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Testimony before the Senate Committee on Rules and Administration; by Harry S. Havens, Director, Program Analysis Div.

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Deficiencies in the current congressional oversight process include incomplete coverage of the reauthorization process, inadequate attention to broad policy subjects, incomplete review coverage of Federal programs and activities, and lack of clarity and specificity in statements of the objectives of programs and activities. The key element to oversight reform is congressional commitment to better oversight and the establishment of a disciplined process for the review and study of Federal programs in the context of broad policy subjects. The proposed bill, S.2, would establish a mandatory reauthorizing process for Federal programs, but it would exempt some specific types of programs, including the major Federal income security and health financing programs and tax expenditures. The proposed legislation would schedule reauthorization and related reviews of a 6-year cycle in accordance with a timetable written into law; it would force action to reauthorize programs, grouped by budget subfunction, by specified dates and place a ban on future funding for programs not reauthorized by specified dates. The period of the authorization of new budget authority would be limited to 6 years. S.2 would base the reauthorization process on a list of all activities of the Federal Government categorized by budget subfunction, establish a statutory schedule by budget subfunction, provide that programs in the same budget subfunction be acted upon in the same Congress, and require that an inventory of programs be developed and maintained by the Congressional Budget Office. (RRS)

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Statement of
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before the
Committee on Rules and Administration
United States Senate
on
Oversight Reform Proposals

Mr. Chairman and Members of the Committee: We are pleased to be here today to present the results of our study of various oversight reform proposals and our views on the objectives and features which we suggest be incorporated in oversight reform legislation. This is in response to your request to the Comptroller General, during his testimony before you on April 19, 1978, to assist the committee to develop improvements in the processes by which the Congress oversees programs and activities and decides whether they should be continued, modified, or terminated.

Various deficiencies in the current oversight process are pointed to in support of the various reform proposals. These include (1) incomplete coverage of the reauthorization process, (2) inadequate attention to broad policy subjects, (3) incomplete review coverage of Federal programs and activities, and (4) lack of clarity and specificity in statements of the objectives of programs and activities.

In this statement and in the paper being submitted at this time we discuss specific ways of strengthening the oversight process, particularly the nature of congressional review of broad policy subjects. Generally there is agreement on the need for improvements in these areas, although quite a variety of techniques have been proposed. But there is one central issue on which there is dispute. It is the program and activity coverage of the reauthorization process; that is, what programs and activities not now subject to reauthorization should be made subject to reauthorization and how should this be accomplished?

S.2, as reported by the Senate Committee on Governmental Affairs, would establish a mandatory reauthorizing process, but it would statutorily exempt some specified types of programs, including the major Federal income security and health financing programs and tax expenditures.

The other proposals place primary emphasis on the need for more effective congressional review and statements of

program objectives, but with a general provision for a limitation on the period of authorization unless a permanent or longer period of authorization is justified by some means.

We believe the key element to oversight reform is congressional commitment to better oversight. The law cannot create this commitment. The law can only create mechanisms and procedures which will permit the commitment to be translated into action as efficiently and systematically as possible.

We have based our suggestions on the belief that Congress is committed to seriously reviewing and reconsidering Federal policies, programs, and activities. Furthermore, we remain optimistic about the ability of the Federal Government to effectively review, evaluate, and reconsider its policies, programs, and activities and to change them when appropriate. Therefore, our report emphasizes the need for strengthening the review aspects of oversight and suggests a mechanism for designating additional programs to be made subject to the reauthorization process. These suggestions emerge from a consideration of the trade-offs among such factors as the degree of discipline imposed by the Congress on itself, the time period over which Congress commits itself to act, and the degree of flexibility allowed in meeting the review and reauthorization requirements.

In general, we suggest the establishment of a disciplined process for the review and study of Federal programs and

activities in the context of broad policy subjects to operate in parallel and synchronized, to the extent possible, with the existing reauthorization process and the ad hoc, special issue or reactive oversight activities of the Congress. This involves several features for which there seems to be considerable agreement:

- That the oversight process should be more formal and disciplined than is presently the case.
- That there should be incentives to assure that meaningful reviews are conducted.
- That the workload be spread over several Congresses.
- That there is a need for greater clarity and specificity concerning the objectives and expected accomplishments of programs and activities.
- That there should be some flexibility in the intensity of reviews.

In addition, our suggestions are built around three interrelated levels of congressional oversight:

1. Policy subject reviews.
2. Individual program and activity reviews (including reauthorization).
3. Ad hoc, reactive, special issue oriented reviews.

1. Time Period

S.2 would schedule reauthorization and any related reviews of the programs and activities covered by the bill over a 6-year cycle in accordance with a timetable written into law.

The Staff Working Group proposal would establish a 10-year review planning period, with the process for developing and updating the plans being the funding resolutions for the committees.

We suggest that the law require that all programs and activities would be reviewed over an 8-year cycle covering 4 biennial review periods--4 Congresses and 2 Presidential terms. The first 8-year cycle could start with the 97th Congress and the next Presidential term in 1981. The 96th Congress could go through a dry run to test the procedures and to perform the tentative planning for the first 2 years of the cycle. Our suggested timetable is summarized in Table 1.

2. Termination as an Action Forcing Mechanism

Action Which is to be Forced

S.2 would force action to reauthorize programs, grouped by budget subfunction, by specified dates.

The Staff Working Group proposal requires review, with procedures allowing committee coordination and Senate floor consideration of committee review plans.

We suggest (1) a requirement for review of all programs and activities in policy subject areas designated in a biennial concurrent resolution on oversight, (2) a presumption that any program which is not reviewed during the 8-year cycle should be considered for termination, and (3) a mechanism

TABLE I

Highlights of the Schedule for the First Biennial Period
(Assuming passage of a bill in 1978-79)

<u>Approximate Dates</u>	<u>Action or Event</u>	<u>Approximate Dates</u>	<u>Action or Event</u>
Enactment-Sept. 1980	-Dry run of procedure.	March 1981-June 1981	-Debate and adoption of a concurrent resolution on oversight.
Sept. 1980-Dec. 1980	-Establish program and activity inventory.	July 1981-Dec. 1982	-Communications among committees and study and evaluation teams.
Jan. 1981-March 1981	-Tentative schedule by committees of policy subjects, programs, and activities for first biennial reviews.		-Reporting of policy studies by executive and others as requested by committees.
	-Tentative schedule, as inclusive as possible, for the following three biennial review periods (Congresses) in the 8-year cycle identifying policy subjects likely to be reviewed in each.		-Committee reports and legislative recommendations and actions.
	-Suggestions received from the President, and others for any policy subject reviews.	Sept. 1982	-Reconciliation of policy recommendations and proposed legislation for programs and activities.
	-Recommendation of a concurrent resolution on oversight, specifying policy subjects to be reviewed, when reviews are to be completed, programs and activities to be covered in each review, and designation of those programs and activities to be subject to reauthorization or termination and the effective date for each. Some programs and activities could be waived from review and/or reauthorization.	Jan. 1983	-Tentative planning begins for second biennial reviews.
	-Executive and other review sources consider committee guidance in plans for studies and evaluations.	Jan. 1985 or earlier if so designated	-Committee reports incorporated in an official report of each House, designating the programs and activities for which a sufficiently complete review has been conducted.
			-Termination action begins on programs and activities for which required review and reauthorization has not been completed. (Action could precede this but the requirements must still have been met at least by this time.)

by which individual programs can be designated for reauthorization which are not now subject to the reauthorization process.

How Action is to be Forced

S.2 would place a ban on future funding (in effect, automatic termination of spending authority) for programs not reauthorized by specified dates. For specified programs exempted from automatic termination, it would not be in order to consider bills significantly changing funding if they were not reviewed.

Under the Staff Working Group proposal it would be out of order to consider a committee funding resolution if it does not contain the required review plans or if a review report previously due has not been completed and printed.

We suggest that the law provide for the Congress to begin considering termination for programs and activities which are not reviewed by the end of the 8th year or at any earlier date designated for particular programs in a concurrent resolution on oversight. For programs and activities not adequately reviewed by the end of the 8-year cycle, or not reauthorized by the date specified in the oversight resolution, the committees with legislative jurisdiction would be required to promptly report bills to rescind or repeal unused spending, borrowing, lending, or other authority or repeal tax provisions which represent tax expenditures. In reauthorizing programs and activities, Congress should establish authorization periods

which are synchronous with the plans for policy reviews in the 8-year cycle. Rules requiring policy review coverage and/or termination could be waived by explicit congressional action in the concurrent resolutions on oversight.

3. Limitation on the Period of Future Authorizations

S.2 limits the period of the authorization of new budget authority to 6 years.

The Staff Working Group proposal limits the authorization period to 10 years, unless the report accompanying a bill or resolution authorizing a program or portion in excess of 10 years explains why it is necessary or desirable to do so.

We have not suggested a specific limitation on the period of future authorization. However, we recognize the value of periodic reauthorization--where that is appropriate--and suggest an approach by which programs not now subject to reauthorization can be designated for such in the biennial concurrent resolution. Also, we would encourage the Congress to move toward requiring future authorizations to be more synchronous with the policy and program and activity oversight cycle.

The House and Senate could go further and provide in their rules for (1) specifying an "on or before" reauthorization date to coincide with the end of an 8-year review cycle, or (2) establishing a maximum authorization period of 8 years, with provision for waiver of the rules when Congress judges it to be desirable.

4. Coverage

S.2 would base the reauthorization process on a list of all activities of the Federal Government categorized by budget subfunction, but with specified exemptions including (1) tax expenditures, (2) interest on the public debt, (3) health and retirement programs funded through trust funds, (4) certain litigation activities, and (4) Federal judicial activities. Specified regulatory agencies and activities are exempted from the first 6-year cycle.

The Staff Working Group proposal covers all programs and activities undertaken by the Federal Government. It excludes only activities carried out pursuant to provisions of a self-executing treaty.

We suggest that all programs and activities be covered.

5. Defining Policy Subjects

S.2 would establish a statutory schedule by budget subfunction with a privileged procedure for amendment of the schedule.

The Staff Working Group proposal would allow committees to group programs.

We suggest grouping related programs and activities in policy subjects. Flexibility is allowed to provide groupings which are considered most relevant to a policy issue or goal, and to allow any particular program or activity to be considered in more than one policy subject. Groupings might be based on

suggestions from the President, the committees, and other sources, and would be specified in the concurrent resolution on oversight. The present Senate Rules explicitly provide policy subjects for study and review on a comprehensive basis by designated committees. These could serve as the initial basis for grouping categories for at least some of the policy reviews with provisions for modification as needed. We believe the work under way to develop an inventory of programs and activities will help make this feasible. However, if unexpected delays occur and to assure full coverage in this event, consideration might be given to using the budget subfunctions as a starting point--subject to appropriate adjustment--as is the case in S.2.

6. Committee Assignments for
Reviews of Policy Subjects

S.2 provides that programs in the same budget subfunction be acted upon (reconsidered and reauthorized) in the same Congress. It does not require reviews of the subfunctions as policy subjects, but aims at this objective by scheduling. It provides for joint work by committees responsible for acting upon the same program.

The Staff Working Group proposal does not require policy level reviews, but does provide for coordination among committees.

We suggest that each House designate continuing committee responsibilities for the review of policy subject areas. Those

already designated in Senate Rule 25 serve this purpose; the House could add to their current designations similar policy subjects. Joint work would be encouraged. Ad hoc committees could also be used. The concurrent resolution on oversight could be used to establish the study jurisdiction of committees for the specifically designated policy reviews. In its report on the policy subject review, a committee might well include recommendations for any item covered in the policy subject, including those under the legislative jurisdiction of other committees, but it would report legislation only on programs for which it has legislative jurisdiction.

7. Inventory of Programs and Activities

The various proposals require that inventories or listings of programs and activities be developed to support the oversight process, but there are differences in how the inventories would be developed and maintained, how many programs they would contain, and how the inventories would be used.

S.2 requires that an inventory of programs be developed and maintained by CBO. Programs may be grouped such that

- (1) each program is classified in only one budget subfunction,
- (2) each program is administered by one agency, (3) there is consistency with the currently existing categories of national needs, agency missions and basic programs (4) there is consistency with the appropriation account structure, and (5) related authorizations are classified within a single program, to the extent appropriate.

The Staff Working Group proposal requires that each committee compile and maintain an inventory of all programs over which it has legislative jurisdiction.

We suggest a single inventory of Federal programs and activities, specifically designed to support the oversight process but with appropriate links to the data systems used in the budget process. This program inventory should be based on programs and activities authorized in law, and should serve as a "common language" and clearinghouse to enable the committees and the two Houses of Congress to communicate with each other, with executive agencies, and with others outside the Federal Government about programs and oversight activities. This inventory would serve as a basic source of information for the Congress and others to determine such things as programs and activities covered by various reviews of policy subjects and the status of the various reviews.

8. Nature of Congressional Review

The Governmental Affairs Committee report on S.2 states that "Congress must not be restricted either in the types of review it undertakes or in the criteria it applies in the reauthorization of programs." Discussions of S.2 have emphasized that reviews should focus on whether the merits of a program justified its continuation rather than termination and that alternative program approaches be considered in the context of a broader policy area (budget subfunctions).

The Staff Working Group proposal defines a review as "an inquiry into the effectiveness and impact of a program, and where appropriate, the desirability of continuing a program and its relationship to other programs. The nature of each program review shall be determined by the committee carrying it out."

We suggest that the Congress review broad policy subjects in parallel with scheduled reviews of individual programs and activities and also in parallel with ad hoc, issue-oriented and reactive oversight. The focus would be on the highest priority policy subjects designated in biennial oversight resolutions, based on suggestions by the committees, the President, or any of the numerous other sources available to the Congress. Studies of policy subjects and evaluations of individual programs would be initiated in the executive agencies and in legislative support agencies or other sources as requested by the committee. Thus, committees would have available both policy subject studies and evaluations of individual programs and activities for use in their reviews of the policy subjects. The committee review and report would strive to be sufficient to enable the Congress to determine whether individual programs or activities should be terminated, modified, or continued. Committees would need to communicate regularly with reviewing agencies to assure studies and evaluations are responsive to the congressional needs.

Available study and evaluation guidelines can be supplemented by criteria specified either by the committees or in the concurrent resolution.

9. Annual Reports by Executive Agencies

Neither S.2 nor the Staff Working Group proposal provide for annual reporting by executive agencies.

We have already discussed the reporting by the executive branch on their suggestions for and the results of their reviews, studies and evaluations of policy subjects, programs and activities. In addition, we believe the Congress, particularly the authorizing committees, could benefit from having periodic, brief reports that would display for each policy subject and the major Federal programs and activities a few key indicators of conditions such as:

- Funding levels of programs in the policy subjects.
- Related social and economic conditions.
- Summary workload, performance and accomplishment data.

The brief annual reports, besides allowing committees to monitor conditions in the policy subjects over time, would serve two important purposes:

1. They could help committees in their biennial preparation and planning for oversight.
2. They could assist committees, particularly authorizing committees, in carrying out their responsibilities in the congressional budget process.

10. Leadership for the Oversight Process

S.2 provides a fixed schedule for congressional action, with all changes handled through the Budget Committees of each House.

The Staff Working Group proposal uses the committee funding resolutions as the vehicle for planning and debating the oversight plans. These resolutions are managed by the Senate Committee on Rules and Administration.

We believe there is a need for strong leadership to assure the oversight process operates effectively and efficiently to achieve the objectives for which it is established. There are several ways in which this need could be met. One possible approach would be for the joint leadership to assume the responsibility, either directly or with the support of any of several existing committees. Alternatively, using the analogy of the congressional budget process, responsibility for managing the oversight process could be assigned to any of several existing standing committees, such as Rules and Administration, Budget, or Governmental Affairs. Or a new committee could be established expressly for this purpose.

Whatever approach is taken, we believe the responsibility for managing and leading the process should be made explicit. We believe this would help institutionalize a continuing commitment to an effective, systematic oversight process.

11. Resources Required

It is clear that the total resources required to carry out the various oversight reform proposals will be significant.

Substantial analytical and evaluative resources now exist in executive and legislative branch agencies. However, it should not be expected that all of these resources would be available for meeting these new needs. Among the Congress' own needs will be the requirement to continue supporting the important ad hoc, special issue, reactive component of the oversight process, as well as the existing reauthorization process.

The extent to which these existing resources can be reoriented to meet the needs of a strengthened congressional oversight process depends upon how clearly and carefully the needs of the Congress can be scheduled and specified.

With improvements in these areas, including some of the suggestions we have made, the resources required to carry out a stronger, more systematic oversight process can be held to a minimum. Realistically, however, we must recognize that this minimum may still involve a significant increase over the present level of effort in both the legislative and executive branches. In effect, that is one of the prices which must be paid if the Congress is to have the quantity and quality of analysis needed to exercise comprehensive oversight of our Government.

12. Citizen's Commission on the Organization
and Operation of Government

S.2 would establish a "Citizen's Commission on the Organization and Operation of Government." The objectives appear to be analogous in many respects to those of the First Hoover Commission.

The Staff Working Group proposal does not include this proposal. As we have said in previous testimony, we believe a new commission could make a significant contribution to improving the effectiveness of Federal programs and activities, particularly as it has now been more than 20 years since the last comparable effort.

* * *

In conclusion, we believe it is possible to develop a workable approach to strengthening the oversight process by considering the best features of each of the proposals. Our suggestions for accomplishing this are reflected in this statement and in the accompanying report.

Mr. Chairman, this completes my prepared statement. My colleagues and I would be pleased to attempt to answer any questions which the Committee may have.