

# Funding a Congressional Advisory Commission: Options for Congress

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**Karen L. Shanton**  
Analyst in American  
National Government

## Funding a Congressional Advisory Commission: Options for Congress

Congressional advisory commissions are temporary entities Congress creates to assist it with its work. These temporary advisory entities—which are authorized by and report to Congress and include at least some commissioners who are appointed by or in consultation with Members—can perform various functions. For example, recent Congresses have established commissions to help develop a strategy for protecting the United States from cyberattacks, assess U.S. participation in the Olympic and Paralympic Games, and identify ways to reform and modernize the U.S. Department of State.

Congressional advisory commissions incur expenses in the course of carrying out their mandates. In addition to commissioners, who are sometimes compensated for their participation and usually reimbursed for their travel expenses, commissions typically need paid staff to oversee and execute their day-to-day activities. Commission work products, such as reports and presentations, can involve expenses like research, printing, and graphic design; and commission events, such as meetings and hearings, can come with costs like livestreaming, transcription, and witness travel. Operating a commission also involves general administrative expenses, such as for financial and payroll services, information and communications technology, and office space and supplies.

Members who are considering proposing a congressional advisory commission have choices about how to design legislation to cover those costs, including choices about the following:

- **Alternatives to federal funding.** Should some or all commission expenses be covered by types of support other than federal funding, such as private donations or use of federal detailees without reimbursement to their home agencies?
- **Amount of federal funding.** How much federal funding, if any, should be available to the commission?
- **Timing of federal funding.** When should federal funding be available to the commission?
- **Source of federal funding.** Where should federal funding for the commission come from?

How Members approach those choices may be influenced by other choices they make about the commission, such as their objectives for it. For example, the tasks Congress asks a commission to perform and the reasons it asks it to perform them affect the types of expenses the commission is likely to incur and the amount of federal funding or other support it is likely to need to cover them. Choices about sources of or alternatives to federal funding might depend on how independent the commission is intended to be.

Funding choices can also influence the likelihood that a commission will achieve its objectives to the standard or on the timeline Congress envisions. For example, the amount of federal funding or other support available to a commission can affect how much work the commission is able to do, how well it can do it, or both; and the timing of the commission's access to support might determine whether it can complete its work in time to meaningfully inform congressional deliberations. Information about the available options for funding congressional advisory commissions might, therefore, be of interest both to Members who are considering proposing commissions and to Members who are considering whether to support, oppose, or amend such proposals.

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## Introduction

Congressional advisory commissions are temporary entities Congress creates to assist it with its work. These temporary advisory entities—which are authorized by and report to Congress and include at least some commissioners who are appointed by or in consultation with Members—can perform various functions.<sup>1</sup> For example, recent Congresses have established commissions to help develop a strategy for protecting the United States from cyberattacks, assess U.S. participation in the Olympic and Paralympic Games, and identify ways to reform and modernize the U.S. Department of State.<sup>2</sup>

Congressional advisory commissions incur expenses in the course of carrying out their mandates. In addition to commissioners, who are sometimes compensated for their participation and usually reimbursed for their travel expenses, commissions typically need paid staff to oversee and execute their day-to-day activities.<sup>3</sup> Commission work products, such as reports and presentations, can involve expenses like research, printing, and graphic design; and commission events, such as meetings and hearings, can come with costs like livestreaming, transcription, and witness travel. Operating a commission also involves general administrative expenses, such as for financial and payroll services, information and communications technology, and office space and supplies.<sup>4</sup>

Members who are considering proposing a congressional advisory commission have choices about how to design legislation to cover those costs, including choices about the following:

- **Alternatives to federal funding.** Should some or all commission expenses be covered by types of support other than federal funding, such as private donations or use of federal detailees without reimbursement to their home agencies?
- **Amount of federal funding.** How much federal funding, if any, should be available to the commission?
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How Members approach those choices may be influenced by other choices they make about the commission, such as their objectives for it. For example, following the loss of the Space Shuttle *Columbia* and its crew in February 2003, Congress approved a framework for establishing

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<sup>1</sup> “Congressional advisory commission” is not formally defined in federal law. CRS uses the characteristics listed here to distinguish the commissions that are the subject of this report from commissions established by the President or executive branch agencies and from other entities with “commission” in their names, such as the Federal Trade Commission and the U.S. Election Assistance Commission.

<sup>2</sup> Cyberspace Solarium Commission, “About,” <https://www.solarium.gov/about>; Commission on the State of U.S. Olympics & Paralympics, “Mandate,” <https://www.csusop.org/about>; and P.L. 117-263, §9803.

<sup>3</sup> See, for example, Edward Jay Epstein, *Inquest: The Warren Commission and the Establishment of Truth* (Viking Press, 1966), pp. 65-66; and John E. Tedstrom and John G. McGinn, *Planning America’s Security: Lessons from the National Defense Panel*, RAND, 1999, pp. 18-19, [https://www.rand.org/content/dam/rand/pubs/monograph\\_reports/2009/MR1049.pdf](https://www.rand.org/content/dam/rand/pubs/monograph_reports/2009/MR1049.pdf).

<sup>4</sup> Operating a congressional advisory commission has sometimes been compared to running a start-up business or federal agency. See, for example, Thomas H. Kean and Lee H. Hamilton, *Without Precedent: The Inside Story of the 9/11 Commission* (Knopf, 2006), p. 34; and Kirsten Lundberg, “Piloting a Bipartisan Ship: Strategies and Tactics of the 9/11 Commission,” *Kennedy School of Government Case Program*, 2005, p. 15.

commissions to investigate future human space flight incidents.<sup>5</sup> The Member who led development of the framework wanted to ensure that the commissions would be independent of the agency they would be investigating, the National Aeronautics and Space Administration (NASA).<sup>6</sup> In service of that goal, NASA is explicitly excluded from the agencies authorized to detail employees to staff commissions established under the framework.<sup>7</sup>

Funding choices can also influence the likelihood that a commission will achieve its objectives to the standard or on the timeline Congress envisions.<sup>8</sup> Funding is not the only determinant of commission effectiveness—even well-resourced commissions can fail—but issues with a commission’s funding can affect the quality or timeliness of its work. For example, initial funding for the Afghanistan War Commission was included in a lump-sum appropriation to the U.S. Department of Defense (DOD).<sup>9</sup> The commission reported that it took more than a year after the funds were appropriated to finalize arrangements for it to access them and that it waited to hold its first official meeting to avoid “start[ing] its clock without funding in place.”<sup>10</sup>

This report provides an overview of options for commission funding. It starts with some background on commission objectives, summarizing the types of tasks Members might delegate to a congressional advisory commission and some of the reasons they might choose to delegate them. It then discusses the four categories of funding choices introduced above, describing approaches Congress has taken to each set of choices in the past and some considerations that might be used to help inform decisions among those approaches in the future.

## Note About the Report

This report focuses on the funding-related choices Members might make in proposals to authorize a congressional advisory commission. Authorizing legislation can provide guidance about the intended funding for a commission but typically does not, in and of itself, supply the commission with budget authority. The choices Congress makes in the appropriations acts that provide that

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<sup>5</sup> 51 U.S.C. §§70701-70710.

<sup>6</sup> U.S. Congress, House Science Committee, H.Con.Res. 279, H.Res. 395, H.R. 766, H.R. 1081, H.R. 1085, H.R. 1297, H.R. 1578, H.R. 2450, H.R. 2692, H.R. 2734, H.R. 3245, H.R. 4546: Compilation of Markups before the Committee on Science, 108<sup>th</sup> Cong., 1<sup>st</sup> and 2<sup>nd</sup> sess., December 31, 2004, p. 307, <https://www.govinfo.gov/content/pkg/CHRG-108hhrg96803/pdf/CHRG-108hhrg96803.pdf>. See also U.S. Congress, House Science Committee, Space and Aeronautics Subcommittee, and Senate Commerce, Science, and Transportation Committee, Space Shuttle Columbia, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., February 12, 2003, pp. 102-106.

<sup>7</sup> 51 U.S.C. §70707.

<sup>8</sup> See, for example, Lance Cole, “Special National Investigative Commissions: Essential Powers and Procedures (Some Lessons from the Pearl Harbor, Warren Commission, and 9/11 Commission Investigations),” *McGeorge Law Review*, vol. 41, no. 1 (2009), p. 45; and Michael A. Perino, “The Financial Crisis Inquiry Commission and the Politics of Governmental Investigations,” *University of Missouri-Kansas City Law Review*, vol. 80, no. 4 (2012), p. 1091, [https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1083&context=faculty\\_publications](https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1083&context=faculty_publications).

<sup>9</sup> U.S. Congress, House Appropriations Committee, *Consolidated Appropriations Act, 2022 (H.R. 2471; P.L. 117-103): Provisions Applying to All Divisions of the Consolidated Appropriations Act*, committee print, 117<sup>th</sup> Cong., p. 512, <https://www.govinfo.gov/content/pkg/CPRT-117HPRT47047/pdf/CPRT-117HPRT47047.pdf>; and P.L. 117-81, §1094. See also U.S. Government Accountability Office (GAO), “Chapter 2. The Legal Framework,” in *Principles of Federal Appropriations Law*, 4<sup>th</sup> ed. (2016), p. 67, <https://www.gao.gov/assets/2019-11/675709.pdf>; and GAO, “Chapter 6. Availability of Appropriations: Amount,” in *Principles of Federal Appropriations Law*, 3<sup>rd</sup> ed. (2006), pp. 26-33, <https://www.gao.gov/assets/2019-11/202819.pdf>.

<sup>10</sup> Afghanistan War Commission, *First Interim Report*, August 22, 2024, p. 9, <https://static1.squarespace.com/static/6384d2622542000fb8532c95/t/66c76df763bebb75723f6191/1724345853624/Afghanistan+War+Commission+-+First+Interim+Report.pdf>.

authority sometimes differ from the guidance about commission funding in authorizing legislation.

Discussion of when or why appropriations might differ from authorizations is beyond the scope of this report.<sup>11</sup> The report aims, instead, to provide information Members might use to help develop authorizing legislation that reflects their preferences for commission funding and can serve as a guide to their intentions for subsequent appropriations.

## Background

Congress typically assigns congressional advisory commissions one or both of two types of tasks: (1) policy-oriented and (2) investigative.<sup>12</sup> Policy-oriented tasks, such as helping develop a strategy for protecting the United States from cyberattacks, are aimed at helping inform policymaking. Commissions can be engaged at any or all stages of the policymaking process, from helping determine whether there is a policy problem to be solved to helping define the problem, identify possible ways to solve it, translate proposed solutions into implementable policy recommendations, and evaluate the implementation of recommended policies. For example, part of the mandate of the Commission on Review of Overseas Military Facility Structure of the United States was to assess the adequacy of the status quo, and a proposed commission on settlement of Native Hawaiian claims would have been asked to fill in the details of a general policy proposal.<sup>13</sup> The Cyberspace Solarium Commission's work ranged from defining policy problems to reviewing the implementation of its recommendations for solving them.<sup>14</sup>

Investigative tasks involve inquiries, such as examinations of incidents like the Space Shuttle *Columbia* disaster or potential wrongdoing like federal contracting fraud. Such inquiries might be aimed primarily at creating an authoritative record of what happened in a given case or also intended to help assign responsibility for the incident or wrongdoing, restore confidence in government after it, or offer those affected by it an opportunity to share their stories and seek closure or redress.<sup>15</sup> For example, the Financial Crisis Inquiry Commission was asked mainly to identify the causes of the 2008-2009 financial crisis, whereas a proposed commission on Indian boarding school policies would also aim to “promote healing for survivors of Indian Boarding Schools, the descendants of those survivors, and the communities of those survivors.”<sup>16</sup>

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<sup>11</sup> For more on the relationship between authorizations and appropriations, see CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, coordinated by Edward C. Liu; and CRS Report R46497, *Authorizations and the Appropriations Process*, by James V. Saturno.

<sup>12</sup> Congress also establishes commissions to perform commemorative tasks, such as overseeing construction of a memorial or coordinating celebrations of the anniversary of a notable event. For more on congressional commemorative commissions, see the “Alternatives to Federal Funding” section of this report and CRS Report R41425, *Commemorative Commissions: Overview, Structure, and Funding*, by Jacob R. Straus.

<sup>13</sup> 10 U.S.C. §111 note; and U.S. Congress, Senate Interior and Insular Affairs Committee, *Establishing the Hawaiian Aboriginal Claims Settlement Study Commission*, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., February 9, 1976, p. 5.

<sup>14</sup> P.L. 115-232, §1652; and P.L. 116-283, §1714. The Cyberspace Solarium Commission was extended by the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (P.L. 116-283), in part, to review “the implementation of the recommendations contained in the Commission’s report.”

<sup>15</sup> Investigative tasks are also often paired with policy-oriented tasks. For example, the Afghanistan War Commission was asked to use its investigation of decisions related to the war in Afghanistan to “develop a series of lessons learned and recommendations for the way forward that will inform future decisions by Congress and policymakers throughout the United States Government.” P.L. 117-81, §1094.

<sup>16</sup> Financial Crisis Inquiry Commission, *The Financial Crisis Inquiry Report*, January 2011, p. xii, <https://fcic-continued...>

Congress might delegate policy-oriented or investigative tasks to a commission for any or all of various reasons, including the following:

- **Capacity.** Congressional advisory commissions can focus exclusively on the issues they are asked to address. They can also be designed to work at any time during, between, or across Congresses and to include commissioners and staff representing any combination of knowledge, experience, and points of view. As a result, Congress sometimes assigns commissions work it does not currently have the time or the expertise to carry out. For example, the proposed Native Hawaiian claims settlement commission would have been asked to answer questions committee members indicated they did not have time to explore, and the National Commission on the Thrift Industry was introduced to continue work the 100<sup>th</sup> Congress would not complete before it adjourned.<sup>17</sup> The National Commission on Acquired Immune Deficiency Syndrome was created to offer guidance about an issue on which Congress may not yet have developed sufficient expertise, and the Commission on Ocean Policy brought together experts on topics that spanned multiple committees' jurisdictions.<sup>18</sup>
- **Profile.** Commissions may attract public or media attention, and they can be tailored to further increase their prominence, such as with public hearings and well-known commissioners. They can also be designed to be bipartisan or nonpartisan in their membership or operations and to function separately from the permanent institutions of the federal government. Congress sometimes calls on commissions, therefore, to perform work that requires a high degree of visibility or independence. For example, part of the purpose of a proposed commission on national service would have been to build public support for development of a national service program.<sup>19</sup> The human space flight independent investigation commissions and the Commission on Wartime Contracting in Iraq and Afghanistan were designed to offer independent assessments of the causes of space flight incidents and the extent of contracting waste, fraud, and abuse, respectively.<sup>20</sup>
- **Deferral.** Some policy problems may not have immediate congressional solutions. Others have solutions that are unpopular or that require time to develop or changes in social, political, or economic conditions to enact or implement. Congress sometimes assigns work on such problems to commissions, in order to demonstrate responsiveness to constituent concerns, provide an alternative forum for deliberations about challenging problems, or gain time to develop (or gather support for) sound policy. For example, Congress has used commissions to help identify military bases for realignment and closure (BRAC commissions), and

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static.law.stanford.edu/cdn\_media/fcic-reports/fcic\_final\_report\_full.pdf; and Truth and Healing Commission on Indian Boarding School Policies Act of 2025 (S. 761, 119<sup>th</sup> Congress).

<sup>17</sup> Senate Interior and Insular Affairs Committee, *Establishing the Hawaiian Aboriginal Claims Settlement Study Commission*, pp. 59, 223; U.S. Congress, House Banking, Finance, and Urban Affairs Committee, *National Commission on the Thrift Industry*, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., October 3, 1988, H.Rept. 100-1042, p. 13; and Colton C. Campbell, *Discharging Congress: Government by Commission* (Praeger, 2002), p. 109.

<sup>18</sup> Campbell, *Discharging Congress*, pp. 78-79, 83; and U.S. Commission on Ocean Policy, *An Ocean Blueprint for the 21<sup>st</sup> Century: Final Report*, 2004, pp. xiii-xvi, 56-59, [https://cdn.ioos.noaa.gov/media/2017/12/000\\_ocean\\_full\\_report.pdf](https://cdn.ioos.noaa.gov/media/2017/12/000_ocean_full_report.pdf).

<sup>19</sup> U.S. Congress, House Education and Labor Committee, Select Education Subcommittee, *Proposed Presidential Commission on National Service Act of 1980*, 96<sup>th</sup> Cong., 2<sup>nd</sup> sess., June 4, 1980, p. 12.

<sup>20</sup> 51 U.S.C. §70702; and P.L. 110-181, §841.



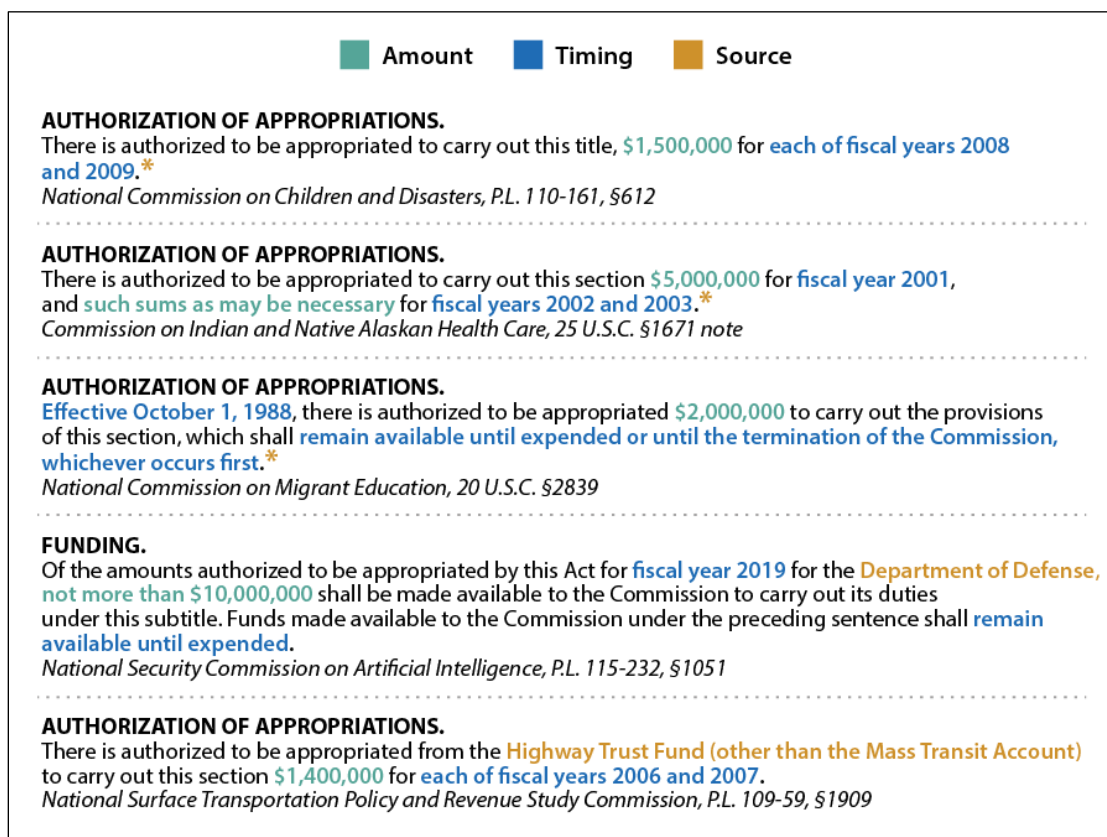
the proposed Commission on the Airplane Crash at Gander, Newfoundland, was introduced to help meet constituent demand for a congressional response to the crash.<sup>21</sup>

As noted in the “Introduction” to the report—and revisited in upcoming sections—choices about the tasks a commission is asked to perform and the reasons it is asked to perform them can factor into choices about how to cover the commission’s expenses.

## Source of Federal Funding

Members can provide information about the intended source, timing, or amount of federal funding for a congressional advisory commission by including an explicit authorization of appropriations in the legislation establishing the commission (for examples, see **Figure 1**). This section of the report introduces some options for the first of those types of information (i.e., the source of federal funding), and the next two sections discuss options for the second and third (i.e., the timing and amount), respectively.

**Figure 1. Sample Authorizations of Appropriations for Congressional Advisory Commissions**



**Source:** Graphic created by Brion A. Long, Visual Information Specialist.

**Note:** Provisions marked with an asterisk (\*) authorized funding to be appropriated directly to the commission.

<sup>21</sup> CRS Report R48547, *Excess Military Infrastructure and the Base Realignment and Closure (BRAC) Process*, by Andrew Tilghman; and Campbell, *Discharging Congress*, pp. 42-43.



Congress has drawn on one or both of two general sources of federal funding for previous congressional advisory commissions: (1) appropriations directly to the commission and (2) funding available to other federal entities (for examples of these and other options related to the source of federal funding for congressional advisory commissions, see **Table 1**).<sup>22</sup> Exactly which federal entity (or entities) has been identified to supply funding in the latter case has varied, with the intended source of the funds often corresponding to the subject matter of the commission. For example, DOD has been directed to make funding available to commissions like the Commission on Servicemembers and Veterans Transition Assistance and the Panel to Review Long-Range Air Power, while funding for the Motor Fuel Tax Enforcement Advisory Commission and the National Surface Transportation Policy and Revenue Study Commission was designed to come from the Highway Trust Fund.<sup>23</sup>

**Table 1. Sample Options for the Source of Federal Funding for a Congressional Advisory Commission**

Sample Option	Illustrative Legislative Text
Authorize funding to be appropriated directly to a commission	There is authorized to be appropriated \$4,000,000 to carry out this subtitle. <i>Antitrust Modernization Commission, 15 U.S.C. §1 note</i>
Leave it to an agency to determine which funds to make available to a commission	Of the amounts authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the Department of Defense, not more than \$3,000,000 shall be made available to the advisory panel to carry out this section. <i>Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise, P.L. 112-239, §3166</i>
Specify a particular fund or account from which funding should be provided	Notwithstanding any other provision of this Act, \$1,000,000 shall be available from fiscal year 1996 funds appropriated to the Internal Revenue Service, 'Information systems' account, for the activities of the Commission. <i>National Commission on Restructuring the Internal Revenue Service, 26 U.S.C. §7801 note</i>
Specify a particular fund or account from which funding should not be provided	The Secretary of Defense shall, upon the request of the chairman of the Commission, make available to the Commission such amounts as the Commission may require to carry out its duties under this title. The Secretary shall make such amounts available from amounts appropriated for the Department of Defense, except that such amounts may not be from amounts appropriated for the transition assistance program (TAP), the Army career alumni program (ACAP), or any similar program. <i>Commission on Servicemembers and Veterans Transition Assistance, 38 U.S.C. §545 note</i>

<sup>22</sup> Federal funds have sometimes been included in a list of various types of support a federal entity is authorized to provide for a commission, such as in a provision authorizing the U.S. Department of the Treasury to provide the National Commission on Restructuring the Internal Revenue Service “with administrative services, funds, facilities, staff, and other support services for the performance of the Commission’s functions.” 26 U.S.C. §7801 note. GAO identified a possible unintended consequence of that approach in its discussion of that provision, noting that, “Absent a direct appropriation, this would appear to be sufficient authority for Treasury to fund the Commission. However, if Congress had been making direct appropriations and then stopped, a provision of this sort would enable the supporting agency to provide various kinds of stopgap or perhaps even supplemental financial assistance, but would not permit funding of the commission’s entire operations.” GAO, “Chapter 15. Miscellaneous Topics,” in *Principles of Federal Appropriations Law*, 3<sup>rd</sup> ed. (2006), p. 51, <https://www.gao.gov/assets/2019-11/203470.pdf>.

<sup>23</sup> 38 U.S.C. §545 note; P.L. 105-56, §8131; 26 U.S.C. §4081 note; and P.L. 109-59, §1909.

Sample Option	Illustrative Legislative Text
Extend the period for which funding transferred to a commission is available for obligation	The Attorney General shall, from amounts authorized to be appropriated to the Attorney General by this Act, make available to the Commission \$1,000,000 for purposes of the activities of the Commission under this section. Amounts made available to the Commission under the preceding sentence shall remain available until expended.  <i>Judicial Review Commission on Foreign Asset Control, 21 U.S.C. §1908</i>

**Source:** CRS, based on review of relevant legislation.

**Notes:** Internal borders separate groups of options for choices about the source of federal funding for a congressional advisory commission. The table is intended to be illustrative of options for commission funding sources rather than comprehensive. Additional examples are available to congressional clients on request. CRS defers to House and Senate Legislative Counsel on the drafting of specific legislative text.

How much discretion Congress has intended to give federal entities over which funds to provide to a commission and what conditions it has intended to apply to the funding have also varied. First, some commission statutes have left it to federal entities to determine which of their funds to make available to a commission, while others have specified particular funds or accounts they should—or should not—draw from.

Second, funding that is transferred from one federal entity or account to another is typically subject to the conditions set by the act that appropriated the funding unless otherwise specified.<sup>24</sup> Congress has sometimes indicated that it intended to exempt transfers to a commission from such conditions. For example, absent language providing otherwise, funds that are available for obligation for one fiscal year remain available only for that fiscal year after transfer from their original appropriation.<sup>25</sup> Some commission statutes have included transfer authority that provided for transferred funds to instead remain available until expended.<sup>26</sup>

Choices among the options for sources of federal funding for a congressional advisory commission might depend, in part, on Congress's objectives for the commission. For example, it might be important to Congress for a commission that is asked to investigate an agency's actions not to be (or appear to be) dependent on that agency for funding.<sup>27</sup> A commission created to provide expertise that is requested or welcomed by an agency, on the other hand, might find it faster or easier to access funding from the agency than to receive its own appropriations from Congress.

<sup>24</sup> 31 U.S.C. §1532. There may also be agency- or fiscal year-specific transfer authorities in existing law or appropriations acts that could be relevant to certain commission transfers. For example, Title 10, Section 2215 of the *U.S. Code* sets limits on transfers from the U.S. Department of Defense (DOD). The statute that authorized the Commission on the Future of the Navy explicitly exempted transfers to the commission from those limits. P.L. 117-263, §1092. For more on DOD transfers, see CRS Report R46421, *DOD Transfer and Reprogramming Authorities: Background, Status, and Issues for Congress*, by Brendan W. McGarry. For more on transfers of federal funding in general, see CRS Report R47600, *Transfer and Reprogramming of Appropriations: An Overview*, by Taylor N. Riccard and Dominick A. Fiorentino; and CRS Report R46417, *Congress's Power Over Appropriations: Constitutional and Statutory Provisions*, by Sean Stiff.

<sup>25</sup> GAO, "Chapter 5. Availability of Appropriations: Time," in *Principles of Federal Appropriations Law*, 3<sup>rd</sup> ed. (2006), p. 4, <https://www.gao.gov/assets/2019-11/202437.pdf>; and GAO, "Chapter 2," pp. 42-43.

<sup>26</sup> For more on the period for which appropriations are available for obligation, see the "Timing of Federal Funding" section of this report and CRS Report R48087, *Appropriations Duration of Availability: One-Year, Multi-Year, and No-Year Funds*, by Drew C. Aherne.

<sup>27</sup> See, for example, Cole, "Special National Investigative Commissions," p. 34; and U.S. Congress, House Government Operations Committee, *The Role and Effectiveness of Federal Advisory Committees*, 91<sup>st</sup> Cong., 2<sup>nd</sup> sess., December 11, 1970, p. 18.

Choices about commission funding sources might also depend on features of the potential sources. Congress might choose not to use a particular account as the source for a commission's funding because it does not want to divert funds from existing programs, projects, or activities funded through the account. For example, the statute authorizing the Commission on Servicemembers and Veterans Transition Assistance excluded funding for programs that are designed to help servicemembers transition to civilian life from the funds DOD was authorized to make available to the commission.<sup>28</sup>

Members might opt against sourcing commission funds from an agency in general if the agency lacks the trust of key commission constituencies. A commission's credibility—in general, with particular stakeholders, or both—is often essential to its ability to achieve its objectives.<sup>29</sup> Congress might opt against linking a commission to an agency, therefore, if the connection could risk undermining the legitimacy (or perceived legitimacy) of the commission's work.

Congress might also try to accommodate such considerations by combining choices about funding sources with other choices about a commission or its funding. For example, one way to try to preserve a commission's independence (and appearance of independence) from an agency it is evaluating or investigating might be to authorize funding to be appropriated directly to the commission. Another approach might be to authorize the agency to supply some or all of the commission's funds but limit its discretion over how much funding to provide. For example, the statute that authorized the National Commission on Restructuring the Internal Revenue Service specified that “\$1,000,000 shall be available from fiscal year 1996 funds appropriated to the Internal Revenue Service, ‘Information systems’ account, for the activities of the Commission.”<sup>30</sup>

## Timing of Federal Funding

Federal funding provided to a congressional advisory commission is available to the commission for a certain period of time. Members can indicate in authorizing legislation both when they intend that time period to start for a given commission (i.e., when funding should become available for obligation by the commission) and when they intend it to end (i.e., how long the funding should remain available).

Members have at least two types of choices about when they intend funding to become available for obligation by a commission. The first is a choice about when funding should first be made available to the commission and whether to account for the possibility that it will not be provided on the anticipated timeline. Congress has authorized funding to be available to commissions for specific fiscal years in some cases, while providing for funds to be available on request or not specifying a starting point in others. Some statutes have also provided for a commission to access other types of support, such as funds available to another federal entity, if funding authorized to be appropriated directly to the commission has not been provided by a certain point (for examples of these and other options related to the timing of federal funding for congressional advisory commissions, see **Table 2**).

The second is a choice about whether all of the funding authorized for the commission should become available to it at once. Some commission statutes have provided for funding to become

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<sup>28</sup> 38 U.S.C. §545 note.

<sup>29</sup> See, for example, Kevin D. Karty, “Membership Balance, Open Meetings, and Effectiveness in Federal Advisory Committees,” *The American Review of Public Administration*, vol. 35, no. 4 (December 2005), p. 429, <https://journals.sagepub.com/doi/pdf/10.1177/0275074005277994>; and Jordan Tama, *Terrorism and National Security Reform: How Commissions Can Drive Change During Crises* (Cambridge University Press, 2011), p. 7.

<sup>30</sup> 26 U.S.C. §7801 note.

available to a commission over time, such as by authorizing some of the commission's funding to be appropriated for each fiscal year of its expected lifespan (see Models 2 and 3 in **Figure 2** for illustrations). Others have provided for all of the authorized funding to become available at the same time, at or near the beginning of the commission's existence (see Model 1 in **Figure 2** for an illustration).

**Table 2. Sample Options for the Timing of Federal Funding for a Congressional Advisory Commission**

Sample Option	Illustrative Legislative Text
Make funding available to a commission for specific fiscal years	There are authorized to be appropriated to the Commission \$2,000,000 for fiscal years 1993 and 1994 to carry out this section. <i>Commission on Child and Family Welfare, P.L. 102-521, §5</i>
Make funding available on request	Upon the request of the chairman of the commission, the Secretary of Defense shall make available to the commission, out of funds appropriated for the Department of Defense, such amounts as the commission may require to carry out its duties. <i>Commission on Military Training and Gender-Related Issues, 10 U.S.C. §113 note</i>
Leave unspecified when funding becomes available	There is authorized to be appropriated \$4,000,000 to carry out this subtitle. <i>Antitrust Modernization Commission, 15 U.S.C. §1 note</i>
Provide for access to other funds if funding authorized to be appropriated directly to a commission has not been provided by a certain point	If no funds are appropriated to the Commission by the end of the second session of the 101 <sup>st</sup> Congress, the Secretary of Defense may transfer, for fiscal year 1991, to the Commission funds from the Department of Defense Base Closure Account established by section 207 of Public Law 100-526. <i>Defense Base Closure and Realignment Commission, 10 U.S.C. §2687 note</i>
Provide for all of the funding authorized for a commission to become available to the commission at the same time	(a) IN GENERAL.—There are authorized to be appropriated \$450,000 for fiscal year 1999 to the Commission to carry out this part. (b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended. <i>Web-Based Education Commission, P.L. 105-244, §857</i>
Provide for funding to become available to a commission over time	There are authorized to be appropriated \$1,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out the provisions of this title. <i>National Education Commission on Time and Learning, P.L. 102-62, §102</i>
Authorize funding to be available until the end of the fiscal year for which it is first made available	There is authorized to be appropriated up to \$2,000,000 for fiscal year 2023 to carry out this section. <i>Commission on Reform and Modernization of the Department of State, P.L. 117-263, §9803</i>
Authorize funding to be available until expended	Funds made available to the Commission under the preceding sentence shall remain available until expended. <i>National Commission on Military, National, and Public Service, P.L. 114-328, §553</i>
Authorize funding to be available until the end of the commission's expected lifespan	The amount made available by paragraph (1) shall remain available, without fiscal year limitation, until September 2005. <i>Commission on Review of Overseas Military Facility Structure of the United States, 10 U.S.C. 111 note</i>

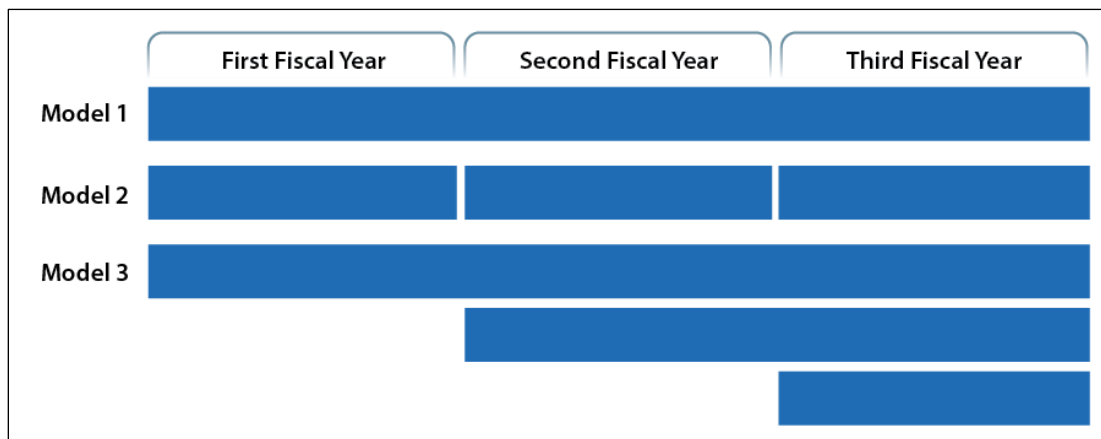
Sample Option	Illustrative Legislative Text
Authorize funding to be available until the commission terminates	Funds made available to the commission shall remain available, without fiscal year limitation, until the date on which the commission terminates. <i>Commission on Military Training and Gender-Related Issues, 10 U.S.C. § 113 note</i>

**Source:** CRS, based on review of relevant legislation.

**Notes:** Internal borders separate groups of options for choices about the timing of federal funding for a congressional advisory commission. The table is intended to be illustrative of options for commission funding timing rather than comprehensive. Additional examples are available to congressional clients on request. CRS defers to House and Senate Legislative Counsel on the drafting of specific legislative text.

Members also have choices about how long they intend federal funding to remain available to a commission. An initial choice is about whether funding should be available to the commission for more than one fiscal year. Federal funding is usually available for obligation until the end of the fiscal year for which it is first made available (see Model 2 in **Figure 2** for an illustration).<sup>31</sup> Congress could choose to follow that typical model for a given congressional advisory commission or to extend the period for which the commission's funding would remain available (see Models 1 and 3 in **Figure 2** for illustrations). For example, appropriations for some commissions have been authorized to be available until the commission spent them; until it was no longer expected to need them, such as for the duration of its expected lifespan or until its termination; or a combination of both.<sup>32</sup>

**Figure 2. Sample Models for the Timing of Federal Funding for a Congressional Advisory Commission**



**Source:** Graphic created by Brion A. Long, Visual Information Specialist.

**Note:** The models in this figure are intended to illustrate different approaches to two choices about the timing of the availability of federal funding for a congressional advisory commission: (1) whether the funding authorized for the commission should become available to it over time or all at the same time and (2) whether the funding should be available until or beyond the end of the fiscal year for which it is first made available.

Potential for at least two types of delays might factor into choices about the timing of commission funding. The first is a delay in the availability of funds. Federal funding is not always appropriated as anticipated in authorizing legislation. Especially in cases where a commission's

<sup>31</sup> GAO, "Chapter 5," pp. 4-5.

<sup>32</sup> House and Senate rules prohibit periods of availability longer than one fiscal year in appropriations bills unless authorized in existing law. For more on those rules and their implications, see CRS Report R48087, *Appropriations Duration of Availability: One-Year, Multi-Year, and No-Year Funds*, by Drew C. Aherne.

work is time sensitive or there is a risk that funding authorized to be appropriated directly to a commission might not be appropriated, Congress might choose to provide for access to other types of support, such as funding from other federal entities or alternatives to federal funding.<sup>33</sup> For example, the statute that authorized the 2005 BRAC commission specified that, “If no funds are appropriated to the Commission by the end of the second session of the 108<sup>th</sup> Congress for the activities of the Commission in 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in that year such funds as the Commission may require to carry out such activities.”<sup>34</sup>

The second potential type of delay is a delay in the commission’s readiness to use funding. Standing up a congressional advisory commission involves a number of steps, from appointing commissioners to hiring staff to developing a work plan. Because each of those steps takes time, a commission may not be in a position to use funding—or to use it effectively—until months or years after it is authorized or funded. For example, the Commission on the State of U.S. Olympics and Paralympics was authorized by legislation enacted in October 2020 and funded by a March 2022 appropriations act, but it did not select an executive director until January 2023 or start collecting data and documents until March of that year.<sup>35</sup> Potential for that kind of delay might prompt Congress to consider extending the end of the period for which funding is available for obligation by a commission to ensure that it is still available when the commission is ready to use it.<sup>36</sup>

Extending the availability of a commission’s funding in the other direction—by providing for all of the funding authorized for the commission to be available to it up front—might offer some advantages for the quality or credibility of the commission’s work. First, getting all of its funding up front could free a commission to focus on its mission, enabling it to base its projects and timelines on research needs rather than interim reporting deadlines and to dedicate its resources to substantive work rather than efforts to secure future funding. Certainty about the availability of funds could also make it easier for the commission to schedule its work effectively, helping it start and complete its projects in time to meaningfully inform the commissioners’ deliberations.<sup>37</sup>

<sup>33</sup> For an example of use of an alternative to federal funding to account for a delay in accessing federal funds, see Alyce Spotted Bear and Walter Soboleff Commission on Native Children, *The Way Forward: Report of the Alyce Spotted Bear & Walter Soboleff Commission on Native Children to the President and Congress of the United States*, February 2024, pp. 1-2, <https://udallcenter.arizona.edu/sites/default/files/2024-07/TheWayForward.pdf>. Congress has sometimes also responded to the potential for a delay in the availability of federal funding for a congressional advisory commission by linking the commission’s reporting deadline to its funding access. For example, the statute authorizing the Water Rights Task Force was amended to provide for “a day-for-day extension to the [deadline for the task force’s final report] ... for every day of delay caused by a failure by the Secretary of Agriculture to identify adequate resources as determined by the Secretary of Agriculture to carry out the purposes of the Task Force.” 16 U.S.C. §526 note.

<sup>34</sup> P.L. 107-107, §3001. See also P.L. 101-510, §2902.

<sup>35</sup> P.L. 116-189, §11; P.L. 117-103, Commission on the State of U.S. Olympics and Paralympics; and Commission on the State of U.S. Olympics and Paralympics, *Passing the Torch: Modernizing Olympic, Paralympic, & Grassroots Sports in America*, 2024, p. 58, <https://static1.squarespace.com/static/642af7d875688d63cfff08be/t/65e1bc1bf438017c9d43ba82/1709292599616/CSUSOP+Final+Report+%28Digital%29.pdf>.

<sup>36</sup> The Commission on the State of U.S. Olympics and Paralympics was funded by the Consolidated Appropriations Act, 2022 (P.L. 117-103). If that funding had been provided as one-year money, the commission’s authority to obligate it would have expired on September 30, 2022. The FY2022 appropriations act made the funds available until September 30, 2023, however, giving the commission just over eight months after selecting its executive director to determine how to use its funding and obligate all of the funds.

<sup>37</sup> For an illustration of the impact of funding availability on the quality of one commission’s work, see the discussion of the National Advisory Commission on Civil Disorders (Kerner Commission) in Michael Lipsky and David J. Olson, *Commission Politics: The Processing of Racial Crisis in America* (Transaction Books, 1977), pp. 107-230; and Lindsey Lupo, *Flak-Catchers: One Hundred Years of Riot Commission Politics in America* (Lexington Books, 2011), pp. 123- (continued...)



Second, upfront access to funding could help preserve a commission's independence (and appearance of independence) and protect against threats to the legitimacy of its work. Because the commission would not have to return to Congress for additional funding, it would not be (or appear to be) dependent on congressional approval to continue working. It would also not have to risk denial of its funding requests.<sup>38</sup> As the chair and vice chair of the Commission on Terrorist Attacks Upon the United States (9/11 Commission) noted in the context of deadline extensions, rejection of a commission's requests for resources could encourage the inference that the commission did not have what it needed to do a credible job.<sup>39</sup>

A potential downside of making all of a commission's funding available to it at the same time, on the other hand, is loss of opportunities for oversight. A risk of delegating work to a congressional advisory commission is that the commission might not do what Congress wants it to do, drawing substantive conclusions that are at odds with congressional objectives or using its resources less wisely than Congress expects. For example, an audit of the Commission on Postal Service found that some of the commission's expenditures, "although legal, were of a questionable nature. Certain employees received substantial pay raises while working for the Commission and most Commission personnel traveled first-class."<sup>40</sup> Requiring a commission to return to Congress for additional funding can help mitigate that risk by giving Congress a check on the commission's work.<sup>41</sup>

The effectiveness of that check might be more limited for congressional advisory commissions than for other types of federal entities. Unlike permanent federal agencies, which need ongoing congressional support and might face consequences in future funding cycles for omissions or misrepresentations in their reporting to Congress, commissions are temporary. Individual commissioners and commission staffers might also prioritize their personal convictions or their reputations in their professional communities over their relationships with Congress. Especially in cases where full transparency might risk access to funding to complete their work, therefore, commissions might not be fully forthcoming in their interim reports. For example, one observer noted that the introduction to a progress report from the Commission on Obscenity and Pornography "reflected the generally cautious wording throughout.... Any clues of becoming a 'permissive' commission might have threatened funding for the second year."<sup>42</sup> That

158. The Kerner Commission was established by executive order rather than statute, but many of the dynamics the authors describe could be similar for congressional commissions. Executive Order 11365, "Establishing a National Advisory Commission on Civil Disorders," 32 *Federal Register* 11111-11112, July 29, 1967, [https://archives.federalregister.gov/issue\\_slice/1967/8/1/11107-11112.pdf](https://archives.federalregister.gov/issue_slice/1967/8/1/11107-11112.pdf).

<sup>38</sup> Commissions might be denied additional funding for reasons that are unrelated to the commission or its work. For example, changes in broader social, political, or economic circumstances might prompt Congress to shift its spending priorities or to limit spending in general.

<sup>39</sup> In their book about the Commission on Terrorist Attacks Upon the United States (9/11 Commission), commission Chair Thomas H. Kean and Vice Chair Lee H. Hamilton noted that, "If we asked for an extension and did not get one, it would have [had] a devastating impact on the credibility of our findings: people could correctly argue that our work must be incomplete since we did not have the time we'd asked for." Kean and Hamilton, *Without Precedent*, p. 146.

<sup>40</sup> GAO, *Review of Expenditures of the Commission on Postal Service*, January 10, 1978, p. 2, <https://www.gao.gov/assets/ggd-78-11.pdf>.

<sup>41</sup> As GAO notes, "The placing of time limits on the availability of appropriations is one of the primary means of congressional control. By imposing a time limit, Congress reserves to itself the prerogative of periodically reviewing a given program or agency's activities." GAO, "Chapter 5," p. 3.

<sup>42</sup> A member of the commission reported that, "There is no doubt but that we were engaged in some 'sensitive' research that may have had to be modified or canceled all together if it were widely known, especially in the Congress." Ray C. Rist, "Polity, Politics, and Social Research: A Study in the Relationship of Federal Commissions and Social Science," *Social Problems*, vol. 21, no. 1 (Summer 1973), p. 120.

commission—which had been established, in part, to build support for new controls on explicit materials—ended up recommending repealing some of the existing limits instead.<sup>43</sup>

Either instead of or in addition to funding-related oversight, therefore, Members who are concerned about the risks of delegation might choose to consider other types of checks on a commission’s work. One option might be to structure appointments to the commission to select for commissioners who seem likely to be good stewards of the commission’s resources or mission.<sup>44</sup> Congress has also previously provided for audits of commissions’ spending as a check on their financial management and set criteria for commissions’ recommendations to help ensure that they align with congressional objectives. For example, the statute that authorized the National Commission on Severely Distressed Public Housing was amended to provide for audits of the commission’s financial transactions, and the BRAC commission legislation was updated with specific criteria for the recommendations considered by the commission.<sup>45</sup>

## Amount of Federal Funding

Congress has taken three types of approaches to identifying the amount of federal funding authorized for a congressional advisory commission: (1) designating a specific sum of money (definite authorization); (2) providing for an unspecified amount, such as “such sums as may be necessary” (indefinite authorization); and (3) including a definite authorization for some commission funds and an indefinite authorization for others. Commission statutes that have taken the third of those approaches have tended to designate a specific sum of money for the commission’s first fiscal year and “such sums as may be necessary” for subsequent fiscal years (for examples of these and other options related to the amount of federal funding for congressional advisory commissions, see **Table 3**).<sup>46</sup>

Members might choose not to designate a specific amount for some or all of the federal funding authorized for a congressional advisory commission if they believe that appropriators or agencies are better positioned to balance the commission’s funding needs against other spending priorities.<sup>47</sup> They might also want to leave room for input from the commission itself. Estimating all of a commission’s funding needs in advance can be challenging. Congress might, therefore, choose to authorize a specific amount of initial funding to help stand up the commission and defer decisions about subsequent sums until after the commission has developed a plan and budget for its work.<sup>48</sup>

<sup>43</sup> Rist, “Polity, Politics, and Social Research,” pp. 117-118; and Otto N. Larsen, “The Commission on Obscenity and Pornography: Form, Function, and Failure,” in *Sociology and Public Policy: The Case of Presidential Commissions*, ed. Mirra Komarovsky (Elsevier, 1975), p. 39. The members of the Commission on Obscenity and Pornography were appointed by the President, but the commission was authorized by statute and reported to both Congress and the President. 18 U.S.C. §1461.

<sup>44</sup> See, for example, Ed Ratushny, *The Conduct of Public Inquiries: Law, Policy, and Practice* (University of Toronto Press, 2009), p. 130.

<sup>45</sup> P.L. 102-550, §127; and P.L. 108-375, §2832.

<sup>46</sup> House majority floor protocols for the 119<sup>th</sup> Congress discourage authorizing legislation that does not specify the amount of funding to be authorized. Majority Leader Steve Scalise, *119<sup>th</sup> Congress Floor Protocols*, <https://www.majorityleader.gov/schedule/floor-protocols.htm>.

<sup>47</sup> See, for example, U.S. Congress, House Natural Resources Committee, Subcommittee for Indigenous Peoples of the United States, *H.R. 5444, “Truth and Healing Commission on Indian Boarding School Policies Act,”* 117<sup>th</sup> Cong., 2<sup>nd</sup> sess., May 12, 2022 (GPO, 2022), p. 43, <https://www.govinfo.gov/content/pkg/CHRG-117hrg47580/pdf/CHRG-117hrg47580.pdf>; and GAO, “Chapter 6,” p. 19.

<sup>48</sup> A progress report from a commission that was established by executive order, the Commission on Organization of (continued...)

Members might include a specific sum in a commission bill, on the other hand, in order to preempt a potential objection to advancing the legislation. Lack of a funding figure was cited as a concern about a proposed commission on Indian boarding school policies, for example, and the sponsor of legislation to create a commission on volunteerism added a dollar amount to the measure in response to criticism of the initial lack of specifics.<sup>49</sup>

A specific funding figure can also provide guidance about the appropriate amount of federal funding for a commission. As noted above, Members might sometimes choose to defer to appropriators or agencies about how to balance a commission's funding needs against other spending priorities. In other cases, however, they might have a particular amount in mind. Members might choose to include a specific sum in the authorizing legislation for a commission to signal to appropriators or agencies how much funding they expect the commission to need.<sup>50</sup>

**Table 3. Sample Options for the Amount of Federal Funding for a Congressional Advisory Commission**

Sample Option	Illustrative Legislative Text
Specify an amount for all funding authorized for a commission	There is authorized to be appropriated \$4,000,000 to carry out this subtitle. <i>Antitrust Modernization Commission, 15 U.S.C. §1 note</i>
Specify an amount for some funding authorized for a commission	There is authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 2001, and such sums as may be necessary for fiscal years 2002 and 2003. <i>Commission on Indian and Native Alaskan Health Care, 25 U.S.C. §1671 note</i>
Specify the source but not the amount of funding authorized for a commission	There is authorized to be appropriated to the Oversight Commission such sums as may be necessary for any fiscal year, half of which shall be derived from the applicable account of the House of Representatives, and half of which shall be derived from the contingent fund of the Senate. <i>Congressional Oversight Commission, 15 U.S.C. §9055</i>
Specify the timing but not the amount of funding authorized for a commission	There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993. <i>National Commission on Reducing Capital Costs for Emerging Technology, 15 U.S.C. §3701 note</i>

**Source:** CRS, based on review of relevant legislation.

**Notes:** Internal borders separate groups of options for choices about the amount of federal funding for a congressional advisory commission. The table is intended to be illustrative of options for commission funding

the Executive Branch of the Government, illustrates this kind of approach. The commission reported that, "At the time the Commission was created, there was appropriated \$500,000 to carry the Commission during the remainder of the year 1953 and far enough into 1954 to give it time to make its plans and estimate its needs with some accuracy." Commission on Organization of the Executive Branch of the Government, *Progress Report as of December 31, 1954*, December 31, 1954, p. 20, [https://www.cia.gov/readingroom/docs/progress\\_report.pdf](https://www.cia.gov/readingroom/docs/progress_report.pdf).

<sup>49</sup> House Natural Resources Committee, Subcommittee for Indigenous Peoples of the United States, *H.R. 5444, "Truth and Healing Commission on Indian Boarding School Policies Act,"* p. 7; and U.S. Congress, Senate Labor and Human Resources Committee, Child and Human Development Subcommittee, *Presidential Commission on National Service and National Commission on Volunteerism*, 96<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 13, 1980 (GPO, 1980), p. 226. As noted above, House majority floor protocols for the 119<sup>th</sup> Congress also discourage authorizing legislation that does not specify the amount of funding to be authorized. Majority Leader Steve Scalise, *119<sup>th</sup> Congress Floor Protocols*.

<sup>50</sup> Authorizing language might also sometimes dictate the amount a commission receives. GAO has concluded, for example, that, "when an authorization establishes a minimum earmark ('not less than,' 'shall be available only'), and the related appropriation is a lump-sum appropriation which does not expressly mention the earmark ... the agency must observe the earmark." GAO, "Chapter 2," p. 64.

amounts rather than comprehensive. Additional examples are available to congressional clients on request. CRS defers to House and Senate Legislative Counsel on the drafting of specific legislative text.

Exactly how much federal funding Congress authorizes for a congressional advisory commission, in cases where it chooses to designate a specific sum, might depend on two other choices about the commission. First, what would the commission be asked to do and why? The tasks Congress asks a commission to perform and the reasons it asks it to perform them affect the types and amounts of expenses the commission is likely to incur. For example, commissions that are intended, in part, to help restore faith in government after a crisis will typically need to hold public hearings, whereas commissions formed to address politically charged issues might keep a lower profile.<sup>51</sup> Commissions that are asked to both investigate an incident and recommend policy responses to it might need extra time—and extra funding—to determine both what happened and why.

Appropriations for previous commissions with similar objectives (adjusted for inflation) and reports on the commissions' activities might offer models for the types and amounts of expenses a proposed commission is likely to incur.<sup>52</sup> Members of Congress or commissioners might also choose to consult with subject-matter experts, government administration specialists, or former commission personnel about potential commission costs. For example, the chair and vice chair of the 9/11 Commission reported working with a former commission staff director to develop a budget for their commission.<sup>53</sup>

Second, which of the commission's expenses, if any, would be covered by types of support other than federal funding? Costs that Congress expects to be covered by other types of support might not need to be included in the estimate of a commission's federal funding needs. For example, if a federal agency will provide a commission with use of office space free of charge, the commission will not need new federal funding to cover that expense.

Members can adjust the estimate of a given commission's federal funding needs by revisiting either or both of the above choices (for sample models of such adjustments, see **Figure 3**). Revisiting the first choice might involve revising the scope of the subject matter the commission would be asked to address, the range of tasks it would be asked to perform, or the way it would be asked to approach its tasks. For example, whereas the Cyberspace Solarium Commission was asked to assess the initial implementation of its own policy recommendations, a similar review of the implementation of the recommendations of the Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise was assigned to a separate panel.<sup>54</sup> In another

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<sup>51</sup> For example, 9/11 Commission Chair Kean and Vice Chair Hamilton said that, "We felt that openness was a must. Part of the commission's function was to educate the public about 9/11, and to prepare them for our report and recommendations. Public hearings allow a commission to build credibility with the media and the American people by demonstrating the seriousness of the inquiry." Kean and Hamilton, *Without Precedent*, p. 24. Political scientist Paul Light, who embedded with the National Commission on Social Security Reform (Greenspan Commission), said of that commission's decision to "hide from the public spotlight," on the other hand, that "there was simply not enough time to bring the public to a full understanding of the social security issue or to show them how difficult it was to make the system work." Paul Light, *Still Artful Work: The Continuing Politics of Social Security Reform* (McGraw-Hill College, 1994), p. 69.

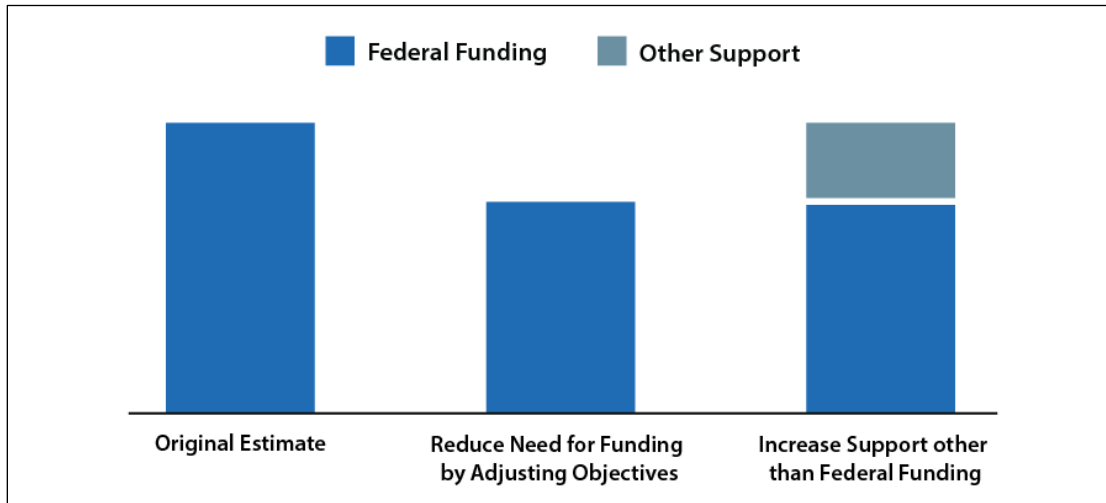
<sup>52</sup> The 9/11 Commission's experience highlights the importance of limiting such models to commissions with sufficiently similar objectives. Kean and Hamilton noted that a former commission staff director they consulted "did not think that [the] \$3 million [initially appropriated for the 9/11 Commission] was realistic for an inquiry of our scope.... When we started asking around Congress, it was apparent that the \$3 million had been established as a marker: nobody knew what an investigation like this was going to cost, so the authors of our mandate put in a figure comparable to what past commissions had received." Kean and Hamilton, *Without Precedent*, p. 43.

<sup>53</sup> Kean and Hamilton, *Without Precedent*, p. 43.

<sup>54</sup> P.L. 116-283, §1714; and P.L. 114-92, §3137. Subsequent assessments of the implementation of the Cyberspace (continued...)

case, a proposal to establish a privacy protection commission was revised to reduce the number of hearings the commission would have been required to hold in response to concerns about the cost of the original requirement.<sup>55</sup>

**Figure 3. Sample Models for Adjustments to the Amount of Federal Funding for a Congressional Advisory Commission**



**Source:** Graphic created by Brion A. Long, Visual Information Specialist.

**Note:** The models in this figure are intended to illustrate potential results of revisiting two choices about a congressional advisory commission: (1) what the commission would be asked to do and why and (2) which of the commission's costs, if any, would be covered by types of support other than federal funding.

Revisiting the second choice might involve revising the role of types of support other than federal funding in covering a commission's expenses. The next section of the report discusses some options for such alternatives to federal funding.

## Alternatives to Federal Funding

Commission statutes often authorize commissions to access types of support other than federal funding. Such alternatives to federal funding include nonmonetary support from federal entities that is provided to a commission on a nonreimbursable basis, as well as funding and nonmonetary support from entities outside the federal government.<sup>56</sup>

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Solarium Commission's recommendations have been conducted by the CSC 2.0 project at the Foundation for the Defense of Democracies' Center on Cyber and Technology Innovation. CSC 2.0, *Annual Assessments*, <https://cybersolarium.org/category/annual-assessment/>; and CSC 2.0, *About the "CSC 2.0" Project*, <https://cybersolarium.org/mission-and-history/>.

<sup>55</sup> U.S. Congress, House Government Reform Committee, Government Management, Information, and Technology Subcommittee, *H.R. 4049, to Establish the Commission for the Comprehensive Study of Privacy Protection*, 106<sup>th</sup> Cong., 2<sup>nd</sup> sess., May 16, 2000 (GPO, 2001), pp. 104, 124, <https://www.govinfo.gov/content/pkg/CHRG-106hhrg711178/pdf/CHRG-106hhrg711178.pdf>; and Privacy Commission Act (H.R. 4049, 106<sup>th</sup> Congress).

<sup>56</sup> This report focuses on nonmonetary support federal entities provide to commissions on a nonreimbursable basis. Commission statutes often also authorize commissions to access nonmonetary federal support for which they are required to provide reimbursement. Such access might be useful to commissions even if it does not directly cover their costs because it could enable them to make choices about their expenses that are potentially more cost effective, such as leasing government rather than commercial office space, and to access resources that might not otherwise be available (continued...)



Relying exclusively on alternatives to federal funding to cover a commission's costs has been somewhat common with commissions Congress has created for commemorative purposes, such as coordinating celebrations of the anniversary of a notable event. For example, the statutes authorizing the Frederick Douglass Bicentennial Commission, the John F. Kennedy Centennial Commission, the Ronald Reagan Centennial Commission, the Route 66 Centennial Commission, and the Virgin Islands of the United States Centennial Commission prohibited those commissions from accessing federal funds.<sup>57</sup>

That approach has tended to be less common with the policy-oriented and investigative advisory commissions that are the subject of this report.<sup>58</sup> Congress has tended instead to approach alternative types of support as a supplement to federal funding for congressional advisory commissions, using them to cover a subset or share of a commission's costs. Exactly which alternative types of support have been available to congressional advisory commissions and what roles they have played in supplementing federal funding have varied. The next two subsections of the report describe some of the options Congress has explored.

## Nonmonetary Support from Federal Entities

Nonmonetary federal support for a congressional advisory commission might include use of agency property like office space or furniture. It could also include access to services provided by a federal agency or by federal employees detailed as commission staff, such as administrative services like printing and accounting or programmatic services like conducting studies or producing cost estimates.

The types of nonmonetary support Congress has authorized or directed agencies to provide commissions have often been quite general, such as “such administrative services, staff, and other support services as are necessary for the performance of the Commission's duties.”<sup>59</sup> Commission

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to them, such as the specialized expertise of a federal agency or employee. See, for example, Charles F. Westoff, “The Commission on Population Growth and the American Future: Its Origins, Operations and Aftermath,” in *Sociology and Public Policy: The Case of Presidential Commissions*, ed. Mirra Komarovsky (Elsevier, 1975), p. 49; and Lundberg, “Piloting a Bipartisan Ship,” p. 16.

<sup>57</sup> 36 U.S.C. note prec. §101; and 48 U.S.C. §1541 note. Congressional commemorative commissions are similar to congressional advisory commissions in many respects, but they focus on commemorations rather than policy issues or investigations. They also often perform operational rather than purely advisory tasks, such as overseeing the construction of a memorial or carrying out anniversary celebration events. For more on commemorative commissions, see CRS Report R41425, *Commemorative Commissions: Overview, Structure, and Funding*, by Jacob R. Straus.

<sup>58</sup> This might be due, in some cases, to concerns that a given advisory commission might not be able to raise sufficient private funding to cover its expenses or that it might encounter administrative or other obstacles to accessing nonmonetary support from federal entities. Reliance on private fundraising or nonmonetary agency support could also require a commission to divert resources from substantive work to fundraising, put the commission in competition for limited resources with stakeholders whose support is essential to its success, or introduce conflicts of interest with private individuals and organizations or federal employees and agencies who have a stake in its policy recommendations or are potential targets of its investigation. For illustrations of some of those concerns, see Lindsey Lupo, *Flak-Catchers: One Hundred Years of Riot Commission Politics in America*, pp. 50-52; Senate Labor and Human Resources Committee, Child and Human Development Subcommittee, *Presidential Commission on National Service and National Commission on Volunteerism*, pp. 203, 225; Michael A. Perino, “The Financial Crisis Inquiry Commission and the Politics of Governmental Investigations,” pp. 32-33; and the discussion of the Cyberspace Solarium Commission in the “Nonmonetary Support from Federal Entities” section of this report.

<sup>59</sup> P.L. 117-263, §9803. The Federal Advisory Committee Act (FACA) also provides for nonmonetary federal support for some commissions that are subject to that act, indicating that, “Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise.” 5 U.S.C. §1011. For more on FACA, including its provision for support services and the circumstances under which it applies, see CRS Report R47984, *The Federal Advisory Committee Act (FACA): Overview and Considerations for Congress*, by Meghan M. Stuessy and Kathleen E. Marchsteiner.



statutes sometimes also include provisions for more specific types of support instead of or in addition to general assistance, such as provisions for studies, cost estimates, printing services, office space, or travel and lodging (for examples of these and other options related to nonmonetary federal support for congressional advisory commissions, see **Table 4**).

A particularly common type of specific support Congress has authorized for congressional advisory commissions is access to employees detailed from other federal entities. Some commission statutes have designated a commission as a “temporary organization” under Title 5, Section 3161 of the *U.S. Code*, which authorizes the head of such an organization to request detailees from any federal department or agency on a nonreimbursable basis. Other statutes have used freestanding provisions to customize a commission’s access to detailees, such as by specifying particular agencies that can or should detail employees to a commission or by setting limits on the number, type, or source of detailees.

**Table 4. Sample Options for Nonmonetary Federal Support for a Congressional Advisory Commission**

Sample Option	Illustrative Legislative Text
Provide for general support for a commission	The Department of State and other Federal departments and agencies may provide to the Commission, on a nonreimbursable basis, such administrative services, staff, and other support services as are necessary for the performance of the Commission’s duties under this section, at the request of the Commission. <i>Commission on Reform and Modernization of the Department of State, P.L. 117-263, §9803</i>
Provide for a specific type of support for a commission	The Secretary of the Interior and the Secretary of the Army shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. <i>Advisory Commission, 43 U.S.C. §371 note</i>
Direct a specific agency to provide support for a commission	The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title. <i>Commission on the Roles and Capabilities of the United States Intelligence Community, 50 U.S.C. §3001 note</i>
Authorize any agency to provide support for a commission	On request of the Commission, the head of a Federal agency may provide technical assistance to the Commission. <i>Commission to Study the Potential Creation of a National Women’s History Museum, P.L. 113-291, §3056</i>
Direct a specific agency to provide support for a commission, and authorize other agencies to do so	(i) DIRECTOR OF NATIONAL INTELLIGENCE.—The Director of National Intelligence shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the duties of the Commission under this section. (ii) ATTORNEY GENERAL.—The Attorney General may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request. (iii) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance set forth in clauses (i) and (ii), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law. <i>FISA Reform Commission, P.L. 118-49, §18</i>

Sample Option	Illustrative Legislative Text
Designate a commission as a “temporary organization” under 5 U.S.C. §3161 <sup>a</sup>	The Commission shall be considered an independent establishment of the Federal Government as defined by section 104 of title 5, United States Code, and a temporary organization under section 3161 of such title. <i>National Security Commission on Artificial Intelligence, P.L. 115-232, §1051</i>
Authorize any agency to detail employees to a commission	Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption. <i>National Commission for the Review of the Research and Development Programs of the United States Intelligence Community, P.L. 107-306, §1004</i>
Direct a specific agency to detail employees to a commission	The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee. <i>Advisory Board on Welfare Indicators, 42 U.S.C. §1314a</i>
Authorize any agency except a specific agency to detail employees to a commission	Any Federal Government employee, except for an employee of the [National Aeronautics and Space] Administration, may be detailed to a Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption. <i>Human Space Flight Independent Investigation Commissions, 51 U.S.C. §70707</i>
Limit the number of federal employees detailed to a commission	Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense and other executive branch departments. <i>National Commission on Military, National, and Public Service, P.L. 114-328, §556</i>
Limit the type of federal employees detailed to a commission	A person may not be detailed from the Department of Defense or other executive branch department to the Commission if, in the year before the detail is to begin, that person participated personally and substantially in any matter concerning the preparation of recommendations for the military selective service process and military and public service in connection with that process. <i>National Commission on Military, National, and Public Service, P.L. 114-328, §556</i>
Authorize the chair of a commission to request nonmonetary federal support	The Secretary of Defense shall furnish to the commission such administrative and support services as may be requested by the chairman of the commission. <i>Commission on Military Training and Gender-Related Issues, 10 U.S.C. §113 note</i>
Authorize a commission as a whole to request nonmonetary federal support	Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency. <i>Commission on Leave, 29 U.S.C. §2635</i>
Authorize a commission to assess its need for nonmonetary federal support	Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties. <i>Commission on Long-Term Care, P.L. 112-240, §643</i>

Sample Option	Illustrative Legislative Text
Authorize the chair of a commission and the head of an agency to jointly assess the commission's need for nonmonetary support from the agency	On the request of the Commission, the heads of executive agencies, the Comptroller General, and the Director of the Office of Technology Assessment may furnish the Commission with such office, personnel or support services as the head of the agency, or office, and the chairperson of the Commission agree are necessary to assist the Commission to carry out its duties and functions. <i>National Commission on Wildfire Disasters, P.L. 101-286, §104</i>

**Source:** CRS, based on review of relevant legislation.

**Notes:** Internal borders separate groups of options for choices about nonmonetary federal support for a congressional advisory commission. The table is intended to be illustrative of options for nonmonetary federal support for commissions rather than comprehensive. Additional examples are available to congressional clients on request. CRS defers to House and Senate Legislative Counsel on the drafting of specific legislative text.

- a. 5 U.S.C. §3161 authorizes the heads of temporary organizations to request detailees from any federal agency or department on a nonreimbursable basis.

How much of a given type of nonmonetary federal support has been authorized for a given commission has varied, with common options including the amount of support the commission requests or needs, the amount the agency charged with providing the support considers advisable or is authorized by law to provide, or a combination of more than one of the above. Commission statutes have also differed in who they have authorized to request support on behalf of a commission or to assess a commission's need for support. Authority to request nonmonetary federal support has typically been assigned to either the chair of a commission or the commission as a whole, while authority to assess a commission's need for support has tended to be assigned to the commission or to a combination of the chair of the commission and the head of the agency that would provide the support.<sup>60</sup>

As with funding from federal entities, Congress has choices about which federal entities to charge with providing commissions with nonmonetary support. It might provide for support for a commission from a particular federal entity, from federal entities in general, or from a combination of both, such as by directing a specific agency to supply some types of support and authorizing agencies in general to provide others. The choices Congress makes about the sources of nonmonetary federal support for a commission might be subject to the same kinds of considerations as its choices about the sources of federal funding. As noted in the "Introduction" to this report, for example, Congress excluded NASA from the agencies authorized to detail employees to human space flight independent investigation commissions in order to help preserve the commissions' independence.<sup>61</sup>

Also as with funding from federal entities, choices about nonmonetary federal support for a commission might interact with other aspects of the commission or its funding. For example, the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year 2019 directed executive branch agencies to provide the Cyberspace Solarium Commission with certain types of

<sup>60</sup> Commission statutes sometimes set a threshold for commission action, such as approval by a majority of commissioners. They may also authorize individual commissioners, a subset of commissioners, or commission panels or task forces to act on behalf of the commission under certain circumstances. Those types of provisions might have implications in practice for authority to request nonmonetary federal support or assess a commission's need for support.

<sup>61</sup> House Science Committee, H.Con.Res. 279, H.Res. 395, H.R. 766, H.R. 1081, H.R. 1085, H.R. 1297, H.R. 1578, H.R. 2450, H.R. 2692, H.R. 2734, H.R. 3245, H.R. 4546: Compilation of Markups before the Committee on Science, p. 307; and House Science Committee, Space and Aeronautics Subcommittee, and Senate Commerce, Science, and Transportation Committee, Space Shuttle Columbia, pp. 102-106.

nonmonetary support.<sup>62</sup> The U.S. Department of Justice’s Office of Legal Counsel (OLC), however, advised executive branch entities to “treat the FY 2019 NDAA’s provisions requiring them to provide administrative assistance to the Commission (in the form of resources such as office space, computer facilities, and staff) as discretionary.”<sup>63</sup> According to OLC, the commission “is properly viewed as a Legislative Branch entity, because congressional appointees compose the majority of the Commission’s membership, the Commission exercises the investigative authorities of a congressional committee, and the Commission’s ultimate mission is to advise Congress,” and “the separation of powers imposes constraints upon Congress’s ability to enlist the Executive’s staff and physical resources.”<sup>64</sup>

## Funding and Nonmonetary Support from Nonfederal Entities

Federal law sets some limits on contributions from nonfederal entities to federal entities like congressional advisory commissions. Federal entities are generally prohibited from retaining gifts of money or property without specific statutory authority to do so, and Title 31, Section 1342 of the *U.S. Code* limits their acceptance of voluntary services.<sup>65</sup>

Congress has often exempted congressional advisory commissions from one or both of those limitations.<sup>66</sup> Some provisions of commission statutes have authorized commissions to accept voluntary services. For example, the section of the *U.S. Code* that authorizes the heads of “temporary organizations” to request federal detailees also authorizes them to accept services from volunteers.<sup>67</sup> Standalone provisions of some commission statutes have also explicitly authorized commissions to accept voluntary services, “notwithstanding section 1342 of title 31” (for examples of these and other options related to nonfederal funding and nonmonetary support for congressional advisory commissions, see **Table 5**).

Other provisions of commission statutes have provided for access to a broader range of types of nonfederal contributions, authorizing commissions to accept gifts of money, property, or both in addition to volunteer services. Such gifts can reduce the need for federal contributions to a commission. They might also introduce a risk of conflicts of interest with donors who have a stake in a commission’s policy recommendations or are potential targets of its investigation. Some gift acceptance provisions have included conditions that might be used to mitigate that risk, such as limits on contributions from a single source, requirements for commissioner approval of

<sup>62</sup> P.L. 115-232, §1652.

<sup>63</sup> Steven A. Engel, *Executive Branch Participation in the Cyberspace Solarium Commission*, U.S. Department of Justice, Office of Legal Counsel (OLC), October 9, 2020, p. 256, <https://www.justice.gov/d9/opinions/attachments/2021/01/16/2020-10-09-cyberspace-solarium.pdf>.

<sup>64</sup> Engel, *Executive Branch Participation in the Cyberspace Solarium Commission*, pp. 238, 240. OLC describes its opinions as binding on executive branch agencies. See, for example, OLC, *Memorandum for Attorneys of the Office*, July 16, 2010, p. 1, <https://www.justice.gov/olc/page/file/1511836/dl?inline>; and Trevor W. Morrison, “Stare Decisis in the Office of Legal Counsel,” *Columbia Law Review*, vol. 110, no. 6 (October 2010), pp. 1455-1456, <https://www.jstor.org/stable/pdf/27896301.pdf>.

<sup>65</sup> GAO, “Chapter 6,” pp. 162-166.

<sup>66</sup> As with nonmonetary federal support, access to nonfederal funding or nonmonetary support might have other benefits for commissions in addition to covering some of their costs. For example, the Alyce Spotted Bear and Walter Soboleff Commission on Native Children was authorized by legislation enacted in October 2016, but funding was not appropriated for it until February 2019 and the process for allocating the funds was not finalized until October 2019. The commission reported using private support to fund an initial meeting while its appropriations were pending. P.L. 114-244; P.L. 116-6, Departmental Offices, Office of the Secretary, Departmental Operations; and Alyce Spotted Bear and Walter Soboleff Commission on Native Children, *The Way Forward*, pp. 1-2.

<sup>67</sup> 5 U.S.C. §3161.

contributions above a certain amount, and provisions for disclosure of information about contributions to Congress or the public.<sup>68</sup>

**Table 5. Sample Options for Nonfederal Funding and Nonmonetary Support for a Congressional Advisory Commission**

Sample Option	Illustrative Legislative Text
Designate a commission as a “temporary organization” under 5 U.S.C. §3161 <sup>a</sup>	The Commission shall be considered an independent establishment of the Federal Government as defined by section 104 of title 5, United States Code, and a temporary organization under section 3161 of such title. <i>National Security Commission on Artificial Intelligence, P.L. 115-232, §1051</i>
Authorize a commission to accept voluntary services	Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary. <i>Commission to Study the Potential Transfer of the Weitzman National Museum of American Jewish History to the Smithsonian Institution, P.L. 118-144, §4</i>
Authorize a commission to accept and use gifts of property and services	The Commission may accept, use, and dispose of gifts or donations of services, goods, and property from non-Federal entities for the purposes of aiding and facilitating the work of the Commission. The authority in this paragraph does not extend to gifts of money. <i>National Security Commission on Artificial Intelligence, P.L. 116-92, §1735</i>
Authorize a commission to accept and use gifts of money, property, and services	The Commission may accept, use, and dispose of gifts or donations of money, services, or property, for the purpose of aiding the work of the Commission. <i>National Education Commission on Time and Learning, P.L. 102-62, §102</i>
Limit contributions to a commission from a single source	The Secretary of Agriculture shall promulgate regulations to assure that the aggregate amount of contributions from any one person, group, or entity shall not exceed 10 percent of the total amount of funds that will be contributed to the Commission. <i>National Commission on Wildfire Disasters, P.L. 101-286, §105</i>
Require disclosure of information about contributions to a commission	(1) PERIODIC REPORTS TO CONGRESS.—Every 30 days, the Commission shall submit to the chairman of the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding 30 days. (2) FINAL REPORT.—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 726. <i>United States Commission on Improving the Effectiveness of the United Nations, P.L. 100-204, §727</i>

<sup>68</sup> For example, the statute that authorized the United States Commission on Improving the Effectiveness of the United Nations required two-thirds of the commissioners to approve acceptance of contributions of \$1,000 or more from a single source. That statute was enacted in December 1987, but the part establishing the commission did not take effect until March 1, 1989. GAO found that, because the statute did not authorize any other entities to accept donations on the commission’s behalf, potential donors could not contribute before March 1, 1989. It also found that the requirement for two-thirds approval of certain donations “complicates the acceptance of donations to the Commission before it comes into existence.... Since there will be no Commissioners appointed until on or after March 1, 1989, the determination of whether any contributions of \$1,000 or greater can be retained cannot be made until the Commissioners are appointed.” P.L. 100-204, §§721-730; and GAO, B-230727, August 1, 1988, <https://www.gao.gov/products/b-230727>.

Sample Option	Illustrative Legislative Text
Require commissioner approval for acceptance of contributions above a certain amount	The Commission may accept contributions having a value of \$1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions. <i>United States Commission on Improving the Effectiveness of the United Nations, P.L. 100-204, §727</i>
Authorize a commission to solicit contributions	The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money, services, or real or personal property for the purpose of aiding or facilitating the work of the Commission. <i>Commission to Study the Potential Creation of a National Women's History Museum, P.L. 113-291, §3056</i>
Provide for unused contributions to a commission to be returned to donors	Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor. <i>Advisory Commission on Electronic Commerce, 47 U.S.C. §151 note</i>

**Source:** CRS, based on review of relevant legislation.

**Notes:** Internal borders separate groups of options for choices about nonfederal funding and nonmonetary support for a congressional advisory commission. The table is intended to be illustrative of options for nonfederal funding and nonmonetary support for commissions rather than comprehensive. Additional examples are available to congressional clients on request. CRS defers to House and Senate Legislative Counsel on the drafting of specific legislative text.

- a. 5 U.S.C. §3161 authorizes the heads of temporary organizations to “accept volunteer services appropriate to the duties of the organization without regard to section 1342 of title 31.”

Gift acceptance provisions have sometimes also included specifics about solicitation of donations by a commission and handling of unused contributions. First, some commission statutes only authorize commissions to accept, use, and/or dispose of contributions, while others also allow them to solicit gifts. GAO advises that, in order to avoid interpretive issues, it is a best practice for Congress to specifically authorize a commission to solicit gifts if it wants the commission to have the authority to do so.<sup>69</sup>

Second, donations to a commission that have not been used by the time the commission terminates are typically deposited in the U.S. Treasury as “miscellaneous receipts.”<sup>70</sup> Congress has sometimes chosen to handle unused contributions differently, however. For example, the statutes that authorized the Advisory Commission on Electronic Commerce and the Commission on Online Child Protection provided for gifts that had not been used by the time the commissions terminated to be returned to the donors.<sup>71</sup>

## Concluding Observations

The choices Congress makes about funding for a congressional advisory commission can interact with each other and with other choices Congress makes about the commission. Perhaps the clearest example of such an interaction is between funding choices and choices about a commission’s objectives, or what it is asked to do and why. Other possible types of interactions might be less immediately obvious, such as the potential interaction among choices about the

<sup>69</sup> GAO, “Chapter 15,” p. 59.

<sup>70</sup> GAO, “Chapter 15,” pp. 60-61. For more on miscellaneous receipts, see CRS Report R46417, *Congress’s Power Over Appropriations: Constitutional and Statutory Provisions*, by Sean Stiff.

<sup>71</sup> 47 U.S.C. §151 note; and 47 U.S.C. §231 note.



Cyberspace Solarium Commission that was introduced in the “Nonmonetary Support from Federal Entities” section of the report.

The existence of such interactions can introduce some complexity to choices about a commission’s funding because it means those choices often cannot be made in isolation, without considering their potential impact on other features of a commission. However, the potential for interactions among aspects of a commission may also allow for flexibility in commission design. There are often multiple ways to achieve a particular outcome for a commission, such as by making a choice about one commission feature or by combining choices about more than one. Therefore, Members may often have opportunities to customize commission statutes to closely track congressional preferences.

## **Author Information**

Karen L. Shanton  
Analyst in American National Government

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