td>11.484</td>
<td>0.89</td>
<td>0.006</td>
<td>0.26, 0.81</td>
</tr>
<tr>
<td>Divided Government</td>
<td>-0.197</td>
<td>0.821</td>
<td>0.694</td>
<td>0.777</td>
<td>0.37, 0.26</td>
</tr>
<tr>
<td>Constant</td>
<td>-3.910</td>
<td>0.020</td>
<td>1.101</td>
<td>0.000</td>
<td>-----</td>
</tr>
</tbody>
</table>

Note: Dashes indicate that the variable is not included in a specific model.

\[ N = 100 \]

\[ \text{Log likelihood} = 82.362 \]

\[ \text{Negelkerke } R^2 = 0.555 \]

\[ \text{Correctly classified} = 83.0 \]

\[ \text{Reduction of Error} = 82.0 \]

\[ \frac{(\text{model-null})}{(100\text{-null})} \]
pass from 26% to 62%. Table 6.7 shows that the expiration of authorization variable again increases the likelihood that a law will pass by between 51% and 78%. The hearings variable increases the likelihood that a law will pass by at most 25%, and the media variable peaks at less than 10%.

The findings for transportation policy are also important because they clarify a finding in the correlations shown in Table 6.1. Specifically, the correlations suggest that, in the case of transportation policy, hearings could be a significant variable related to the passage of legislation. However, the multivariate analysis shows that the hearings variable in the model is not statistically significant, but it does support the correlation in that the substantive impact of hearings in transportation policy does appear to be significant. An increase of one standard deviation in the number of hearings on transportation enhances the likelihood of new laws in this area by 36 percentage points. This finding is supported in the scenarios shown in Table 6.7, where hearings do move the model, but only in off-years, when the likelihood that a law will actually pass is at its lowest.

Transportation policy players noted that the fights over the allocation of money that occurred in the transportation bills were so intense that the committee with jurisdiction – the Public Works Committee until 1994, now the Transportation and Infrastructure Committee – will not even consider bringing up these bills between authorizations. One person who has worked on numerous surface transportation authorizations said:
Table 6.7: Likely Percent Impact of Selected Variables on Whether Legislation Will Pass Under 6 Different Scenarios, Transportation Policy

<table>
<thead>
<tr>
<th></th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unified Cong</td>
<td>0.78</td>
<td>0.78</td>
<td>0.76</td>
<td>0.76</td>
<td>0.51</td>
<td>0.51</td>
</tr>
<tr>
<td>Unified Govt</td>
<td>0.25</td>
<td>0.08</td>
<td>0.18</td>
<td>0.13</td>
<td>0.33</td>
<td>0.01</td>
</tr>
<tr>
<td>Media</td>
<td>0.04</td>
<td>0.03</td>
<td>0.03</td>
<td>0.05</td>
<td>0.09</td>
<td>0.01</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>0.05</td>
<td>0.11</td>
<td>0.40</td>
<td>0.16</td>
<td>0.40</td>
<td>0.16</td>
</tr>
<tr>
<td>Divided Govt</td>
<td>-0.04</td>
<td>-0.06</td>
<td>-0.04</td>
<td>-0.06</td>
<td>-0.12</td>
<td>-0.01</td>
</tr>
</tbody>
</table>
You almost have to have authorization bills every so often to provide new directions for every program, and it serves to justify the committee...but it is such a huge and monumental task to strike the bargains and craft the deals to make one of these work, that it has to end with a long authorization. If you didn’t [make the authorization long], it would dominate congress and committee agendas too much. You would have donor state fights, and you would have pork barrel fights that would be too great to handle.¹³

The battles over projects and the allocation of funding to the states leaves the committees fighting until the last moment to get a bill passed. A former transportation committee staffer noted:

The committee does not move between authorizations because there is no ‘have to’ without a funding expiration or something similar. Even with a trigger [to end the flow of funds to states if an authorization is not completed], funding to states have lapsed in the last two authorizations. People just can’t bear to go through the process more than once every six years. Hell, we can’t even get technical corrections bills passed. The 1991 bill was written in the middle of the night and riddled with errors, but there was no way to fix it. We

¹³ Interview with former state transportation official conducted February 18, 2002.
finally fixed it when we did the NHS [legislation creating the National Highway System], and it only passed because of the money trigger that it had.\textsuperscript{14}

Because transportation has such a large lobby of support among rank and file members – all of whom want a project in the bill – and because the bill is so large, congressional leaders dislike bringing up this legislation. Few people realize that transportation is the largest non-military domestic discretionary program, and with the budget issues associated with its trust funds, it is a policy issue many would like to avoid.

Table 6.8 shows that the findings for the other policy areas hold true for regulatory policy as well. The regulatory model has a pseudo $R^2$ of 0.43 and a proportional reduction in error of 65.5\%. The expiration of an authorization variable is less important than in the previous models but it remains significant. The media coverage variable is the only other variable that attains significance. In the regulatory model, an increase of one standard deviation in the amount of media coverage increases the likelihood of a law will pass by 18 percentage points. Moving from a non-authorization year to an authorization year changes the likelihood a law will pass from 44\% to 92\%.

Table 6.9 provides data on the likelihood that a law will pass under the same six scenarios noted previously. When all other variables are held constant, increases in the number of hearings had no impact on the likelihood that a law will pass. The media coverage variable results in, at most, an 18\% increased likelihood of a law passing.

\textsuperscript{14} Interview with a former transportation committee staffer, interviewed on February 20, 2002.
Table 6.8: Logistic Regression: Factors Influencing the Passage of Legislation, Regulatory Model

<table>
<thead>
<tr>
<th>Variables</th>
<th>Coefficient</th>
<th>Standardized Coefficient</th>
<th>Standard Error</th>
<th>Significance</th>
<th>Expected Change, Dep. Var. (No Law Passed; Law Passed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization Year</td>
<td>2.651</td>
<td>14.172</td>
<td>0.693</td>
<td>0.000</td>
<td>0.44, 0.92</td>
</tr>
<tr>
<td>Hearings</td>
<td>-0.085</td>
<td>0.918</td>
<td>0.668</td>
<td>0.899</td>
<td>0.68, 0.68</td>
</tr>
<tr>
<td>Media Coverage</td>
<td>0.064</td>
<td>1.066</td>
<td>0.023</td>
<td>0.005</td>
<td>0.55, 0.73</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>0.190</td>
<td>1.210</td>
<td>0.607</td>
<td>0.754</td>
<td>0.68, 0.72</td>
</tr>
<tr>
<td>Divided Government</td>
<td>0.170</td>
<td>1.185</td>
<td>0.656</td>
<td>0.796</td>
<td>0.64, 0.68</td>
</tr>
<tr>
<td>Constant</td>
<td>-1.705</td>
<td>0.182</td>
<td>0.715</td>
<td>0.017</td>
<td>-------</td>
</tr>
</tbody>
</table>

Note: Dashes indicate that the variable is not included in a specific model.

\[
N = 100 \\
\log \text{likelihood} = 98.436 \\
\text{Negelkerke R}^2 = 0.434 \\
\text{Correctly classified} = 75.0 \\
\text{Reduction of Error} = 65.5 \\
(model-null)/(100-null)
Table 6.9: Likely Percent Impact of Selected Variables on Whether Legislation Will Pass Under 6 Different Scenarios, Regulatory Policy

<table>
<thead>
<tr>
<th>Auth. Status</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
<th>Non-Auth Year</th>
<th>Auth. Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unified Cong</td>
<td>0.51</td>
<td>0.51</td>
<td>0.48</td>
<td>0.48</td>
<td>0.45</td>
<td>0.45</td>
</tr>
<tr>
<td>Unified Govt</td>
<td>0.18</td>
<td>0.08</td>
<td>0.20</td>
<td>0.07</td>
<td>0.20</td>
<td>0.06</td>
</tr>
<tr>
<td>Divided Cong</td>
<td>0.04</td>
<td>0.05</td>
<td>0.04</td>
<td>0.01</td>
<td>0.04</td>
<td>0.01</td>
</tr>
<tr>
<td>Divided Govt</td>
<td>0.04</td>
<td>0.02</td>
<td>0.05</td>
<td>0.02</td>
<td>0.05</td>
<td>0.01</td>
</tr>
</tbody>
</table>

- **Auth. Status**: Authorization Status
- **Non-Auth Year**: Non-authorized Year
- **Auth. Year**: Authorized Year
- **Unified Cong**: Unified Congress
- **Unified Govt**: Unified Government
- **Divided Cong**: Divided Congress
- **Divided Govt**: Divided Government
However, the program’s authorization status increases the likelihood a law will pass by between 45% and 51% across the six scenarios.

People who work in regulatory policy note that there are several reasons why reauthorizations dominate the legislative landscape. At the outset, much like transportation policy, there is a tendency to get cases in which there is tremendous conflict on both sides of an issue. One person who has worked for a regulatory agency stated:

I see reauthorizations as being like the business cycle. You rest, regroup, and come back to engage in some WWI trench warfare. It is not all warfare, some of it is cooperative and we try to create alliances with groups whenever we can. But most of the time, there is industry on one side and us and the consumer groups on the other, battling it out.\(^{15}\)

However, there is one key difference between regulatory policy and transportation policy, which is that regulatory issues are often very difficult to understand. The difficulty of the issues gives Congress an incentive to postpone these issues and consider them collectively, when members have the time to focus on them and decrease their learning curve. A former congressional staffer noted that “you have to remember, members are not going to spend all of their waking hours on [that issue], or any issue, especially if it is difficult to understand.” Although some reauthorizations are bill deals

\(^{15}\) Interview with staff person of a regulatory agency included in the analysis, conducted on February 19, 2002.
and some simply extend the program, there is little action that occurs in between the expiration of the authorization.

These models illustrate that, for the programs with temporary authorizations in this analysis, moving from an off-year to an authorization year increases the likelihood that a law will be passed. It is also worth noting that defense policy was not included in this analysis primarily because it is an area with an annual authorization. For every year included in this analysis, defense policy has been subject to an annual authorization and in every year, Congress has passed a defense authorization bill. It would be hard to argue that the defense authorization bill is not the single most important defense bill passed by Congress every year or that changes in defense policy do not primarily occur through this piece of annual authorization legislation.

If variables such as media coverage and hearings held were important factors influencing the passage of legislation in Congress, it would be expected that these variables would prove significant in changes to a program with a more permanent authorization, such as Social Security. However, as Table 6.10 illustrates, this is not the case. Neither the hearings variable nor the media coverage variable achieves statistical significance, and their substantive significance in the model is minor as well. This analysis suggests that legislative activity in Congress is not occurring in the area of Social Security policy because the Congress is holding hearings or the media is covering this issue.
Table 6.10: Logistic Regression: Factors Influencing the Passage of Legislation:

Social Security Model

<table>
<thead>
<tr>
<th>Variables</th>
<th>Coefficient</th>
<th>Standardized Coefficient</th>
<th>Standard Error</th>
<th>Significance</th>
<th>Expected Change, Dep. Var. (No Law Passed; Law Passed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorization Year</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>Hearings</td>
<td>0.574</td>
<td>1.775</td>
<td>1.565</td>
<td>0.714</td>
<td>-----</td>
</tr>
<tr>
<td>Media Coverage</td>
<td>-0.002</td>
<td>0.998</td>
<td>0.037</td>
<td>0.952</td>
<td>-----</td>
</tr>
<tr>
<td>Divided Congress</td>
<td>-0.174</td>
<td>0.84</td>
<td>1.267</td>
<td>0.891</td>
<td>-----</td>
</tr>
<tr>
<td>Divided Government</td>
<td>0.146</td>
<td>1.157</td>
<td>1.09</td>
<td>0.893</td>
<td>-----</td>
</tr>
<tr>
<td>Constant</td>
<td>0.22</td>
<td>1.246</td>
<td>2.28</td>
<td>0.923</td>
<td>-----</td>
</tr>
</tbody>
</table>

Note: Dashes indicate that the variable is not included in a specific model.

\[ N = 25 \]

Log likelihood \[ = 32.466 \]

Negelkerke R\(^2\) \[ = 0.011 \]
Legislative Activity Related to Reauthorizations

The multivariate analysis strongly suggests that when a program is up for reauthorization, legislative activity is likely to occur. However, one might expect that the structure, composition, and purpose of legislation in these policy areas would be quite different. Just as scholars have categorized committees and their jurisdictions based on certain characteristics, policy areas have been categorized as well. One widely cited public policy typology is Lowi’s four-part categorization that divides policy into regulatory, redistributive, distributive, and constituent categories (Lowi 1985). These differing types of laws each have different legislative dynamics and different types of policy stakeholders involved in the debate (Heckathorn and Maser 1990).

A comparison of the laws that have resulted from the reauthorization of the Commodities Future Trading Commission (CFTC) and the mass transit program illustrate the differences between regulatory and distributive programs. The CFTC was created in 1974 with the passage of H.R. 13113, moving commodity regulation from the U.S. Department of Agriculture into the new agency. As would be expected, the law structures the new agency – creating a commission – and outlines its regulatory reach. It states what types of commodities are under the jurisdiction of the CFTC, what types of activities are unlawful under the Act, and what penalties can be imposed under the law. As McCubbins (1985) notes, Congress is quite interested in ensuring that regulatory policy is implemented in a specific way, and by limiting the regulatory tools available to an agency and the number and type of stakeholders covered by regulations, Congress can ensure that the agency is limited in its authority.
The three reauthorizations that followed the 1974 inaugural bill illustrate how the expiration of temporary authorizations created for Congress an opportunity to adjust the regulatory mechanisms an agency has at its disposal and the number of stakeholders covered by the agency’s jurisdiction. In 1978, the law was modified in several fundamental ways. First, the agency’s structure was changed so that the CFTC would be governed by a chairman appointed by the president. Second, certain types of commodity traders were excluded from the jurisdiction of the Commission. Third, the scope of the financial penalties that could be levied by the Commission was expanded, as were its powers to hold hearings and grant immunity to witnesses. Finally, the U.S. district courts were made the court of jurisdiction for the Commission’s work.

In 1982, the primary focus of the reauthorization was to delimit the jurisdictions of the CFTC and the Securities and Exchange Commission and to expand the rulemaking powers of the CFTC. Specifically, Congress granted the CFTC the authority over foreign futures trading in the United States, allowed it to limit speculative futures, and broadened the scope of activities under the CFTC’s jurisdiction. By 1991, when Congress finally reauthorized the CFTC, the authorization legislation was quite technical in nature. The new law did not make sweeping changes but instead made incremental adjustments to the Commission’s authority. These changes allowed the Commission to do some small things—conducting undercover operations, for example—but made no significant changes in its scope of authority.

This examination of the CFTC illustrates that the expiration of a temporary authorization provides an opportunity to modify the scope of an agency’s jurisdiction and
the methods it can use for regulating its targets. However, for programs with more
distributive characteristics, reauthorizations can be brutal fights about the allocation and
distribution of money. Everyone wants a larger piece of the pie, and no one wants its share of the pie to be cut.

The examination of reauthorization legislation for transit policy illustrates how different the legislative dynamic – as it manifests itself in becoming law – is for a highly distributive program such as mass transit when compared with a regulatory program like commodity trading. The last four transit reauthorizations illustrates the highly distributive nature of this program. The federal role in transit dates back to the passage of the Urban Mass Transportation Act in 1964. The transit reauthorization process was added to the broader surface transportation authorization process, which historically focused on highways, and the 1978 transit reauthorization was a part of a broader surface transportation bill. Title III of H.R. 11733 was the Federal Public Transportation Act (FPTA), and almost the entire section focuses on how transit money can and cannot be spent. The FPTA contains overall spending levels for various transit programs and authorizes specific transit new starts, so that certain cities could begin building rail projects. It revises the formulas for the distribution of transit grant funds and specifies who has control over spending the money. The FPTA sets matching rates for transit programs, specifying how much money states and localities must spend to match federal contributions. It also sets up grant programs for special populations such as the elderly, people with disabilities, and rural communities.
The 1982 transit reauthorization looked much like the 1978 law. It contained the same types of spending levels for programs, specified new starts, tweaked the funding formulas, and specified who could and could not spend transit money and the way in which the money could be spent. However, the 1982 Act also included something new, the creation of a Mass Transit Account in the Highway Trust Fund. The Highway Trust Fund is the account into which all gas tax revenues have historically been deposited. These tax revenues accrue in the account and are, according to members of the authorizing committees, supposed to be spent on highways. Of course, appropriators have a different view; they believe in unified budgeting in which trust fund accounts are all part of the same big pool of resources. There have long been battles between authorizers and appropriators regarding whether surface transportation spending should equal the amount of revenues in the Highway Trust Fund. By putting two cents of the gas tax into a separate transit account, authorizers were allowing transit interests to make a specific claim on a specific amount of revenues for their programs.

The 1987 reauthorization was not much different from the previous two, but the 1991 bill was a watershed, much like the 1982 legislation. The catalyst for the changes in 1991 was a different reauthorization from the previous year, the passage of amendments to the Clean Air Act. A coalition of environmental groups played a key role in the passage of the Clean Air Act amendments, and these stakeholders used their newfound clout and access to influence transportation policy. Because the cleanliness of the air is directly affected by transportation, these groups saw the 1991 authorization as yet another opportunity to strengthen environmental policy. As a general rule, the environmental
coalition does not like highways but think highly of mass transit, so they worked to make
the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) into a transit bill.
Granted, most of the money in the bill continued to be spent on highways; however, these
groups also made highway funds highly fungible for use in transit projects, while making
transit funds completely non-fungible. For example, metropolitan areas that violated
clean air standards could no longer use federal highway funds to build new roads, but
they could use these funds for transit. The bill also authorized more new starts, expanded
transit funding, and granted greater transit access to disadvantaged individuals.

Even though the transit and CFTC reauthorizations resulted in legislation that is
quite different, the purpose and outcomes are quite similar. In both cases, parties affected
by the legislation battled to achieve an outcome that was most beneficial to them. The
transit reauthorization is primarily a battle about who gets what. State and local
governments want a share of the pie, and they want to ensure that their city or their state
gets the money they need. Because of the limited pool of funds that exist for any
particular program, these fights are very contentious, as funding for one state or one city
inevitably means that another state or city does not get the funding they want. The same
is true for the regulation of commodities, although in this case, the battle is not over who
gets what, but rather who gets regulated and how. Each CFTC reauthorization shapes the
way in which commodity trading can be regulated, the types of penalties that can be used
to punish those who violate the rules, and the procedures for due process that are
available to the punished.
With both the CFTC and transit reauthorizations, interest groups are able to make claims about how the law should be changed based on experience gained during the previous authorization period. These groups conduct a variety of activities – such as commissioning studies of how the law has been implemented, testifying at hearings, lobbying, and similar behaviors – to explain why the law should be changed to fix implementation problems.\textsuperscript{16} I examine this last point about implementation in the next chapter.

Summary

The findings in this chapter support the hypothesis that the expiration of an authorization is the critical point at which policy change occurs. This finding holds true across a wide array of policy types – both regulatory and distributive – and a wide array of committee environments in Congress. Committees as diverse as Public Works, Commerce, and Education all are affected similarly by the use of temporary authorizations. When an authorization expires, committees use this as the primary opportunity to change the law in this specific area. Other factors that have been touted as important to the policy process – such as hearings and media coverage – may in fact be key to changing the perceptions of an issue, but these factors do not seem to be critical in

\textsuperscript{16} Many of these groups work closely with members in what Ainsworth (1997) refers to as legislative enterprises, where both the legislator and the interest group work in a highly symbiotic relationship. In such cases, the legislator often puts the power of the Congress to work on behalf of the interest group by, for example, having the General Accounting Office conduct a study on how a law is being implemented or how funding for a specific program should be allocated in the future.
opening up the legislative process so that policy change can occur through the passage of legislation.

Because the expiration of an authorization is a key to opening the legislative process to change, hearings and media coverage are even more important. Interest groups can plan ahead and focus on a specific time when to initiate battles to change policy. In hopes of shaping the legislative debate, these groups, working with like-minded members of Congress, can plan a series of hearings on an issue and the release of reports in an effort to change the predominant view of an issue prior to the expiration of the authorization. By introducing this planning aspect to the process, all stakeholders know when the policy confrontation will occur and can govern themselves accordingly.

Note here how temporary authorizations broadly influence Congress and policy information. First, there seems to be little or no relationship between legislative enactments and the hearing process. Although hearings are an important mechanism for committees to gain knowledge and information – in fact, they are often considered to have a type of monopoly on policy knowledge (e.g., Krehbiel 1991) – they do not generally use this knowledge for legislative purposes except when an authorization is set to expire. Perhaps they ‘store’ this knowledge; however, it is clear that they rarely act immediately on knowledge gained from hearings. It may be that hearings play an important part in the legislative process, but they are not a driving force that leads directly to legislative activity. Activity is often only the enactment of a bill, leading to the conclusion that hypothesis one is likely to be deficient.
Second, research has shown that policy change occurs over time and that the coalitions involved in a given policy shift over time. However, at least for the four education programs studied here, policy learning is only acted on when an authorization expires. Congress is not changing the laws related to these four programs every time they learn a new fact, nor are they changing policy every time there is a shift in the image of a program.
CHAPTER 7

THE IMPLICATIONS OF TEMPORARY AUTHORIZATIONS ON POLICY MAKING IN CONGRESS

Temporary authorizations have had a dramatic impact on the policy environment since their initial use after World War II. The original success of using temporary authorizations to control the policy implementation of the Marshall Plan showed that this new tool could be an effective mechanism for giving Congress some control over how a policy was implemented. The subsequent passage of an amendment to put defense weapons procurement under a temporary authorization again put Congress in the position of having greater control over how an agency implemented a specific kind of policy. Temporary authorizations added regularity to the process of reviewing defense procurement. Everyone involved in this policy area – members of Congress, lobbyists, and agency personnel – knew that there would be a bill addressing changes to defense procurement and knew when that bill would be considered by Congress.

With the Great Society came a great shift in the use of temporary authorizations. By the end of the 1960s, most new domestic programs (e.g., environmental regulations, education programs, economic development initiatives, agriculture programs, and transportation programs to name just a few) were operating with temporary authorizations. These new programs were often more complex than the initial defense
and foreign policy programs that utilized temporary authorizations. Now, the 50 states and a myriad of local governments, non-profits, corporations, and federal agencies were often responsible for implementing a single program, instead of a single agency and a relatively small number of related stakeholders, as had been the case earlier.¹

The rise in the use of temporary authorizations raises several questions, and this last chapter will address several of them. I begin with a review of the questions addressed in chapters 4 and 5, examining the effect that temporary authorizations have on the level of funding and level of oversight a program receives. Second, I review the findings of chapter 6 regarding the effect this mechanism has on the agendas in committees. Third, I discuss the possible benefits that may accrue to Congress more broadly through the use of temporary authorizations, especially related to the control of the congressional schedule. Fourth, I briefly consider the potential implications of temporary authorizations on the people who actually have to implement the laws once they are passed. Finally, I examine how temporary authorizations fit into normative theories of the democratic process.

Money and Oversight

There are two classic arguments for why temporary authorizations are used by Congress. First, this procedure creates pressure on appropriators to fund a given program at a level recommended by an authorizing committee as being optimal for the program to function effectively. Second, the expiration of the temporary authorization will encourage Congress to hold hearings on the topic, ensuring that the program receives

¹ Many studies (e.g., Pressman and Wildavsky 1984) have suggested that the complexity of an implementation can affect the likelihood that a program will be implemented effectively.
effective committee oversight at regular intervals. Both of these arguments fit within the long-running concerns and analyses by congressional and budget scholars. The conflict between authorizing committees and appropriators is well known, and the desire by authorizing committees to break through the appropriators’ control over program funding is legendary. Similarly, there has been a long-running concern regarding the seeming lack of formal oversight – typically measured through the holding of hearings in committee – that many programs receive. The lack of oversight can be seen as an abdication by Congress of its responsibility to ensure that the government is functioning effectively and to make changes when problems are identified.

These arguments were both tested in this study. Chapter 4 examined the influence of the type and status of an authorization on the level of funding the program subsequently received from the Appropriations Committees. This examination considered programs in five different policy areas during a 17-year time frame that had various types of authorizations, including annual, longer multiyear, expired, and “sums as necessary.” The findings showed that there is little difference between the funding levels these programs receive. When appropriators distribute money for these various programs, little difference was found in the year-to-year change in appropriations that a program with an expired authorization received compared with a program with an active temporary authorization or a “sums as necessary” authorization. These findings should not be surprising because they fit within Wildavsky’s (1992) view that budgeting is inherently incremental. The incremental nature of the budget process was exacerbated by the explosion of deficits in the 1980s and 1990s and the concomitant passage of
legislation to combat the deficit problem. Various budget acts passed in the 1980s and 1990s set limitations on the growth of the discretionary portion of the federal budget. The various appropriations subcommittees had to operate within set spending ceilings, known at various times as Section 302(a) and 302(b) or 602(a) and 602(b) allocations, and these caps on the growth of federal spending created pressures that kept all federal spending within certain parameters (Collender 1999). Interestingly enough, however, these pressures did not stop Congress from funding programs with expired authorizations, even though appropriators are not required to fund programs with expired authorizations.

The fact that appropriators operate without concern for a program’s authorization is not surprising. It is also predictable that temporary authorizations do not facilitate oversight – as it manifests itself in committee hearings – although the reason for this finding might be surprising to some. The data in chapter 5 illustrate that the expiration of a temporary authorization does not cause a surge of hearing activity, in large measure because committees are holding hearings throughout the life cycle of a program, not just when its authorization is about to expire. As figures 5.1, 5.2, 5.3, and 5.4 illustrate, programs with various types of authorizations receive oversight, as measured by committee hearings, in a consistent, albeit somewhat random, manner. It is not as though a committee holds hearings on a program only when it is about to expire and then gives it a free pass the remainder of the time. Specific programs receive oversight all of the time, even if it is just one or two hearings; the committee does seek to remain on top of the broad policy area that constitutes the committee’s jurisdiction.
Temporary Authorizations and *Ex ante* Control

The fact that the expiration of a temporary authorization does not facilitate oversight is important for several arguments in the congressional literature. Consider the argument that Krehbiel (1991) makes about the role of committees as informational experts. Hearings are an important tool in a committee’s repertory as they seek out information. Committee members want to have a clear understanding of the relationship between policies and their outcomes, and hearings are one mechanism they use to overcome this informational issue. Hearings are also a low-cost tool that can reap benefits for the committee’s members beyond the collection of information. Hearings are a focal point for the credit claiming, position taking, and advertising that members use to retain their jobs. Furthermore, hearings allow members to receive recognition in their home states, often by bringing local witnesses to testify.\(^2\) Because committee members hear from federal agency personnel, state stakeholders, and the street-level implementers who are actually providing the services to clients, the hearings enable them to learn more about how a program is actually working throughout the implementation process.

The question about the efficacy of hearings fits into a broader argument regarding how Congress controls the behavior of policy stakeholders. Hearings are a form of *ex post* control, where a congressional committee examines a policy after a problem has been brought to its attention. This is the fire alarm tradition of oversight, although problems could also be identified during the much more frequent police patrol oversight

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\(^2\) Most hearings tend to have more than a dozen witnesses, offering members the opportunity to solicit for witnesses who can benefit them in their reelection efforts.
that dominates congressional activity. However, as noted in chapter 6, it may be that the expiration of authorizations facilitates a different type of control by Congress, the \textit{ex ante} control that is exerted when laws are made or modified in a way that regulates the behavior of stakeholders in a detailed, prescriptive manner. \textit{Ex ante} control requires policy makers to be visionary as they seek to regulate actions in a way that promotes effective outcomes and avoids adverse consequences. This type of control by Congress can be much more powerful and effective than the control that would result if a federal agency or other sets of actors were involved. The idea that temporary authorizations promote \textit{ex ante} control has implications on the implementation process, and this is a point I discuss in greater detail. First, I focus on the issue of agenda control that is raised by temporary authorizations.

\textbf{Temporary Authorizations and Committee Policy Control}

\begin{quote}
“Authorizations help committees schedule their lives.”\textsuperscript{3}
\end{quote}

As chapter 6 illustrated, temporary authorizations serve as a mechanism for controlling the timing of legislative activity in a given policy area. Legislative activity is in many ways controlled by the expiration of an authorization. When an authorization expires, it enhances the likelihood that legislation will be enacted in a given policy area. Between authorizations, there is little likelihood that there will be a change in the legislative basis for a given program or policy. One former congressional staffer noted: “For something to happen between authorizations would require a consensus among

\textsuperscript{3} As quoted by a former appropriations staffer who now works as a lobbyist, February 19, 2002.
members and the initiative of a well-placed member. You aren’t going to roll the
chairman on something that is *out of order* like that.” Temporary authorizations provide
order to a process that could otherwise become chaotic. An education policy staffer noted
that when change does occur between authorizations, it is “typically the result of the
agency not doing their job correctly.” In essence, changes between authorizations are
often an effort to conduct oversight via legislative activity.

Social Security provides an interesting case to illustrate the importance of
temporary authorizations. For programs with temporary authorizations, legislative
activity (a change in the law) is largely predicated on the expiration of an authorization.
In the case of Social Security, it is possible to see that other factors previously viewed as
instigating policy change – the number of hearings on a topic and the amount of media
coverage a program receives – provide little leverage for the passage of new legislation.
With a temporary authorization, it is comparatively easy to predict when new legislation
will be passed; without one, it is more difficult.

So what benefit does the a committee gain from the temporary authorization?
Predictability. The committee can control when the policy is open for debate and can
ensure that the policy is not open for debate the rest of the time. Most committees have
many issues under their jurisdiction, and having temporary authorizations can help a
committee control the flow of legislation from their committee. For example, the
Education Committee makes policy on several different education programs–higher
education, Head Start, vocational education, and primary and secondary education, each
one on a different reauthorization cycle. Temporary authorizations help the committee
ensure that every policy is reviewed in a timely manner. It also allows committees to plan their schedules better so that these reviews are part of an overall structure of activities undertaken by the committee.

Committees also benefit from the fact that programs with temporary authorizations are typically not disturbed prior to the expiration of the authorization. This mechanism allows committees to be confident that deals struck by committee members during the crafting of a bill will be honored for the duration of the legislation. For a committee to get any piece of legislation out and enacted into law, it must craft a bill that addresses the concerns of members of their own chamber and members of the other chamber. Compromises and deals have to be struck with a wide variety of interests to get a final product that can pass Congress.\footnote{The difficulty of achieving this might explain why less than 10\% of all bills introduced into Congress are ever enacted, and less than 66\% of all bills that pass the House actually become law.}

Consider, for example, the compromises necessary to pass a surface transportation bill. Deals have to be struck on the formulas that allocate funds to states, the cities that receive transit new starts, where projects of national significance will be designated, and what regulations will or will not be included in the bill.\footnote{For example, there have been fights in recent years regarding whether states should be required to pass laws that require motorcyclists to wear helmets or that require a specific blood alcohol level for drunk driving.} As one former official of the U.S. Department of Transportation stated, “Every time you do one of these bills, you are opening up pandora’s box, especially the battle over funding between donor states and donee states. Plus, you have the balance between the big four cities that get all the transit money and everyone else. It is a
The people who strike these deals want to know that the deal will not unravel unexpectedly. The fact that committees rarely revisit policy areas where they have recently crafted a temporary authorization allows all parties to feel confident that the deals that have been struck will remain in effect for the duration of the authorization.

**Temporary Authorizations and Floor Activity**

There are also benefits that accrue to the chamber as a whole, especially to the leaders of the House and Senate, from the use of temporary authorizations. One prominent benefit that is gained is predictability and efficiency in the scheduling of legislative activity. The legislative world is extremely complex, and the ability of Congress to finish even its most important work – the enactment of 13 appropriations bills – has become quite difficult. Figure 7.1 shows the number of appropriations bills that have not been completed by the beginning of the new fiscal year for the 93rd through 103rd Congresses and the number of continuing resolutions that had to be passed in order to keep the government operating. Note that in only two Congresses were even half of all appropriations bills completed on time. In one Congress, no appropriations bills were completed on schedule; Congress batted zero for 26 in that two-year time span. Debate over these bills takes increasingly more time in Congress, leaving less time for Congress to debate substantive legislation from authorizing committees.

Now imagine a world where there was not a process for systematically reviewing legislation through temporary authorizations. Instead of a process in which Congress

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6 Four cities – New York, Chicago, Boston, and Washington, D.C. – receive a highly disproportionate share of all of the federal funds allocated for transit programs.
Figure 7.1: Appropriations Bills Not Enacted and Continuing Resolutions Enacted, 93rd through 103rd Congresses
often moves into action and passes legislation on a policy when its authorization expires, imagine that legislation moved to the floor whenever there was an atypical number of legislative and non-legislative hearings, an elevated level of media coverage of an issue, or new information that changed some aspect of the general understanding of the issue.

In this environment, it would be difficult to craft legislation in the first place because members who were having their previous deals undone would likely protest, especially in the Senate, where the rules benefit the interests of members and of a minority of the chamber. However, the inadequacy of the deals might not be known initially. The whips would have to determine the level of support for every bill that was coming to the floor, and even worse, the majority leader in each chamber would have to make some effort to determine if the bills could even be scheduled.

As Sinclair (1995, 210-216) noted in her seminal book on the workings of the House of Representatives, scheduling legislation is an arduous process, and every effort is made to schedule legislative priorities early in the process. Individual members, especially committee chairs, meet with the House leadership to develop a list of priority issues and a schedule for when they will be considered. Other groups – such as special interests, the executive branch, and the leaders of the other chamber – also influence the schedule. Bills get scheduled if there is a sense that it will pass the House and be enacted by the other chamber.

All of this scheduling has to be done under tremendous time pressure. During the time frame covered by my analysis (1970-1994), Congress had a difficult time handling a declining number of bills, even when the number of hours it was in session increased.
Adding more bills to the floor schedule would compound the complications of the legislative process in both chambers, making it very difficult to schedule debate on critical issues. The deal making to get these issues resolved would become more complicated because no one could be assured that a deal would remain enforced for any period of time.

In his insightful book on legislative time, Loomis (1994) found that legislatures address the problem of scheduling by developing an operational agenda. They do this to keep the schedule open so that important issues can have the appropriate time needed for debate and negotiation. Loomis notes that there are two types of problematic legislation that legislative leaders have to confront. The first type he refers to as “dogs that won’t hunt,” which are legislative items that are not likely to get beyond the agenda stage for some time to come. These issues may have symbolic meaning but have little likelihood of being enacted. Loomis refers to the second type of problematic legislation as “dogs that won’t bark.” This category consists of policy issues that have been addressed at some point in the past, but are intentionally being delayed before being considered again, or items that seem controversial but can in fact be readily resolved. Temporary authorizations serve to keep “dogs that won’t bark” from arising by channeling debate into a specific point in time.

Temporary Authorizations: Facilitating Implementation

Bardach (1977) noted that implementation can be viewed as a game in which different sets of stakeholders in the process attempt to achieve their goals by manipulating the system in specific ways. Each player deploys a different strategy as she tries to
achieve specific goals, such as getting larger budgets, getting pork barrel projects, obstructing the implementation until the program dies, gaining turf, or building their personal reputation. These games often get in the way of efficient and effective implementation because different policy players are attempting to achieve their own goals without attempting to achieve the goal intended by the crafters of the legislation.

Obviously, legislators do not want the policies that they have crafted to be subverted by other policy players. Bardach (1977, 273-278) recognizes this and argues that there is a critical role to be played by “fixers,” who are often legislators who were involved in the legislation that is being implemented. Much like the crooked boxing promoter, the implementation fixer is trying to game the system so that she can get the outcome she wants. She fixes the game by changing the rules, often by changing aspects of the law that allow policy players to play games.

If the implementation process is a game, then temporary authorizations could be viewed as an effort to regularize opportunities for these fixers to change the rules of the game to get an outcome that is preferable to them. Consider the case of the CFTC that was presented in the previous chapter. The CFTC reauthorizations allowed legislators to make small but critical changes in the law governing futures trading. For example, in most cases the types of regulatory mechanisms made available to the agency were expanded so that the CFTC could work more effectively. As each authorization expired, past fixes could be evaluated and new changes made so that the implementation of commodity futures trading regulations was operating as the Congress and president desired.
In addition to fixing the rules of the game, authorization legislation also determines how long the game will remain fixed. Defense policy remains fixed only for one year, whereas many domestic policies e.g., transportation, agriculture, education, welfare, commodities trading) typically remain fixed for five or six years. For many policy players, having the game fixed for five or six years is crucial because it can take that long just to initiate the implementation process. The Economic Development Agency’s work in Oakland, which Pressman and Wildavsky (1984) studied, took more than four years to get off the ground. Other programs, such as education programs, often take several years to become operational as well. Once these programs start functioning, they also benefit from longer authorizations because the policy players can then play for the future knowing that the rules of engagement will remain the same for some period.

Fixing the game is also critical for the states and localities who often have to implement these programs. Authorizations provide states with some certainty about the funding levels they will be receiving, which allows them to plan for the future. However, even a five-year authorization is short. One former state transportation official stated:

You can’t just turn a battle ship or our transportation program on dime. Many states have a five year work plan so – here is the perfect example – ISTEA (the Intermodal Surface Transportation Efficiency Act) passes in 1991. Each year we have to figure out how to plan for the next year. Two years into ISTEA, we have to figure out what the first post-ISTEA year will be like. The longer the bill the better from a policy
perspective and planning perspective because we have to
match up the money with the programs and plans.

For implementors and policy makers alike, the reauthorization process allows for
key parts of the implementation process to be tweaked. Formal networks can be adjusted.
Goals can be made clearer. Policy inconsistencies can be addressed. Resources can be
requested. The authority of implementors can be adjusted. The incentives for various
implementors can be adjusted to encourage cooperation. Each of these components of the
implementation process can be the key to a successful policy outcome (Edwards and
Skarkansky 1978; Nakamura and Smallwood 1980). For example, programs that are
started as small pilots are often expanded at the next reauthorization. An education
lobbyist noted:

The 21st Century Schools program was a small federal grant
program that was run by the department here in Washington.
After five years, teachers, the Department, and the states all
realized that the program would work better if the grant
program was administered by the states. You need time to
figure out how to implement a program like this, and a five
year authorization gives you that time, and the opportunity to
make the change.

Policymakers – especially members of the committee with jurisdiction over the
policy in question – have strong incentives to make sure that the programs under their
jurisdiction are implemented effectively, operate as promised (Krehbiel 1991), and that
the expiration of an authorization is the time when these changes can be made. One of
the benefits that accrues to programs with four- or five-year authorizations is that there is
time to assess the effectiveness of the program. As one education policy player observed,
“we are talking real dollars here and they require real assessment. Over four or five years,
you can give a program the evaluation it deserves. You can ensure that the process of
getting the money out the door is effective, and that the program produces a quality
outcome.” This point was reiterated by a person who has served as a congressional
staffer. She concurred: “With election years every two years, you can imagine that
House members would want to do this bill more, but if we had authorizations that were
shorter than 5 years, the states and locals would go batty and we would make a lot of bad
policy.”

Facilitating Democracy Through Temporary Authorizations?

Temporary authorizations are not some sort of magic elixir that solve all
problems. However, there is something beneficial that comes from a simple procedure
that encourages periods of policy stability and also facilitates the regularized review of a
policy and channels policy change into a fixed point in time. There are two normative
arguments that can be made with regard to this type of benefit that accrues from
temporary authorizations. First, there is a benefit that comes from understanding the law,
and this knowledge typically comes only when stability is created in the policy
environment. Second, by regularizing the times in which policy change will occur, the
participants in the policy game all at least know when the game will begin, even if they
do not necessarily have the same resources for lobbying for policy change.
One of the arguments made in *The Federalist Papers* (Hamilton, et al. 1961) is that the new form of government would be stable. The bicameral legislature and the separation of powers among the branches are designed in part to promote stability. Even with this seemingly stable structure, however, there was concern that the policy process would be quite unstable. With the entire membership of the House up for election every two years, it was feared that policy instability would result. As Madison argues in *Federalist 62* (Hamilton, Madison, and Jay 1961, 380):

> Every new election in the States is found to change one half of the representatives. From this change of men must proceed a change of opinions; and from a change of opinions, a change of measures. *But a continual change of even good measures is inconsistent with every rule of prudence and every prospect of success.* [emphasis added]

The concern is that by making the United States a republican form of government, the change of personnel that accompanies the electoral process would give rise to wild swings in policy as new people with new ideas and opinions enter the government.

Although change is not necessarily bad, as Madison argues further (Hamilton, Madison, and Jay 1961, 381):

> The internal effects of a mutable policy are still more calamitous. It poisons the blessings of liberty itself. *It will be of little avail to the people that the laws are made by men of their own choice if the laws are so voluminous that they*
cannot be read.....if they be repealed or revised before there are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known and less fixed.

[emphasis added]

Thus, what is needed for the public to have confidence in its government is to have both institutional stability and policy stability. Stability allows prudent people to plan their futures, to set a course for the future, and move deliberately forward knowing that the future is relatively clear. If the law is constantly changing, it becomes difficult to plan and to implement a policy. The instability undermines confidence in government and in the policy process. Madison notes that a person would be foolish to work in a constantly changing policy area because it would be impossible to know if the actions taken one day would be rational the next. For example, who would farm if the laws governing agriculture policy – laws covering subsidies, pesticides, export programs, and the like – changed every month? According to Madison, no reasonable person would be a farmer under such conditions. Policy stability promotes confidence that actions taken today will still seem rational tomorrow.

However, a different founder believed that too much stability was equally as problematic as too little. Thomas Jefferson wrote on several occasions about his concern over whether “one generation of men has a right to bind another” to a set of laws or a
form of government. It is not that Jefferson opposes stability, but he is concerned about people being bound to a government that they had no say in developing. He argues that “no society can make a perpetual constitution or even a perpetual law. The earth belongs always to the living generation” (Jefferson 1977, 449). Without the ability to change laws that need changing, the public is being ruled by a set of laws to which it did not consent, laws that were created by the dead. Jefferson notes that such a situation undermines confidence in government just as much as too little stability. In the latter case, people cannot trust government because its enactments are meaningless, but in the former case, the public is consigned to being ruled by laws it does not recognize as its own.

The temporary authorization process strikes a balance between these two positions. The temporary nature of the authorization ensures that policy can reflect the changes that occur in public opinion and in membership in the legislature. Thus, Jefferson’s concern that no law be perpetual is addressed effectively. Similarly, Madison’s concern about stability is addressed because the enactment of a temporary authorization helps to ensure that policy change does not occur between authorizations. By funneling the change Jefferson desires into specified points in time of which all are aware, the stability Madison so desires is achieved.

Regularizing the policy process with temporary authorizations also serves to create a more level playing field for interest group activity. Many scholars have noted that there is a bias in the policy process, with wealthy, well-organized interests (often

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This quote is from a letter Jefferson wrote to James Madison in 1789 (Jefferson 1977, 445). He made a similar argument in a letter to Samuel Kercheval in 1816 (Jefferson 1977, 552-561).
corporate interests) dominating the process as they compete against smaller, less wealthy
groups (often citizen interests). The difference in the wealth, organization, membership,
or connections capacities among groups can allow some groups to have a greater say in
the policy process than others.\footnote{A comprehensive review of this literature can be found in Frank K.
Baumgartner and Beth L. Leech’s book \textit{Basic Instincts: The Importance of Groups in
Politics and Politic Science} (1998), especially chapters 5 and 6.}

Obviously, temporary authorizations do nothing to change the capacities of
different interest groups. However, they do serve to ensure that all groups know when
major policy debates will occur. Small interest groups can horde their resources between
reauthorizations with relative certainty that major changes in policy will not occur. These
groups can then have the resources they need to make their case to Congress when the
legislation is considered again. By creating a process when everyone knows that the
windows will open at a specific time, people know when new policies will be trying to
sneak in and can plan accordingly.
REFERENCES


