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STATEMENT OF

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COMPTROLLER GENERAL OF THE UNITED STATES

BEFORE THE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ON

CONGRESSIONAL OVERSIGHT REFORM LEGISLATION

Mr. Chairman and Members of the Committee:

We are pleased to be here today to present our views on proposed congressional oversight reform legislation, including S. 2, the Sunset Act of 1979. In addition to my prepared statement, we are providing for the record an attachment that discusses the effect of this legislation on GAO and several specific provisions of the bill.

We have worked closely with this and other Senate committees over the past few years in an attempt to develop a workable oversight reform bill and hope to share with you today our thoughts on some of that experience and what we have learned since then.

We are encouraged that there appears to be a growing consensus on the need to improve congressional oversight. The bill you are considering, S. 2, and related legislation

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such as S. 1304, have considerable merit and, in our judgment, would result in significant reforms. Improving or reforming oversight involves improving Congress' capability both to find out how well or poorly laws are working and to act through legislation on the basis of what it has learned. "Reforming" oversight implies that Congress change its processes so that it can more effectively

--Acquire knowledge about the operation and results of laws and programs,

--Interpret such knowledge, that is, judge the adequacy and effectiveness of existing laws and programs, and

--Respond through legislation, if necessary, to effect needed improvements.

To accomplish this reform, Congress will need to (1) provide itself (and others) with realistic standards for judging programs, (2) provide for the collection and reporting of information on programs and their results, and (3) provide itself (and others) with the capability to reconcile the one with the other.

The need for simplicity and a reversal of the trend toward annual authorizations

Congress must fashion a simple and workable oversight reform bill. In this regard, we are concerned about a number of new provisions that were added to S. 2 last Fall. We have in mind titles V and VI and portions of title VII.

The regulatory agencies covered by title V would be subject to the review and reauthorization provisions of titles I and III and their regulations would be subject to review under regulatory reform proposals being considered separately and therefore title V could be dropped. We have problems with the workability of the grading and ranking requirements of title VI and we believe a better approach would be to substitute periodic program performance reporting requirements in lieu of the grading and ranking requirements.

We also believe Congress should make more extensive use of multi-year funding and reverse the trend toward annual authorizations. Congress should also place more emphasis on eliminating existing but frequently unnecessary statutory reporting requirements to offset any new reporting requirements under oversight reform legislation. These actions would be consistent with the objectives of oversight reform and help compensate for the increased review and reauthorization workload.

ELEMENTS CRITICAL TO A SUCCESSFUL REVIEW AND REAUTHORIZATION PROCESS

We believe there are six critical elements that must be addressed in the reform legislation.

1. Workable review process

A basic requirement of oversight reform legislation is a workable review process. On the one hand, the review process established by the legislation must be

sufficiently disciplined to assure that information and analysis on programs is developed and presented to the Congress so that it can act responsibly on legislation to continue, modify or terminate programs. On the other hand, the review process must be sufficiently flexible to permit the Congress to focus its limited review resources, particularly the limited time of its Members, where review efforts are likely to be most productive.

Considering the potentially large review workload that will be required under a systematic review process, we believe that executive agencies must assume the primary responsibility for collecting program information and performing the required analyses. The congressional support agencies, and in particular our office, will also need to be called upon to assist the committees in carrying out their review efforts. Depending on the intensity and depth of the review effort and the way in which the committees choose to implement the process, the staff resources required to support the process may be substantial in the executive agencies, the committees, GAO, and the other congressional support agencies.

2. Statements of objectives and evaluation requirements

Better oversight should begin at the front end of the legislative process. The oversight reform legislation should encourage the Congress, when authorizing new programs or reauthorizing existing programs, to state its objectives

and expectations for such programs as clearly as is feasible, and to include statutory requirements which are as specific as possible for systematic monitoring and evaluation of the programs by the administering departments or agencies.

Statements of program objectives and expected results can serve as future review benchmarks, as standards for evaluating the performance of programs. Ideally such statements should be included in legislation, but this is not always practical, for a variety of reasons. Certainly such statements should be included in committee reports. In cases of major changes to objectives as a result of floor or conference action, a revised statement of objectives should be developed by the conference committee and made part of the conference report. Frequently committees also will need to follow up with the agencies to translate the statements of objectives into the specific criteria and measures needed to permit comparison of the objectives with actual program performance.

Periodic reports on program performance would be useful in congressional monitoring and in the selection of programs for further review, and agency evaluation reports should be directly useful in committee reviews. Because of the importance of periodic reporting on program performance to the oversight process, we strongly support including a provision which would require periodic, brief reporting on all programs subject to oversight review.

3. Comprehensive coverage of the review process

The coverage of the review process established by oversight reform legislation should be as near to universal as possible. All types of Federal programs/activities should be covered to the extent possible, including direct expenditures, self-financing activities, regulatory programs, tax expenditures, and subsidy programs and activities.

We are disappointed that S.2 does not include coverage of tax expenditures. We strongly support the principle of periodic review of tax expenditures and we believe that the bill should require that tax expenditures be reviewed together with related direct expenditure programs, e.g., housing, energy conservation, and export promotion. As the Department of Treasury has noted, enactment of an effective sunset mechanism applied only to direct expenditures would widen the disparity between direct and tax expenditure control by the Congress, and thus would increase the pressure to enact more tax expenditures.

The review process should not exclude any permanent program. Further, we believe that any program exempted from periodic reauthorization should be subject periodically to a full and careful review similar to that specified in title III of S. 2.

4. Expanded coverage of the reauthorization process

A major objective of the sunset bill is to expand the coverage of the periodic reauthorization process. In

developing oversight reform legislation, this committee must address the question: What programs not now subject to reauthorization should be made subject to reauthorization and how should this be accomplished? Currently, about one-third of the Federal budget is reauthorized periodically. S. 2 would expand this coverage to slightly more than one-half; the remainder would be specifically exempted.

If tax expenditures are included in S. 2, as a practical matter, the Congress will need to carefully consider the implications of subjecting some tax expenditures to the periodic reauthorization requirement. As with some direct expenditure programs, the Congress will have to judge the value of reauthorization as an action forcing mechanism versus the cost of introducing another potential element of uncertainty into private sector decision processes.

We recognize the "action forcing" value of periodic reauthorization--where that is appropriate--as a way to assure that the results of review efforts are translated into legislative improvements. Clearly, the oversight reform legislation should include some mechanism for allowing Congress to expand the coverage of the reauthorization process.

5. A review schedule with flexibility

A review (and reauthorization) schedule is included in S. 2 which provides that all funded programs will be reviewed at least once every 10-years--a five-Congress cycle.

We believe that 10 years is a realistic period for any oversight process designed to assure that all programs are reviewed periodically. If tax expenditures are added, they should also be subject to the same review schedule so that reviews of them mesh with the reviews of similar programs.

A review schedule, or scheduling mechanism, needs to be included in the oversight reform legislation so that the Congress can assure maintenance of a proper balance between the achievement of three objectives:

1. Assuring that all programs are reviewed periodically;
2. Assuring that the review workload on committees does not exceed comittee capabilities and is distributed over time; and
3. Assuring that interrelated programs, including programs with similar objectives, are grouped together for review.

Clearly, all three of these objectives cannot be completely achieved by any rigid schedule. What is important is that the oversight reform legislation contain procedures for modification of any review schedule whether established in the statute or separately. Flexibility to adjust the review schedule is essential for maintaining an appropriate balance between review coverage, workload distribution and reviewing interrelated programs together. Changing the

schedule could be accomplished by establishing a process for developing and adopting resolutions near the start of each Congress, including:

1. Committee funding resolutions (as provided for in title III of S. 2), or
2. A resolution on oversight in each House (as provided for in title III of S. 2 as reported by the Senate Rules Committee last summer), or
3. A concurrent resolution on oversight (possibly as part of the first budget concurrent resolution each Congress).

We prefer the latter approach. However, whatever mechanism is chosen should specify, or establish the means for specifying, program areas (e.g., groups of programs, policy subjects) to be reviewed, the nature of the reviews, and the timetable for completing the reviews. Setting or adjusting the review schedule and priorities through a resolution offers a flexible mechanism for the Congress to build discipline into the review process. The Rules, Governmental Affairs, or Budget Committees would be likely candidates for reporting, with recommendations, such resolutions after receiving the review proposals of the individual authorizing committees.

6. Program Inventory

An inventory of Federal programs would greatly assist the Congress in making oversight reform work smoothly and effectively. Title II of S. 2 requires that such an inventory be prepared and maintained. This inventory would provide the necessary substructure for both the reviews of broad policy subjects and the systematic review of individual programs and activities. It would provide the Congress a systematic, comprehensive, and authoritative identification of the specific entities which are subject to the review and reauthorization requirements.

S. 2 requires GAO and the Congressional Budget Office to prepare the Federal programs inventory, but the bill does not define the term "program" in specific terms. In our Glossary of Terms Used in the Budget Process developed under Title VIII of the Congressional Budget Act of 1974, we have defined "program" to be "an organized set of activities directed toward a common purpose, objective, or goal, undertaken or proposed by an agency in order to carry out responsibilities assigned to it."

This generic definition, however, can be applied in widely varying ways, depending on the focus and perspective of the person using the term. In practice, therefore, the term "program" has many usages; there is not a well-defined standardized meaning in the legislative process.

Congressional committees could choose to oversee at least three basic types of entities: (1) budget entities, including budget subfunctions, accounts, and subdivisions of accounts; (2) legal entities, such as laws or parts of laws, regulations; and (3) organizational or managed entities, such as agencies, bureaus, offices or commissions. In addition, there are a growing number of program structures, lists or inventories developed for various analytical and management uses. Therefore, we don't believe it would be practical to specify in the legislation precisely which entities or activities are to be subject to review and reauthorization. This would require a level of detail in the statute which we believe would not be appropriate or feasible. Probably the best available approach is the one taken in S. 2 of establishing a review and reauthorization schedule using the budget subfunctions. Because budget subfunctions are explicitly aggregations of activities, however, a program inventory is needed to determine which entities fall within each subfunction.

Some have taken the position that committees' flexibility would be limited if they had to adhere to a single list of programs. Others have expressed concern that a detailed program inventory that reaches below the budget account level would contain thousands of individual entities. This might leave Congress overwhelmed with work and forced to focus on

too great a level of detail. We do not believe this need be the case. The inventory would simply give the committees a common reference point, a list of the entities which need to be covered. It would not dictate the level of detail with which they are covered, nor would it inhibit committees from dealing with whatever groupings of activities they consider convenient or useful. They would be free to review and reauthorize programs, groups of programs, or activities within programs as they choose.

With regard to the number of programs, we estimate there would be at least 2,000 individual entities that could be called programs. However, the ability of committees to group programs for review and to focus their efforts where they are likely to be most productive should mitigate the concerns about workload.

Indeed, we have urged that committees review closely related programs as a group wherever possible. Our reasons for suggesting this involve both workload considerations and the value of reviewing program interrelationships. As long as the individual programs are reviewed and reauthorized according to the schedule in S. 2, the basic requirements would be met.

S. 2, as reported last year by the Senate Committee on Rules and Administration, defined the purpose of the program inventory as being "* * * to support the scheduling, planning, and execution of the reauthorization and review requirements of Titles I and III, and to maintain the necessary information

linkages between the reauthorization and review process and the budget process." The Rules Committee said the inventory would be the basis for identifying the individual components of Federal operations to be considered "programs" for the purpose specified in the act.

When the bill passed the Senate last Fall, Title II was amended to dilute the purpose of the inventory by stating that it would merely "advise and assist" the Congress in carrying out the requirements of Titles I and III. Committees were in no way to be bound in carrying out their responsibilities. In our judgment, this amendment will make more difficult the process of developing the inventory and collecting the data from executive agencies. It might also raise questions about the credibility of the inventory as a means for specifically defining what are the entities, i.e., programs, subject to review and reauthorization. Therefore, we recommend that your Committee restore the language adopted in the bill reported by the Rules Committee.

We believe the inventory should be developed and maintained by a single agency. The inventory should emcompass both programs and tax expenditures if the latter are to be covered by the bill. For the past few years, the GAO has been developing a Federal programs inventory as part of our responsibilities under Title VIII of the Congressional Budget Act. At the request of the Senate Appropriations Committee, we also recently completed a Government-wide food programs inventory. These

projects serve as illustrations of the inventory required by S. 2. Therefore, we believe that GAO would be the logical agency to carry out this responsibility, consistent with our responsibility under Title VIII of the Budget Act.

This concludes my prepared statement. We would be pleased to answer any questions you may have.

ATTACHMENT

EFFECT OF OVERSIGHT REFORM LEGISLATION ON THE GAO

The GAO, under basic authority provided in the Budget and Accounting Act of 1921, the Accounting and Auditing Act of 1950, and the Legislative Reorganization Act of 1970, as amended by the Congressional Budget Act of 1974, reviews and analyzes the operations of nearly all Federal agencies and their programs, and responds to requests from committees and Members of Congress for assistance in fulfilling their legislative and oversight roles and in representing their constituency. Specific requirements for GAO audit and evaluation work are also included in many laws authorizing individual programs or agencies and in committee reports on legislation.

In our view, improvements in congressional oversight present an opportunity to increase the effectiveness of our audit and evaluation work. A review schedule will provide us with a better basis to focus our review and analytical efforts to coincide with congressional oversight timetables. Statements of legislative objectives for programs will provide us with better criteria for assessing how well programs are working and whether alternative approaches may offer greater promise. Establishing periodic performance reporting requirements for the responsible executive agencies will enable us to avoid the costs we often incur of developing basic performance information ourselves. Committee review plans will enable us to better tailor our studies to the specific needs of the committees.

We expect that instituting congressional oversight reforms also will increase significantly the demand for other types of assistance we now provide committees, including:

1. Identifying and developing standards, methods, guidelines and procedures for the review and evaluation of programs and activities;

2. Developing statements of legislative objectives, oversight questions, evaluation criteria, and reporting requirements for use in proposed legislation, committee reports, letters, memoranda, and hearings;

3. Appraising agency review and evaluation reports;

4. Identifying committee information needs and obtaining fiscal, budgetary, and program-related information available in the agencies to meet such needs; and

5. Identifying program areas for which committee oversight efforts would appear to be worthwhile.

The additional cost to GAO which would result from instituting congressional oversight reforms is uncertain but potentially significant. In large measure these additional costs will depend upon the extent to which committees request the kind of help GAO can provide.

One thing that concerns us somewhat about S. 2 is a tendency we see in legislation these days to lump together the four congressional support agencies (GAO, CRS, CBO and OTA) in identifying assistance and resources to be made available to carry out a function or activity. Each of the support agencies has a unique mission, and has developed its resources and capabilities to fulfill that mission. In considering legislation which would assign responsibility to one or more of the support agencies, it is important to recognize the differences between the agencies and to place responsibilties where they are most consistent with the present mission of the agency.

One example of why we are concerned is section 503 of S. 2. That section would assign review functions for selected regulatory agencies to the CBO, as well as the GAO. Thus, two agencies would be performing functions which Congress already has vested in our office. The result could be wasteful and confusing both to the congressional committees and the agencies concerned. Therefore, we recommend that if title V is retained in the bill, the references to CBO in section 503 be dropped. Also, to avoid unnecessary duplication of effort between GAO and Presidential review efforts, we suggest that section 503(a) be further revised to authorize GAO, upon its own initiative or at the request of a committee, to appraise the review of each agency submitted by the President under sections 502(a) and (c), rather than requiring in all cases a simultaneous de novo review of the agency by GAO.

PROGRAM INVENTORY AND
CATALOG OF INTERRELATED FEDERAL ACTIVITIES

Title II of S. 2 would require the Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, to prepare an inventory of Federal programs to advise and assist the Congress in carrying out the requirements of Titles I and III. GAO would compile and maintain the inventory and CBO would provide the budgetary information for inclusion therein. We have several specific concerns with the provisions in Title II, in addition to those discussed in my statement, which are outlined below.

1. We question the need to specify in detail in the law itself, the functions of each organization responsible for the inventory and the reporting requirements. For example, section 201(e) sets forth ten data elements to be maintained in the inventory for each program. Over time, the Congress or individual committees may want to modify these data elements without having to amend the law. We believe any guidance the Congress may wish to give about the information to be maintained in the inventory should be included in the committee report accompanying the bill.

2. Sections 201(g) and (h) require CBO to supply authorization and budget data for each program in the inventory. CBO does not now maintain and report dollar data below the budget account level, so data for any Federal program below the budget account level would have to be obtained from another source or CBO's system would need to be modified to incorporate the collection of such data. Many budget accounts contain several individual programs.

3. Section 205(c) requires the Director of CBO to compile a list of the provisions of law for which new budget authority was not authorized. We believe it would be more appropriate for the agency responsible for maintaining the inventory to compile this list. Also, we are uncertain how the timing of this biennial report would fit in with the annual report updating the inventory.

4. In section 206, the reference to section 702(e) of the Congressional Budget Act should be changed to section 202(e) of the Legislative Reorganization Act of 1970, as amended by the Congressional Budget Act.

5. Section 207(c) would require CBO to issue periodic reports on programs and provisions of law scheduled for review and reauthorization according to the schedule in title I. While this provision would help identify the entities subject to review and reauthorization, it would duplicate the inventory and the committees would not be bound by it. Therefore, we suggest the provision be dropped or combined with section 205(a).

To summarize, there are a number of problems and issues with the inventory the Committee should consider in reporting an oversight reform bill. However, as we have pointed out in our testimony, there is a need for an inventory. None of the problems and issues are insurmountable and we would be happy to work with the Committee to develop the necessary legislative or report language to mitigate them.

CITIZENS' COMMISSION FUNDING

Section 409 of S. 2 would authorize $4 million for the Citizens' Commission on the Organization and Operation of Government. We have previously testified in support of the commission and we continue to believe a new commission could make a significant contribution to improving the effectiveness of Federal programs and activities, especially since more than 20 years have passed since the last comparable effort.

The sunset bill reported by the Senate Rules Committee last July authorized $12 million for the commission. Based on the recent costs of studies by major commissions (the Paperwork Commission spent about $10 million), we recommend that the funding authorization be re-examined by the Subcommittee. We believe the commission's funding will need to be increased if it is to do a credible job.

REGULATORY REFORM

S. 2 treats oversight and reform of Federal regulatory activities as a separate subject. The regulatory agency policy level perspective that title V of S. 2 requires could complement the process of reviewing individual regulations as called for under various regulatory reform proposals (such as S. 262 and S. 755, the President's recent reform proposal) now under consideration by the Congress. However, in the interest of keeping the oversight reform legislation as simple as possible, title V could be dropped. If title V is retained, we urge that the Congress carefully consider the relationship between this title and the other regulatory reform proposals to assure they are not duplicative or conflicting, and that the review processes involved are integrated to the extent possible.

GOVERNMENT ACCOUNTABILITY

Title VI of S. 2 would require the President to submit a biennial report on the management of the executive branch in which programs would be designated according to their relative effectiveness and ranked relative to other programs in the same agency "category." In our opinion, the grading and ranking requirements specified in this title would not provide the kind of information on program performance the Congress is seeking. However, we see a value to requiring periodic reports on programs aimed at enabling the Congress and the executive branch to:

1. Agree upon specific, realistic objectives and expectations of achievement for programs;

2. Monitor the progress and achievement of programs in relation to such objectives and expectations; and

3. Identify programs for which additional review efforts appear to be needed.

One option would be to keep the title, eliminate the grading and ranking requirements, and substitute new language requiring the agencies and/or President to submit brief reports on the management and performance of programs. Such reports might include:

1. Summary data and diagrams describing the organization, operation and results of the program;

2. A comparison of the actual organization, operation and results of the program with the purposes and objectives set forth for the program in legislation and committee reports; and

3. Recommendations for improving the performance of the program and reconciling the operation and results of the program with the legislative objectives.

COMMENTS ON OTHER PROVISIONS

Title VII of S. 2 covers a variety of housekeeping measures needed to complete the oversight reform package.

We recommend that sections 704(a)(2) and 704 (b) be dropped from the oversight reform legislation. These provisions require agencies to review individual regulations, and in our view they would not be needed because of the review requirements in other parts of the bill and the regulatory reform bills now under consideration by the Congress.

Section 704(a)(3) requires the Comptroller General to furnish for programs to be reviewed a list of audits and reviews completed during the preceeding 6 years. Under the oversight reform legislation we will certainly continue our present policy of providing our reports to the appropriate committees, and we expect to comply with the intent of this provision by bringing to the attention of the committees any pertinent issues and findings raised in our work related to programs scheduled for review. Consequently, we see no real need for this provision. If it is retained, we think the time requirement should be changed from 6 to 3 years since reports older than 3 years are often out of date due to changes in agency operations. Of course, we would bring to the attention of a committee any reports older than 3 years that are still relevant and current to the programs to be reviewed.