

Government Shutdowns and Legislative Branch Operations: Frequently Asked Questions

September 27, 2023

This Insight provides brief answers to selected questions related to legislative branch operations during a lapse in appropriations.

For a general explanation of the Antideficiency Act, including Title 31, Sections 1341-1342 and 1511-1519, of the *U.S. Code*, including excepted activities, see

- CRS Report RL34680, *Shutdown of the Federal Government: Causes, Processes, and Effects*, coordinated by Clinton T. Brass.

For additional information and CRS resources, see

- CRS Report R41759, *Past Government Shutdowns: Key Resources*, by Justin Murray and Carol Wilson;
- CRS Report R41723, *Funding Gaps and Government Shutdowns: CRS Experts*, coordinated by Dominick A. Fiorentino and Clinton T. Brass; and
- CRS Report RS20348, *Federal Funding Gaps: A Brief Overview*, by James V. Saturno.

1. When has the legislative branch experienced a lapse in appropriations?

Between FY1996 and FY2023, the legislative branch experienced three funding gaps; see below. Note that the first date is the final date of budget authority (budget authority expired at the end of that day) prior to a gap, and the second date is the day the gap was terminated by the enactment of a continuing resolution or one or more regular appropriations acts:

- FY1996, between November 13 and 19, 1995 (5 full days). Legislative branch appropriations were enacted after this funding gap and before the subsequent 21-day lapse in appropriations that impacted some other portions of the federal government.
- FY2014, between September 30 and October 17, 2013 (16 full days).

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- FY2018, between January 19 and 22, 2018 (2 full days). Funding expired at midnight on Friday, January 19. Funding was enacted on Monday, January 22, although shutdown procedures (e.g., activities to enable an orderly shutdown, building closures, cancellation of public events) had already commenced.

Legislative branch appropriations were enacted prior to the start of FY2019, and before the 34-day lapse in appropriations that impacted some other portions of the federal government.

2. What actions did Congress take during the October 2013 shutdown?

During the first FY1996 shutdown and the FY2014 shutdown, the House and Senate continued to engage in many aspects of the legislative process.

For example, in 2013, legislation was [introduced, reported, and passed in both the House and Senate](#), House and Senate [committees](#) held hearings and meetings (see those [published](#) by the Government Publishing Office, or listed by date in the [Daily Digest](#)), and nominations were [received](#) and [considered](#) in the Senate.

3. What shutdown guidance is available to House and Senate offices?

In prior Congresses, guidance has been issued by the House Committee on House Administration, the Senate Committee on Rules and Administration, and House and Senate support offices (e.g., the Senate Chief Counsel for Employment, the House and Senate disbursing or payroll offices). For example, see the guidance issued [in 2013](#) and [in 1995](#) by the House.

The Committee on House Administration has posted [guidance](#) for the 118th Congress.

4. What information is available regarding legislative branch agency shutdown plans?

During a lapse in appropriations, activities of legislative branch agencies would likely be restricted, in consultation with Congress, to activities required to support Congress in the performance of its constitutional duties or those necessary to protect life and property (see [1990 Government Accountability Office General Counsel letter](#)).

Although executive branch agencies are required to submit their shutdown plans to the Office of Management and Budget (OMB) pursuant to [OMB Circular No. A-11](#), this requirement does not apply to the legislative branch.

In 2013, some agencies posted information related to their operations during a shutdown online. In addition, information on some agency services (e.g., expected levels of facilities services provided by or contracted by the Architect of the Capitol) were communicated through “Dear Colleague” letters.

5. How does a lapse in appropriations impact salaries for Members of Congress?

Due to their constitutional responsibilities, Members of Congress are not subject to furlough.

Members of Congress continue to receive their pay during a lapse in appropriations for a number of reasons:

- Member salaries have been provided by a permanent, mandatory appropriation since the enactment of P.L. 97-51 (95 Stat. 966, September 11, 1981, [2 U.S.C. §4501](#) note).

- [Article I, §6](#) of the Constitution states, “Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.”
- The [Twenty-Seventh Amendment](#) to the Constitution added: “No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.”
- Additionally, the Government Accountability Office’s (GAO’s) [Principles of Federal Appropriations Law](#) (p. 6-105) states: “The salary of a Member of Congress is fixed by statute and therefore cannot be waived without specific statutory authority. B-159835, April 22, 1975; B-123424, March 7, 1975; B-123424, April 15, 1955; A-8427, March 19, 1925; [B-206396.2](#), November 15, 1988 (nondecision letter). However, as each of these cases points out, nothing prevents a Senator or Representative from accepting the salary and then, as several have done, donate part or all of it back to the United States Treasury.”

For information and links to legislation introduced since the 112th Congress, see CRS Report 97-1011, [Salaries of Members of Congress: Recent Actions and Historical Tables](#), by Ida A. Brudnick.

For more historical information from 1995, see CRS Report 97-615, [Salaries of Members of Congress: Congressional Votes, 1990-2023](#), by Ida A. Brudnick.

6. How does a lapse in appropriations impact salaries for legislative branch employees?

There is no authority to disburse pay absent an appropriation, including for employees who are exempt from furlough and required to work.

Pay dates and frequency vary across the House, Senate, and legislative branch agencies.

Following the end of a lapse in appropriations, retroactive pay is statutorily required for all employees (including, pursuant to the [Government Employee Fair Treatment Act](#) of 2019, [P.L. 116-1](#), any furloughed employees).

For additional information, see CRS In Focus IF11703, [Federal Employee Furloughs: Types and Implications](#), by Taylor N. Riccard.

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