

Statement of Alfred B. Fitt
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before the
Committee on Governmental Affairs
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Mr. Chairman, I am delighted to have this opportunity to present to the Committee on Governmental Affairs the views of the Congressional Budget Office on proposals to improve oversight and reauthorization of federal programs, and specifically, on S. 445, the Regulatory Reform Act of 1979.

At the outset, I want to suggest that S. 445 arrives in the legislative hopper burdened with baggage that has practically nothing to do with the bill itself. The baggage is that S. 445--and S. 2 and S. 262, and all similar proposals that seek to bring about systematic Congressional review of all or parts of the programs of the federal government--without exception call for a lot more hard work to be performed in the Congress, and in the Executive Branch, by people who already rightfully feel pushed to the limits of their resources.

So the first hurdle that a bill like S. 445 must get past is the conviction that, however laudable is the notion of regulatory review and reform, the means chosen may add new burdens without new resources, so that either the new tasks will be discharged perfunctorily or that other, older and at least as worthy tasks must necessarily be slighted.

For that reason, we have sought to describe a setting in which the workload implied by sunrise and sunset proposals would appear to be manageable, thus permitting debate on the particular merits of the proposals. In this connection, it seems to us there are useful lessons to be drawn from the nearly five years of experience with the workings of the Congressional Budget Act of 1974.

A frequent complaint about the current operation of the Congressional budget process is that the timetable specified by Section 300 of the Budget Act is too tight--especially in the early summer--given today's legislative workload. A large number of the bills authorizing new budget authority for the fiscal year beginning October 1 of each year are not reported to the floor of either house until, or just before, the May 15th deadline. Shortly afterwards, the dozen or so regular appropriations bills are reported to the House by the Committee on Appropriations, and floor action is scheduled for the second and third weeks in June, with Senate action following soon thereafter.

The result is that appropriation bills often reach the floor before the Congress has finished enacting the authorization laws necessary to support the particular appropriations. The problem becomes one of goals in conflict.

The goal of thoughtful, thorough, recurring oversight competes with the goal of timely enactment of annual appropriations.

What can be done about this? Some people have suggested that the timetable of the Congressional budget process should be changed. No one, however, seems very enthusiastic about such changes. Several suggestions have been met with objections.

- o Could the authorizations be reported earlier than May 15th? The authorizing committees argue that they cannot. The span from a session's beginning in January, until May 15th, is barely four months, a short time to conduct hearings, mark up bills, and file reports. The trend to annual authorizations is aggravating this scheduling problem of the Congress.

- o Could the May 15th deadline be dispensed with? Not realistically; the May 15th deadline was included in the Budget Act so that the Appropriations Committees would have a better idea of which authorizations would require an appropriation. This in turn is required for the

Appropriations Committees to report their bills in a timely fashion so that all spending legislation can be completed before passage of the second budget resolution.

- o Could the consideration of appropriations be delayed until later in the summer? Realistically, it cannot. To complete all action on appropriations by the seventh day after Labor Day--leaving sufficient time to consider the second concurrent resolution--the Congress cannot delay appropriations action later than the present timetable.

Alternatively, there are a number of steps that could be taken to improve management of the Congressional workload without opening up the Budget Act. We think the following suggestions are worthy of consideration:

- o First, the Congress could establish a systematic structure for the reauthorization-and-oversight process, requiring periodic consideration of federal activities but allowing the Congress to anticipate its workload.

- o Second, Congressional committees could be encouraged to view the two sessions of a Congress as a single work period; that is, as a time to review one set of programs over two years, rather than two sets, one each year.

- o Third, authorizations of routine federal activities could be for an even number of years, two at a minimum, expiring on September 30th of the second session of each term of Congress.

- o Finally, the leadership of both bodies could cooperate to manage the legislative workload for a two-year rather than a one-year cycle. This would mean encouraging the committees to begin their reviews during the first session of each Congress and to mark up and report their bills at the beginning of the second session, and establishing an advance floor schedule of authorizations to prevent a bottleneck on the floor at the end of the second session.

These steps would offer the authorizing committees excellent opportunities for oversight during the first

session of a Congress. They could hold extensive hearings, allow ample time for a reflective and unhurried mark up, and still report their bills three or four months in advance of the May 15th deadline. Floor action on authorizations could thus begin in January or February of the second session, allowing sufficient time to complete action on them prior to consideration of the appropriations bills.

We do not envision this process as being inflexible. The authorizing committees should remain free--as they are now--to report authorizations for new programs to meet emergencies or changing conditions at any time. Rather, this two-year process seems most appropriate for the regular review of ongoing federal activities. It is the workload for these reauthorizations that is most amenable to being managed.

Turning now to the particulars of the Regulatory Reform Act of 1979, the Congressional Budget Office has repeatedly testified before Congressional Committees considering various sunset and oversight reform proposals. Insofar as CBO's mandate permits us to take positions, we have always applauded efforts by the Congress to improve the nature of legislative decision-making processes, to gather and organize in more useful ways the facts

necessary to informed choice, and to adopt workable methods for achieving systematic and recurring review of on-going federal activities. S. 445 is just such an effort.

We also have consistently offered the view that sunset reviews should be cross-cutting, so that all federal programs dealing with the same identifiable problem are considered as a group, and not in piecemeal or unrelated fashion. This view necessarily entails not only the grouping of spending programs that are logically related, but the inclusion of those tax expenditure parts of the Internal Revenue Code that serve the same purposes as the spending programs to be grouped.

Nevertheless, it also seems to us that the issues involved in evaluating the regulatory agencies of the federal government are sufficiently different from those arising out of a review of direct, on-going programs in the Executive Branch, that enactment of a system for the former would be workable even if none was enacted for the latter. But if there is to be sunset for federal programs as well as for federal regulatory agencies, then the two review schedules--and the burdens they place on both the Executive and the Congress--would obviously have to be coordinated with care to avoid unmanageable clumping in the new workloads.

Our other major question about S. 445 is the role that Section 5 assigns to the Congressional Budget Office. That section would require both the Comptroller General and the Director of CBO to make similar reports with respect to each agency included in the periodic submissions the President would make pursuant to Section 4. The GAO and CBO would both make a report with respect to the following:

- (1) the purposes for which each agency was established;
- (2) any significant changes which have occurred in the areas regulated by each such agency, the impact of such changes on the effectiveness of such department or agency, and the continued appropriateness of its original purposes;
- (3) the net impact of the agency and the degree to which it has accomplished its purposes;
- (4) the cost-effectiveness and efficiency of the operations of each such department or agency; and
- (5) practical and more efficient alternative approaches to achieving presently demonstrated regulatory needs.

We question whether it would be useful or necessary for the Congress to obtain such reports from two of its legislative agencies. What is called for by the quoted language is in fact a serious program evaluation of each

affected regulatory agency. Such evaluations of past performance have traditionally been among the functions of the General Accounting Office, whereas the function of the Congressional Budget Office--in its short tradition--has been to furnish budgetary information and analyses in connection with matters pending for decision in the Legislative Branch. If the reviews contemplated by Section 5 of S. 445 are to be made, it seems to us the better practice to assign the task to the General Accounting Office, the legislative agency equipped with the staff, the statutory authority and the experience to make such reviews.

There are a number of technical questions we have with respect to the language in the bill. I have submitted those separately to the staff of the committee.

Mr. Chairman, that concludes my prepared statement. I would be pleased to answer questions from you and the Members of the Committee on S. 445 or any other aspects of oversight reform.

