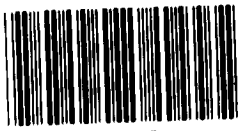
094385
094368

U.S. GENERAL ACCOUNTING OFFICE
WASHINGTON, D. C. 20548


094368

FOR RELEASE ON DELIVERY
Expected at 2 p.m.
Wednesday, May 23, 1979

STATEMENT OF

ELMER B. STAATS

COMPTROLLER GENERAL OF THE UNITED STATES

BEFORE THE

HSE 03300

SUBCOMMITTEE ON THE LEGISLATIVE PROCESS

HOUSE COMMITTEE ON RULES

ON

H.R. 2 AND H.R. 65

CONGRESSIONAL OVERSIGHT REFORM LEGISLATION

Congresswoman Chisholm and Members of the Subcommittee:

We are pleased to be here today to present our views on proposed congressional oversight reform legislation, including H.R. 2, the Sunset Act, and H.R. 65, the Legislative Oversight Act. 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 bills.

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

~~710288~~
094368

15 p

## NEED FOR THE OVERSIGHT PROCESS TO HAVE REALISTIC AND ACHIEVABLE GOALS

We are encouraged that there appears to be a growing consensus on the need to improve congressional oversight. The two bills you are considering, H.R. 2 and H.R. 65, each have considerable merit and, in our judgment, either 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 for the collection and reporting of information on programs and their results, (2) provide itself (and others) with realistic standards for judging programs, and (3) provide itself (and others) with the capability to identify ways to reconcile the sometimes lofty goals expressed in legislation with the reality of government operations and the results actually being achieved.

H.R. 2 and H.R. 65 are largely complementary

We see the two bills as largely complementary. H.R. 2 would force reconsideration of existing laws and programs; if not reviewed and reauthorized, the "sun would set" on such programs. On the other hand, H.R. 65 would require improved statements of legislative objectives and reporting requirements in legislation before the "sun would rise" on programs authorized. Both bills contain provisions to improve reporting of program results. H.R. 2 requires that a program inventory be developed; H.R. 65 calls for compilation of a catalog of interrelated Federal programs. All of these provisions tend to complement, rather than conflict, with one another and we suggest that you seek ways of incorporating the best parts of both bills into a single package.

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 the Senate version of H.R. 2 last Fall. We have in mind titles V and VI and portions of titles VIII. 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 the reporting requirements in section 102 of H.R. 65.

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

Whatever basic approach is decided upon, we believe there are certain critical elements that must be addressed in the reform legislation.

### 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.

Statements of objectives and evaluation requirements

We agree with others who believe that better oversight ideally should begin at the "front end" of the legislative process. We have long urged the Congress, in authorizing new programs or in 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. The oversight reform legislation should include such requirements.

Statements of program objectives and expected results can serve as future review benchmarks, as standards for for judging 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.

In addition, periodic reports 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 the provision in section 102 of H.R. 65 which requires periodic, brief reporting, which we believe should apply to all programs subject to oversight review.

Federal activities that should be covered

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. In this regard, we are pleased that both bills include coverage of 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 H.R. 2.

Review schedule

A 5-Congress, 10-year review and reauthorization schedule is included in H.R. 2. This schedule provides that all funded programs will be reviewed at least once every 10 years. H.R. 2 also includes provisions that would require the tax committees to develop a comprehensive 10-year review schedule for tax expenditures. H.R. 65 does not contain a review schedule, but its 5-year limit on the period for which programs may be authorized means that all programs covered by H.R. 65 would be reviewed every 5 years or less. We

believe that 10 years is a more realistic period for any oversight process designed to assure that all programs are reviewed periodically.

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 reviews.

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 amend 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 H.R. 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).

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, Government Operations, or Budget Committees would be likely candidates for reporting, with recommendations, such resolutions after receiving the review proposals of the individual authorizing committees.

Reauthorization Process

A major objective of the sunset bill, H.R. 2, and the legislative oversight bill, H.R. 65, 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. H.R. 2 would expand this coverage to slightly more than one-half; the remainder would be specifically exempted. H.R. 2 would require each covered program to be reauthorized at least once every 10 years.

H.R. 2 also requires that a 10-year reauthorization schedule be developed for tax expenditures. 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 strongly support the principle of periodic review of tax expenditures. An alternative to periodic review of <u>all</u> tax expenditures would be to include tax expenditures in the reviews of related direct expenditure programs, e.g., housing, energy conservation, and export promotion.

H.R. 65 would set a 5-year time limitation on all legislation authorizing new budget authority or tax expen-

ditures and it would expand the number of programs subject to reauthorization by catching permanent programs (including tax expenditures) when they come up for amendment. If H.R. 65 were enacted by itself, there may be problems in determining which programs become subject to periodic reauthorization when their authorizing laws are amended because what constitutes a "program" for this purpose is not defined and it is not clear when an amendment would constitute grounds for invoking the reauthorization requirement for the entire program.

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.

THE NEED FOR A PROGRAM INVENTORY AND HOW IT SHOULD WORK

An inventory of Federal programs and activities would greatly assist the Congress in making oversight reform work smoothly and effectively. Title II of H.R. 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. Without

an inventory, Congress would have no authoritative way to determine which specific entities are subject to the review and reauthorization requirements.

H.R. 2 requires GAO and the Congressional Budget Office to prepare the Federal programs inventory, while H.R. 65 requires GAO to compile a catalog of interrelated Federal activities. Neither bill defines 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 <u>not</u> 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 (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 most specific approach possible is the one taken in H.R. 2 of establishing a review 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 H.R. 2 or within the period prescribed by H.R. 65, 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 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. We recommend that your Subcommittee adopt this approach.

We believe the inventory should be developed and maintained by a single agency. The inventory should

encompass 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 H.R. 2 and/or the catalog in H.R. 65. Therefore, we believe that GAO would be the logical agency to carry out this responsiblity, 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 H.R. 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 H.R. 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 activities 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 H.R. 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. Any guidance the Congress may wish to give about the information to be maintained in the inventory could be better accomplished 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).

H.R. 65 would require the Comptroller General to publish a catalog of interrelated Federal activities within 6 months of enactment in consultation only with the Office of Management and Budget. The bill does not specify who will supply the data for the catalog and what cooperation and assistance the executive agencies will be required to furnish.

The bill contains no provision for developing and maintaining a program inventory as in title II of H.R. 2. We believe an inventory would be required before the catalog could be developed. We also anticipate substantial difficulty in obtaining information about State and local government programs having objectives similar to Federal programs. There are few incentives for State and local governments to supply this data but gathering it ourselves using GAO staff, would be extraordinarily expensive if we attempted to do a complete job. We also question how much unit cost data would be available on State and local programs and whether it would really be useful to committees studying Federal programs. Finally, we are concerned that providing data comparing Federal program costs and comparing accomplishments among programs having similar or related objectives could require substantial effort and costs beyond those required to prepare the catalog itself. We recognize the potential usefulness of such comparative data, but compiling such data and assuring its validity will be both expensive and time consuming. We suggest that it be viewed as a desirable long-term goal, rather than a specific task which is likely to be accomplished in the short-run.

To summarize, there are a number of problems and issues with the inventory and the catalog the Subcommittee should consider in drafting an oversight reform bill. However, as we have pointed out in our testimony, there is a need for an inventory. Also, we believe a catalog like that included in H.R. 65 could be helpful to the committees. 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 H.R. 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

H.R. 2 treats oversight and reform of Federal regulatory activities as a separate subject. The regulatory agency policy level perspective that title V of H.R. 2 requires could complement the process of reviewing individual regulations as called for under various regulatory reform proposals (such as S. 262 and 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. We testified this morning before the Senate Committee on Governmental Affairs on S. 262 and S. 755, and a copy of that testimony will be made available to the Subcommittee.

GOVERNMENT ACCOUNTABILITY

Title VI of H.R. 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 could lead to meaningless, wasteful, or counterproductive grading and ranking exercises in the executive branch. 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 like that in section 102 of H.R. 65 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 VIII of H.R. 2 covers a variety of housekeeping measures needed to complete the oversight reform package.

We recommend that sections 804(a)(2) and 804 (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 804(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.