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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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March 27, 1979

The Honorable Richard Bolling  
Chairman, Committee on Rules  
House of Representatives



Dear Mr. Chairman:

Thank you for your letter of February 26, 1979, requesting our comments on H.R. 2 and H.R. 65, proposals to improve congressional reviews of Federal programs. As you know, we have long supported efforts to make government programs more manageable, understandable, and accountable to the Congress and the public. Last year, we worked closely with the committees in the Senate to help improve similar legislation that they considered and acted on.

We have reviewed the testimony and report we prepared last year on S. 2, and the observations we made then are still relevant to H.R. 2 and H.R. 65. We have taken positions on a number of issues in working with the Senate that are reflected in S. 2, as passed by the Senate last October, and in documents available to your staff. However, there are some provisions in H.R. 2, such as the title on tax expenditures, that were not in the versions of S. 2 we considered at the time.

On March 7 and 21, we briefed your staff on the role and functions of GAO and our program inventory work. We are enclosing an outline that discusses a number of items about H.R. 2 and H.R. 65 that your Committee may wish to consider in the coming months.

The GAO, of course, will do all that it can to assist the Congress in improving its review of Federal programs, and members of my staff will be happy to continue working informally with your staff in preparation for your hearings.

Sincerely yours,  
*Thomas B. Steads*

Comptroller General  
of the United States

Enclosure

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cc: Mr. Staats (CG)  
Mr. Keller (ACG)  
Mr. Anderson (OP)  
Mr. Fitzgerald (OCR)  
Mr. Voss (GGD)  
Ms. Kleeman (FPCD)  
Mr. Havens (PAD)  
Mr. Myers (PAD)  
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Mr. Hunter (PAD)  
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PROPOSALS TO IMPROVE CONGRESSIONAL REVIEW OF FEDERAL  
PROGRAMS: DISCUSSION OUTLINE

This outline lays out some of the major issues involved in considering proposals to improve congressional review of Federal programs (Part I) and raises some questions regarding the specific provisions in H.R. 2 and H.R. 65 (Part II). We prepared this outline to assist the House Committee on Rules prepare for hearings on this subject. GAO has previously taken positions on a number of the issues raised in this discussion paper in working with the Senate that are reflected in S.2, as passed by the Senate last October, and in documents which are available to the Rules Committee.

PART I: GENERAL ISSUES

The Senate and the sponsors of the House bills being considered by the Rules Committee have devoted substantial time, effort, and resources to perfecting the proposals to improve congressional oversight. Nevertheless, we believe certain general issues, each of which is dealt with in some way by one or more of the bills, merit the Rules Committee's consideration in the upcoming hearings. These issues are:

ISSUE 1. What are the goals of oversight reform? Sunset/  
program review legislation has been justified as  
a way of helping Congress deal with the following  
conditions:

- Budget out of control; little room for new initiatives
- Duplication, overlap, conflict between programs
- Unnecessary programs not terminated
- Wasteful, inefficient programs
- Unresponsive, ineffective programs
- Lack of program accountability

Apparently, there is a consensus developing on the need to improve the way Congress and its committees oversee (monitor/supervise/reevaluate) governmental activities/policies. However, there does not yet seem to be a consensus on the specific purposes of oversight improvement or how such improvements can be put in place and operate most effectively. In our view, two major purposes of oversight improvement implicit in H.R. 2 and H.R. 65 appear to be:

1. Program management accountability improvement - To assure that programs are working as intended i.e., they are meeting stated objectives, and
2. Policy improvement - To enable Congress to establish/modify policy more effectively through the authorization process.

The first purpose is supported by provisions calling for reviews and reports on the management and performance of existing programs. (See for example sections 102(a)(1), 302(d), and 601 of H.R. 2 and section 102 of H.R. 65.)

The second purpose is supported by provisions requiring related programs to be grouped together for, or considered in, reviews, reporting and re-authorizations. (See for example sections 101(b), 102(a)(2), 104(a), 502, and 705(e) of H.R. 2 and section 201(a)(2) of H.R. 65.)

Both purposes are served by provisions requiring Congress to clearly state the objectives of legislation. (See for example sections 102(a)(3) and 708(a)(3) of S. 2 and 101(1) and 201(a)(1) of H.R. 65.)

H.R. 2, itself, contains four review and reporting approaches, depending on the subject matter covered (funded programs, regulation, tax expenditures, and management.)

ISSUE 2. What entity is to be subject to review and how will the entities be grouped? There are at least three basic types of entities the Congress can oversee:

(1) budget entities (subfunctions, accounts, subdivisions of accounts); (2) legal entities (laws or parts of laws, regulations); and (3) organizational entities (agencies, bureaus, offices, commissions). Each category can include designated "programs," but there is no single unified structure for the Federal Government. Can the term "program" be defined except by example and reference to the inventory required by Title II of H.R. 2?

ISSUE 3. What should be the role of the congressional committees vs. the legislative support agencies vs. executive agencies in reviewing and reporting on Federal programs? The strengths and limitations of the individual actors will need to be considered further. For example, committees would not normally be expected to obtain and evaluate detailed, program-level performance data, and an agency could not be expected to rank its programs in relation to programs in another agency.

ISSUE 4. What should be the scope of oversight reform? Various aspects of Federal activity (funded programs, regulation, tax expenditures and management) are covered in the two bills. Should they all be covered and does each require separate treatment? More specifically, is reform

of the regulatory process, which is addressed in titles V and VIII of H.R. 2, a matter appropriate to separate treatment through a unique set of procedures and reporting requirements? If so, should regulatory reform be covered in the same law as oversight reform? Also, should the process cover only new authorizations and reauthorizations following enactment, as would be the case in H.R. 65, or also cover existing authorizations as well, as in H.R. 2?

PART II - ISSUES AND QUESTIONS ON SPECIFIC PROVISIONS OF PROPOSED LEGISLATION

Our staff has reviewed H.R. 2 and H.R. 65 to (1) ascertain major differences between these two bills and the legislation before the Senate at the time of the June 1978 testimony and (2) raise questions and issues that the committees in the House may wish to consider.

H.R. 2

Title I - Reauthorization of Government Programs

This title would require that each Government program, except those specifically exempted, be reauthorized at least once during each 10-year reauthorization cycle and would establish a schedule of reauthorization dates based on the budget subfunction category in which programs fall. Limitations

would be established on the enactment of new budget authority for programs not reviewed and reported on prior to the reauthorization date. Provisions are included for changing the schedule and list of exemptions.

1. The "action forcing" mechanism is a modification of earlier, more stringent provisions of S. 2, 95th Congress. However, there has been much concern about what action should be forced--review, reauthorization, or both? Title I would force reauthorization action on all programs except those specifically exempted. This may result in scheduling and workload problems for the full House and Senate. Another approach would be to force only committee review of programs so scheduled by the committee as provided for under Title III. However, the impact of these reviews may be diminished if legislative action is not required.
2. Section 101(b) groups programs by budget subfunction for purpose of reauthorization. Is there enough flexibility implicit in the proposed review process for the grouping of programs by some other classification scheme if a committee so desires? Section 301 provides for committees to reexamine "groups of programs" in their jurisdiction. Committees may want



to review and reauthorize programs in groups that cover several subfunctions (e.g., agriculture programs) and fall in more than one reauthorization period. Will the reauthorization schedule discourage reviews of this nature and can this be remedied by clarifying section 104 to make it easier to change the reauthorization schedule in section 101 including the reauthorization dates of particular programs?

3. Section 101 clearly applies to programs which require authorization and enactment of new budget authority? Should section 101 also apply to programs and activities which are self-financing, such as revolving funds?

Title II - Program Inventory

Title II 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. GAO basically agrees with this approach, but there are some substantive and technical issues the Committee may wish to consider, as follows:

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1. What is the purpose of the program inventory in relation to the program reexamination and reauthorization process and to possible program termination? Section 201(b) states that the inventory "\*\*\*shall not in any way bind the committees\*\*\* with respect to their responsibilities under [titles I and III] and shall not infringe on the legislative and oversight responsibilities of such committees."
2. Is there a need to specify in detail in the law, itself, the functions of each entity involved 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.
3. What is the relationship between the inventory required by Title II, the programs covered by the management report required by title VI, and the inventory of tax expenditures to be prepared by CBO under Title VII? Should there be a link between the program inventory and the tax expenditure inventory and/or should they be maintained by a single agency?

4. CBO does not now maintain and report dollar data below the budget account level, so data for any Federal programs 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. See section 201(g).
5. Is it more appropriate for CBO--rather than GAO --to provide the data required by section 205(c)? How would the timing of this biennial report fit in with the annual update of the program inventory?
6. 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.
7. Because GAO would prepare and maintain the program inventory, should it also prepare the reports required by section 207(c)? Also, how would this relate to CRS' responsibilities under section 203(d)(2) of the Legislative Reorganization Act?

#### Title III - Program Reexamination

Each committee is required to establish a plan for reexamination of programs under its jurisdiction in its first funding resolution following the beginning of Congress. Committees and

executive agencies are required to submit reports on each program selected for review.

This approach is different from that contained in earlier versions of S. 2 (establishing an oversight agenda by means of a concurrent resolution), but it appears to be a workable concept. However, the following questions occur to us:

1. Will committees find burdensome the detailed planning requirements in section 302(a)?
2. Is the executive agency reporting requirement in section 303 necessary in view of the similar provision in section 804(a)?
3. What will be the impact on committee operations and staffing of the reexamination and reporting requirements in Title III and what will be the effect on the legislative support agencies and others who will be called on to assist the committees in fulfilling these requirements?
4. Given that many committees may not now have the capabilities to conduct or manage complex studies and evaluations of government programs, will this necessarily limit the number of programs reviewed?

#### Title V - Regulatory Impact

This title was added to S. 2 following our testimony and report. It requires (1) the President to submit anal-

yses and plans over a 10-year period to prevent "unnecessary and harmful" regulation and (2) the systematic and comprehensive review and modification of Federal regulation to assure that the benefits of regulation substantially exceed the costs and that regulatory agencies perform their responsibilities efficiently and in the "least dilatory" manner. The Committee may wish to consider the following:

1. Should comprehensive oversight reform of regulation be treated as part of the legislation to reform congressional oversight of Federal programs and tax expenditures?
2. Would the provisions of Title V conflict with those in titles I, III, and VIII? Should there be a separate title for regulatory agencies in view of the provisions in these other titles?
3. Should there be a mechanism for modifying the review schedule in this title similar to that in title I?

Is it necessary to mandate, as required in section 503, GAO and CBO reports on every regulatory agency included in a presidential plan or a "complete and thorough analysis of such plan" in view of our other statutory mandates and reporting responsibilities? We question the need for section 503 because committees always have the option of requesting such reviews and analyses by either agency if they so desire.

## Title VI - Government Accountability

This title was not in the versions of sunset legislation being considered at the time of our testimony and report. The title 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." GAO has not developed an final position on the requirement in this title. Our observations and questions:

1. Reports on programs more frequent than required by the 10-year reauthorization schedule would be desirable, since such reports could enable committees to monitor program performance during the cycle, and they could serve as a basis for identifying programs for indepth review.
2. What is the purpose of the rankings, and can the rankings be done in a way that will achieve this purpose? What sets of activities within agencies should be ranked? Can "sandbagging" of the ranking process be avoided?
3. Can the grading process be made meaningful? Operational criteria for assigning grades are necessary, which will require further definition of the grading criteria listed in section 601. We suggest, as one alternative, the following refinements:

Title VI Criteria

GAO Suggestion

Clarity in statutory design/objective

Demonstrated agreement <sup>among</sup> between Congress, the President, and agency officials on realistic, measurable program objectives

Design of the program effectuated by the executive

Evidence that the design of the program and the activities in place are likely to achieve objectives

Quality of management

Demonstrated improvement in the actual performance of the program

Title VII - Tax Expenditures

This title would establish an inventory of tax expenditures, a schedule for reviewing tax expenditures that would be coordinated with reviews of similar Federal programs, committee review and reporting requirements, and termination provisions for tax expenditures not reviewed within the prescribed time period.

GAO has testified in support of periodic review and reconsideration of tax expenditures as being properly a part of a comprehensive oversight reform package. Therefore, we are pleased to see Title VII included in H.R. 2 and tax expenditures also covered under H.R. 65. Issues which the Committee may wish to consider are:

1. Should tax expenditures be treated separately from the provisions in titles I and III on Federal programs?

2. What impacts would the automatic termination provision for tax expenditures have on the economy and beneficiaries?
3. Should the agency which prepares the inventory of tax expenditures be different from the agency which prepares the inventory of Federal programs? How would the inventories be linked to show the relationship between programs and tax expenditures?

#### Title VIII - Miscellaneous

This title covers a variety of largely housekeeping measures needed to complete the oversight reform package. Our observations are as follows:

1. Will executive agencies be able to specify which of their regulations would be retained, eliminated, or modified in advance of program reauthorization, as required in paragraph 804(a)(2)? Is this provision needed in view of the requirements in titles I, III, and V?
2. Paragraph 804(a)(3) requires the Comptroller General to furnish for programs to be reauthorized a list of audits and reviews completed during the preceeding 6 years. Reports on audits and reviews which are more than 3 years old may be out of date. Therefore, the Congress may wish to reduce from 6 to 3 the number of years for which the Comptroller General is



required to provide a list and leave it to his discretion to include any reports which are older than 3 years.

3. Is the requirement in section 804(b) for a "Regulatory Duplication and Conflicts Report" necessary in view of the other reporting provisions, especially those in titles III and V?

H.R. 65

GAO has long supported the establishment of clear program objectives, planned accomplishments, and information reporting requirements in authorizing legislation and the accompanying committee reports. However, given the difficulty of developing statements of realistic, measurable objectives in legislation, we think some revisions to sections 101 and 201 of the bill may be necessary.

The concept of an annual reporting requirement as required by section 102 may have advantages over, and could complement, the less frequent reporting required under titles I, III, VI, and VII of H.R. 2. The major questions about this approach are whether it will provide the coverage desired by many of the proponents of oversight reform or provide sufficient incentives for agencies to report useful information and for committees to exercise vigorous oversight over an extended period of time.

Section 202 of the bill would have a direct impact on the GAO by requiring us to develop a catalog of interrelated Federal activities. The Committee may wish to consider the following questions and issues pertaining thereto:

Sec. 202. Catalog of Interrelated Federal Activities.

The Comptroller General would be required to publish this catalog within 6 months of enactment in consultation only with the Office of Management and Budget. The Committee should consider:

1. The term "program" is not defined, although other sections and titles of the bill rely on the concept of a program (as opposed to "provision of law" or other entity on which oversight could be performed). There is no provision for developing and maintaining a program inventory as in Title II of H.R. 2.
2. This section does not specify who will supply the data for the catalog and what cooperation and assistance the executive agencies will be required to supply.
3. How is GAO to obtain the descriptions of State and local government programs having objectives similar to Federal programs, i.e., what incentives will there be for State and local governments to supply this data?

4. Will the time allotted for publishing the initial catalog be sufficient?