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GOVERNMENT ECONOMY AND SPENDING REFORM ACT OF 1976

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HEARING BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE NINETY-FOURTH CONGRESS

SECOND SESSION

ON

S. 2925

TO PROVIDE FOR THE ELIMINATION OF INACTIVE AND OVER-
LAPPING FEDERAL PROGRAMS, TO REQUIRE AUTHORIZA-
TIONS OF NEW BUDGET AUTHORITY FOR GOVERNMENT PRO-
GRAMS AND ACTIVITIES AT LEAST EVERY FOUR YEARS, TO
ESTABLISH A PROCEDURE FOR ZERO-BASE REVIEW AND
EVALUATION OF GOVERNMENT PROGRAMS AND ACTIVITIES
EVERY FOUR YEARS, AND FOR OTHER PURPOSES

SEPTEMBER 8, 1976



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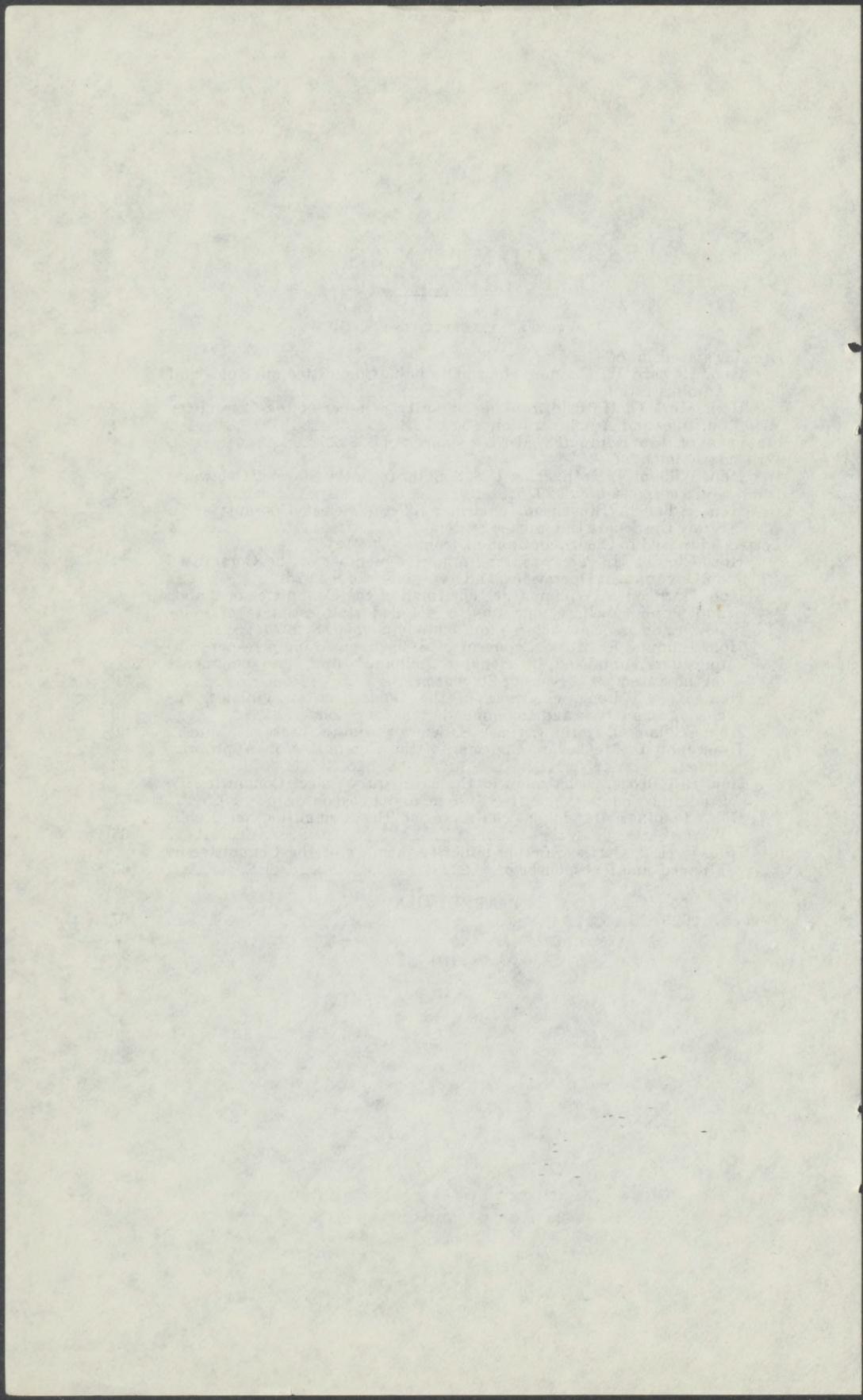
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GOVERNMENT ECONOMY AND SPENDING REFORM ACT OF 1976

WEDNESDAY, SEPTEMBER 8, 1976

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, D.C.

The committee met, pursuant to call, in room 301, of the Russell Senate Office Building, at 10:05 a.m., Hon. Howard W. Cannon (chairman) presiding.

Present: Senators Cannon, Pell, Robert C. Byrd, Williams, Clark, Hatfield, Hugh Scott, and Griffin.

Staff present: William M. Cochrane, staff director; Chester H. Smith, chief counsel; John P. Coder, professional staff member; Floyd M. Riddick, professional staff member; Jack L. Sapp, professional staff member; Ray Nelson, professional staff member; Larry E. Smith, minority staff director; Andrew Gleason, minority counsel; Peggy Parrish, assistant chief clerk; James F. Schoener, minority counsel, Subcommittee on Privileges and Elections; John K. Swearingen, staff director, Subcommittee on Computer Services.

OPENING STATEMENT OF HON. HOWARD W. CANNON, CHAIRMAN OF THE COMMITTEE ON RULES AND ADMINISTRATION

The CHAIRMAN. The hearings will come to order. This hearing has been called by the Committee on Rules and Administration to receive testimony on S. 2925, the Government Economy and Spending Reform Act of 1976, popularly known as the Sunset bill. For the record, I am a cosponsor of this bill.

This measure was reported by the Committee on Government Operations on August 6, 1976, and referred the same day to the Committees on Rules and Administration and Finance, simultaneously, with instructions that the Rules Committee report the bill to the Senate no later than September 15, 1976. The Committee on Finance has been instructed to confine its consideration to title V of the bill, which relates to zero-base review of the tax expenditures. Should the Committee on Finance not report on S. 2925 by September 15, 1976, that measure shall be deemed to have been reported by the Committee on Government Operations minus title V.

In essence, S. 2925 would provide that, with few exceptions, authorizations for Federal programs and tax expenditures would terminate after a 5-year period unless they were reenacted by Congress. All such programs and tax expenditures would undergo a zero-base review by the appropriate congressional committee with the assistance of the

executive branch departments or agencies and the congressional support agencies before they are reauthorized or reenacted.

Each congressional committee within a 5-year period would be required to review from zero-funding basis all of the Federal programs in existence in the consideration or enactment of which it had a part. Such committee would then recommend to its respective House its judgment as to whether each such Federal program should be reauthorized, should be altered, or should be discontinued. If the Congress did nothing the funding authorization for the program would cease to exist.

Those are the bare essentials of what is a finely conceived proposal to achieve full congressional oversight. But the all-important question is: Is it achievable, given the present pressing responsibilities of Congress, and the existing demand on the Members' time and energy?

In recent years the Senate has been required to adjust its operations to such innovations as the Budget Control Act, the Senate Resolution 60 committee-related personnel provisions, and the "Sunshine" concept, and at the present time certain major committees are in the process of accommodating themselves to sharing jurisdictional responsibilities with our new permanent Select Committee on Intelligence. While the immediate impact of those measures was felt by the chairmen and ranking minority members of the Senate committees, ultimately their effects will be felt by each individual Member of the Senate. It is evident that if S. 2925 is enacted by the Congress, it will have an even greater impact upon the responsibilities and duties of Members and committees of the Senate.

It is the purpose of this hearing to attempt to evaluate that impact and to measure its disadvantages or difficulties against the obvious benefits to be derived from the strengthened oversight procedures envisioned by S. 2925.

I should add that not only this committee but also the Temporary Select Committee on the Senate Committee System is interested in knowing Senators' reactions to S. 2925, and its probable impact upon our present committee operations, since enactment of that bill would have a direct bearing upon any measures the select committee would recommend to the Senate for the revision of its committee system.

Senator Hatfield, ranking minority member of the committee, I understand, has a statement. Senator Hatfield.

**OPENING STATEMENT OF HON. MARK O. HATFIELD, RANKING
MINORITY MEMBER OF THE COMMITTEE ON RULES AND ADMIN-
ISTRATION**

Senator HATFIELD. Thank you, Mr. Chairman. As you noted in your remarks, Mr. Chairman, S. 2925, the so-called "Sunset bill or act, is a complicated piece of legislation. It is a measure designed to simplify, economize, and increase efficiency of the Federal Government, while at the same time make our system more responsive to the needs of the people. While it may plead efficiency, I am afraid it is going to add to the already heavy workload of the Congress and, quite possibly, to the inefficiency of the legislative branch of our Government.

So that my remarks are not misinterpreted, I am a cosponsor of this measure, and I support it wholeheartedly. But I only raise these questions so that in this hearing we may anticipate some of the questions that will be asked by our colleagues and the general public.

I do support the concept as embodied in this bill, and I believe it to be theoretically sound in developing a more efficient government. But I would like to raise certain questions, because some doubts were expressed on the Senate floor when the Senate debated the Budget Control Act of 1974. Congress has been successful so far in fully implementing the new budget system, but it must be recognized that the reason for this success is due to the hard work of the Members of the Senate, such as Senator Muskie and Senator Bellmon, and other members of the Budget Committee, and due to the large number of new staff members hired to insure that this new system is workable and successful.

The question which comes to my mind, Mr. Chairman, is how much this legislation is going to cost. The budget of the Congressional Budget Office for 1976 is \$9.3 million; the 1976 budget for the Senate Budget Committee is in excess of \$2.3 million. While I do not know the budget of the House Budget Committee, I would suspect that it would be at least as much, if not more, than the Senate Budget Committee. In other words, Mr. Chairman, I believe we can estimate with fairly good accuracy that the operation of the Budget Control Act of 1974 is costing at least \$14 million per year.

Now, the point is the Congress is now spending approximately \$14 million a year to control the budget. This figure does not even include the amount spent by the two Congressional Appropriations Committees. And I think that probably we have already saved more than that amount of money that we have invested in the cost of operation.

Now we have before us S. 2925, the Government Economy and Spending Reform Act of 1976. I raise the question of how much is this act going to cost?

First, we really don't know the amount of work this measure will create for the other committees in the Senate and in the House. We don't know how many staff members these committees will have to hire in order to comply with the new responsibilities placed upon them by the "Sunset" bill.

Second, just as we do not know how much money this measure is going to cost the legislative branch, we also don't know how much it will cost the executive branch. The Sunset act places far greater burdens upon the executive branch than the Congressional Budget Control Act of 1974 ever did.

How many new civil servants will be hired to handle the workload generated by S. 2925? Will S. 2925 cost as much or will it cost more than the Congressional Budget Control Act of 1974? I don't know. But I believe these are simple questions that must be explored today, because I think we have to be very forthright with the taxpayers to indicate that it does cost money to save money, if we are to be adequately equipped with personnel and with organization to really uphold our congressional responsibilities under the Constitution and the statutes of this country.

I am very anxious to hear what Senator Muskie and his cohort will have to say on this matter, and other questions that will be raised. And I do have questions that I would like to ask after the formal presentation of our good colleague and friend, Senator Muskie.

The CHAIRMAN. Thank you, Senator Hatfield. Senator Byrd, do you have anything?

Senator BYRD. No.

The CHAIRMAN. Our first witness today is Senator Muskie, author of S. 2925, the measure under consideration. Senator Muskie, we are happy to have you here and would like to have you proceed.

STATEMENT OF HON. EDMUND S. MUSKIE, SPONSOR OF S. 2925

Senator MUSKIE. Thank you, Mr. Chairman, and thank you, Senator Hatfield and Senator Byrd, for your interest in attending this meeting this morning at the tailend of the session when we are all very busy.

It is obvious from the opening statements of Senator Cannon and Senator Hatfield that some of the same questions, if not all of the same questions, with which we have struggled in developing this legislation also arise in your minds. And I think they are very pertinent and very much to the point.

Before I get into my prepared remarks, which undertake briefly to summarize some of the things we did in response to similar concerns, may I make this point, Senator Hatfield? As in the case of the budget process, this process would not work unless it becomes part of the system in the sense that every Senator works to make it work. The budget process is working thus far, and I think beyond my expectations at least, because to such a great degree every Senator now undertakes to apply that discipline.

I was interested, for example, in the deliberations on the floor on the education bill. Two amendments, two very attractive amendments, were pending. I did not speak on them, but I made sure that I was on the floor. Both of those amendments, taken together, would have added some \$500 to \$600 million to the cost of the bill. I did not have to speak to those amendments. The sponsors came to me and asked me if there were budgetary problems with the two amendments. I indicated there were. And so on their own motion the sponsors of those two amendments together cut back the cost by \$0.5 million.

I don't pretend to say that if that action had not been taken the amendments in their original form would necessarily have been adopted by the Congress as a whole. But it is an indication of the fact that the discipline is working and that, for whatever reasons, Members undertake to apply it themselves without inviting a confrontation with the Budget Committee on each and every issue that might arise.

Second, there is a cost, of course, to implementing reforms like the budget process. To pretend that there isn't such a cost, I think, would be unrealistic and misleading in the extreme.

Senator Hatfield has used, I think, the figure of \$14 million as at least a partial cost of the budget process. Well, we have saved billions with the budget process. I don't think there is any doubt about that. And if we were to limit ourselves to simply specifying what we can demonstrate we have saved, it would be far in excess of \$14 million.

The third point I would make is this—both with respect to the

budget process and this proposal—they both undertake to deal with the responsibility which the Congress was not exercising. The Congress was not exercising its budgetary responsibilities in the way that the public perceives that they ought to do. And so we undertook to do it. It has saved money, but it has also cost money in terms of direct cost.

Well, this "Sunset" bill undertakes to deal with another responsibility which the Congress is not exercising, the responsibility of oversight over agencies and programs which we create. We spend a great deal of time—committees, I think, work very effectively in examining new ideas before they are finally enshrined in law—and then we forget them. I remember a meeting that Senator Bellmon and I had with Elmer Staats and the Director of the Office of Management and Budget, more than a year ago. We spent a whole afternoon discussing with them this very responsibility of oversight, both by OMB and GAO. And they both conceded that neither of their agencies exercised this kind of oversight, that by and large most programs, once created, simply continue on an incremental budget basis; that is, each year they are simply asked, How much more do you need, and their requests for more money are examined—and sometimes restrained and sometimes not. But the basic assumptions which led to the creation of the agency or the program in the first instance are never examined.

Now, as I say, both of these gentlemen conceded that point. GAO, of course, operates on a selective basis. They move in to examine an agency when red flags are raised; they are sort of a watchdog agency. But OMB certainly has the responsibility for continuing oversight, and claims that it is unable to exercise it because of lack of resources or because of pressure of other responsibilities or priorities.

So here is a function that admittedly on all sides is not exercised.

Now, if it is to be exercised, it seems to me it ought to be exercised by the branch of the Government which creates the programs in the first instance—and that is the Congress of the United States. It will take some additional staff, although not necessarily an increase in overall staff, depending upon what we do in the Committee on Committees, which is examining the whole structure of the committees in the Senate and the House. But that is another question, and I won't lean on that one as an answer to this one. This one process is going to take some staff. Whether or not we can offset this by staff reductions and more efficient ways of operating on the Hill, you gentlemen on this committee are in a better position to judge probably than I am.

Now, if I may get into my prepared remarks—they are not too extensive, but I thought it might be helpful to you, as you evaluate the questions you have raised and will raise, if I give you some background on the work that we have done in the Intergovernmental Relations Subcommittee in dealing with this legislation.

"Sunset"—and, incidentally, I did not originate that word, although I welcome it, because it has had the effect of attracting public attention to the bill that we would not have had otherwise. The word comes out of Colorado, and I suppose it is appropriate that the western part of the country should originate the word "sunset" to deal with this problem. My part of the country is more associated with sunrise rather than sunset, but it may be that the so-called Eastern part of the country has stimulated the creation of a lot of these programs, and now the Western part of the country is talking about sunset.

Senator BYRD. I suppose you have moonshine in both parts. [Laughter.]

The CHAIRMAN. Only in West Virginia. [Laughter.]

Senator MUSKIE. Now, if I can get down to this. We view "sunset" as an action-forcing mechanism, a process to bring Congress more in touch with the results of its legislative work. And as such I think it is a revolutionary idea.

After less than 2 years under the new budget process, I have come to regard some kind of action-forcing mechanism as absolutely essential. Budget reform has given us the vehicle for a positive affirmation of our national priorities in the broadest sense, as they are articulated in the Federal budget.

What we need now is a vehicle for exercising greater control over the thousands of individual Federal programs which make up that budget and which constitute the building blocks of national priorities.

As evidence of that need, I point to the recent investigations into the medicaid program. Medicaid, as you know, costs many billions of dollars every year. It is also a permanent program.

The Moss investigation has documented clear and pervasive abuses in the program. But since the program is permanent, there is now no sure, inevitable opportunity for legislative followup.

"Sunset" would give us the ideal opportunity for such followup.

And for the thousands of other Federal programs which have not made the headlines recently, "sunset" would give us the vehicle we badly need for exercising greater control over what we have created—and of hopefully giving the American taxpayers a greater return for the tax dollars they pay.

Without such controls, setting spending targets for program areas under the budget process can become meaningless. And the budget process itself can become little more than the arithmetic summing up of predetermined dollar amounts.

I do not regard that as either an acceptable or responsible option.

As you know, the "sunset" bill was before the Government Operations Committee for many months. The Subcommittee on Intergovernmental Relations, which I chair, held 7 days of hearings on the bill.

This morning, I would like to explore with you some of the issues raised at those hearings and how we responded to them, because they are the first questions everybody asks about the bill.

From the very beginning, the legislative history on this bill reflects a concern over the potential impact on the workload of the Congress.

In a sense, this concern is a sad commentary on the state of affairs in the Federal Government, for it implies that Congress has created so much that it cannot possibly review it on any systematic basis.

Nevertheless, the concern is a legitimate one, to which both the subcommittee and the full committee gave considerable weight.

The bill, as reported, includes substantial changes which were incorporated in response to this concern.

In the first place, the review schedule has been lengthened from 4 to 5 years.

Second, the bill as reported allows for maximum flexibility for the authorizing committees of Congress in balancing the workload requirements of the bill with committee resources. The bill assumes

that committees should and will assign different priorities to different programs scheduled for review.

Third, the review schedule set out in the bill has been carefully revised and refined by staff to distribute the program workload as evenly as possible. And, of course, that schedule is subject to modification in any way that additional evidence or testimony may suggest.

Two totally separate program counts were made, one based on GAO data, the other on calculations of the Congressional Budget Office. Several different methods of counting were used as we tried to find the most accurate and reliable tally. Needless to say, we were delighted when the two separate counts yielded results highly consistent with each other.

Finally, the zero base review requirements of the bill have been limited to one full 5-year cycle. In effect, that portion of the bill raising the most substantial workload questions will be "sunset" like every other Federal program, so that Congress can review its operation before deciding whether or not to renew it.

Even with these changes in hand, S. 2925 will clearly result in an increased workload for at least some of the authorizing committees. But with these changes, we believe the workload is manageable. And, more importantly, we believe it is necessary.

A second major concern, expressed by supporters and critics of the bill alike, revolves around the potential for "sunset" to reopen old legislative battles and prevent a majority of the Congress from working its will.

This, too, is a serious concern, and one where a definitive answer or solution is more evasive.

It is clear that there will be some programs which will be terminated by "sunset."

And it is equally clear that such termination decisions should be made by the majority will of the Congress.

The problem, of course, is that everybody has a different idea of what is a good program and what is not. As a partial response to this concern, I would like to point out here just exactly what the bill does terminate, since there is much misunderstanding on this point.

The bill does terminate those provisions of law which authorize either specifically or implicitly the appropriation of funds.

The bill does not terminate substantive provisions of law which set out national policy.

As a more general response, it is my view that there is no program so important that it should not be reviewed on a regular basis, and adapted, if necessary, to changing national needs. Even the handful of programs exempted from termination in S. 2925 are not exempted from the review schedule set out in the bill.

Here, again, I would cite the recent medicaid investigation as an example.

I cannot believe that there are more than a handful of Members of Congress who would seek to undo the Federal commitment to provide access to health care for poor Americans.

I do believe that there will be many who do not think that the Medicaid program is the best way to do this. And they may be right.

Another example I have often used in response to this question is that of the GAO study of outpatient health facilities in the District

of Columbia. The GAO found the Federal effort so fragmented that there were eight separate clinics in one neighborhood, with the result that medical resources in several of these clinics were badly under-utilized.

Most Americans, I suspect, would find these examples outrageous, not because people don't want their tax dollars used to help the poor receive health care, but because they don't want their tax dollars wasted by Government mismanagement.

That, Mr. Chairman, is the bottom line. What it means is that every Member of Congress, every special interest group and indeed every citizen must be willing to let his or her pet program be held up to sunlight, to see if it is still needed and if it is operating as effectively as possible.

We can and should take the necessary procedural safeguards to insure that no program will be terminated because a majority of the Congress couldn't work its will.

But, beyond that, we must not forget that the fundamental beauty of the "Sunset" concept as outlined in S. 2925 is its absolute neutrality. To quote from the committee report:

That process ["Sunset"] does not attempt to judge the merits of any one program, or of the priorities for Federal spending as a whole. It only suggests that Congress should arrive at the decision to have every Federal program—military, foreign or domestic—renewed through positive action.

In your August 27 Dear Colleague letter to the chairmen of the standing committees, Mr. Chairman, you asked the question "Is sunset achievable, given the present pressing responsibilities of Congress and the existing demands on the Members' time and energy?"

In closing, I would like to respond to that question.

I believe that the process envisioned by S. 2925 will mean a lot of work for us all. But I believe that it is doable.

More important, Mr. Chairman, I think that what it proposes to accomplish—to improve the quality of services provided by the Federal Government to the American people—is itself the most pressing responsibility that Congress has—today and for the foreseeable future.

I have not, in these prepared remarks, gone into the technicalities of the bill beyond what I have stated, but I would be happy to get into them to any extent that the committee would like.

The CHAIRMAN. Well, thank you, Senator Muskie, for a very fine statement on the bill.

As you see it, would this bill, if enacted, give any authority or power to the Senate that it doesn't already have under its rules, if it saw fit to exercise them?

Senator MUSKIE. Well, in the broad sense that the committee now has the authority and the responsibility to exercise oversight, no. No more than the budget process does. The budget process doesn't confer any responsibilities upon the Senate that the Senate and the Congress as a whole do not have under the constitutional division of powers.

So in that broad sense, no.

What it does do is to provide an additional tool for the exercise of responsibilities which the Senate has.

The CHAIRMAN. Provide at least a triggering mechanism?

Senator MUSKIE. A triggering mechanism I think is a better description.

The CHAIRMAN. As you know, it is a fact that if appropriations have already been authorized, that doesn't mean that the funds will have to be appropriated, and likewise, under rule 16, the Appropriations Committee could not only refuse to appropriate funds for certain purposes, but it could propose to place limitations on the use of the funds for any purpose that it saw fit, and that burden doesn't fall solely on the Committee on Appropriations; the various legislative committees are authorized to propose amendments to the appropriation bills of the above nature, which, if referred to the Committee on Appropriations 1 day before the bill is reported, could be called up as committee amendments.

I think it should be emphasized that to appropriate funds for any purpose takes a majority vote and a positive action on the part of the Senate, just as would any proposal to authorize funds for a purpose for which they might have been terminated by law.

Senator MUSKIE. That's correct. There are two limitations on the actual exercise of those powers. One, there is the question of legislation on an appropriation bill that is constantly raised by people who see their programs jeopardized by appropriation bills or by amendments to them. And there is a limitation, I think, to the extent to which you can modify or restructure programs to make them more relevant to current needs under those powers.

The second point is that as you know, there is a tendency to go to the incremental approach; in other words, it is easier to exercise the appropriations function if we assume the programs are going to continue, and that critical judgments need to be made only with respect to growth in appropriations rather than the basic appropriation. We are all so overloaded with work that it is easier to do that.

I found it easier to do that when I was Governor 20 years ago. Workloads were much less then. It is easier to look at the request for new funds than it is at the basic funding of a program. And so the great mass of Federal programs continues on accumulating incremental funding as it goes. And when one looks at the extent to which appropriations are now regarded as uncontrollable—or spending is uncontrollable—one is struck by the phenomenon. This year the magic number is 77 percent; that is, 77 percent of Federal spending is uncontrollable in the sense that it would require a change in law to change that 77 percent. Last year I think that number was under 70 percent.

So the uncontrollable continues to climb as the momentum of on-going programs eats up dollars.

The CHAIRMAN. Is that about the rate it has been climbing, roughly 7 percent a year or a little more on uncontrollable—

Senator MUSKIE. I would like to submit a table for the record to indicate that, Mr. Chairman; I don't have those number in mind. But they are available and I would be glad to put them in the record.

The CHAIRMAN. Do you think Congress would be overwhelmed with the task of reauthorizing appropriations for each project, or a detailed breakdown of each authorization?

Senator MUSKIE. That would depend upon how Congress divides its workload and its time. And I think that is a critical question to

which Congress must address itself. For instance, with the budget process, we found when we were trying to frame that law that the one thing we couldn't change was the length of the calendar year, or the fiscal year. It was 12 months no matter how we struggled with it. And there was no way we could stretch it or provide additional time.

Well, we found ways in the Congressional Budget Act to at least make more effective use of our time—one, by changing the fiscal year to conform more nearly to the legislative year; and so we now begin work on October 1. That was one way of doing it. Second, we divided the legislative year up into segments that forced Congress to use the 12 months available to it on a more efficient basis in terms of appropriations.

So that is the best we can do. We cannot add to time. So the Congress, if it wants to consider "sunset" legislation, is not going to be able to do it by finding some more time somewhere; it is going to have to divide its time up differently and change the priorities with respect to use of its time. Our committees now use a lot of time in new legislation. The question is whether they shouldn't use a bigger part of their time dealing with a review of legislation already enacted. It is that simple a question.

The CHAIRMAN. Do you think that title V of the bill providing for a scheduled termination of Federal income tax provisions would be hurtful to economic stability or that it would increase economic uncertainty?

Senator MUSKIE. That question has been raised mostly by the Senate Finance Committee. I think it is a legitimate question, and it is for that reason that the bill was referred to the Finance Committee and to this committee for consideration.

I don't know whether the Finance Committee will have time to consider that question, and, as the chairman knows, the reference to the two committees takes that into account, so we may not be able to dig into that question as thoroughly as we might like.

Incidentally, getting back to the uncontrollable question, in the committee report on page 26 there is this additional insight, that in 1967 uncontrollables accounted for 59 percent of that year's budget; 10 years later it is roughly 77 percent. So it is climbing.

But to further comment on the last question you put, Mr. Chairman, may I give you my own view. I think that a 5-year review schedule is not unreasonable, even from the point of view of the impact upon the economy or upon the behavior of the private sector, for questions raised about tax expenditures or tax incentives or tax loopholes. None of these tax advantages are frozen in concrete forever. They are all subject to review on some basis. The question of tax expenditure reform is a recurrent annual one now.

So they are all subject to attack on an irregular basis, from one quarter or another, now. And putting that review on a regular basis, it seems to me, ought not to create any more uncertainty than the present unscheduled, irregularized questions that are thrown at the tax-writing committees, either in committee or on the floor of the Senate or the House. As a matter of fact, I think regularization of review ought to be an advantage from the point of view of the economy, especially if you can project for 5 years.

Now, I think there would be very few businesses who can project their normal operations on a 5-year basis that is fixed in concrete. They have annual flexibility in developing their annual budgets, and 5 years, it seems to me, in terms of tax policy is a reasonable amount of time.

The CHAIRMAN. In your report you say that section 104 provides that after a program has gone through its first review date, any subsequent appropriation for that program will require specific authorization in law. And then in the next paragraph, you say that the committee does not intend that the operation of the Senate under the standing rules be altered.

It seems that that is somewhat inconsistent, because if you prohibit appropriations, unless there is a specific authorization in law, you are in effect negating rule 16 which the Senate has used for a number of years. So your statement there doesn't seem to quite jibe.

Senator MUSKIE. Well, legislation is the art of the practical, I guess. The inconsistency is the result of questions raised by Senator McClellan, as chairman of the Appropriations Committees. What he is fearful of is the possibility of some stalemate in the legislative process, triggered by the original provision of the bill to which you have referred, for which there ought to be some flexibility.

And so we wrote in the flexibility, not as something we would like to see used on a routine basis, but as an escape hatch which would be available to the Congress in the event there were a stalemate resulting out of the original provision of the bill.

And it is a practical kind of a legislative compromise that I think can be made workable. As a matter of fact, under present practices, it is done from time to time; even though the assumption is that all appropriations shall be made pursuant to authorization bills, there are occasions when they are made without authorization bills in order to avoid a stalemate. For example, I don't think there is at the moment an authorization bill governing EPA's programs next year, but there is an appropriations bill which was enacted so that there would not be a stalemate.

It is not the kind of a thing you would like to do routinely, but occasionally you have to have that kind of flexibility—and that is the motivation for that provision of the bill, Mr. Chairman.

The CHAIRMAN. Have you developed any meaningful estimates as to the number of additional staff that the Senate committees would have to employ to effect the oversight under the bill?

Senator MUSKIE. No. No. 1, it would be very difficult to do; and, No. 2, I don't think that it should automatically follow, you know, that each and every committee should get x number of employees to do this job. It seems to me the pressure ought to be on committees, to the extent possible, to absorb this responsibility in its workload, and come to you for additions in staff only when they can make a case. That is the kind of pressure we would like to apply.

Now, even when that is done, we assume that there will be some additional employees required. But we would not want to encourage committees to just run to the well to pick up additional employees, using the "Sunset" bill as an excuse.

The CHAIRMAN. I would certainly subscribe to that theory with you, that we should require them, when they come here to us, to very care-

fully justify their requests for additional personnel, because of the responsibilities that they have had added to them.

Senator MUSKIE. Let me make this point. If committees continue to devote their energies in the same directions that they now do, very few of them are going to have the time to devote to this oversight function. So that if they are willing to adjust their time, and are required to adjust their time to exercise this function, then presumably there will be some staff available in their existing complements to do some of this work.

The CHAIRMAN. It is my understanding that during the consideration of this proposal by the Government Operations Committee, that there was no firm information available as to the total number of Federal programs that would be subject to the bill's provisions, or as to the number and identity of programs to be reviewed by the Senate committees.

Have you now developed any estimates along those lines?

Senator MUSKIE. It takes constant plowing of the ground, Mr. Chairman, to get those numbers. In my prepared remarks, I indicated that we have undertaken two routes to get information—one through the Congressional Budget Office, and the other through GAO. And they each produced numbers on different assumptions and they came up with about the same numbers. Now, I don't know to what extent the lists conform to each other.

May I ask Al From, who is the staff director of the subcommittee, to respond?

The CHAIRMAN. Sure.

Mr. FROM. GAO prepared for us for the first time a list of every authorization—

The CHAIRMAN. Would you pull the mike a little closer?

Mr. FROM. We asked GAO to prepare for us for the first time a list of every authorization in law. Now, that list is virtually completed; they have completed a first cut at it; the Committee on Committees has submitted part of that, parts that pertain to each authorizing committee, to the committees to check it.

And when we did our estimate, we used that as the basis of our estimates of the workload. We hope that within the next month that document will be printed.

But the other point is that under the "Sunset" bill, GAO is required to formally produce that document, so they have had about a year's headstart on it.

The CHAIRMAN. I have some other questions, but I don't want to infringe on my colleagues' time, so—Senator Hatfield?

Senator HATFIELD. Thank you, Mr. Chairman. I have a few questions here just to get a better understanding of what was the intent.

You have a request or requirement for the Comptroller General to identify various authorized expenditures and regulatory activities falling under the scope of this act, and he is to report as of a certain date.

How do you plan to coincide that or to mesh that particular report with the act, the implementation of the act itself? It seems to me that before the act can actually be fully implemented, you almost are required to wait for that Comptroller identification?

Senator MUSKIE. With regard to the GAO list, the committee might

like to see the first cut of that. I don't think you want to put that in the record—it is too voluminous. But at least the size of the document indicates the difficulty of the task, and really the basis of the frustration of so many people who have to deal with these programs. You know, we don't really know—even GAO and OMB don't really know the answer to that question of what are the separate programs, where are they, how much by way of resources do they involve. At least the consideration of the bill is triggering the process of getting precise and complete knowledge. And we hope that we have it in time so that the information falls into place in the "Sunset" legislation.

Now, I assume that you are concerned about the schedule for review that is in the bill.

Senator HATFIELD. The April 1, 1977, date that you have given to the Comptroller.

Senator MUSKIE. I think that the information developed up to now is sufficient to make a start on the first year's review plan. And, as I understand it, by April 1978 the authorizing committees would have to develop their review plans. And I think by that time, this information, which I think is a good start, will have been sufficiently refined so that it would be an adequate basis for the committees to establish that plan.

Senator HATFIELD. You would agree that the Comptroller's report is really going to become a gage for these committees as far as their additional workload is concerned?

Senator MUSKIE. Initially, of course, the GAO, which is an arm of the Congress, would give us the information with which to start, but I would hope that eventually each committee will have that information base developed out of its own resources. We are computerizing our operations hopefully in the Congress; it seems to me that when we get that kind of technological assistance further moving, we ought to have this information at our technological fingertips almost as a matter of course.

Section 103 of the bill, on page 25, Senator Hatfield, provides that on or before July 1, 1977, the Committees on Appropriations and the two Committees on the Budget, acting jointly, shall review the reports submitted under section 102 and submit it to their respective Houses. That is designed to bridge the GAO report and the action by the authorizing committees.

Senator HATFIELD. It does seem to me that we have to be very careful putting this together in relation to the base of information which will be required from the Comptroller.

Senator MUSKIE. I would agree with that.

Senator HATFIELD. And when we implement that responsibility in the committee.

Senator Muskier, one section of this bill restricts the authorization to a period of 5 years or less in order to correspond with the review dates established by the act.

Now, one exemption you have included in the bill is the fact that you say that legislative committees might justify a longer period of time, as far as dealing with the basic timeframe question for authorization.

Now, what might be the circumstances, as you visualize for a longer timeframe? Could you give us illustrations? And what must be committees actually do in order to circumvent this particular provision of the act?

Senator MUSKIE. You may have put your finger on something I wasn't aware was in the bill. It was my impression that it provides for shorter periods of authorization, but not longer, except to the programs which are exempted, like social security and so on.

Senator HATFIELD. No—let me find my citation here.

Senator MUSKIE. On page 27, section 104(b), it would seem to incorporate my understanding of the bill. It says:

Nothing contained in this Act shall be construed to require the enactment of authorizations of new budget authority for a program for a period of 5 fiscal years. In any case in which it is determined necessary or desirable to enact authorizations of new budget authority for a program on an annual basis, or for any period of less than 5 fiscal years, such new budget authority may, subject to the provisions of subsection (a) (1), be authorized for the period so determined.

Now, that first sentence without the second might, I suppose, raise the question that you have put, but I think it is clarified by the second sentence, unless there is some other provision in the bill to which you have directed your attention.

Senator HATFIELD. Perhaps I misread it, but the first sentence in that—

Senator MUSKIE. Yes, the first sentence, taken alone, might imply, I suppose, a period of longer than 5 years. But that is clearly not the intent.

Senator HATFIELD. The intent would be to not make exemption for extending it beyond the 5 years.

Senator MUSKIE. Clearly not.

Senator HATFIELD. You have set up this Reorganization Commission—sort of a Hoover Commission concept. As I recall, there was the Brownlow Commission of 1937, which was in the modern-day period and the first major step to reorganize; followed by Hoover 1947; and Hoover 1953. All three of those commissions indicated the problem was that we tended to meet this issue on a one-shot basis, and then we forgot about it after the report.

Senator MUSKIE. That's right.

Senator HATFIELD. I guess in 1947 and 1953 the Citizens Committee for the Hoover report became the first effort to broaden the base of support by employing public support.

Why would you give a limitation to the life of this commission, as contrasted to the possibility of making this a permanent commission, so that reorganization can be a continuing activity?

I do feel that reorganizing the Federal Government, or any other thing, is a continuing function rather than just a one-shot affair.

Senator MUSKIE. Well, may I say first of all that this provision in the bill is of special interest to Senator Roth because he had worked with the Hoover Commission, as had I—I was one of a committee of three in Maine undertaking to head the citizens movement in behalf of the Hoover Commission report in the late 1940's; and I think that citizens movement was very important.

Senator HATFIELD. It was.

Senator MUSKIE. Very important. Now, with respect to the role of a similar commission in connection with this legislation, the idea here was, as Senator Roth put it, that this commission made up of outsiders taking a look at this growth of Government, might be very useful in getting the whole effort off the ground; that is, they could come in and, on a full-time basis and with single-minded concentration, be

very helpful in getting the whole concept off the ground, at the same time that the congressional committees were undertaking to do it.

And on a one-shot basis it might be very useful in that connection.

Now, we do have an ongoing commission patterned after the Hoover Commission in the Advisory Commission on Intergovernmental Relations, which was created in 1959, and which I think has done very useful work over the years in focusing on particular problems. I suppose that commission would make the argument that it would be an appropriate vehicle for—

Senator HATFIELD. Perhaps it would be.

Senator MUSKIE [continuing.] For doing this job. But, anyway, the concept of it in connection with this legislation is as an added assist in getting the "Sunset" concept off the ground.

Senator HATFIELD. You give it a 90-day life, that is, following the submission of its report, on page 48. And it just seems to me that our past experience would cause us—perhaps the Intergovernmental Relations Committee—to look at this to broaden its scope and to give it this overall view, at least periodically, along with its present responsibilities—or to sustain the life of this commission you propose to create.

Senator MUSKIE. Well, we could take a good look at it at that point. I suppose we ought to be willing to apply the "Sunset" concept to that commission as well as to other Federal programs.

Senator HATFIELD. I am sure that you recognize, both in your present role and also in your previous role as Governor that if you are going to maintain a currency of procedure or efficiency and perspective, in the administrative procedures, the administrative life, of any part of our Government, State or Federal—reorganization is not just a once-every-20-years happening, but it is a constant day-by-day review.

I think that is one of the problems we are dealing with here in the Federal Government, and particularly in executive agencies, is they get locked in, not only in budgetary procedures, but in administrative procedures and all these other things, to the point where there isn't a current ongoing review of their activity.

Senator MUSKIE. Well, may I say this about—

Senator HATFIELD. The oversight was intended for that, but we only have oversight in times of crisis.

Senator MUSKIE. Well, let me say this with respect to commissions like the Intergovernmental Relations Commission—and I have been a member of that Commission since it was created. But I find that such a commission is more effective in attracting the full-time attention of outside people if it is a short-run thing. I find that when you make such a commission an ongoing proposition, that attendance, then, by the actual members tends to be less continuous and less concentrated. I think in a sense they are much better coming in and taking a concentrated look—and over a period of 1 or 2 years, if necessary—and giving us the benefit of their outside insights on that basis than on an ongoing basis.

The ongoing kinds of commissions tend to become more and more staff operations. And I think, Senator Hatfield, you would agree with that.

Senator HATFIELD. I would agree. I should perhaps identify my idea of "ongoing." It is certainly not to sit on a permanent year-in

and year-out basis. It would be the idea to combine with your inter-governmental activity on the specialization of their targets, and then every 5 or 10 years convene the actual Commission to review the activities of the various Government agencies. I believe the Commission should work for a definite time period, file its report and recommendations, and then cease to operate until the next time period of review. This is what I mean by "ongoing." In other words, establish a commission which would function regularly every 5 or 10 years, without exception.

Senator MUSKIE. Yes. I don't find that suggestion unreasonable at all.

I have other questions, but I will yield to my colleagues, Mr. Chairman.

The CHAIRMAN. Senator Byrd?

Senator BYRD. Senator Muskie, my name is not among those who are cosponsors, but I have seen no measure introduced in the Senate for which I have greater enthusiasm than I have for this idea.

I have not had an opportunity to read the bill and not had an opportunity to read the report. I shall read both carefully. I note that the legislation was introduced February 3, 1976, and it has undergone hearings and amendments, changes, and thus it has been in the Government Operations Committee, I suppose, these many months—number about 8, give or take.

Now, what is the deadline for our reporting this bill out of this committee?

Senator MUSKIE. I think September 15.

The CHAIRMAN. September 15 is correct.

Senator MUSKIE. And that is obviously not too much time.

Senator BYRD. Yes. And we only have 18 working days left if we are to meet our target date of October 2.

Is there any comparable measure making the rounds in the other body?

Senator MUSKIE. Yes. As a matter of fact, this bill was introduced on the House side I think at about the same time as I introduced it in the Senate. The so-called freshman class undertook this bill as its project. So I think there are over 100 cosponsors on the House side.

You know, I have doubts as to whether we can get final enactment by the Congress, but I would like to see the Senate act in order to give the whole concept momentum, hopefully for House action this year, but if not this year, next year.

Senator BYRD. Well, this is such an important piece of legislation, so far reaching—I guess one of the most far-reaching pieces of legislation we will have enacted. As I said about the congressional budget reform measure, that if it worked, it will have been, in my judgment, one of the most progressive, meaningful pieces of legislation that has been enacted during my years in the Congress.

I think the same about this, even more so. I merely raise the question at this time—not that I indicate by the question that I would recommend delay—but I think that while it is important that the Senate enact legislation soon, it is equally important that the legislation be the best that we can provide. And I would hope that we

would have time for the staff of this committee, and the members of this committee, to thoroughly familiarize ourselves with the contents of the legislation.

I can appreciate your interest in getting action in the Senate before adjournment. But it seems to me it is more important to have the right legislation passed when we do enact it in the Senate. And if it isn't enacted in the Senate this year, and I know that it is scheduled on our tentative program—but this is my first glimpse, my first exposure to this legislation, I am sure I could have had earlier exposure to it—but if it should not be enacted this year, or if it is enacted this year in the Senate but not enacted in the House, I think we ought to make this one of the top priority items for early next year.

You mentioned in your statement the necessity for procedural safeguards to insure that no program would be determined because the majority of the Congress could not work its will.

Do you have in mind some kind of boilerplate language such as is in the Congressional Budget Reform Act and certain other acts that provide for automatic time agreements and so on, for floor consideration?

Senator MUSKIE. Well, the real problem, I suppose, is the possibility of a filibuster. And it seems to me—of course, the distinguished majority whip is much more knowledgeable in the rules and how they might be adjusted than I am, so I feel a little presumptuous in suggesting—but it seems to me that a procedure that permits suspension of the rule that could provide for the majority to control in these kinds of situation is the most direct way to do it—and you almost would have to, it seems to me. We had to do it in the Budget Reform Act for that special purpose. It seems to me we ought to be willing to consider doing it here. We did not include anything like that in the legislation, because we thought that was the particular province of the Rules Committee, and we did not want to intrude

But it seems to me that you might want to consider that; otherwise, a minority could frustrate the will of the majority with respect to substantive policies that have already been written into law. And that ought not to be permitted.

May I say another word, Senator Byrd, about the timetable. You know, there is so much concern in the country about the unresponsiveness of government that even if we can get only Senate action on this bill, I think it would be a very positive contribution to reinstating public confidence in the processes.

And I would hope that this committee would take that into account. Whether or not this bill flies or not or whether or not it proceeds at the pace I would prefer is not important. I have probably gotten as much mileage out of this bill as I can hope to get whatever happens.

But I think it is terribly important that the country be reassured, to the extent that it can, that the Congress is working at getting its house in order and becoming more responsive and using the taxpayers' resources more prudently. And so I think that is an additional consideration. Not that I don't agree with you fully, that we want the best bill that we can put together.

Senator BYRD. Senator Muskie, you have in your statement suggested that the zero-base review requirement of the bill be limited to one full 5-year cycle.

Why is this? I am not sure I understand what this means.

Senator MUSKIE. Well, the issue was raised in the closing discussion of the Government Operations Committee when someone suggested that this process should itself be subject to the "sunset" concept if we are to be consistent. After scheduling the first 5-year cycle, we ought to be willing to take a look at the results and after 2 or 3 years decide whether or not to continue it beyond the 5 years.

I have found it hard to combat that suggestion, since it was so obviously consistent with the principle of the bill.

Senator BYRD. In other words, the first area of review would include, as I see set forth on page 21 of the bill, national defense, international affairs, general sciences, recreational resources, farm income stabilization, Federal judicial activities.

Senator MUSKIE. Yes.

Senator BYRD. We would have one review, which would be implemented within 5 years of the triggering date, but that would be the only review of that area of governmental activities, unless Congress itself decided that it wanted to renew its "Sunset" procedures, am I correct?

Senator MUSKIE. That is right. Of course, to the extent that reauthorizations are needed from year to year, they would continue to be required, but as far as "Sunset" review is concerned, the Senator is right.

Hopefully after the first couple of years we would have had enough experience with the process so that we could form a judgment early on about extending it.

Senator BYRD. But that judgment would have to come early on.

Senator MUSKIE. Yes; it would.

Senator BYRD. Or else you would lose the momentum.

Senator MUSKIE. I would agree with that.

Senator BYRD. It would be necessary to follow through. Now, what about these various areas of review here? Have they been chosen in the priorities selected with any particular standard or reason in mind?

Senator MUSKIE. Could I ask Jim Davidson of the staff to answer that question, Senator Byrd?

Mr. DAVIDSON. Yes; in response to your question, Senator, programs that at least to a certain extent are now authorized on a short-term basis, we tried to move to the first of the process. So the programs that presently have longer term or permanent authorizations or appropriations would be moved further back.

In addition, we tried to take into account committees that deal with this type of review process or something comparable to it as much as possible in organizing the review schedule, and to that extent we subdivided the functional categories of the budget in many cases into their subfunctional categories in order to not overload any one committee in terms of the amount of work it would have to do in any 1 of the 5 years.

Senator BYRD. Have the committee staffs of the various committees involved been contacted or have you sought their counsel in setting forth these priorities?

Mr. DAVIDSON. We have sought their counsel several times, Senator. Letters from the committee went to the chairmen of the committees on two different occasions, and a letter from the staff director of our

subcommittee and myself went to the staff directors and counsels of all the committees; and, as a followup to that, telephone and personal contact was initiated.

There have been personal interviews with many of the committee staff. Now, some of the committees were not as forthcoming as others; some committees which would have a substantial workload under this process, we tried to consult with at great length and in substantial detail.

Senator BYRD. For example, national defense—now, has the Armed Services Committee staff been contacted and have they been asked for their advice as to the wisdom of proceeding with national defense in the very first of the 5-year cycles?

Mr. DAVIDSON. The Armed Services Committee staff—in fact, their counsel was one of the first people that we contacted in February of this year, and set up a personal interview, and asked for specific comments on the process itself. As I mentioned to you, not in all instances did we get as much information from individual committees as we had hoped, but we attempted to go very early to the committees and their staffs to try to obtain some idea of the impact this would have on their workload.

Senator BYRD. Do you feel that putting national defense at the very top of the list runs the risk of making it appear that we are all out to make national defense the target of our attacks on programs and so on? In other words, why national defense at the top and social services almost at the bottom in what I am asking.

Mr. DAVIDSON. One of the considerations for putting national defense at the beginning is that the Armed Services Committee presently goes through an annual authorization process. Now, formally that authorization only covers, as the chairman well knows, it only covers approximately one-third of the total defense budget.

But in effect a great proportion of the rest of the budget is affected by annual action by the committee in setting manpower levels which, for the purpose of subsequent appropriations, serve as a basis for the moneys appropriated.

We discussed this issue at some length with the staff of the Armed Services Committee, and they indicated that, yes, there was a parallel, but they also were looking at this issue to try to assess the impact.

Senator MUSKIE. And may I add this, that, of course, in social services, several of the programs have permanent entitlements which are just the reverse of the annual authorization process that defense goes through. Did you have some additional comment, Al?

Mr. FROM. Well, Senator, as we view it, the bulk of the new workload is really going to be in the permanent programs, so what we tried to do in devising the schedule is put those functions where the committees already were undertaking a workload that was at least consistent with what we wanted in this bill early to allow the real additional work to be phased in over the 5-year cycle.

Senator BYRD. You spoke of the uncontrollables a moment ago.

Would Congress be reviewing the laws that account for the uncontrollable items in the appropriations?

Senator MUSKIE. Yes; I would assume that would be an essential part of the whole review process, although all we terminate is the authorization. Nevertheless, the authorization and its justification depend upon the underlying law, and that would be the basis for review.

Such questions as, is this money actually serving the purpose contemplated by the underlying law? Is it doing it as well as it should? Is the purpose justifiable?

But the changes in the substantive law would have to come as a result of a separate legislative initiative and not stem out of this review process as such.

Senator BYRD. In other words, the laws that provide for open-ended funding and for continuing authorizations, to wit, veterans' pensions, public assistance, and so on, these would be reviewed, because they are the types of laws, in the main, I suppose, that account for the uncontrollable items in the appropriations process—they would be undergoing review.

Senator MUSKIE. They would be reviewed but they would not be terminated.

Senator BYRD. Yes. Oh, they would not be terminated.

Senator MUSKIE. The authorizations would be terminated, the authorizations for appropriations would be terminated.

Senator BYRD. Yes.

Senator MUSKIE. But the substantive law which establishes the rights would not be terminated by this process.

Senator BYRD. Well, would there be the possibility that in the course of review, modifications in those laws would suggest themselves?

Senator MUSKIE. Of course.

Senator BYRD. Laws that have been on the books for 30 or 40 or 50 years, there would be recommendations—well, not recommendations, but the review would suggest modifications with which the authorizing committees might come forth.

Senator MUSKIE. Exactly.

Senator BYRD. So you would anticipate that here is a way of reducing this increasing percentage of uncontrollables in the appropriations process, I take it.

Senator MUSKIE. That's right. Now, to round out that point, in the budget process, you know, we have no way of controlling the uncontrollables. We are really limited to estimates of their potential cost in the upcoming fiscal year, but we can't reduce them. We could, I suppose, recommend changes in the laws in the budget process, but we have no way of implementing them or even reporting legislation to the floor. That is where this legislation fits in.

Senator BYRD. Mr. Chairman, I would like to—that constitutes my questions at this point. I will certainly have more questions as I study the bill and the report. Again, I want to state my enthusiastic support for the idea. I will certainly bend every effort to enact the kind of legislation that will work, and I compliment the Senator from Maine on his fine statement and on the excellent work that he has done. I hope we can meet his goal of enactment before the target date, but, to me, that is secondary, as I am sure the Senator has indicated it is really secondary to him.

The important thing is to get workable legislation.

Senator MUSKIE. Well, I remember listening to the distinguished Senator from Illinois, Senator Dirksen, years ago. He was always a believer in moving when he had an idea whose time had come. And he was always reluctant to lose that time.

And I think this is an idea whose time has come, and the time could go if we don't move as quickly as we can. But I certainly appreciate the Senator's concerns.

Senator BYRD. I don't want by my suggestion to leave any impression whatsoever that I favor delay. I hope we can do it; I think we ought to try to do it; and I believe we can.

Senator MUSKIE. Thank you, Senator.

The CHAIRMAN. Senator Scott?

Senator SCOTT. Mr. Chairman, if I could yield my time to Senator Griffin simply with the comment that I hope we can act on this legislation this year.

The CHAIRMAN. Senator Griffin?

Senator GRIFFIN. First of all, I want to commend Senator Muskie and others who have worked with him on this legislation. I think it is excellent in principle.

I understand that when OMB Director Lynn appeared before the Government Operations Committee, he made the point that some activities obviously should be evaluated more frequently than every 4 years or 5 years, or whatever, and that other activities may not need to be reviewed on such an inflexible schedule.

What comment do you have on that criticism?

Senator MUSKIE. Well, first, may I say that his comments were in the context of a concern that motivated all of the witnesses you had at that time. May I say they were an excellent group; not only Mr. Lynn, but Roy Ash, who was a Director of the Budget—we had just an excellent group of witnesses who had experience in OMB and in the budget process. They were all for the idea, all concerned about the workload, and all of them offering suggestions for reducing the workload to the essentials.

And I think it was in that context that Director Lynn made his suggestion. He saw it as a way of reducing the workload, if there could be some way of sifting out the high-priority needs for review from the lower priority needs for review.

We could figure out no way to shape a formula that would do that, except this one that we have got in the bill—that is, we leave the priority setting for review to the authorizing committees. We are asking them to come up with their review plan.

And it seems to me that that review plan could reflect the suggestion made by Mr. Lynn, that is, each committee on its own determine which reviews were high priority, requiring maximum staff resources and time, and which ones of a lesser priority, without neglecting any of them.

So I think his idea, in a sense, is reflected in the changes that we have written into the bill since.

Senator GRIFFIN. My own reaction is that I can't think of any programs that shouldn't be reviewed at least every 5 years. And after all the Committee and the Congress are not bound to authorize for a period of 5 years on any program—they can continue to authorize on a year-by-year basis, or every 2 years or 3 years; isn't that correct?

Senator MUSKIE. That is correct.

Senator GRIFFIN. And I would hope that even though the maximum standard sometimes tends to become the minimum, it wouldn't necessarily be true in this situation. I think the committees should not

necessarily authorize automatically for 5 years just because we pass this bill. I think there are programs that need to be reviewed annually or every 2 years.

Senator MUSKIE. I agree with that, Senator. In my experience with the budget process, I have learned that you can never change the impact of ingenuity in the Senate; we find ways to get around rules or to modify them in practice. And that could result, I suppose. But I would hope not; I would hope that we would not tend to extend authorizations simply because we have a 5-year review cycle.

Senator GRIFFIN. An outside limit. I don't have any further questions, Mr. Chairman. I think this is good legislation. It is bound to be an improvement over our present practices.

The CHAIRMAN. Senator Williams?

Senator WILLIAMS. Thank you, Mr. Chairman. Senator Muskie, you ought to have the applause for all the effort that has gone into reaching goals that we understand, and certainly approve of, in terms of greater efficiency in working through our authorizing legislation.

Of course, I approach this presentation with questions that arise from the responsibilities I have not only as a member of the Rules Committee but as chairman of an authorizing committee, that has, as you know, many, many programs. I haven't fully digested all that you have presented to us in your report together with your bill, but it has been clear to me that I am faced with a big burden of study here to relate the report and its findings to other material that is essential to understand how to proceed here.

Now, the General Accounting Office, as I understand it, has been asked by the committee to describe the program that would fall under the provisions of zero-base—this "sunset" bill—is that right?

Senator MUSKIE. That's right, and I think they have been working on it for about a year now—since February. This is the latest compilation of their results. They almost threw up their hands in the first instance, Senator, when we asked them to do it, but they have worked at it.

Senator WILLIAMS. And I gather that that material from GAO that you have there has been available to staff of the Labor and Public Welfare Committee?

Senator MUSKIE. Has it? May I ask the staff?

Mr. FROM. It has been circulated by the Select Committee on Committees, the parts that affect each committee.

Senator WILLIAMS. I see. Well, then, that is the origin of the information that came to us, and I have here a description of one of the areas of Labor and Public Welfare Committee responsibility, education programs.

And GAO in that document gives us about a hundred programs. Now, I gather that, within the definitions of the bill, we would have 100 education programs that would be within the demands of zero base. I am a little confused because—

Senator MUSKIE. No, they are spread out over a 5-year period, I think, Senator, to some extent.

Senator WILLIAMS. To some extent—although I will say this is one of the complicators, as I see it from our committee. So many of our programs reach termination at about the same time.

That is another point I would have made here, but immediately from the committee's report, on page 16, I try to relate the GAO de-

scription and listing of programs with the committee report annual finding of the number of programs under Labor and Public Welfare that would be covered under zero base. This is not just education; this is all programs—it is on page 16 of the report, under Labor and Public Welfare, our terminations to be covered start in 1979 and run through 1983.

And my confusion comes from the obvious disparity between the figures shown in the report from the GAO reports that we have had the opportunity to review.

Mr. FROM. Senator, let me answer that by explaining the process used to arrive at the numbers of programs that we list in the report. The GAO report lists every specific authorization as a program, but as we reviewed that data we made a judgment as to what a committee would naturally consider together as one program, based on both how it fit into appropriations accounts, whether or not several of the authorizations were part of a statute that was written at one time—and consolidated them to get an idea of what the real workload would be on the committee, considering all of these items together.

Now, the other point is that in the instructions in the bill, the GAO, in developing the list—not the list that is in the report, but the raw data put together for us is to combine wherever possible similar authorizations into a single program, so that for purposes of zero-base review they could be treated as one program. That is the reason why the figures are not perfect.

Senator WILLIAMS. Now, how would it follow that the GAO and your committee—how would we get in phase and in tune with what you consider are program content that would have to be separately considered for zero base?

I can understand the GAO—I can see that these 100 education programs are very specific, and we of the committee could address ourselves. For example, under a subheading of education for the handicapped—the severely handicapped, deaf-blind centers, specific learning disabilities, early childhood education, and others—very, very clearly defined and we know exactly what we are supposed to be looking at in terms of termination, review, and reauthorization from ground up.

Mr. FROM. Let me answer that question. Under the zero-base review provision of the bill—I believe it is section 203—there is a provision that gives the committees the flexibility to combine zero-base reviews of several items that are listed as programs into one review, so that you would be able to determine the programs that you think ought to be considered in one zero-base review.

Senator WILLIAMS. Now, is there any provision for any review so we are not subject to a point of order or—

Mr. FROM. There is a 30-day comment period. Once you file on April 1 of the year before the termination, that document is binding. The committees have absolute authority—and that is a matter of fact. That whole process was developed after discussions with your staff, because one of the points that they raised in the bill that was reported out of the subcommittee is that we took too much power away from the committees and left it in the hands of the executive branch.

And so what we attempted to do when the bill was reported out of the full Government Operations Committee was to make it clear that

the authority for the reviews is in the hands of the authorizing committees, and that anything that was furnished by the executive branch or GAO or OCA or CBO or CRA or any other source is subject to the mandate of the committees.

Senator WILLIAMS. Well, I know, relating to another relatively new situation with our relationship to the budget process, here, as I understand our relationships and our working situation, where there has been a change between the first resolution and the second resolution, there is a clear procedure for Budget Committee review.

This is an area, the definition of "program,"—and its content—is something that is a little confusing.

Mr. FROM. Let me cover that because that is a very important question that you have raised. We made a conscious decision in drafting the bill not to include a specific definition, but rather to leave it up to the authorizing committees themselves, because just as in the case that Senator Griffin pointed to, where he said that certain programs need more intensive review on a shorter term basis than others, in the same vein the Armed Services Committee may consider three or four authorizations that builds in chronological order on a missile system as one program. But for the Labor and Public Welfare Committee that blanket definition might not apply.

And so we wanted to allow the committees, as another way to manage their workload, the ability to in effect set their own definitions of what programs would be reviewed. They are going to have to review the authorizations that are going to terminate, unless reauthorized, so that if you group several authorizations into one program for the purpose of a review because they are all related, the purpose of the bill is accomplished and your job is made easier—and also more coherent.

Senator WILLIAMS. Termination time, what would be the difference in the legislation that would come at termination point? Now we reach the end right now—our committee is in conference today—Senator Pell is over in the Capitol leading the Senate conferees on higher education, vocational education—what would be the difference in the legislation? Just as a matter of interest—we basically reauthorize, but it is now implicit that a program will be continued unless killed. Now, this would kill it unless continued.

There is a difference, isn't there?

Senator MUSKIE. That's right, unless rejustified. That doesn't mean that we assume none of these programs can be rejustified. It is just that the justification has to be explicit once again, so that the taxpayer can have the assurance that these programs were examined in terms of their basic assumptions and basic purposes before they were expanded.

There are some programs that are going to be easier to justify than others.

Senator WILLIAMS. It looks to me as though we are really getting here to a closer oversight, a more detailed oversight and review—is that what this is?

Mr. FROM. Senator, let me respond specifically to the question. Legally, the only difference would be that the termination date would be in accordance with the schedule, but when you authorize a program for 3 years, at the end of 3 years that program is terminated unless you continue it.

And so from that perspective there is no difference. But this does allow a more systematic review to go along with reauthorization.

But in terms of difference as to whether the program after the authorization runs out is continued or not, you still have that decision, as you do now on your education programs, as to whether to report a continuation or not.

So from a legal point of view that is not changed.

Senator MUSKIE. Would you like to come back after the vote?

The CHAIRMAN. We are in the second half of a vote, so we will recess and then come back.

[A brief recess was taken.]

The CHAIRMAN. The hearings will resume. Senator Williams?

Senator WILLIAMS. Well, I realize I have taken a lot of time, Mr. Chairman. I just wondered if I could—obviously there are many, many questions for clarification that I have—but let me just ask one that might bring other things together here. All programs terminate 5 years, even though there is no termination time in the basic authorizing legislation? I am just wondering about one of the titles of the Civil Rights Act, which was contributed by our Labor and Public Welfare Committee—title VII, that is, of course, equal employment in all its aspects. This has no terminal date within the law.

Now, under this, there would be, is that right? And I am just wondering what would happen to regulatory authority here.

Mr. DAVIDSON. Senator, you are right, we would in effect by this schedule be establishing a point in time beyond which the provision in title VII I think it is, which says such sums shall be appropriated for an indefinite period of time, would no longer be effective, and the authorization would terminate.

Let's take a program that might be operated under title VII, let's say a program being administered by them would terminate on that date. The agency or the commission administering it would no longer, from that date, have the authority to either issue new regulations or to enforce existing regulations, under an amendment that was offered by Senator Nunn and accepted by the Government Operations Committee. It would in effect suspend the effect of these rulings for the period of time that the authorization had lapsed. Senator Nunn offered that to close what he considered to be a gap that would allow an agency to transfer or divert funds, and then enforce rule for a program for which the authorization had terminated.

It does not terminate that regulatory authority. It only suspends it for a period of time. Should either new budget authority or an appropriation be provided to put the program back in operation, or the authorization reinstated—then the regulatory authority would come back into effect with that activity.

Senator WILLIAMS. Where would the people be that were suspended? They would be, in other words, out of operation; there would be a rerecruitment or a new recruitment of personnel to that regulatory authority?

Mr. DAVIDSON. The only parallel that I can offer is, for example, 2 or 3 years ago, it may even have been longer, when the Foreign Assistance Act lapsed for a period of time—I am not certain what the State Department did and AID did during that period of time—but there was a gap during which even the continuing resolution for the

State Department had not been adopted, and there was a period of time when certainly there were some employees who were either absorbed into other agencies or diverted to other jobs. In effect the programs operated under the Foreign Assistance Act died at that point, and there was no authorization to pay employees operating under those programs.

Senator WILLIAMS. How about civil rights cases that are in process? Would they die, too?

Mr. DAVIDSON. The cases would not die, if the cases had begun pursuant to legislation that was in effect up to that point—say the cause of action had been initiated up before the termination date came into effect. No; that would not suspend, and the bill specifically allows continued prosecution of that.

Senator WILLIAMS. But who would be there to prosecute?

Mr. DAVIDSON. Well, the authority for funding would be provided—could be provided for the continuation of those cases, under the bill. I don't believe that is ambiguous, but if there is a question about it, I can go into that with staff.

Senator WILLIAMS. That is all for now, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Williams. Senator Muskie, what is meant by the term "program"? It seems that the definitions of the terms used in the bill and in the report suggest that the programs and the budget accounts may be differing in numbers.

How do you make a distinction between them?

Senator MUSKIE. Well, as Mr. From said in response to an earlier question, we did not try to define "program" because of the difficulty of doing so, given these various kinds of activities and accounts and agencies and programs. The importance of the program concept really has to do with what the authorizing committees decide is a program. And so we leave it pretty much up to them to decide what elements govern activity to go together to form a program, as in the discussion with Senator Williams over the education bill. You might view each separate element of the program for the handicapped as a separate program, or you could regard all elements as being part of a single program.

The CHAIRMAN. But the programs could be far greater in number than the budget accounts that you are dealing with.

Senator MUSKIE. They are more likely to be less, I would think. It could go either way. Would you explain that?

Mr. FROM. Senator, the reason that "program" is not defined is that for purposes of the "Sunset" provision, title I of the bill, we use authorizations. Authorizations are for budget authority that is terminated. Programs are used as a vehicle for review. We really leave the determinations of how many authorizations, whether similar authorizations should be combined for purposes of review into one program, to the committee that has to do the review.

Senator MUSKIE. Programs are bound to be less in number than authorizations.

Mr. FROM. Well, they are going to be less than authorizations, even though there will be cases where one authorization will be one program, but there may also be a case where there are 15 authorizations under one section of a bill that the committee ordinarily would consider together, and they could combine that into one program for purposes of review. Budget accounts don't necessarily relate to authorizations.

The CHAIRMAN. In your statement, Senator Muskie, you said that without the "Sunset" process the new budget process could become a meaningless summing up of numbers.

It seems that the mere visibility and consideration of the budget totals forces a reordering of priorities within a total that is publicly presented, debated, and agreed upon as a ceiling.

So I am at a loss to understand why you say that might just become a summing of numbers.

Senator MUSKIE. Well, let me put it this way. The budget process is not a line-item process; it is really a priority-setting process under spending ceilings that are established by the committee in the light of inputs that are given to us by the executive branch, the authorizing committees, the Appropriations Committee, and so on.

And so the line items within a given spending function, for example, are really determined by the authorizing and appropriation committees in that interplay that is traditional in the congressional appropriations process.

And so we can't, as a Budget Committee, get at the items—by that, I mean the programs and activities—except by exerting pressure on the overall.

The "Sunset" provision gets at the underlying assumptions of the individual programs and activities. We don't have that authority. And as a matter of fact a large part of the controversies that arise between the Budget Committee and other committees on the floor now has to do with what they perceive as our intervention into the line items.

We don't intend to; we have to take them into account obviously, at least the major ones, in arriving at overall ceilings. But we don't determine the basic justification for the line items.

I suppose there would be nothing to prevent us, if we found the budget getting away from us, from making recommendations on line items, but we have not undertaken to do that up to this point, and I suspect there would be resistance from the authorizing committees if we were to try.

In effect, what we do, Mr. Chairman, say in a given function—a given appropriations bill might include several functions, as you very well know, or parts of several functions—what we do is simply establish the ceiling on a function, and the first spending authorizations that come along begin to fill up that function, and when you get to the top, then anything else that comes along is out.

But we don't determine the order in which the function will be filled up. So it is conceivable that the process results in low-priority items filling up the function before you get to the high-priority items—that is always a risk. It hasn't worked out that way thus far, because the high-priority items tend to get dealt with first.

But we just set the total and the other committees fill the barrel—we don't. And that is why I say that if there is momentum behind existing programs and activities, with the decisionmaking process concentrating only on incremental additional funding, then in effect all we do is add up the numbers. And if we want to, we can arbitrarily set a ceiling that falls below the total of existing programs—but we haven't done that up to now.

The CHAIRMAN. Senator Scott?

Senator SCOTT. I have no questions.

The CHAIRMAN. Well, thank you very much, Senator Muskie. We have statements and letters that have been supplied by various witnesses, and they will be made a part of the record. The committee, as you know, is charged with reporting this matter one way or the other on or before the 15th, and we will hope to meet that deadline, difficult as it is to get a quorum these days.

Senator SCOTT. May I request that Senator Muskie look at the statement by Senator Stevenson and submit his comments to us?

The CHAIRMAN. Certainly, would you do that?

Senator MUSKIE. Yes.

The CHAIRMAN. We have Senator Stevenson's statement and we also have—

Senator MUSKIE. Senator Roth could not be here; he is intensely interested in this legislation, and so he has asked me to submit his statement for the record.

The CHAIRMAN. Without objection, Senator Roth's statement and the other statements and letters on S. 2925 received by the committee will be inserted in the record at this point.

[The statements and letters referred to are as follows:]

STATEMENT OF SENATOR WILLIAM V. ROTH, JR., A COSPONSOR OF S. 2925

GOVERNMENT ECONOMY AND SPENDING REFORM ACT OF 1976

I appreciate this opportunity to comment on the impact which spending reform procedures will have on Congressional operating standards.

The Federal government and this Congress are being challenged to develop methods and procedures that can improve government effectiveness and fiscal management for the nation. The public has expressed an increasing lack of confidence in the way public resources are allocated and spent.

A recent Harris survey on Federal and State government shows that by a striking 58 percent to 8 percent majority the public feels that the Federal government is "more wasteful" than State government. It is equally shocking to find that by a 44 percent to 23 percent split the public is convinced that the Federal government "gives the taxpayer less value for the tax dollar." Finally, the Harris survey finds that the public believes that state government rather than the Federal government "really cares what happens to the people." Each of these statistics points up the distressing lack of confidence which the public has in the performance of government. I believe we need to improve the effectiveness of Federal programs by returning more effective services for each tax dollar which the people pay in to support the Federal government.

It is this gap between promise and performance which the Government Operations Committee has considered very carefully this year. The Committee has considered and recommended to the Congress that the methods and procedures for fiscal control be strengthened. The Government Economy and Spending Reform Act of 1976 is one answer to the demand to improve government effectiveness. Briefly stated, it provides the Congress with a regular process of review, evaluation, and renewal for nearly all major spending programs. The authorizations for programs would be grouped by major function through this process and evaluated in committee. The ineffective programs would be terminated unless affirmatively reauthorized by Congress. For the first time the whole Federal spending process would be subject to periodic and comprehensive review of the nation's spending priorities. Deadwood programs which have often escaped review through permanent authorizations would be reviewed and weighed against priority needs in the same functional area. For the first time Congress will be able to review the parts of the spending process as well as the whole budget. This review is structured so that spending decisions are periodically reevaluated in the context of limited national resources and changing national priorities.

This process of termination and renewal has been captioned sunset legislation. What this offers however, is not sunset on government spending that is worthwhile but sunset on government waste. Unless the Congress moves to set in place procedures which can provide a mechanism and a comprehensive process for

review I expect that the parts of the budget will indeed continue to work against the whole and our national government will continue to frustrate the desire of the American people for efficient, effective, and responsive government.

U.S. SENATE,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., September 1, 1976.

Senator HOWARD W. CANNON,
Chairman, Committee on Rules and Administration,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter asking for my views on S. 2925, the Government Economy and Spending Reform Act.

I have supported the concept behind S. 2925 since it was introduced and I and my staff worked on its development in the Subcommittee on Intergovernmental Relations and the full Government Operations Committee. During this development process, Titles I-III, which establish the zero-base program review, were redrafted several times. I fully support the final draft reported by the Government Operations Committee and urge the Rules Committee to do likewise.

The impact on committee workloads of the zero-base review process has been of some concern. S. 2925 as reported allows for maximum use of the expertise of the Congressional support offices and the executive branch and provides flexibility to Congressional committees in allocating resources to the review process. I believe the extra workload that we would undertake in enacting S. 2925 will be small relative to the potential it embodies for a more effective and efficient government. We know that many Americans are disillusioned with their government and, in my opinion, S. 2925 is a major step forward in responding to that disillusionment.

Of course, as with the Budget Reform Act, a program of this type will work only if we commit ourselves to it. I think we have done this with budget reform and that the same degree of cooperation will be forthcoming under the zero-based review program.

My only major disagreement with S. 2925 concerns Title V. I agree with its proponents that "tax expenditures" should be considered in any examination of federal efforts in a particular area, such as housing. However, as I stated at the Government Operations Markup of S. 2925, I believe that scheduled termination of federal income tax provisions would cause severe economic uncertainty and disruption. Other members of our Committee expressed similar concerns, and it has been agreed that, if the Finance Committee has not reported S. 2925 by September 15, Title V will be severed from the bill.

I understand that Senators Muskie and Roth will represent the Government Operations Committee at your hearing on September 8. In addition, I would appreciate your making this letter part of the hearing record.

Sincerely,

CHARLES H. PERCY,
Ranking Minority Member.

STATEMENT OF SENATOR ADLAI E. STEVENSON, CHAIRMAN OF THE TEMPORARY
SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

Mr. Chairman, I welcome your invitation to comment on S. 2925, the "sunset" bill, from my perspective as chairman of the Temporary Select Committee to Study the Senate Committee System.

The purpose of S. 2925 is to provide better congressional oversight and control over Federal programs by an automatic review, under the threat of termination, of programs on a regularly scheduled basis. The purpose is unarguable, but the methodology of S. 2925 raises questions for the Select Committee.

S. 2925, if enacted, would change the operation of the Senate's committee system and the Senate as an institution.

The study improved oversight, as well as all aspects of the committee system, is a responsibility of the Select Committee to Study the Senate Committee System. S. Res. 109, which authorized the Select Committee, provides:

"It shall be the function of the select committee to conduct a thorough study of the Senate committee system, the structure, jurisdiction, number and optimum size of Senate committees, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, and other committee facilities, and to make recommendations which promote optimum utilization of Senators'

time, optimum effectiveness of committees in the creation and oversight of Federal programs, clear and consistent procedures for the referrals of legislation falling within the jurisdiction of two or more committees, and workable methods for the regular review and revision of committee jurisdictions" (emphasis supplied for those matter relevant to S. 2925).

Thus the Select Committee is concerned with all the activities of the committee system, including legislative innovation, foresight of emerging problems and issues, and representation of constituencies, as well as oversight of existing programs.

It is, therefore, of concern to the Select Committee both how reorganization of the committee system would affect the working of a sunset system and how adoption of a mandatory, regularly scheduled program review under S. 2925 would affect the operation of the committee system.

EFFECTS OF COMMITTEE REORGANIZATION ON S. 2925

Intensive interviews by the Select Committee staff with the designated representatives of all committee chairmen and ranking minority members have included questions about how each committee has conducted oversight of departments and agencies. The staff also is cooperating with the Commission on the Organization of the Senate in further interviews and the drafting of a working paper on oversight activities. We anticipate that recommendations concerning oversight will be included in the Select Committee's final report, by March of 1977.

Our first order of business, however, has been consideration of problems and recommendations regarding the jurisdictions, numbers, sizes and memberships of the Senate's 31 committees, and bill referral procedures. No one yet knows whether reorganization of the committee system will be approved or what the details of the Select Committee's reform proposal will be. The Select Committee now is considering three starting points or models for restructuring the committee system.

Starting Point I would retain all the existing standing, special, select and joint committees but provide means to facilitate their operations. It would restrict Senators to one standing committee, one select, special or joint committee, and one temporary committee assignment, eight subcommittee assignments, and one subcommittee chairmanship on each committee. It would establish a senatorial scheduling service to minimize committee conflicts. It would give new authority to the leadership to set work agendas and settle jurisdictional disputes among committees. As an option, this starting point could be amended to provide for stronger committees on energy, the environment, and transportation, and for a national security committee which combines the present Committees on Armed Services and Foreign Relations.

Starting Point II would consolidate jurisdictions and assignments into 12 standing committees organized on a functional basis, with a maximum of 120 subcommittees. Senators would be limited to two committee assignments, one full committee chairmanship, and two subcommittee chairmanships unless party ratios determined otherwise. The responsibility of the leadership would be increased to create ad hoc legislative committees, set agendas, and propose joint referrals of bills by motion.

Starting Point III would establish five functional management committees with 60 standing subcommittees. The management committees would establish a program for legislation and oversight, set goals, and review the performance of the previous session. Within the context of the congressional budget, these committees would legislate, authorize, and appropriate funds for programs within their jurisdictions. Under this starting point, Senators would serve on one management committee, two of its subcommittees, and an additional subcommittee of another parent committee. Unless party ratios dictated otherwise, Senators would be restricted to one subcommittee chairmanship. Chairmanships and memberships of all committees and subcommittees would be rotated on a regular basis.

Each starting point has implications for S. 2925. All three would reduce the number of committee and subcommittee units that could carry on program reviews in a sunset system. Also, all three starting points entail a rationalization of committee jurisdictions, which would clarify responsibility for program review. The second and third starting points are explicitly functional in organizational principle; the first is the present mixed system of functional, beneficiary and process committees.

The Select Committee will consider a number of structural options to promote program review, but some are more appropriate to one starting point than another. These include oversight subcommittees for each committee; establishment of priorities for program review, perhaps by the joint leadership; and adoption of agendas for review, either by the committees or by Senate rule. The third starting point emphasizes management of oversight by the five committees. The second starting point is assumed to promote oversight by establishing a small number of committees with clearly defined and discrete functional jurisdictions.

Reorganizing the committee structure to promote or complement mandatory review offers several advantages.

First, program review could be made more orderly. Under any of the starting points now being considered by the Select Committee, the jurisdictions of committee responsibility would be clarified.

Similarly, there would be a more equitable distribution of overall workloads among committees. Under Starting Points II and III, the record of workload would be one of the factors in assigning the jurisdiction of committees.

Moreover, Senators would be limited to fewer committee assignments under all three starting points. This might make available more of their time for program review under S. 2925.

I state my conviction, however, that neither a reformed committee system nor adoption of S. 2925 can assure improved review of government programs. Under any system, the extent and quality of program review depends on the will of Senators to do it, and on public support for such an effort.

EFFECTS OF S. 2925 ON THE COMMITTEE SYSTEM

Just as reorganization of the Senate's committee system may change the implementation of S. 2925, so passage of that bill may change the nature of the committee system.

As you note in your letter inviting my testimony, Mr. Chairman, the sunset bill would require major adjustments in each committee's operations. It provides all authorizations and tax expenditures would terminate after five years unless expressly reenacted, and therefore requires each authorizing committee to: (1) approve the outlines of plans for a zero-base review of each program under its jurisdiction to be carried out by the executive branch; and (2) reauthorize each program, with improvements or not, or recommend against reauthorization.

These requirements seem likely to redirect the activities of at least some Senate committees. Unless a committee carried on essentially pro forma investigations, the activities prescribed by S. 2925 would contrast with present practice in many committees.

Reviewing all programs in a tightly scheduled sequence would mean more work for most of the Senate's committees. As all Senators know, and as testimony before the Select Committee has made abundantly clear, Senators are among the busiest of men. Mandatory program review would add to the workload of the Senators who make up the committees charged with this new responsibility. Because time is finite, passage of sunset legislation would require Senators to spend on review programs some of the time they have been spending on other activities—including legislation, foresight, and representation (hearing the needs of constituents). Of course, the Senate may adopt new techniques which substitute for hearings or committee meetings as the principal means of communication. The Select Committee has a study of such techniques underway.

If the heavier workload mandated by passage of S. 2925 requires additional meetings of committees, the Senate may develop new scheduling arrangements and devices to accommodate the new burden. Presumably, these arrangements would be the responsibility of the leadership.

Passage of sunset legislation would also mean additional work for the staff of the Senate's committees. Either more staff would be necessary to carry on the review of government programs, or the existing staff of the committees would have to do it. If new staff were added, presumably they would be specialists in program analysis, which would change the overall character and composition of the committees' staffs. If existing staff members were assigned to do the job, they would work on program reviews at the expense of their traditional duties regarding legislation, foresight, and hearing the needs of constituents. I expect the passage of S. 2925 would require more staff for the committees to bear the expanded responsibility. Additional staff always raises the issue of to what extent the elected Members of the Senate, rather than their staff, are carrying out the duties of the Senate.

There is also a distinct possibility that passage of S. 2925 would shift the focus of legislative activity away from the committees altogether, and onto the Senate floor. Senators who oppose particular programs need not necessarily be members of the committee with jurisdiction over those programs. Unless we make major changes in the Senate's rules of procedure, they could be expected to wage their opposition on the Senate floor, thus making the full chamber rather than the authorizing committee the primary battleground for determining continuation of controversial programs.

In addition, Mr. Chairman, it seems likely that S. 2925 would unbalance the workload of a reformed and functionally organized committee system. The bill would require review of all functionally related programs in the same year. While the details of this program have not been spelled out fully, in broad outline it would mean that in some years a committee on transportation, for example, would have to review all the government programs in that area. In other years, such a committee would have no programs to review. This could mean recurrence of a pattern that the Select Committee to Study the Senate Committee System has found to be widely criticized—a kind of feast or famine in the workload of committees. Indeed, having mandatory scheduled review of all government programs on a function-by-function basis might seem to argue against functional organization of the committee system. To spread the annual workload among the committees of the Senate, such a program review logically would assign responsibility to all committees equally each year, regardless of the content of programs. There would be a committee 1, committee 2, and so on, handling all kinds of subjects. To put it another way, there is no way within the context of a functionally organized committee system to have an equal annual distribution of workload among committees when programs are reviewed regularly on a broad functional basis. It goes without saying that periodic review of programs could also forestall the needed oversight of programs in some committees until the scheduled review.

Mr. Chairman, this sunset bill and committee system reorganization present the same fundamental issue. That issue is: what does the Senate want its committees to do? And how can they best do it? The sunset procedure—and I do not here speak of the separate conduct of zero-base review by the executive, which I support—leans far to the side of committees which try to govern in all matters, and which emphasize across-the-board oversight, possibly to the detriment of other functions.

The Select Committee, on the other hand, seems to be hearing a call for fewer committees that emphasize comprehensive, creative and farsighted legislation to meet complex problems, oversee the executive branch selectively—as traffic cop, not administrator—and encourage the maximum feasible representation of people in all decisions.

I can only speak for myself at this time, but S. 2925 presents only some of the choices the Senate may make concerning the proper functions of the committee system. The Select Committee, now in its sixth month of work, plans to present a full range of choices for the Senate's decision in part by October 2, and the remainder by next March.

Speaking for myself, I accept the judgment of the Government Operations Committee that this sunset proposal is flexible and, therefore, compatible with any committee system. I am sure the report of the Select Committee will pay careful attention to the decisions of the Committee on Rules and Administration and the Senate on S. 2925.

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., September 8, 1976.

HON. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, 305 Russell Senate Office Building, Washington, D.C.

DEAR HOWARD: You recently indicated that estimates of the impact of S. 2925, the "Sunset Bill", on the functioning of this Committee would be of interest. Accordingly, I send herewith a detailed staff estimate of manpower and associated costs required to implement S. 2925.

The impact of S. 2925 on this Committee can be summarized as follows:

1. The bill would require staff resources far beyond that already added for implementation of the Congressional Budget Act.

2. In 1979 we would review no fewer than twenty-nine programs and in 1980 we would review no fewer than one hundred and ten programs according to the termination schedule of S. 2925.

3. With S. 2925 requirements that programs be reviewed at detailed levels, we shall review scores of programs during the 1981-83 period.

4. All programs must be reviewed with close, evenhanded scrutiny in spite of provisions in the bill to permit differential treatment whereby some programs would be reviewed only casually. To do less will compromise the neutrality upon which the bill so heavily depends.

5. In order to implement S. 2925, this Committee will require nineteen new staff persons in the 1977-78 period and forty-four new staff by 1982, the end of the first five year cycle of the "Sunset Bill."

6. The estimated cost for such staff expansion is \$401,000.00 in the 1977-78 period and \$1,000,000.00 by 1982 over current costs of staffing the Committee.

I look forward to the Hearings to be conducted by the Rules Committee on S. 2925 on September 8th and hope that these estimates of the impact of the bill will be useful in the Committee's deliberations.

With best wishes, I remain

Sincerely,

HARRISON A. WILLIAMS, Jr., *Chairman.*

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
August 23, 1976.

Re Manpower Requirements and Cost Estimates Related to the Committee's Implementation of S. 2925, the "Sunset bill."

To Senator Harrison A. Williams, Chairman.

From Franklin Zweig, Consultant.

The following manpower and cost estimates have been prepared to forecast the needed resources which this Committee will require in order to implement S. 2925 as reported.

I.—WORKLOAD IMPLICATIONS OF S. 2925

1. CONCLUSION

A review of the Report accompanying S. 2925, the Hearings conducted by the Committee on Government Operations and its constituent Sub-Committee on Intergovernmental Relations, and the technical text underpinning S. 2925, Peter A. Pyhrr, *Zero-Based Budgeting: A Practical Management Tool for Evaluating Expenses* (New York, Wiley & Sons, 1973) leads to the conclusion that the bill as reported would require significant increases in Committee staff in order to accommodate the large-scale expansion of workload resulting from the implementation of S. 2925.

2. SCOPE OF THE COMMITTEE'S JURISDICTION

The conclusion presented above has been formulated within the context of the extremely broad scope of the policies and programs authorized within this Committee's jurisdiction.

A. The Committee is responsible for legislative and oversight of programs totalling \$41 billion in Budget Authority and \$32 billion in outlay for the 1977 Fiscal Year.

B. The Committee is responsible for programs which comprise all of the work of the Department of Labor, two-thirds of the work of the Department of Health, Education and Welfare and significant proportions of the work of sixteen other government agencies.

C. The Committee is responsible for 173 public laws in their entirety. The Committee authorizes programs with respect to 104 appropriations accounts supportive of programs falling within our jurisdiction. The Committee authorizes scores of programs. The extent of our programs is discussed below in that greater precision of definition leads to wholesale increases in program count and multiplies geometrically our anticipated workload under S. 2925.

3. MANPOWER REQUIREMENTS TO IMPLEMENT THE BUDGET ACT

The Congressional Budget and Impoundment Control Act of 1974, P.L. 93-344 has required workload and associated manpower increases. Our experience in implementing that Act within our Committee provides some basis for anticipating the far more extensive staff requirements of S. 2925 implementation.

A. The Committee has requested and received the equivalent of five additional positions to implement the Budget Act. These positions include: professional staff member with background in legislative information systems and program performance analysis; budget specialist to draft the extensive reports required under the Act numbering by our count thirty reports each fiscal year; computer technician to track budgets devoted to our programs and to provide essential information to subcommittee members and staff; a secretary to provide essential support services for the foregoing; budget specialist for the minority staff.

B. Approximately one half of the time of a professional staff person previously assigned to other duties has been reassigned in order to coordinate the budget effort within the Committee's relevant subcommittees and between the Committee and the Senate and House of Representatives' Budget Committees.

C. Approximately one hundred person weeks are required from other staff of the Full Committee and each of the Sub-Committees in comportment to required activities of the Budget Act. This estimate has been calculated on the basis of approximately eight weeks per year devoted by subcommittee staff to budget activities among each of eleven subcommittees and twelve additional weeks time equivalent devoted to a host of other responsibilities. Thus, an equivalent of two additional staff persons has been wrung from the Committee by Budget Act imperatives.

D. As discussed below, the technical requirements of S. 2925 go beyond those of the Budget Act. While S. 2925 is viewed as a perfection of Congressional accountability and oversight begun under the Budget Act, its technical dimensions far exceed that of the budget process and will require significantly augmented manpower to carry out.

4. THE S. 2925 REPORT DOES NOT ADEQUATELY PROJECT INCREASES IN COMMITTEE WORKLOAD

A review of the Report of the Government Operations Committee accompanying S. 2925 discloses a candid admission that the extent of the increase in Committee workload is likely to be significant but that the exact dimensions of that increase could not be ascertained. Due to lack of available information, the Report presented some measures by means of which increase in work load might be inferred.

A. The measures presented included: Staff estimates of programs residing within each Committee's jurisdiction based on information supplied by the General Accounting Office; breakdowns of those programs into permanently authorized, impliedly permanently authorized and specified termination dates categories; number of budget accounts residing within each Committee's jurisdiction; and the number of public laws estimated to reside within each Committee's jurisdiction.

B. No attempt was made in the Report to forecast manpower or costs associated with the mandatory termination of programs schedule and the zero-based review components of S. 2925. Thus no measures were extrapolated into workload dimensions. Neither were any guidelines provided to link termination/ZBR schedules to Committee workload.

C. The Report erred in its presentation of this Committee's programs in the termination schedule contained in Title I of S. 2925. The error was embodied in the exclusion from our jurisdiction of Budget Function 250 programs—the National Science Foundation—and inclusion of the higher education and research and general education aids programs—subfunctions 502 and 503—in the 1979 rather than in the 1980 termination schedule.

5. WORKLOAD MANDATED BY A CORRECTED AND ANALYZED PROGRAM COUNT FOR 1979 AND 1980 TERMINATION SCHEDULES

Correcting for the Report's exclusion of the National Science Foundation, it is possible to determine that thirty-one programs require zero-base review in comportment to 1979 scheduled terminations and no less than 110 programs require the same review in 1980 scheduled terminations.

A. The National Science Foundation, part of budget function 250 which is scheduled for termination review on September 30, 1979, is comprised of twenty-nine programs housed within eight divisions of the National Science Foundation.

B. Workload can only be calculated by careful attention to an operational definition of the term "program." Nowhere in S. 2925, its accompanying Report or its supporting documents is the term "program" defined.

C. S. 2925 determines without definition that the Committee on Labor and Public Welfare must review 110 programs over the next five years in the following schedule: 1979—14 (error noted above); 1980—15; 1981—38; 1982—36; 1983—7.

D. However, the National Science Foundation in Budget function 250 which is scheduled for termination review on September 30, 1979 and which is not noted at all by the Report as falling within our jurisdiction—is itself comprised of twenty-nine programs housed within eight divisions. The twenty-nine NSF programs are enumerated below; they have been prepared with the help of the Staff Director of the Committee's Special Subcommittee on the National Science Foundation.

In the Division for Mathematical and Physical Sciences and Engineering

- (1) Mathematical Sciences Program.
- (2) Computer Research Program.
- (3) Physics Program.
- (4) Chemistry Program.
- (5) Engineering Program.

In the Division for Astronomical, Atmospheric and Earth Sciences

- (6) Astronomy Sciences Program.
- (7) Atmospheric Sciences Program.
- (8) Earth Sciences Program.
- (9) Ocean Sciences Program.
- (10) U.S. Antarctic Research Program.
- (11) Arctic Research Program.

In the Division for Biological, Behavioral and Social Sciences

- (12) Physical, Cellular and Molecular Biology Program.
- (13) Behavioral and Neural Sciences Research Program.
- (14) Environmental Biology Program.
- (15) Social Science Program.

In the Division for Science Education

- (16) Science Manpower Improvement Programs.
- (17) Science Educational Resources Program.
- (18) Science Educational Development Program.
- (19) Science and Society Program.

In the Division for Research Applied to National Needs

- (20) Resources Program.
- (21) Environment Program.
- (22) Productivity Program.
- (23) Intergovernmental Science and Research/Development Incentives Program.
- (24) Exploratory Research and Technology Assessment Program.

In the Division for Scientific, Technological and International Affairs

- (25) International Cooperative Science Activities Program.
- (26) Scientific Information Activities Program.
- (27) Science Assessment, Policy and Planning Program.
- (28) Program Development and Management Program (A Division).
- (29) Special Foreign Currency Program (A Division).

E. No justification is attributed by this Committee for the National Science Foundation's categorization of programs. They are "discrete", in the sense required by zero-base budgeting techniques, however, and in the opinion of subcommittee staff could require as much as one analyst each in conducting a termination review under S. 2925.

F. Moreover, the General Accounting Office in the course of assisting the Committee to establish an automated budget tracking system for use in budget process activities has counted as many as 179 programs in the Office of Education alone. This count has been rounded down to an even 100 programs in order to meet Committee definitions for the term "program." They are similar to those set forth in the Pyhrr technical book on zero-base budgeting. Education Programs alone total the same number of programs approximately as counted by the S. 2925 Report for all our legislation to be reviewed over five years. The listing of GAO certified education programs is presented in the Appendix to this memorandum.

G. Programs must be defined at the "discrete level"—small whole units—according to Pyhrr's look "Zero-Base Budgeting" in order to array all programs

before top and middle-level managers and in order to develop decision packages (upon priority rankings are to be based). Without these components, a zero-base review is ineffective at best.

H. Since "discrete programs" in Pyhrr's sense of the term come close to the Committee's operational definition of the term "program" upon which the GAO built our tracking system, we must conclude that our program counts are much closer to reality than those enumerated in the Report accompanying S. 2925.

I. In any event, the success of a review at the point of program termination depends in large measure upon the detail of program specification as well as the detail guiding the analysis of that program.

J. And assuming that a corrected version of the termination schedule in S. 2925 were to be followed, we would be required to review no fewer than 110 programs in budget functions, 450, 502, 503 and 751 in 1979-90.

K. We expect that at minimum we would find five hundred additional discrete programs requiring review in the years 1981-83 using the National Science Foundation and the Office of Education program counts as illuminating experience.

MISLEADING WORKLOAD RELIEF AND FLEXIBILITY PROMISE BY S. 2925

The Report accompanying S. 2925 stresses that the "Committee decided that the best way to deal with potential workload problems is to provide the legislative committees with the flexibility to manage their work in the zero-base review process." Flexibility is provided mainly by means of the Review plan to be submitted by the Committee on programs to be terminated if not reauthorized eighteen months later. Each Committee is permitted to specify in its review plan to the Senate the priority accorded to the zero-base review for each program. Presumably, lower priority reviews would require less intensive, exacting analysis. This "flexibility" is misleading and dangerous.

A. Permitting either close or casual scrutiny compromises the even-handed review of programs and taints the claim of neutrality which is a cornerstone of the Sunset bill. Who is to decide which programs require greater scrutiny or lesser review? How are the constituencies of the various programs going to react to either designation?

B. The zero-base review procedure admits of only one uniform approach to review. It is even-handed if applied to programs with equal vigor and resources. To permit a differential ranking whereby some programs may receive the "real zero-base review" while others receive cursory forms or substitute treatment is to compromise the very value of the technical review itself.

C. If some programs are not included in a thorough review, they become ready targets for adversaries. First, they may be subject to a point of order as having been actually or implicitly omitted from review in the course of consideration of all programs in their budget function or sub-function. Second, even should they survive a point of order, such programs may be accorded lower status or a presumption of questionable competence because they have not been able to put their best foot forward in a review process.

D. It must be concluded that once begun the review process must treat all programs equally. The very nature of sunset legislation is dependent upon thorough going review applied equally to all programs.

E. If the review process is to be equally applied, a legislative committee must be capable of conducting reviews of every program requiring review. This means every "discrete" program. And assessment of resources with which to conduct such reviews must be made accordingly. We have presented manpower and cost estimates below with this criterion clearly in mind.

7. WORKLOAD IMPLICATIONS OF THE ZERO-BASE BUDGETING PROCEDURE UTILIZED IN THE STATE OF GEORGIA

Zero-base budgeting, the central technique of the Sunset Bill, has been applied in private industry and in the State of Georgia. A review of the Hearings on S. 2925 and Pyhrr's book "Zero-Base Budgeting" reveals many benefits from the procedure. Fortunately Pyhrr's book also presents a detailed critique of the Georgia experience. The critique is valuable because it sensitizes the Committee to the actual requirements of conduct of such reviews. Thus, projection of manpower and costs can be made with heightened realism.

A. When the Georgia agencies developed decision packages it was generally accomplished with little quantitative data of high quality and with a tendency

to protect the people working in various programs. Thus, a legislative review, in order to be objective, must generate adequate data and rely more on its own information and less on executive branch submissions.

B. Initial decision packages in the State of Georgia were found to be poor to mediocre. Since the budgeting process there was annual, and not subject to loss of legislative authorization, tolerance for poor quality products was greater than can be tolerated in a review once every five years where the legislative authorization of the program is at stake.

C. Coordination problems among agencies in Georgia were notable. This problem area can be expected to be even more pronounced in a federal sunset law for two reasons. First, intercommittee jurisdictions must coincide within budget functions expiring at scheduled intervals. Second, much of the program content within this Committee's jurisdiction is comprised of grants to states; thus, much more enhanced federal-state articulation will be required in the conduct of reviews than has ever been required previously. The management of the review process, then, requires much allocation of time and resources in estimated Committee workload.

D. A new way of thinking must be put in place both within legislative committees of the Congress and the executive agencies. It is likely that at least five years experience will elapse before the techniques, traditions, and routines become regularly adopted practice in the Congress. Staffing must be sufficient to compensate for the incremental process of establishing that practice. In Pyhrr's own words "we believe the pain and anxieties experienced (in the first year of review in the State of Georgia) can be greatly reduced in future years with the continuance of zero-base budgeting integrated with an effective planning process . . . and that improvement . . . will come with experience."

II.—MANPOWER AND COST ESTIMATES FOR IMPLEMENTATION OF S. 2925

1. CONCLUSION

In consideration of the workload implications detailed above, and in light of the approaches to workload management discussed below, S. 2925 can be implemented with the addition of 44 committee staff members over the next five years and an annual additional consultative budget of \$50,000.00. It is believed that these are realistic estimates as the following discussion reveals.

2. APPROACHES TO MANPOWER UTILIZATION TO IMPLEMENT S. 2925

Three approaches to manpower utilization can be ascertained. The first might be called the "on demand" approach. The second might be called the "central staff" approach. The third approach might be called the "combined" approach.

A. Staffing the Committee for service on demand means that staff would be recruited, trained, and deployed to meet the review requirements of particular programs scheduled for termination. Staff would be employed for an expected duration of eighteen months, placed under the supervision of a continuing staff supervisor and released after a particular review had been completed. The obvious advantages to this approach are the possibility of tailoring staff skills to certain programs and the potential for assuring fresh new staff on a continuous basis. The disadvantage is the loss of critical continuity.

B. Staffing for central staff means that a continuing core of people would be employed to implement the procedures and technical steps required by S. 2925. Once trained, they would move from program to program and conduct the zero-base budget reviews among a wide range of subject areas. The advantage to this approach is the maintenance of a staff group which develops a long-term team perspective and which can adapt to various subjects within the Committee's jurisdiction at will without becoming expert in any particular program. These technicians would be more in the nature of general facilitators and evaluators than program analysis experts.

C. The combined approach, recommended for staffing the Committee for implementation of S. 2925, would incorporate the advantages listed above and provide to the subcommittees a capability of developing review expertise in each program area.

(1) A core staff in the Full Committee would be comprised of a review coordinator, a program specialist, a graphics specialist, an information specialist, a research assistant and two secretarial staff.

(2) Field staff would be required to assure that the Committee obtains the information essential to thorough-going review. This staff component would

conduct as well the review aspects of programs involving significant federal-state cooperation. It would also conduct such on-site reviews at the county and local level as might be needed to estimate program impact. While generally placed under the supervision of the Committee's review coordinator, the field analysis team would be placed at the disposal of subcommittee staff for deployment during reviews of special programmatic areas scheduled for termination.

(3) Since many of the programs under review will require special expert analysis on a short-term, high intensity basis, and since the evaluation devices and reports related to various areas may be inadequate and require special performance analysis, a cluster of extra-governmental sources would be drawn upon in a consultative capacity. Consisting of various university, institute and private sector organizations, the Committee has begun to cultivate such resources. It is estimated that an additional \$50,000.00 per year would be required to permit the Committee to draw upon such resources effectively.

(4) Since the programs reviewed prior to termination schedules require the concerted attention of the subcommittees having initial legislative jurisdiction for them, it is imperative that the staff components of each subcommittee be strengthened to permit such newly required activity. While it would be possible to determine staff need on a formulary basis, it is likely that the addition of one majority and one minority staff person for each of the eleven subcommittees would be required to prepare for the review of programs scheduled for termination.

3. PHASING IN ADDITIONAL MANPOWER

It is recommended that a fully elaborated staff to accommodate the expanded workload mandated by S. 2925 be phased in according to the termination schedule provided in the bill.

May 15, 1977—Core staff employed.

May 15, 1977—Six field staff employed, three assigned to function 250 review, and three assigned to function 450, 502, 503, and 751 reviews.

May 15, 1977—One majority and one minority staff member employed for the National Science Foundation and the Education subcommittees.

January 1, 1978—Training completed for core and field staff and new subcommittee staff.

March 1, 1978—Plan for NSF and other function 250 reviews submitted to Senate with criteria for review included.

By April 1, 1978—Responses received from executive agencies.

April 1, 1978—Review plan becomes effective.

October 1, 1978—GAO submits prior studies and audits re NSF.

October 1, 1978—All "affected" agencies submit reports requested in Committee review plan.

October 1, 1978—Plan for functions 450, 502, 503, and 751 reviews begun.

March 1, 1979—Plan for function 450, 502, 503 and 751 reviews submitted to the Senate with criteria for review included.

May 15, 1979—Zero base review completed for function 250.

May 15, 1979—One majority and one minority staff member employed for Health subcommittee; three field staff members employed.

The cycle repeats until a full staff contingent has been added with sufficient lead time to permit orientation and training for the reviews in each function as per the termination schedule set forth in S. 2925.

4. COST ESTIMATES TO IMPLEMENT S. 2925

The following cost estimates have been based upon usual salaries for persons trained at the top of their formal preparation. A detailed set of qualifications and performance specifications for each of the following personnel can be formulated subsequently. A detailed chart disclosing the basis for the following estimates is attached in the appendix to this memorandum.

<i>A. Core Staff</i>	<i>Salary</i>
Review coordinator.....	\$30,051
Program analysis specialist.....	27,984
Graphics specialist.....	27,984
Information specialist.....	25,122
Research assistant.....	16,059
Two secretarial staff.....	20,000

B. Field Staff

Fifteen Field Staff at \$15,105.00 plus fringe benefits phased in according to S. 2925 termination schedule requirements.

C. Subcommittee Staff

One majority and one minority staff member for each of eleven subcommittees at \$20,034.00 plus fringe benefits phased in according to subcommittee activation by S. 2925 termination schedule.

D. Cumulative Additional Cost by Phase-In Plan for Staff, including fringe benefits, exclusive of overhead costs for personnel support and exclusive of external consultative assistance estimated at \$50,000.00 per year.

May 1977—May 1978, \$401,844.

May 1978—May 1979, \$565,103.

May 1979—May 1980, \$736,209.

May 1980—May 1981, \$915,666.

May 1981—May 1982, \$1,051,380.

APPENDIX TO MANPOWER AND COST IMPACT OF S. 2925 UPON THE COMMITTEE ON
LABOR AND PUBLIC WELFARE

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—EDUCATION DIVISION: OFFICE
OF EDUCATION

1. *Educationally Deprived Children (#0279)*

Local Educational Agencies
Migrants
State Administration
Neglected and Delinquent
Urban/Rural
Special Incentive Grants
Library and Learning Resources

2. *Adult Basic Education (#0273)*

Grants to States
Special Projects

3. *Educational Personnel Training Grants (#0273)*

Career Opportunities
Bilingual
Educational Leadership
Vocational Education

4. *Handicapped (#0282)*

State Grant
Severely Handicapped
Deaf-Blind Centers
Specific Learning Disabilities
Early Childhood Education
Media Services and Caption Films
Regional Vocational, Adult and Post Secondary
Regional Resource Centers
Special Education Manpower Development
Physical Education and Recreation Training

5. *Vocational Education (#0273)*

Basic Grants to States
Consumer and Homemaking
Cooperative Education
Research and Training
Students with Special Needs
Work Study
Innovation
Curriculum Development
Bilingual
Elderly
State and National Council's

6. *Libraries (#0212) (#0279) (#0293)*

Public Libraries
Operations

Construction
 Interlibrary Cooperation
 School Libraries
 College Libraries and Resources
 Training
 Research and Demonstration
 Undergraduate Instructional Equipment
 Guidance and Counselling

7. *Emergency School Aid (#0275)*

General Grants to Local Educational Agencies for Desegregation Assistance
 Special Programs and Projects
 Bilingual
 Educational Television

8. *Indian Education (#0204)*

Grants to Local Educational Agencies
 Special Programs for Children
 Training to Teachers
 Fellowships
 Adult Education
 Grants to Non-Local Educational Agencies

9. *Higher Education (No. 0293) (No. 4312) (No. 4308) (No. 0270) (No. 0273)*

College Teacher Graduates Fellowships
 Incentive Grants for State Scholarships
 Teacher Corps
 College Work-Study
 National Direct Student Loan Programs
 Guaranteed Student Loans
 Federal Insurance
 Federal Reinsurance
 Supplemental Higher Educational Opportunity Grants
 Special Services for Disadvantaged, Higher Education
 Special Services
 Talent Search
 Upward Bound
 Educational Opportunity Centers
 Legal Training Fellowship for the Disadvantaged
 Allen J. Ellender Fellowship
 Public Service Fellowship
 Mining Fellowship
 Fullbright-Hays Programs
 Personnel Fellowships
 Costs for Veterans Instruction
 State Planning Commission Programs
 Facilities Construction
 Foreign Language and Area Studies
 Developing Institutions Programs
 Cooperative Education
 Higher Education Facilities Grants Loan and Insurance
 Land Grant Colleges

10. *Elementary and Secondary Education (No. 0279) (No. 0280)*

Right to Read Programs
 Environmental Education
 Bilingual Education
 Support and Innovation Grants
 Strengthening State Departments of Education
 Supplementary Educational Centers
 Dropout Prevention
 Nutrition and Health
 Consolidation
 Alcohol and Drug Abuse Prevention
 Follow Through
 School Assistance in Federally Affected Areas
 Construction
 Payments to School Districts

11. *Planning, Evaluating and Promoting (No. 0207) (No. 0271) (No. 0279) (No. 0292) etc.*

Packaging and Dissemination of Successful Education Approaches
 Advisory Committees
 To the President
 Others
 Planning and Evaluation
 Information Clearinghouses
 Educational Statistics
 National Achievement Study

12. *Special Interest (No. 0270) (No. 0275) (No. 0293) (No. 0273) (No. 0279)*

Civil Rights Technical Assistance and Training
 Arts in Education
 Ethnic Heritage Programs
 Metric Education Program
 Gifted and Talented Program
 Consumer's Education
 Community School Program
 Grants to State and Local Educational Agencies
 Grants to Institutions of Higher Education
 Other
 Career Education
 Women's Educational Equity
 Educational TV Programming
 Community Services and Continuing Education

13. *Basic Opportunity Grant Program (No. 0293)*

14. *Educational Activities Overseas (No. 0287)*

DETAILED COST ESTIMATES FOR STAFF IN RE S. 2925 IMPLEMENTATION

	Annual salary ¹	Monthly salary				
		May 15, 1977 to May 14, 1978	May 15, 1978 to May 14, 1979	May 15, 1979 to May 14, 1980	May 15, 1980 to May 14, 1981	May 15, 1981 to May 14, 1982
Coordinator.....	\$30,051	\$2,504	\$2,630	\$2,762	\$2,900	\$3,045
Program analyst.....	27,984	2,332	2,450	2,573	2,702	2,837
Information specialist.....	25,122	2,093	2,198	2,308	2,423	2,544
Graphics specialist.....	20,034	1,670	1,754	1,842	1,934	2,031
Research assistant.....	16,059	1,338	1,405	1,475	1,550	1,628
Secretary.....	10,017	835	877	921	967	1,015
Do.....	10,017	835	877	921	967	1,015
6 field staff (June 15, 1977).....	± 15,105 (1,259)	7,554	7,932	8,329	8,745	9,182
3 field staff (June 15, 1978).....			3,777	3,966	4,164	4,372
3 field staff (June 15, 1979).....				3,777	3,966	4,162
3 field staff (June 15, 1980).....					3,777	3,966
3 majority staff (June 15, 1977).....	± 20,034					
3 minority staff (June 15, 1977).....	(1,670)	10,020	10,524	11,050	11,603	12,183
2 majority staff (June 15, 1978).....			6,680	7,014	7,365	7,733
2 minority staff (June 15, 1978).....				6,680	7,014	7,365
2 majority staff (June 15, 1979).....					6,680	7,014
2 minority staff (June 15, 1979).....						6,680
2 majority staff (June 15, 1980).....						6,680
2 minority staff (June 15, 1980).....						6,680
2 majority staff (June 15, 1981).....						6,680
2 minority staff (June 15, 1981).....						6,680
Total monthly salary.....		29,181	41,104	53,618	66,757	76,772
Number of employees.....		19	26	33	40	44
Agency contributions: ³						
Health.....		\$952	\$1,303	\$1,654	\$2,004	\$2,205
Retirement.....		2,189	3,083	4,021	5,007	5,758
Life insurance.....		150	175	200	225	225
Monthly staff cost.....		32,472	45,665	59,493	73,993	84,960
May 15 to Sept. 30, 4½ months.....		146,124	205,493	267,719	332,968	382,320
Oct. 1 to May 14, 7½ months (plus 5 percent).....		255,720	359,610	468,510	582,698	669,060
Annual cost.....		401,844	565,103	736,229	915,666	1,051,380

¹ Based on May 1, 1978, salaries.

² Each.

³ Agency contributions (based on May 1, 1978): Employees health benefit programs (\$50.11 per month, per employee); civil service retirement (7½% total salaries); Federal employees group life (30 cents per \$1,000, per month).

U.S. SENATE,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., September 9, 1976.

HON. HOWARD W. CANNON,
*Chairman, Committee on Rules and Administration,
U.S. Senate.*

DEAR MR. CHAIRMAN: Attached you will find the responses prepared by the staff of the Subcommittee on Intergovernmental Relations to questions prepared by Senator Williams' staff pursuant to yesterday's hearing on S. 2925. Also attached is my response to Senator Stevenson's statement, as you requested.

I would like to comment briefly on the questions that were submitted to us for a response because I believe that they reflect a fundamental misunderstanding of the purpose of the sunset bill.

Consistent throughout the questions is a disturbing theme—that S. 2925 constitutes a presumption against the validity of federal programs. Nothing could be further from our purpose.

As I pointed out in my statement to the Committee yesterday, I see sunset as an action-forcing mechanism. Under the sunset process, government will continue, and Federal programs will continue. But under sunset, Congress will have to take positive action to reauthorize programs, on a periodic and regular basis. Congress will have to look back over what it has created as well as forward to what it hopes to do.

There may be programs terminated under sunset, though I suspect they will not be many. But in essence, sunset is a reauthorization bill, not a termination bill. It is not an attempt to roll back decades of legislative work, but to try and bring Congress closer in touch with that work. It does not propose that Congress turn its back on national needs, but rather to ensure that programs can be adapted where necessary to meet those national needs as they change.

Thank you again for the opportunity to testify before your Committee, and to respond to these additional points. I would appreciate it if this letter and the enclosures be included as a part of the Committee's hearing record.

Sincerely,

EDMUND S. MUSKIE.

Enclosures.

RESPONSE TO QUESTIONS SUBMITTED BY SENATOR WILLIAMS' STAFF

QUESTIONS RELATING TO IMPACT ON AUTHORIZING COMMITTEE'S WORKLOAD

I. In formulating S. 2925, what attention was given to the analysis, or enumeration of programs within the jurisdiction of the various Committees including the Committee on Labor and Public Welfare?

Response to Question A. I. and the Subparts

At the initiative of the Subcommittee on Intergovernmental Relations, the General Accounting Office prepared a comprehensive listing of all programs and authorizations, by budget function and subfunction and by committee jurisdiction. No such comprehensive listing had previously been prepared by either GAO, the Office of Management and Budget or by the authorizing committees.

This listing was analyzed by the Subcommittee staff with the aid of expertise from the Congressional Research Service in order to assess the relative burdens the "sunset" bill would place on the authorizing committees.

Both the subcommittee and the Government Operations Committee solicited comments from the authorizing committees on the effect of the legislation on their respective workloads. To the extent we received feedback and analysis from the Committees, as well as from other sources, those suggestions were incorporated into the bill. It is important to note, however, that many of the standing committees were not as forthcoming as the Committee on Labor and Public Welfare.

The question of a definition of the term "program" has long been the subject of debates between the GAO and the OMB. The lack of such a definition is, in large part, the reason that there are conflicting estimates of the number of programs on the books.

OMB, for example, uses one criterion for determining what constitutes a program for listing in its domestic assistance catalogue and another when it lists programs according to appropriations accounts. GAO uses different criteria for

its program listings—and so does the Congressional Budget Office. That is why, as the Committee Report on S. 2925 itself states, the number of programs when calculated according to different criteria will vary.

It is precisely because the definition of "program" is a matter of so much dispute that the Government Operations Committee made a conscious decision not to define the term in S. 2925, just as it was not defined in the Budget Reform Act. Rather, the legislation leaves to the authorizing committees the discretion to determine which authorizations under their jurisdiction should be considered as separate programs for purposes of review.

For example, one authorizing committee may choose to consider several similar authorizations as one program for the purposes of doing a single zero base review while another committee may opt to consider similar authorizations as separate programs for purposes of review.

Furthermore, the bill in two separate instances—Section 203(c) and Section 205(b)—explicitly allows the authorizing committees to consolidate two or more zero-base reviews or review plans, into a single report. Accordingly, the committees will determine how many separate programs exist for purposes of the review process established by S. 2925.

It is also precisely because there is no definitive program count available at this point that the Government Operations Committee used three separate standards in its report to measure the relative workload on the authorizing committees. While the precise numbers of programs under each count differ because each were based on different criteria, the Committee was pleased that with each measure used, the workload distribution among the committees by year was relatively the same.

The foregoing explanation accounts for any variations on anomalies in the number of programs listed under the jurisdiction of the Committee on Labor and Public Welfare. It also explains why there are differing counts on the number of programs operated by the National Science Foundation and the Office of Education.

It is also important to note that the legislation set out a procedure for the General Accounting Office, after consultation with the CBO and the OMB, to develop a list of authorizations and programs by April 1, 1977. After the GAO completes that report, a comprehensive program list will be available for the first time.

2. Zero-base budgeting is the main evaluation technique relied upon in the sunset bill.

Response.—The assumption upon which much of this series of questions is based reflects a fundamental misunderstanding of the review requirements of the legislation.

Nowhere in the legislation is there the requirement that zero-base budgeting be relied upon as the principal evaluation tool. In fact, zero-base budgeting is mentioned only once in the entire bill, in Section 601, which directs OMB to prepare a study of the feasibility of using zero-based budgeting as the budgeting system of the Federal government.

Zero-base budgeting is a specific, mechanical, management-oriented budgeting technique. It is an executive or administrative tool only. It has no direct applicability in the context of the Congressional authorization process.

The clear, overriding thrust of the review provisions in S. 2925 is toward maximum flexibility for the standing committees in determining what evaluation techniques should be used in reviewing different programs. Not only does the legislation not mandate or suggest the use of zero-base budgeting, but it does not require the use of any specific evaluation technique. The legislation only sets out certain information which the committees may wish to obtain as part of their review of programs.

A. If this technique is not meant to be relied upon exclusively, what other techniques may be used and what impact would their use have upon the workload of the authorizing committees?

Response.—The standing committees may use any evaluation technique they choose in reviewing programs scheduled for termination. The Committee Report on S. 2925 is quite clear on this point: "A program authorizing the construction of a dam or a missile system clearly cannot be evaluated in the same fashion as a program intended to alleviate poverty or restore urban neighborhoods.

"Therefore, S. 2925, as amended, provides for substantial flexibility in the evaluation procedures to be used. Instead of proposing a single, rigid evaluation model for all Federal programs and activities, S. 2925, as amended, contains only broad guidelines as to the kind of information which may be included in the zero-base reviews prepared by the authorizing committees."

B. Zero-based budgeting relies upon a concept called "discrete" programs: to what extent does that concept have implications for the authorizing committee workload under S. 2925?

Response.—As noted above, the terminology and concepts of zero-based budgeting have no direct implications for the authorizing committees.

C. Employing our rough and ready application of the term "discrete" programs, we have estimated that in 1980 at least 110 programs would require zero-base budget review in budget functions 450, 502, 503, and 751. Is this reasonable as a basis from which to estimate workload?

Response.—Once again, zero-base budgeting techniques have no relevance to S. 2925.

With regard to the specific numbers you have used, again, it is really up to each authorizing committee to determine what authorizations constitute a program and which ones do not.

According to the GAO list, there are 110 separate authorizations under Subfunctions 450, 502, 503, and 751 which fall under the jurisdiction of the Labor and Public Welfare Committee.

However, in Subfunction 502 for example, there are 23 separate authorizations which have the same account number. All are part of the Higher Education Act of 1965 and all expire at the same time under present law.

Whether the Committee on Labor and Public Welfare chooses to treat each of these entries as a separate program or as one program is not particularly important for estimating committee workloads. The important point from a workload perspective is that all 23 of these programs are up for review by the Committee at the same time under current practices, and so the increased workload under S. 2925 should be measured as though these separate authorizations constituted one program.

D. Is it true that all programs in order to be evaluated with the "neutrality" stressed in the Report accompanying S. 2925 must be evaluated with the same even-handed and rigorous treatment?

Response.—No. The principal operative provision of S. 2925 is the sunset requirement. It is in regard to this provision that the need for neutrality has been stressed.

With regard to the review requirements of the legislation, as noted above, the legislation intends that the authorizing committees be free to set their own priorities for programs scheduled for review, as they do now under current practices. Again, the Committee Report is quite clear on this point:

"S. 2925, as introduced, would have required that the same priority be given to all zero-base reviews of programs within a committee's jurisdiction, regardless of whether that committee believed that the review of some programs should have a higher priority than the review of others. It also required that the scope and depth of all zero-base reviews be the same. The committee realized that these two requirements would place an inflexible and back-breaking burden on the legislative committees. As a result, S. 2925, as amended, is more flexible on both counts. First, it allows the legislative committees to determine the priority the zero-base review of each program should be given in relation to the reviews of other programs they are reviewing that same year. Second, it allows these committees to determine the depth, detail and scope of each zero-base review within their jurisdiction. There is no single formula for review."

E. If the above is true, does that not mean that manpower and cost estimates must plan on accounting for a zero-base review of every program?

Response.—N.A.

F. If it is not true, then how can neutrality be maintained and won't some programs be endangered or disadvantaged by being given more casual treatment?

Response.—As noted in the response to (D) above, the legislation does not intend that all programs be given the same priority in the review process.

Clearly, some programs will be given less attention than others. This is the case at the present time, because clearly some programs are more important than others or are in more need of review than others.

The authorizing committee with jurisdiction over a particular program is best equipped to make the decision concerning the priority for review of the program. And that is exactly what the legislation provides.

G. What do experiences with zero-base review show in terms of the time required to recruit, train, deploy and evaluate the personnel to carry out the technique?

Response.—Zero-base review is not a specific technique or system. It will mean something different to each authorizing committee, depending on that commit-

tee's review plan, program priorities, etc. Thus, this estimate cannot be made independently of the review techniques and priorities of the committees.

H. What has experience in applying the technique to government disclosed?

Response.—There is no parallel, though there is growing use of evaluation by Congress and Federal agencies.

I. Given that huge programs are conducted in various forms of Federal-State partnership, what implications do such State and local activities hold for the workload of an authorizing committee responsible for the conduct of zero-base reviews?

Response.—Here again, the principal determinant of the workload of any authorizing committee under S. 2925 will depend on that committee's own decisions as to program priorities, depth of review, and similar considerations.

QUESTIONS RELATING TO SUBSTANTIVE DIMENSIONS OF S. 2925

I. The most striking aspect of the bill is that when the provision of any act authorizing appropriations expires, the substance of the Act, at least insofar as regulatory, payments and service delivery activities are concerned, also expire.

Response.—Again it should be pointed out that S. 2925 does not terminate substantive provisions of law—only the authorization is subject to the sunset provisions. To the extent that funding would no longer be authorized, program payments and services would be suspended.

With respect to regulatory authority, the Nunn amendment, adopted in the Government Operations Committee markup and contained in part in Section 101 (b) (6), provides:

"(5) Whenever a provision of law which authorizes the enactment of new budget authority for a program, or which provides new budget authority for a program, is terminated under paragraph (1), any provision of law which provides regulatory authority for such program shall thereafter *be effective* only if and when new budget authority is again authorized or provided for such program . . ."

This section "suspends" the authority of an agency to issue or enforce regulations for a program when the authorization for that program has been allowed to lapse. Thus, regulatory authority does not *expire* as stated in the question.

A. Given that such expiration occurs in whole budget functions, what is to prevent immense chaos from occurring in the event that reauthorization is not timely enacted?

Response.—Under the rules of the Senate, nothing in this legislation would preclude the consideration of new budget authority if such consideration were permitted by Rule 16 in the Senate. As explained in the Government Operations Committee report, it is not intended that all programs within a function or subfunction simply die, nor is that the presumption of the legislation. Programs are grouped in these categories for review in an effort to give the committees of the Congress an opportunity to evaluate like programs at the same time.

The effect of failure to reauthorize a "sunsetting" program would not be substantively different than if funds were not appropriated for the program. But just as Congress almost never denies appropriations for continuing programs, we can anticipate that under the procedures established by S. 2925, Congress would reauthorize most previously established programs. We also can anticipate that Congress will use this reauthorization opportunity to redirect some programs when it so desires.

Moreover, if necessary, programs can be continued by means of continuing resolutions until a regular reauthorization is enacted. In such cases, the operation of a program and its regulatory authority would not be disrupted.

B. Specifically, what is to prevent a chaos scenario such as the following:

(1) The expiration and termination of OSHA's provision authorizing appropriations, how can the responsibility of the Federal government's efforts at kepone poisoning control be terminated in the event that a massive outbreak of related toxins are found widely dispersed in seafood at a real and present danger level two months prior to the termination date in S. 2925?

(2) Could such an occurrence justify extraordinary police powers in the executive branch and wrench from the Congress a basic opportunity to oversee regulation?

Response.—The answers to the above scenarios should first be read in light of the response to question (A) above—that this legislation does not anticipate the termination of Federal efforts in a particular area—only a reevaluation of the quality of that effort—with termination employed as a mechanism to prompt

congressional action. In the event that the authorizing committees fail to complete their work, the rules of the House and Senate provide the flexibility needed to avoid unintended chaos.

(1) As just noted, this is a virtually impossible scenario. Furthermore, it would appear that the responsibility for the possible investigation of kepone-related toxins could fall under the jurisdiction of several Federal agencies, such as the Environmental Protection Agency, the Department of Agriculture, the Food and Drug Administration and the Department of Justice, thus providing several other avenues for investigation. In addition, there is the possibility of a continuing investigation of such an outbreak through specific legislative provision for OSHA.

(2) No.

C. Were whole agencies terminated, even with justification, what would prevent the turmoil resulting from possibly thousands of people dumped into the labor market with no ability to plan for such transitions?

(1) Would it not be more costly to provide unemployment and welfare and re-training for such persons than the cost of their agencies' operations?

(2) What could be the possible impact on the national economy from such an occurrence given a 20% Federal and 20% state and local CNP participation of government?

Response.—If a committee, the Senate or the Congress were to determine that a program or agency should no longer continue, provisions could certainly be made in separate legislation for the transition from government jobs for employees who might be affected by such action. Certainly, each committee should evaluate the possible consequences of its actions in not recommending the continuation of a program. It is questionable, however, whether the retention of a program could be justified only on the grounds that Federal employees affected by termination would have to be retrained or would experience transitional difficulties.

D. How would the economies of the states and localities be prepared to face such terminations?

Response.—The committees with jurisdiction over a program or agency scheduled for review and termination may wish to take into consideration the impact of non-renewal of an authorization on the economy of state and local governments which participate in the operation of the program.

E. Following from the above, is it not possible to build into sunset legislation rational phase-out plans for those programs justifiably terminated after the appropriate review of Congress?

Response.—The sunset legislation is not designed to anticipate procedures for phasing out terminated programs. To again underscore the premise of the legislation, it is to grant additional authority and responsibility to the committees of jurisdiction in the Congress for the continuation or termination of Federal programs. Should a committee recommend termination or reduction, it also should be expected to consider the necessity for phase-out procedures or limited reauthorization for the purpose of phasing out the program.

F. And if an Act secured and guaranteed rights granted under the Constitution, and was terminated by reason of failure to renew its provision authorizing appropriations, what is to prevent an enormous volume of litigation directed against the Congress to find the sunset bill unconstitutional as constructed or as applied in the myriad points of the termination schedule?

Response.—The non-existence of legislation implementing a constitutional right does not preclude a litigant from seeking a remedy in the courts. At the same time, the existence of a constitutional right does not demand the enactment of a particular remedy in law. It is questionable whether the courts would grant jurisdiction over an action against the Congress under the described circumstances.

G. In short, how can the authorizing provisions be separated from the substance of the legislation when failure to reauthorize appropriations nullifies any operations under the Act?

Response.—The authorizing provisions of Federal programs were chosen as the mechanism for the sunset provisions of the legislation because they are readily identifiable, and because the authorization process is a function of the rules of the Senate and House. In addition, this vehicle helps to clearly focus responsibility for initiating congressional action on the authorizing committees. Certainly, if Congress chooses to terminate a Federal program, it may effectively do so by allowing the authorization to lapse under this act.

H. Are we not in danger of establishing an *ex post facto* law if enforcement of a regulatory provision is suspended by Congress' failure to timely enact an authorizing provision, but later, when reauthorization were restored, a violator be prosecuted in the course of enforcement proceedings? What is to prevent said violator to claim Congressional intent to toll the regulation itself?

Response.—In light of the congressional intent expressed regarding the operation of Section 101(b)(5) it is doubtful that it could be asserted that Congress intended a particular regulation to be tolled upon the expiration of the authorization for a program. Only the authority of an agency to enforce a regulation or to issue new regulations related to the program is suspended. The regulation or regulations remain on the books. The question of whether subsequent enforcement of violations of regulations which occurred during a lapse in the authorization, would constitute an *ex post facto* law could be subject to additional clarification.

II. The Bill presumes that programs are by their very nature invalid and that a burden of proof to the contrary lies upon the authorizing committee having jurisdiction.

A. To what extent does analysis of programs to date or public opinion with respect to those programs support this presumption.

B. Is this presumption warranted by analysis in some programs more than in others? If so, which programs?

C. Even if warranted, does the fact that some programs require by their very nature longer implementation periods than others shift the timing expectations, and thus the termination schedule?

(1) For example, it is not possible oftentimes to determine whether a program such as OSHA is effective in less than a ten or fifteen year period given its massive implications and extensive time to become established. Should it not be considered for termination on that time scale, rather than within a five year time scale?

(2) To what extent has attention been given to differentiate such "long-term" versus "shorter-term" requiring efforts?

D. Assuming close and appropriately timed periodic review is warranted in order to provide greater oversight by the authorizing committees, is zero-based budgeting the only technique capable of enhancing that oversight?

(1) Should other techniques substitute for or supplement zero-base budgeting?

(2) Can't a case be made for requiring periodically an economic impact statement, an environmental impact statement, a family impact statement and a paper-work impact statement to enhance periodic oversight review?

Response.—The initial statement—that sunset legislation constitutes a presumption that Federal programs are invalid—is a misleading and totally incorrect assessment of the legislation and its goals. If this were true, it would be equally valid to describe a health program established for only three years and then scheduled to terminate as presumptively invalid. The termination provision is an action-forcing mechanism to stimulate congressional review of the results of its past legislative work.

It is implicit in this legislation that the Congress should not authorize a program for operation longer than five years without returning to examine its operation. As Senator Griffin observed in the Rules Committee hearing, it is doubtful that any program should be continued for longer than five years without undergoing an examination by the Congress. It is appropriate to note that a number of committees, such as the Committee on Labor and Public Welfare, have chosen shorter authorization periods for many of their programs.

Within the five year period, Congress and the authorizing committees may determine that shorter periods of review are appropriate to certain programs, but the outside limitation of five years should remain.

As noted earlier, zero-base budgeting is not required for evaluation of programs under this legislation. The Government Operations Committee, in outlining the elements for congressional review of programs, believes the criteria are sufficiently flexible and broad to permit committees to tailor their reviews to the characteristics of a particular Federal effort.

III. Given the fine objectives of the Bill yet the many questions related to its operation, what case can be made against a pilot testing period?

A. Would a pilot testing period such as the advisory year of the Budget Act be appropriate to test out the procedures and substantive provisions of the sunset Bill?

B. Given its complexity and finality, would it not be even more compelling to run a test period than justify the advisory year of the Budget Act?

C. Given the need for gearing up Committee routines and resources for the rigorous reviews required by the sunset Bill, wouldn't a test period tend to assure success in an unfamiliar area which might otherwise face failure from inadequate preparation?

Response.—The Government Operations Committee carefully considered proposals for pilot testing of the sunset legislation and included in Section 606 a procedure which allows Congress to review its review process after the first five year cycle. Proposals to pilot test the process or to limit its scope in other ways were explicitly rejected by the Committee as explained on page 15 of its report.

In the first place, pilot testing of this process would undercut the impact of the "sunset" concept. Pilot testing has been suggested because of the difficulty of coming up with an evaluation mechanism suitable for all government programs. However, the Committee has responded to this criticism by increasing the flexibility of the evaluation process. The focal point of the legislation is the termination provision and pilot testing has little to offer by way of strengthening this fundamental provision. If anything, it would weaken the termination concept substantially.

Second, the Committee believes that the chances for success of this new process are closely tied to its neutrality. Pilot testing would inevitably require selecting out certain programs or agencies for the initial trial runs. The Committee believes that this would jeopardize the principal of neutrality, thereby conceivably making the process politically unworkable.

As a result, the Committee decided the best way to deal with the potential workload problems is to provide the legislative committees with flexibility to manage their work in zero-base review process.

COMMENTS OF SENATOR MUSKIE ON STATEMENT BY SENATOR STEVENSON ON S. 2925

Mr. Chairman, I appreciate very much your giving me the opportunity to comment on the statement on the sunset bill submitted to your committee by Senator Stevenson from his perspective as Chairman of the Temporary Select Committee to Study the Senate Committee System.

At the outset, I want to emphasize my belief that the sunset bill and committee reform are not only compatible but complementary. I look forward to receiving and evaluating the report of the Temporary Select Committee, and I truly hope that it leads to a more improved committee system in the 95th Congress.

But I'd like to respond briefly to some of the points that Senator Stevenson raised to demonstrate the compatibility of the two reforms.

In the first place, the sunset legislation assumes that no committee structure in the Senate and no breakdown of budget functional categories will be permanent. Clearly, were the third option of the Temporary Select Committee to be adopted, the schedule in S. 2925 would have to be revised. It would make no sense whatsoever for one committee to handle one-fifth of all Federal programs one year, and have nothing to do for the remainder of the five-year cycle.

Precisely because of situations such as raised by the Temporary Committee, in Section 106 of the bill the Government Operations Committee created a procedure for changing the review schedule in the bill. Even if the Senate were to go to a functional committee structure, the review schedule in the bill could easily be adapted to produce an even year to year distribution of the committee workloads by employing Section 106 to split functional categories into subfunctions and distributing the subfunctions over the five-year cycle.

Second, it is important to note that whatever committee structure, the job the sunset bill attempts to accomplish—to close the gap between Congress and the results of its legislative work—is no less necessary.

Third, Senator Stevenson is properly concerned about the workload of individual Senators and Senate Committees. And there is no denying that the sunset bill by forcing heretofore permanent programs to come up for reauthorization will add to the committee workload. But there are two relevant points I'd like to make. First, much of the workload committees now face occurs because they have voluntarily chosen to authorize programs under their jurisdictions on an annual, two or three year basis. Thus, requiring reauthorization once every five years should not impact on their workload for those programs. Second, in view of the reassertion of Congressional priorities in legislation such as the Budget Reform Act and the War Powers Act, there is simply no justification for permanent programs that escape Congressional review. Many programs with permanent authorizations also have permanent appropriations so that they have gone unexamined for many years.

Fourth, Senator Stevenson's statement calls proper attention to the foresight responsibilities of the Congress, but those responsibilities cannot be separated from a careful review of what Congress has enacted in the past. Informed foresight does not mean exotic futurism but demands attentive concern to both the progress and failures of the past. I believe therefore that sunset will enrich and not detract from the foresight the authorizing committees exhibit in their legislative products.

Fifth, I understand the concern Senator Stevenson expresses about a shift in the legislative focus away from the committees and onto the floor, but I submit that the sunset bill would have the opposite effect. Under the sunset bill, the committees would establish review plans, conduct and direct the oversight, determine the priorities for Congressional review, and determine the number of authorization bills the Congress will consider. I expect that, in fact, sunset will instill a new vigor and order into the operations of the Senate.

Finally, I want to reiterate the point I made in the beginning. I applaud the efforts of the Temporary Select Committee to examine wide ranging alternatives to the committee structure. Sunset and committee reorganization are complementary and necessary reforms.

U.S. SENATE,
COMMITTEE ON FINANCE,
September 8, 1976.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for my views on S. 2925, the Government Economy and Spending Reform Act of 1976.

S. 2925 was referred to the Finance Committee as well as the Committee on Rules and Administration; however, the unanimous consent request limits the Finance Committee's consideration to Title V of the bill, which affects tax expenditures.

The Finance Committee will be considering S. 2925 in executive session next week. Since the bill will have major impact not only on tax expenditures but on all programs within the Finance Committee jurisdiction, the Committee staff has prepared an analysis detailing how the bill will affect the legislative process in the Finance Committee. I believe that this analysis will be equally applicable to the legislative process in other Committees.

I am enclosing a copy of the staff analysis for the consideration of S. 2925 by the Committee on Rules and Administration. The analysis has not been approved or acted on by the members of the Committee on Finance.

With every good wish, I am

Sincerely,

RUSSELL LONG, *Chairman.*

Enclosure.

THE SUNSET BILL: S. 2925—ANALYSIS AND RECOMMENDATIONS

[Prepared by the Staff of the Committee on Finance]

I. GENERAL DESCRIPTION OF THE BILL

S. 2925 establishes a schedule for the termination of nearly all programs involving any spending authority over a five-year period beginning September 30, 1979 and requires the enactment in 1977 of legislation similarly terminating all "tax expenditure" provisions over a five-year period starting December 31, 1979. (Social security and medicare would be exempt from termination as would interest on the public debt.) Before any of the programs or provisions terminated could be reenacted (and before any provisions could be considered which have a long-range impact on social security, medicare, or interest on the debt), it would be necessary for the committees of jurisdiction to complete a comprehensive review study of the program or provision.

S. 2925 sets forth the expected content of these studies and the time frame for conducting them. In general, the review study for a given program or provision would be conducted during the 14-month period prior to May 15 of the year in which it terminates. Between that date and September 30 (December 31, in the case of tax expenditure provisions), it would be necessary to complete the entire legislative process of Committee hearings and consideration, floor consideration and conference in order to reenact the basic program authorization. Only after that process had been completed could the appropriations process begin.

II. CONSIDERATIONS RELATED TO THE BASIC OBJECTIVES OF S. 2925

S. 2925 is entitled the "Government Economy and Spending Reform Act of 1976" and its objective is to assure that all government programs and tax expenditure provisions are periodically subjected to comprehensive study. However, a careful examination of the provisions of S. 2925 brings into question whether the basic processes established by the bill are designed to achieve this objective.

The nature and purposes of permanent legislation

S. 2925 seems to adopt as a first principle the hypothesis that permanent legislation establishing spending programs, regulatory authority, or tax relief provisions is necessarily an evil to be avoided and that the existence of such permanent legislation shields the provisions in question from review. The Committee report on the bill (p. 26) characterizes permanent programs as involving the expenditure of funds "without any review by Congress." This viewpoint represents a considerably oversimplified approach to the question of "permanent" legislation. Congress always retains and exercises the Constitutional right to study, modify, and repeal any legislation, whether "permanent" or not. In 1972, for example, Congress repealed the "permanent" State-Federal programs of aid to the aged, blind, and disabled and replaced them with a new and differently structured program. In 1974, Congress made similar changes in the "permanent" social services programs. In the 93rd Congress, Congress modified "permanent" Social Security Act programs through the enactment of over ten separate laws. The major "permanent" programs of social security, medicare, public assistance, and unemployment compensation have, in fact, been subjected to periodic substantial Congressional review and revision.

It is simply wrong to assert or imply that the enactment of a program on a permanent basis has operated to shield the program from Congressional review, revision, or repeal. The true objectives which Congress seeks to obtain by enacting legislation on a permanent basis must be sought elsewhere. One very important reason why Congress establishes some legislation as "permanent" is to assure that programs whose continuance is important as a matter of public policy are subjected to repeal or modification only after sufficient review to convince a majority of Congress that repeal or modification is desirable. In other words, permanent legislation is a tool which Congress has found valuable in the past to protect important provisions from the dangers of lapsing through scheduling inadvertencies or from being held hostage by a President or by a determined minority interest against the will of the majority of Congress.

If it is true that many programs have been enacted on a "permanent" basis even though they are not of sufficient importance to national policy to justify this level of protection, the proper remedy is to identify and modify those programs and not to eliminate the "permanent" status of all programs including those for which this status is appropriate. Among the types of provisions which are appropriately enacted on a "permanent" basis are those which may have an impact on persons over a protracted number of years (e.g., certain tax provisions designed to encourage specific types of investment) or those which involve assuring individuals the basic necessities of life (e.g., welfare and unemployment compensation provisions.)

As an example, the Congress has determined that the program which provides for the subsistence needs of aged, blind, and disabled persons should continue in force unless and until modified by subsequent legislation. In establishing this program on a "permanent" basis, Congress was likely motivated by the belief that a poor aged, blind or disabled person should not have to worry each year—or even once every five years—about the security of his benefit payments.

This issue involves more than just appearances. In 1975, the President proposed that the Congress cut back on the amounts payable to needy, aged, blind, and disabled persons under this program. Had the program been subject to automatic termination that year (as might have been the case if S. 2925 were then in effect), the President, with the support of either 34 Senators or 146 Members of the House, would have had leverage to force the majority of Congress against its will, to accept his proposed cutback.

The child support program enacted in 1974 offers another example of how the provisions of S. 2925 would alter some basic power relationships in the legislative process—in this case against the interest of government economy. Over a period of several years, the Committee on Finance recommended the adoption of a specific, strong child support program with a view towards both protecting the rights of children and reducing public welfare costs by enforcing the support

obligations of deserting parents. Although the Senate overwhelmingly passed the legislation recommended by the Finance Committee on several occasions, the House Ways and Means Committee did not share the Senate's enthusiasm and repeatedly refused to accept the measure in conference. In 1974, however, the Senate prevailed upon the House to accept this program as part of a compromise involving the social services legislation. The results of the child support program in reducing Federal and State welfare costs have been promising thus far. Under S. 2925, however, the program would terminate and the Ways and Means Committee would be given the power to block reenactment, if it so desired, simply by failing to complete the review study of the program which, under S. 2925, is an absolute prerequisite to reenactment.

The ability of the Federal Government to create permanent legislation (that is, legislation whose repeal requires the agreement of a majority of Congress) is also important as a tool in establishing incentives or in negotiating agreements. For example, most provisions of the tax law considered "tax expenditure provisions" are enacted by Congress with a view towards influencing the incentives or investment practices of individuals or corporations in certain directions. The power of Congress to influence behavior in this way would be considerably weakened if such provisions can no longer be enacted on a "permanent" basis.

Similarly, the ability of the United States to negotiate international agreements would be undermined to some extent if the Congress gives up the ability to enact expenditure or tax provisions which remain in effect unless a majority of Congress votes to modify them. For example, a foreign nation might be hesitant to reach agreement with the United States on a matter involving a non-tariff trade barrier if the implementing legislation could be terminated in the next Congress simply by the failure of a Committee to conduct a review study of the type required by S. 2925.

There are many programs and provisions which are appropriately enacted on a temporary rather than permanent basis. Moreover, some presently "permanent" programs may not deserve such status. It is thus appropriate for Congress to carefully reexamine all such programs to determine whether or not they should continue on a "permanent" basis. To approach this problem by giving up the power to have any "permanent" programs (with the exception of social security and a few other trust fund programs) as would be done in S. 2925, represents a far-reaching change in the legislative process which is not really necessary to the objective of increasing the review of programs and which would result in a weakening of the powers of Congress—and specifically in the granting of substantially increased legislative power to the President and to those holding positions which are contrary to the will of a majority of the Congress.

Impairment of Congressional oversight functions

S. 2925 is designed to require that Federal programs and "tax expenditure" provisions undergo a periodic "zero-base" review which will thoroughly examine the basic desirability and functioning of the program or provision. The feature of S. 2925 which requires the termination of programs and tax expenditure provisions is not in fact a part of the review mechanism, but is rather an enforcement tool to assure that these periodic reviews are made by the committees. That enforcement tool may well be so powerful that it undermines the validity of the studies which it requires, and even undermines the ongoing exercise of Congressional oversight responsibility.

Congressional committees are both advocates and critics of the programs and provisions under their jurisdiction. To some extent, committees function in both of these roles simultaneously. But when a Committee is trying to convince the Congress to enact a particular program, its advocacy role will predominate. After enactment is achieved, the committee can undertake the critical or oversight function with a view towards developing legislative recommendations for program improvements.

By providing for automatic program termination, S. 2925 has the effect of encouraging committees to undertake the mandated review studies more as advocates than as critics, since their ability to obtain reenactment may depend on how convincing a case for reenactment they can make through those studies.

It could be argued that committees will have some bias in favor of the programs under their jurisdiction in any case, but any such inherent bias would be greatly increased if those programs were faced with the threat of automatic termination. This situation might affect not only the "zero-base" review studies provided for in S. 2925 but also the existing oversight activities of Committees. In 1969 and 1970, for example, the Committee on Finance undertook an extensive study of the Medicare and Medicaid programs and published a document detail-

ing a number of deficiencies in the implementation of the programs which were subsequently dealt with in legislation. While the Committee might well have undertaken this same vigorous oversight of these programs if the automatic program termination provisions of S. 2925 had then been in effect, the Committee might have been concerned whether doing so might not undermine its chances for reenacting the programs.

The structure and timing of the review process

The review process outlined in S. 2925 and in particular its proposed time schedule is not well designed to accomplish the purpose of the legislation. The problems are more than procedural defects; they seriously affect the substance of the legislation.

S. 2925 outlines a review procedure under which the "zero-base" review study will be completed four months (seven months in the case of tax expenditure provisions) prior to the deadline for enacting reauthorization legislation and any necessary implementing appropriations. Presumably, the review studies will in many cases develop findings that justify some substantial program changes or perhaps even raise questions as to the advisability of continuing a program. In some cases the appropriate legislative changes to be made on the basis of the review study may be self-evident. More likely, particularly when major programs are involved, the recommendations of the review study will be controversial or the study may present alternatives rather than recommendations. If the study is to be useful at all in such circumstances, more than few months will be needed for the review study to be examined by interested parties, for the committees of jurisdiction to hold appropriate hearings on proposed changes, and for the development and enactment of whatever legislative changes are called for.

Many programs cannot realistically be changed on such short notice as is envisioned by S. 2925 even if the legislative process to enact the changes could somehow be accomplished within the time limits specified in the bill. For example, the program of aid to families with dependent children would under S. 2925 be scheduled to expire on September 30, 1981, and would have to be reenacted between May 15 and September 30, 1981 (the appropriation for the reenacted program would have to be squeezed in between reenactment and September 30, 1981). Since this is a Federal-State grant-in-aid program, however, changes cannot be made on short notice. Additional lead time is needed to enable the States to enact necessary conforming changes and to provide for appropriate budgetary resources. Yet the State would not even know whether the program was going to be continued until it was just about to expire. It would be very difficult for States to make program or budgetary plans under these circumstances. Some States may even be prevented by State law from continuing a particular program until Federal funds have actually been made available. A similar difficulty would be faced in other programs based on State law conforming to Federal law.

The provisions of S. 2925 are intended to require serious and comprehensive studies of both major and minor programs. This objective is significantly undermined by both the short time allotted for each of the studies and by the fact that many committees would be required to conduct studies of several major programs simultaneously.

S. 2925 establishes a timetable for the "zero-base" reviews which contemplates that they will be conducted in little more than a year. While this may be ample time for the study of some minor programs, other programs would necessarily take considerably longer if the type of information specified in S. 2925 is to be gathered and evaluated. For example, the bill indicates that analyses are to be made of the impact of funding programs at different levels. Where such an analysis is appropriate, it might require the design and conduct of special census or other surveys which would only begin to yield data for analysis by the end of the review period specified in S. 2925.

Under S. 2925, the Committee on Finance would apparently be required to undertake review studies of the social security cash benefits program, the medicare and medicaid programs, the aid to families with dependent children program, the unemployment compensation program, and the supplemental security income program together with any related "tax expenditure" provisions all during the period from March 1, 1980 to May 15, 1981. Within a few months after the completion of the studies, the Committee would have to enact legislation revising these programs in the light of these studies. These timing requirements will seriously detract from the quality of the studies and the careful design of reenactment legislation.

Nothing in the committee report on S. 2925 indicates that the bill is intended to undermine the new congressional budget process. In practice, however, the bill

would seriously undermine that process. The heart of the budget process is the period between May and September. The first budget resolution is adopted in May setting spending and revenue goals to guide the appropriation and tax-writing processes during the next few months; action on appropriations is to be completed before the beginning of the new fiscal year in October. In September a second budget resolution reviews the budgetary situation in the light of the targets set by the first resolution and the subsequent action on appropriations and revenue measures and provides for any necessary reconciliation actions.

For this process to operate properly, it is essential that authorizing legislation be largely completed by the start of the process in May. Under S. 2925 major segments of the Federal budget could not be authorized by the time of the first budget resolution; in fact, the authorizing process could not start until after the May 15 submission of the zero-base review on those programs scheduled for review in that year. Similarly, revenue legislation affecting "tax expenditures" could only begin to be considered after that date and, given the Constitutional mandate for such legislation to be originated in the House of Representatives, it is doubtful that such legislation could be completed by the September deadline for the second budget resolution. Thus, the timetable in S. 2925 virtually eliminates the Congress's ability to meet the timing requirements of the Congressional budget process.

Possible modifications

The improvement of Congressional procedures for reviewing the legislation it has enacted is an obviously desirable objective. An examination of the provisions of S. 2925, however, raises substantial questions as to whether the processes it proposes are well designed to achieve that objective. Consideration might be given to a basic reexamination of those processes with a view towards developing methods which would better achieve the improved level of Congressional review and would do so without involving major disruptions to the existing legislative process. If, however, the provisions of S. 2925 are to form the framework of a new review procedure, certain basic modifications to deal with its major structural problems could be suggested.

The basic goal of S. 2925 is not the elimination of programs but the assurance that programs are thoroughly reviewed so that Congress can determine whether they should be continued, modified, or terminated. The Congress has the right to demand that its committees provide such a review and there is no reason to assume that any committee would defy an explicit statutory instruction.

It is recommended that S. 2925 be modified to require committees to conduct "zero-base" studies of all programs within their jurisdiction and formally report the results of those studies together with their recommendations whether (and in what manner) each program should be modified, terminated, or continued. It is recommended that the enforcement mechanism of automatic repeal of all programs be eliminated.

If the above recommendation is not incorporated in S. 2925, it would be desirable to at least provide an exemption from automatic termination for those programs on which needy individuals must depend for basic subsistence. This would relieve the beneficiaries of such programs from unnecessary anxiety that their income could suddenly be cut off because of scheduling problems or be held hostage against the wishes of a majority of Congress. Programs in Finance Committee jurisdiction of this type include social security, medicare, supplemental security income, aid to families with dependent children, medicaid, unemployment compensation and trade adjustment assistance. An amendment to achieve this objective could be patterned after the exemptions contained in the Anti-Deficiency Act.

It is recommended that the automatic program-termination provisions of S. 2925 be modified to exclude any program which may involve the safety of human life, the protection of property, or the immediate welfare of individuals.

Another recommended modification, which would improve the ability of S. 2925 to meet its objective, is that each committee be given the responsibility to establish its own timetable for the review of programs under its jurisdiction.

With some modification, the bill could mandate each committee to report its timetable for such action by a date certain, such as July 1, 1977. Committees could be required to provide in that timetable for the review of their programs according to a schedule which calls for the completion of the reviews of all programs no later than September 30, 1983 and which provides for a relatively even distribution of the review workloads involved during the five years preceding that date.

This would give committees the necessary flexibility to devote as little or as

much review time as appropriate to each program and to schedule the review and reauthorization process in the manner which best assures that serious review could be accomplished. It would also permit committees to schedule reauthorization in a manner consistent with the requirements of the Congressional Budget Act processes.

III. TAX EXPENDITURE PROVISIONS OF S. 2925

Title V of S. 2925 provides for a "zero-base" review of "tax expenditure" provisions and for limiting such provisions in the future to no more than 5 years. The bill does not initially repeal existing provisions but requires the enactment next year of legislation which would provide for a scheduled repeal of all "tax expenditures" over a five-year period.

The detailed provisions of Title V are generally quite similar, with minor wording changes, to the provisions of titles I and II with respect to expenditure programs and the comments in this memorandum concerning those provisions apply equally to the provisions of title V.

It should be pointed out, however, that the definition of "tax expenditure" in S. 2925 differs from that used by the Congressional Budget Act in that it includes not only those based on law but also those arising from "any regulation or ruling." This change would seem to require a review of all such regulations and rulings to see if they result in anything which could be classified as a "tax expenditure." Such a review would, by itself, constitute an enormous undertaking.

(If the Committee on Finance does not report out S. 2925 by September 15, it will be placed on the Senate Calendar with the tax expenditure provisions stricken.)

IV. PROCEDURAL AND OTHER SPECIFIC PROBLEMS

In addition to the basic structural problems in the process proposed by S. 2925 as described in the preceding paragraphs, the detailed procedural provisions of the bill raise a number of questions.

Review schedule (sec. 101(a))

The bill sets forth review dates for programs according to their functional (and to some extent subfunctional) budget categories. Some closely related programs fall in quite different budget categories and would thus be subject to reauthorization in different years even though it would be more reasonable that they be studied and reauthorized together. For example, authorizations related to the Finance Committee's jurisdiction over trade and tariffs include: (1) the International Trade Commission in category 150 (which expires in 1979 under S. 2925), (2) Firm Adjustment Assistance in category 450 (which expires in 1980 under the bill), (3) Worker Adjustment Assistance in category 600 (which expires in 1981), and (4) the office of the Special Trade Representative in category 800 (which expires in 1983). One effect of such a schedule would be to separate the consideration of the trade legislation which might impact on domestic firms or workers from the consideration of measures to provide relief or assistance to those injured.

Similarly, the Work Incentive program (category 504, expiring in 1982) is closely related to the aid to families with dependent children program (category 600, expiring in 1981).

The basic recommendation that S. 2925 be modified to permit each committee to determine the timetable for reviewing programs under its jurisdiction would resolve these scheduling problems as well as the problem of uneven workload distribution.

In the absence of that modification, it is recommended that S. 2925 be amended to provide that the 1979 review date apply to the 600 category programs of Old-age, survivors, and disability insurance; that the 1980 review date apply to the 600 category programs of supplemental security income and aid to families with dependent children, the 504 category work incentive program, and the 560 category social services program; that the 1982 review date apply to the 600 category unemployment compensation program and related training and employment programs in category 504; and that the 1983 review date apply to those provisions of categories 150, 450, 600, and 800 which are related to trade, tariffs and adjustment assistance.

Termination of administering agencies

The committee report on S. 2925 indicates the intent to include the basic authority for funding the operations of administrative agencies within the definition of the term "program" in such a way as to assure the periodic termination

of that authority. This raises the possibility that an agency administering programs in several different categories and under the jurisdiction of different committees might terminate in a year when some of its programs are not scheduled for review or termination. This could pose a serious problem for the operation of such programs.

It is recommended that an amendment be added to S. 2925 to specifically authorize the continued administration of non-terminated programs by agencies whose authorizations would otherwise be terminated by the bill.

Termination of programs (sec. 101(b) (1) and (2))

These sections apparently intend to provide that all spending programs will be terminated on the review dates specified in preceding subsections unless the review study for each program is completed and the program reenacted. Trust funded retirement and disability and medical programs (social security, medicare, railroad retirement, etc.) are exempted as is the 900 interest on the debt category. Reading section 101(b) (1) literally, however, it nullifies *all* authorization or appropriation legislation (except the specified trust fund programs) after the review date under subsection (a). This would include not only existing legislation but also any reenacted legislation even if the required "zero-base" study had been made.

The section should be modified to specify that it will be inapplicable once a reauthorization has actually been enacted.

Elimination of entitlement legislation (sec. 101(b) (4))

Certain program authorizations are classified as mandatory entitlement programs. Even though these programs require funding through subsequent appropriations, they establish specific statutory rights in such a manner that Congress has always considered itself bound to provide whatever appropriations are necessary to fulfill the terms of the authorizing legislation. For example, in the Supplemental Security Income program, the authorizing statute guarantees needy aged, blind, and disabled individuals a minimum monthly income of about \$168. Congress has undertaken a commitment to appropriate whatever funds are required to provide that level of income assurance. Other entitlement programs in Finance Committee jurisdiction include aid to families with dependent children, medicaid, and social services.

Section 101(b) (4) provides that if any of these entitlement programs should be terminated through the automatic repeal provisions of the bill, the entitlement, reenacted, could thereafter be effective only to the extent of subsequent appropriations. This provision apparently would apply even if a provision were terminated only for a day or so as a result of scheduling difficulties which blocked timely reenactment. The effect of this section of the bill is apparently intended to put Congress on record as stating that, should such a lapse occur, it would no longer feel obligated to appropriate the funds necessary to honor its statutory commitments. One very serious possible consequence of such a change would be to place in doubt the authority of the administering agency under the anti-deficiency act to make emergency deficiency apportionments for these entitlement programs.

The anti-deficiency act requires administering agencies to apportion the funds appropriated to them in such a way as to assure that they will spend the funds according to plan throughout the year. This prevents an agency from spending all the funds for a program before the end of the year and then virtually forcing the Congress to enact a supplemental appropriation in order to keep the program from ceasing operations towards the end of the fiscal year. Ordinarily, the law strictly forbids expenditures which are not in accord with such apportionments even if unexpected caseload growth or other factors requires more funds than anticipated. An exception is made in the case of programs involving the immediate welfare of individuals if the payments in question are required by law—in other words, if Congress has undertaken a statutory commitment to provide any necessary supplemental appropriation.

Under S. 2925, however, that commitment would apparently be repudiated if a program were ever allowed to temporarily lapse. Thereafter, a program administrator might be obliged to reduce benefits under programs such as supplemental security income pending the outcome of Congressional action on supplemental appropriations legislation.

The provision in paragraph (4) of section 101(b) appears gratuitous and extraneous to the purposes of S. 2925. It is recommended that the paragraph be deleted.

Termination of regulatory authority (sec. 101(b)(5))

This paragraph provides that if a program authorization is terminated through S. 2925's automatic repeal feature, any related regulatory authority will also be suspended pending reenactment. Civil or criminal proceedings already instituted would not be affected by such suspension. Under this provision it would appear that if a program temporarily lapsed from September 30 to November 1, 1981 (for example if the two Houses were having difficulty compromising their differences on the reauthorization statute), it would be permissible to pursue attempts to recover an overpayment which had occurred prior to expiration *only* if court action to recover the overpayment had started before the expiration date. It would seem desirable that if the event (in this example an overpayment) actually took place prior to the termination date, the appropriate action could be taken even if that action had not been undertaken by the termination date (as might happen in this example if the overpayment was not discovered until October 15, 1981).

It is recommended that the provision be modified (1) to specify that administrative proceedings already commenced also may continue, and (2) to permit the institution of administrative, civil, or criminal proceedings based on actions which took place prior to the suspension of the regulatory authority.

Definition of and functional classification of programs (sec. 2(a)(5), 2(b), 102, and 103).

Under S. 2925, all programs are to be studied and terminated or reauthorized according to a schedule based on their budgetary functional classification. It is therefore of central importance to the process that there be a clear definition of what constitutes a "program" and where it is classified. The bill does not itself provide such clear definitions and classifications nor does it establish adequate procedures to assure that clear definitions and classifications can be accomplished.

One basic structural recommendation would be to place this authority in the committees which will have the responsibility for conducting the studies and recommending reauthorization or termination of programs. In the absence of such a solution, however, several modifications in the definitional and classification sections of S. 2925 could be recommended.

The bill mandates the General Accounting Office to develop a listing of programs grouped according to certain specified criteria but does not clearly indicate whether that listing would be binding. The bill also requires the Budget and Appropriations Committees of the House and Senate to review these GAO findings and to report to their respective Houses a listing of programs by functional or subfunctional budget category and specifying the review date for each. While the section indicates that the Committees involved should act jointly in making this review, it is not entirely clear whether all four committees are to act jointly or whether the two committees in each House are to act jointly. In any case, it is clear that two separate reports are contemplated but no procedure is specified for resolving any differences which may be involved.

Given the automatic termination implications of how a program is defined and classified under S. 2925, those determinations clearly amount to an exercise of Congress' fundamental constitutional powers. These powers ought not be delegated to the General Accounting Office or even to committees alone.

In recognition of the statutory impact of definition and classification questions and to provide a mechanism for resolving differences which might arise on these determinations, it is recommended that the bill be modified to provide for the classification and definition of programs to be accomplished by the adoption of a concurrent resolution. For similar reasons, it is recommended that the provisions of section 2(b) be modified to provide that in the case of legislation authorizing new programs, the authorizing Committee would include in the legislation itself the establishment of the budgetary classification applicable to the new program. (This would, like any other committee recommendation, be subject to floor amendment if the Senate or House felt the classification proposed by the authorizing committee was undesirable.)

Certain modifications are also recommended in the criteria outlined in section 102(d) for the GAO report defining what will be considered "programs." Clause (3) of this subsection absolutely mandates that programs be grouped in such a way that only one agency administers them. For some programs which are dually administered this requirement could not be complied with. For example,

the Work Incentive program is administered by both the Department of Labor and the Department of Health, Education, and Welfare.

Clause (3) of section 102(d) should be modified to make it a recommendation rather than an absolute requirement. It is also recommended that an additional criterion be added, also in the nature of a recommendation, that programs be identified, insofar as possible, in a manner consistent with the jurisdiction of Congressional committees so as to avoid a situation in which a single "program" would have to be reviewed and reauthorized by more than one committee of the Senate.

Limitations related to interest on the public debt (sec. 105(a)(2)).

This section prohibits the consideration of any legislation which "has the effect of changing budget authority for or outlays under" the functional category of interest beyond the review date scheduled for that function. Any spending or revenue legislation, even if limited to the current fiscal year, will have the effect of changing outlays in the interest function in all future years. Literally read, therefore, this provision would permit a point of order to be validly raised against the consideration of almost any legislation even though a review of that program has been undertaken as the bill requires.

It is recommended that subsection 105(a)(2) be modified to eliminate its applicability to the 900 (Interest) category.

Limitation related to trust fund programs (sec. 105(a)(2)).

This section has similar effects on trust fund programs which are elsewhere exempted from the bill's automatic termination provisions. No legislation having a budgetary impact beyond the first review date (1981) could be considered until the May 15, 1981 submission of the "zero-base" review study. This directly prohibits the consideration in the next few years of the long-range financing problems faced by the social security and medicare programs. Since, as with interest, short-range changes also have long-range impacts, this provision would also prohibit any action to deal with the short-range problems of these programs until late 1981. By that time, according to present estimates of the Social Security Administration actuaries, the cash benefit programs will have exhausted their funding. Thus, although it is apparently intended that social security and medicare be exempted from the bill's automatic termination provisions, this section will have much the same result as if they were not exempt. In fact, it will terminate social security even earlier.

It is recommended that this provision be made inapplicable to the Social Security Act trust fund programs.

Authority of Budget Committee to terminate programs (sec. 106)

The Congressional Budget Act which established the Budget Committee authorizes that committee to make budgetary recommendations which necessarily have an impact on specific programs. However, the Act does not place in that committee any direct legislative authority over programs. Section 106 of S. 2925 represents a significant departure from this principle; under this section, responsibility for legislation related to the termination dates of specific programs would be directly placed in the Budget Committee (and only secondarily in the committees which have actual jurisdiction over the programs). This would permit the Budget Committee to report legislation calling for the termination of any program of any other committee.

It is recommended that section 106 be deleted from the bill.

Use of consultants (sec. 202)

This section defines "zero-base review" in such a way as to appear to limit the resources available for the review to those found in governmental agencies. In certain circumstances, necessary information or reports may be best obtainable outside the Federal government. For example, in 1974, the Committee on Finance contracted with an independent panel of actuaries and economists to study the financial status of the social security program. This study could not have been appropriately performed by the Social Security Administration, since one major purpose of study was to examine the validity of that agency's estimating procedures.

It is recommended that section 202 be modified to make clear that committees may utilize non-governmental sources as well as governmental sources in their performance of the required studies.

Detailed planning process (sec. 203)

In addition to requiring committees to produce extensive reports concerning all of the programs (and tax expenditure provisions) under their jurisdiction, this section requires them to produce two additional reports (on a fairly fixed time schedule) with respect to each such program or provision outlining a number of specific details concerning how the study will be conducted. The requirements of S. 2925 with respect to the review study itself clearly provide sufficient incentives to assure that committees will take seriously the process of planning those studies. There does not appear to be any good reason to require that they follow the particular planning procedures specified in section 203.

It is recommended that the report requirements of section 203 be deleted as unnecessary limiting the flexibility of committees in conducting the studies and as requiring the generation of additional paperwork of limited value.

Elements of study (sec. 204)

This section of the bill provides a list of subjects for inclusion in the "zero-base review" of programs. These elements are:

"(1) an identification of the objectives intended for the program and the problem or need which the program was intended to address;

"(2) an assessment of the degree to which the original objectives of the program have been achieved expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address. Such assessment shall employ procedures or methods of analysis which the committee determines to be appropriate to the type or character of program;

"(3) a statement of the performance and accomplishments of the program in each of the last four completed fiscal years and of the budgetary costs incurred in the operation of the program;

"(4) a statement of the number and types of beneficiaries or persons served by the program;

"(5) a summary statement, for each of the last three completed fiscal years, of the number, by grade, and cost of personnel employed in carrying out the program and a summary statement of the cost of personnel employed under contract in carrying out the program;

"(6) an assessment of the effect of the program on the national economy, including but not limited to the effects on competition, economic stability, employment, productivity, and price inflation including costs to consumers and to businesses;

"(7) an assessment of the degree to which the overall policies of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the department or agency administering the program, meet the objectives of the Congress in establishing the program;

"(8) an evaluation of the reporting and recordkeeping requirements and activities of the program, including the management and control of information and records and the value of the information gathered compared to the cost to respondents, and an assessment of methods to reduce and simplify the reporting and recordkeeping requirements and to promote the sharing information among departments and agencies and with State and local governments and the private sector; and

"(9) an analysis of the services and performance estimated to be achieved if the program were continued. Such analysis shall include, but not be limited to, the following cost levels—

(A) The priority level of activity or performance which shall be the level of activity (i) below which it is not feasible to carry on the program effectively, or (ii) 75 per centum of the current budget authority, whichever is lower.

(B) If appropriate, an incremental service and performance level which can be provided at a cost between the priority level and the current level of budget authority.

(C) If appropriate, an incremental service and performance level above the level considered under subparagraph (B).

"The information provided for each incremental cost level shall include (i) a projection of the services and performance that would be provided, (ii) a ranking of service priorities, (iii) an estimate of personnel requirements, including services to be performed under contract, and (iv) a statement of the impact on the national economy."

Some review studies would have to be conducted over a period of several years to adequately address all the subjects on the above list. Although the bill seems to recognize that these subjects may not all be appropriate and to permit committees to determine which elements they will include, the section contains a confusing mixture of mandatory and permissive language. For example, if a committee decided to include the subjects covered by item (9) in the above list, it would apparently be required to provide a comprehensive set of data concerning the impact of operating the program at a 75 percent funding level even if it would be infeasible to even operate the program at that level.

It is recommended that section 204 be amended to make clear that the listing of possible subjects for the review study contained therein is purely illustrative and that each committee is to determine the elements which it believes will most appropriately provide the information Congress needs to evaluate and decide the future fate of the program.

Availability of report (sec. 205)

This section requires that committees submit to the Senate (or House, as the case may be) a report containing the results of the "zero-base" review study. The section then further requires that the study or a detailed summary of it be reprinted in the committee report on the reauthorizing legislation. In some cases, committees might find such a procedure appropriate while in other instances it might represent a wasteful duplication in printing.

It is recommended that the duplicative reporting requirement of section 205 be replaced by a simple requirement that the report on the reauthorizing legislation include a reference to the report number of the "zero-base" review report.

Fulfillment of program objectives (sec. 205(c) (7))

This paragraph requires as a mandatory feature of reauthorizing legislation "an estimate of when, and the conditions under which, the program will have fulfilled the objectives for which it was established." In the case of programs addressing permanent needs of our society—such as basic public health or welfare programs—this is a requirement which could not be complied with.

Requirements placed on other agencies (sec. 206)

This section requires Executive Branch agencies and Congressional support agencies to provide assistance to committees in the conduct of the "zero-base" studies. In the case of the Congressional Budget Office and the Office of Technology Assessment this mandate is made subordinate to their responsibilities. For some reason, similar protection is not afforded to the General Accounting Office, the Congressional Research Service, or Executive Branch agencies. There would seem to be some potential for problems in this regard. For example, it could happen that the assistance demanded of the Social Security Administration in connection with a review might interfere with the ability of that agency to process promptly social security benefits. Protection should be provided against such an eventuality.

It is recommended that the assistance of all agencies under section 207 be made subordinate to the discharge of their other duties and responsibilities.

Future of "sunset" procedure (sec. 606)

Section 606 of the bill mandates the Government Operations Committee to review the procedures established by the bill and mandates the 97th Congress to enact legislation extending or terminating the program. In the absence of such future legislation, this section would provide that only the first series of review studies are to be completed. However, subsection (e) specifically requires that the periodic termination provisions of section 105 nevertheless remain in force. As a technical problem, it should be pointed out that section 105 prohibits reauthorization in the absence of a completed review study. Since future review studies could not be made because of section 606(a), the net effect would appear to be a prohibition against any reauthorizations after the second five-year termination date. Even apart from this technical problem, the committee report on S. 2925 confirms that the automatic termination provisions of section 105 are intended as a tool to enforce the undertaking of "zero-base" reviews. It seems reasonable that if the basic provision for the review studies is to lapse, the tool for enforcing those studies should also be allowed to lapse.

It is recommended that section 606 be revised to retain the provisions requiring further Congressional action with respect to the procedures established by the bill, but otherwise repealing titles I, II, and V effective October 1, 1983.

Cooperation with counterpart committees.

S. 2925 clearly places significant new workloads on Congressional committees and supporting agencies which will require substantial additional costs and personnel as well as creating scheduling problems. A minor but possibly important reduction in this added workload might be feasible if the bill were amended to specifically authorize certain cooperative arrangements between counterpart committees of the House and Senate. In some cases, each committee will want to undertake a separate and independent "zero-base" review of programs under this jurisdiction. In other instances, committees might find it convenient and acceptable to undertake a joint study with the counterpart committee of the other House or to divide responsibility in such a way that only one of the two committees would undertake the "zero-base" review of the particular program. For example, in the case of a small non-controversial program the conduct of two separate "zero-base" review studies might be simply a wasteful duplication of effort and expense.

It is recommended that S. 2925 be amended to specifically permit committees to undertake joint studies or to delegate their responsibilities for review studies to each other.

Waiver of rules

In enacting the Congressional Budget Act of 1974, the Senate recognized that it was a new process involving numerous technical requirements for the handling of legislation whose consequences were not entirely foreseeable. Consequently, there was included in the legislation a section (904(b)) allowing any of the new provisions to be suspended or waived by a majority vote of the Senate. The importance of such a provision was illustrated during the consideration of the recently enacted child care legislation. Because of an unavoidable scheduling problem, this legislation would have been subject to a point of order even though it had been considered and approved in the budget process and clearly complied fully with the spirit of that process. Had the point of order been raised in this circumstance, the Senate would have been able to provide for the necessary waiver.

It is recommended that a waiver provision similar to the waiver provision in the congressional Budget Act be incorporated in S. 2925.

U.S. SENATE,
Washington, D.C., August 30, 1976.

Hon. HOWARD CANNON,
Chairman, Committee on Rules and Administration,
R50B 305, Washington, D.C.

DEAR HOWARD: It is my understanding that on August 6, 1976, S. 2925, the so-called Government Economy and Spending Reform Act of 1976, was referred both to the Committee on Rules and Administration and the Committee on Finance with instructions to report back by September 30, 1976.

In the course of your Committee's consideration of this measure, I would hope that you could consider one change to Title V of the bill dealing with zero base review of tax expenditures. Section 501(a)(1) defines "tax expenditure provision" to include any provision of "law, or of any regulation or ruling, which allows a special exclusion, exemption, or deduction from gross income or which provides a special credit, a preferential rate of tax, or a deferral of tax liability." I respectfully urge that the word "special" be dropped each place it appears.

In this way we will remove any doubt as to which exclusions, deductions, credits and so on constitute tax expenditures; they all do and the legislation setting up the mechanisms for periodic review of these expenditures should clearly reflect this reality.

I realize that the definition in of tax provision expenditure included in Section 501(a)(1) has been carried over from Section 3 of the Congressional Budget Act of 1974, but I think the recent confusion with regard to the scope of that definition is all the more reason to eliminate any ambiguity in connection with the pending legislation.

I would be pleased to discuss this further with you, or if your staff has any questions please have them contact John Doyle of my staff.

Best personal regards,

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 10, 1976.

HON. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of August 27th requesting my views on S. 2925.

My comments today are made as Chairman of the Senate Appropriations Committee and are directed to several different aspects of this proposed legislation—its overall purposes, its interim goals, and the inherent complexity of the problems it seeks to solve. The purpose of this legislation, as outlined in the Committee Report is “to close the gap between Congress and the results of its legislative work”—a purpose which I have always full supported. As the Joint Study Committee on Budget Control recognized in 1973, there was a need for some additional Congressional review of the overall budget process as it affects all existing federal programs. Certain of the Joint Study Committee recommendations, such as the creation of a Budget Committee, have been enacted. Other problems, such as the growing role of the “uncontrollable” portions of the federal budget (that limit the options which Congress has in establishing and funding new programs), remain to be solved by this legislation. Although my comments today are directed primarily toward those aspects of S. 2925 which may affect the operations of the Senate Committee on Appropriations, I have also noted several sections of S. 2925 that need greater precision in their terminology or a more specific recitation of the Congressional interests to be served by this legislation.

The scope of S. 2925 covers all existing federal programs—at least 1500 separate appropriations accounts or up to 5000 to 6000 programs would be affected by S. 2925's mandated review process. As such, the size of that workload necessarily suggests that S. 2925 should incorporate the most effective possible procedures to identify which of these accounts and programs are most in need of re-analysis and reauthorization by Congress. S. 2925 meets this problem by proposing to complete this review within five years for all existing programs with a few exceptions listed in Section 101(b). However, the basic question is *not* whether a five, or even a ten-year review period is sufficient, but whether the legislative mandate is sufficiently precise in defining which programs are most in need of review and re-authorization. For example, since the overall problem of the “growth” of federal programs is apparent, the thrust of needed additional Congressional review should, if possible, be directed to these particular types of “growth” which have been unintended or heretofore unreviewed. Indeed, as the Government Operations Committee Report indicates, mere growth of a federal program does not necessarily isolate those programs from the Congress or from the people's needs. Rather, since it is the continuation and growth of programs which no longer have support by the people, that should be re-examined by the process here proposed, the imposing but creative challenge for S. 2925 is, therefore, to discern the most feasible schedule for implementing the needed review processes. To this end, S. 2925 should be amended to assure greater operational feasibility so that the duties imposed on the Congress, itself, are realistic enough to be completed in whatever time is provided. In this regard, each of the 16 standing legislative committees of the Senate should be consulted for its views as to how this task be best undertaken. At present, the termination schedule in S. 2925 proposes to review all programs in a given function at the same time. Thus, all “defense” function programs will be reviewed together and that review process completed before certain other functions are similarly reviewed. However, this function-by-function approach imposes greatly varying burdens on the legislative committees, whose functions are up for review once every five years. As such, I believe some steps should be taken to more equitably distribute this or any such review burden among the various legislative committees. In any event, the Congress should hear more fully from these committees as to the feasibility of the schedule outlined in S. 2925.

Section 103 provides that the Appropriations Committee and the Budget Committee must “jointly” review and report on the Section 102 April 1st report to the full Senate within three months or before July 1, 1977. While Section 103 allows three months for this review and report, it also requires the compilation of other information which simply cannot be carefully completed at that time of the year by the Appropriations Committee, particularly given the accelerated schedule and mandatory deadlines imposed by the Budget and Impoundment Control Act of 1974. The inherent difficulty with Section 103's July 1st deadline

is thus not solely in the brevity of the three-month period, but also that this review responsibility must be performed during the same months when the Committee on Appropriations is now meeting other new Budget Act deadlines. To avoid imposing this requirement in an unrealistically short period of time, S. 2925 should be amended either by requiring that the Section 102 "identification" report be completed at least three months sooner (by January 1st) or by delaying the deadline for its review until after September 30th. Any shorter period of time will impose an unrealistic burden which can only be met by sacrificing the quality of the review.

Section 105 provides that "it shall not be in order to consider any bill or resolution which authorizes the enactment of new budget authority" unless the zero-based review of such program has been previously submitted by the standing committees to that House. Since the schedule of S. 2925 mandates a perpetual five-year cycle of such zero-based reviews, the net result of this Section is to impose an enormous paperwork burden on the legislative committees. The scope of Section 105 is comprehensive in that practically all programs must be so reviewed with only a few functional exceptions identified in Subsection (a)(2). It contains no conceptual or realistic exceptions for those inevitable circumstances where a repeated five-year review cycle is non-meritorious or temporarily impossible nor does it grant any similar exception to programs that have once completed a zero-based review since even these must continue to run the "Review" hurdle every five years. Either Section 105 should be amended to allow the committees to determine *which* of the zero-based reviews have been sufficiently completed (that those programs should also be exempt from this Section) or it should be amended to allow the Congress to specify when the next review is needed. Any such exemption from review should be for a finite period of years—but some amendment to Section 105 is clearly necessary in order to recognize the uselessness of mandating a review every five years regardless of the changes made in the initial zero-based review process. I say clearly necessary, since there will be some circumstances where the adoption of a ten or twenty-year review period may as fully preserve the "sunset" process intended by this legislation as the shorter period of five years. The inherent differences in the complexity of programs actually requires this type of legislative flexibility.

Section 106(a) specifies that the Budget Committee and not the Government Operations or the Rules Committee shall have legislative authority over matters "relating to changes in the review dates applicable to programs under this act." The Committee Report states that this authority should go to the Budget Committee "Because they have overall responsibility for Congressional budget process." However, Section 106's grant of legislative authority to the Budget Committee expands their charter beyond the decision of the Budget Act to not grant that legislative authority to any one Committee and thus to keep the major committees (that must work together) on a relatively equal footing. Since the delegation of authority to modify reporting dates affects the Committees' interrelationships in a most basic way, it may be more practical to have this legislative power administered by a committee less affected and thus less interested in the outcome. Therefore Section 106 might be amended to give this power to modify the dates in any "sunset" legislation to either the Committee on Government Operations or the Committee on Rules. Both of these committees will be in a more objective position to recommend any needed changes in reporting dates as experience dictates. In addition, such an amendment would assure that these two committees will continue to maintain the type of objective oversight essential to a subject of this importance.

Title II of S. 2925 imposes a timetable for a "zero-based program review." Section 203, in fact, mandates that each legislative committee "shall adopt and report . . . a plan for the zero-based review" on or before March 1 of the year in which a program is mandated to terminate. Such Committee review is to follow and be largely based upon a previous Executive Branch zero-based review which is mandated by Section 206 to be presented to the Congress by September 30th.

Sections 203 and 204 should more precisely itemize those components that make up the type of zero-based review which will in fact pose viable options to the Congress. Increased legislative precision (to specify more exactly the types and character of services to be potentially reduced) is the only guaranty that the initial review of all federal programs which is performed by the Executive Branch does not overlook any legitimate but small constituent and taxpayer support for such Federal services or programs.

Section 205 allows the legislative committees eight and one-half months after the September 30th Executive Branch report, or until May 15th, to review and report on each zero-based analysis. Yet, that eight and one-half months must be sufficient to perform that task with the care and precision it demands. As

such, the affected legislative committees most affected should be consulted as to how much time will actually be required. Our own experience on the Appropriations Committee suggests that, instead of the May 15 date mandated by Section 205(b), at least an additional few months would prove to be necessary for this task. Although an additional few months would mean that the time schedule of S. 2925 would have to be altered (presumably with an equitable adjustment in the other associated deadlines), the current 205(b) would be strengthened by providing more time for this important review process to be completed. In any event, the Rules Committee should give serious consideration to limiting the application of this section's report, in the initial five or ten years, to those programs most in need of review. For example, only permanent authorizations and entitlements could be initially reviewed and reported on and this process then extended to other programs only when this initial review is completed.

Section 302 specifies that the Director of OMB, in cooperation with the Comptroller General and the Director of CBO and the Budget Committee (but no other legislative committees nor the Appropriations Committee), shall develop criteria that relate the specific objectives of programs to their achievements. While Section 302's goal of comparing objectives with performance is a necessary part of the overall review process; nevertheless, Section 302 may abdicate too much of that to the Executive Branch. If the full Congressional point of view is to be integrated in that process by Section 302, the sources or input from the Congress should be broadened when developing these criteria.

Title IV mandates the creation of a Citizens Bicentennial Commission with 18 members to operate for 33 months to review the programs and activities covered by S. 2925. The authorization for this Commission is \$12 million. The creation of the Commission is, itself, a recognition of the intrinsic difficulty of integrating the "sunset" concept into existing practices and procedures. As such, since any commission recommendations are likely to weigh heavily on the ultimate decisions of Congress in adopting the "sunset" principle, Title IV should be rewritten to include specific language which assures that the Congress has not allowed the Executive Branch or the Commission to exercise a disproportionate role in making the decisions on what program terminations are most meritorious. At the same time, a truly neutral Title IV should not operate so as to place an unduly onerous or unrealistic burden of proof on the Congress to continue programs. To that end, and to assure that the Commission's recommendations will adequately reflect the Congressional point of view and that the full consequences of its recommendations are as widely known as possible, Title IV of S. 2925 might be amended to specify that a somewhat larger number of the 18 Commission members are responsive to the Congress (by virtue of their appointment by Congress) than the ten members proposed by S. 2925 and also to require that the Commission must ascertain and report on the full extent of the Congressional interest which may be affected by any particular recommendation which the Commission will make.

I hope that the Rules Committee's consideration and report on S. 2925 will be able to address solutions to some of these inherently complex and challenging problems. Mr. Chairman, should you desire, please feel free to include this letter in your hearing record on S. 2925.

With kind regards, I am

Sincerely yours,

JOHN L. MCCLELLAN,
Chairman.

U.S. SENATE,
TEMPORARY SELECT COMMITTEE TO STUDY
THE SENATE COMMITTEE SYSTEM,
Washington, D.C., September 7, 1976.

HON. HOWARD CANNON,
259 Russell Senate Office Building,
Washington, D.C.

DEAR HOWARD: I have received your letter of August 27 regarding the Government Economy and Spending Reform Act of 1976, S. 2925.

As a cosponsor of this bill and as Ranking Minority Member of the Temporary Select Committee to Study the Senate Committee System, I am looking forward to reviewing the comments of the Chairman and Ranking Minority Member of each Senate committee. Your initiative in this regard is greatly appreciated.

Very truly yours,

BILL BROCK.

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., September 10, 1976.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules, U.S. Senate,
Washington, D.C.

DEAR HOWARD: I appreciate your invitation to comment on S. 2125, the Government Economy and Spending Reform Act of 1976, as reported by the Committee on Government Operations and referred to the Rules Committee. I also submitted my views on this legislation when it was before the Committee on Government Operations. As I stated at that time, this legislation would have serious consequences for the conduct of business by the Committee on Public Works and is of great concern to me. I regret that I was not able to testify at the hearing on September 8. However, I appreciate the opportunity to comment on the legislation on behalf of the Committee and request that this letter be included in the hearing record.

On the basis of the review of S. 2925 as reported from the Committee on Government Operations, I believe that its enactment is untimely and would adversely affect the ability of Committees to meet their responsibilities. Enactment of the zero-base review and five-year termination provisions of this bill would disrupt the oversight and authorization process currently followed by our Committee. Termination of programs every five years would change the authorization patterns that this Committee has established for its programs. Further, I do not believe that the procedure of S. 2925 would result in any improvement in the evaluation of Federal programs over that which the Committee currently undertakes as it authorizes continuation of existing programs.

(There would be few benefits from implementing this legislation in attaining greater oversight of programs under the Public Works Committee's jurisdiction.) All of the major activities within the Committee's jurisdiction with monetary authorizations are authorized either on a project-by-project basis or for a period seldom in excess of three years.

The Federal-Aid Highway program, water resources projects of the Corps of Engineers and Soil Conservation Service and public buildings constructed by the General Services Administration are authorized in the manner described.

Enactment of the five-year termination provisions could result in the termination of a program which was carefully reviewed by the Committee under its regular authorization pattern only one year prior to such termination date. Consideration by the Committee of new authorizations usually involves a major review of the program, including the goals which the programs are to attain, the appropriate funding level and whether it should be continued. I believe, therefore, that the five-year termination of programs with zero-base review would not improve the quality of the programs over which this Committee has jurisdiction.

Beginning in fiscal year 1976, the Congressional Budget Act was implemented. Under the procedures established by that Act, the Committee conducts an annual review of the appropriate level of budget authority and outlays for each program under its jurisdiction. This review gives the Committee the opportunity to comment on and examine the programs in years when authorizations are not required. Through the major review undertaken for new authorizing legislation and the budget review of standing programs, the Committee has an adequate overview of these programs and has an opportunity to make mid-course corrections which improve the operation and effectiveness of the programs.

Additionally, the Committee has authorized the establishment of three Commissions since 1972 to aid it in the evaluation of programs enacted by the Congress. In 1972, the National Commission on Water Quality was established to evaluate the water pollution program. The Federal-Aid Highway Act of 1976 authorized appointment of a National Transportation Policy Study Commission to review and make recommendations on an overall transportation policy and the Clean Air Amendments of 1976, passed by the Senate and currently pending before the House, authorizes a National Commission on Air Quality to evaluate the effectiveness of the air program.

The Committee on Public Works takes seriously its responsibility to comprehensively review each program on a regular basis. As I indicated earlier, a requirement for termination of programs every five years and zero-base budget review would not aid the Committee's efforts to provide effective and useful legislation.

Section 105 of S. 2925, as currently written, provides that it shall not be in order for the Senate to consider any legislation which does have a zero-base

review submitted to the Senate. The procedural outline for completing this zero-base review is complicated and time-consuming and could substantially hinder the Committee in carrying out its legislative and oversight responsibilities. It is not clear in the bill whether the report of the Administration in this review process is required for submission of the zero-base review to the Senate. If such is required, the Senate could only authorize those programs approved by the Administration and could not exercise its own legislative judgment.

The Committee has had experience with one program, that of the Economic Development Administration, which demonstrates the problem this approach could cause. In the early 1970's, the Committee and the Congress sought to extend the programs of EDA while the Administration sought to abolish the program. Under S. 2925, Congress would have been unable to consider authorizations reported by this Committee as long as the Executive Branch refused to provide a zero-base review analysis of the program.

In those years in which the programs of this Committee would terminate, a zero-base review is required to be submitted by May 15. This requirement would substantially interfere with the work of the Committee in providing legislative authorization of programs for the coming fiscal year which the Congressional Budget Act requires be reported by May 15. The zero-base review procedure adds an additional burden to the legislative functioning of this Committee.

I believe that the Congress should exercise adequate control over the programs and activities which it has authorized. The Committee on Public Works attempts to do this through its authorization, oversight and budget review activities. I appreciate the opportunity you have provided to comment, but do not believe that this legislation would contribute significantly toward the goal of effective and efficient programs.

With best personal regards, I am
Truly,

JENNINGS RANDOLPH, *Chairman.*

U.S. SENATE,
Washington, D.C., September 11, 1976.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN CANNON: I have your letter asking for my comments on S. 2925. I haven't made a detailed study of this proposal but I can give you some general ideas.

I have favored the idea of Congress evaluating programs periodically and making a decision concerning their future. I do think that if this is translated into a law, it should be very carefully written.

As the ranking minority member of the Committee on Finance, I would like to point out that the definition of what constitutes "tax expenditures" is very important. There are a number of activities which are very properly characterized as tax expenditures. There are other portions of our tax law which are branded as tax expenditures and that are not that at all.

I happen to believe that a taxpayer's income and property belongs to him. I also believe that the purpose of taxation is to require each taxpayer to pay his just share and no more or less than necessary for the operation of government. Many provisions of our tax law in reference to deductions, exemptions and credits are a means of determining what a taxpayer's taxable income should be and how we should arrive at his just share in carrying the burdens of government. I reject the idea that all of a taxpayer's income belongs to the government and that if he keeps part of it that constitutes a tax expenditure. There are many lawmakers who hold this view.

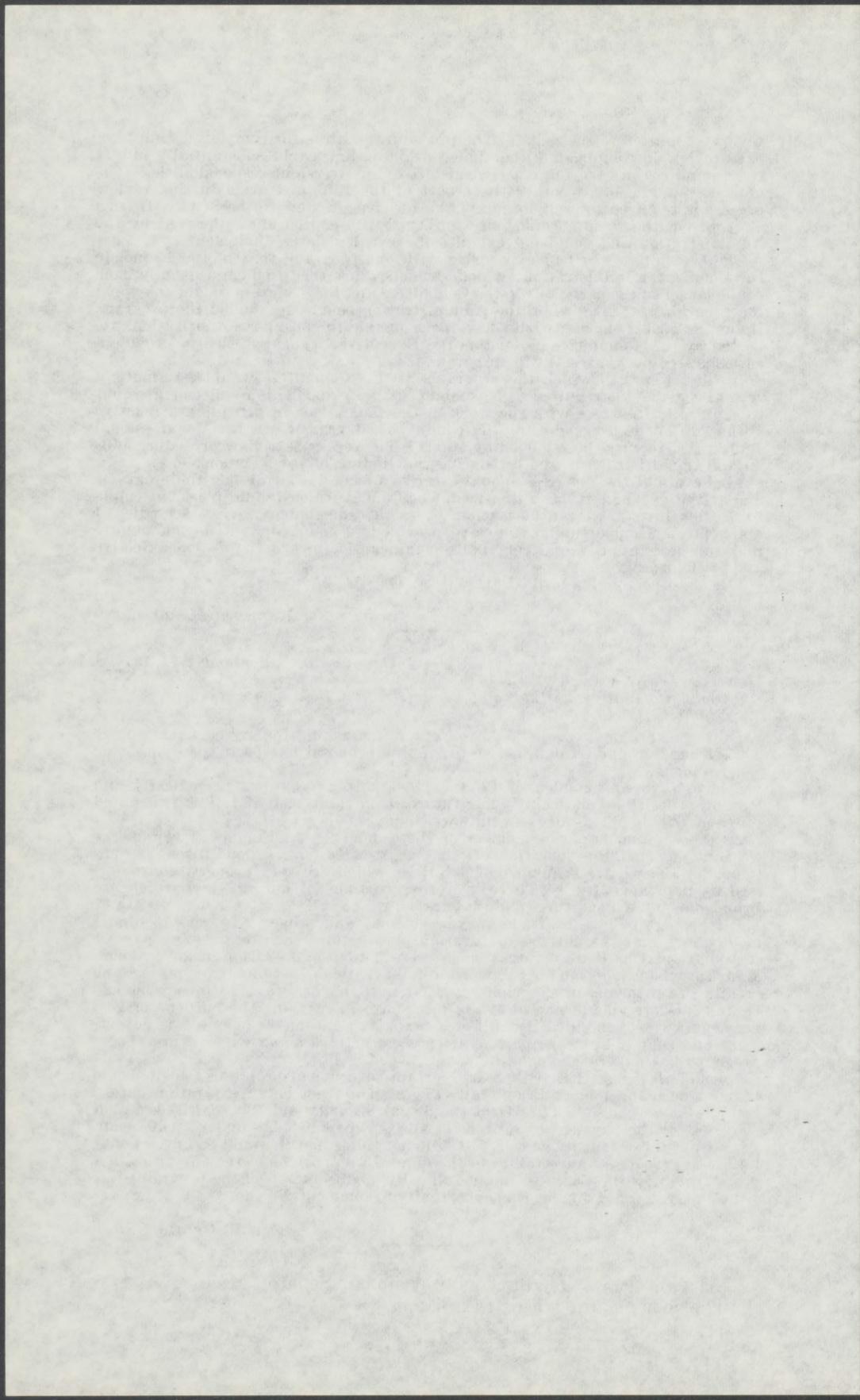
I would also suggest that there are certain government programs which should be on a permanent basis in our law. There should not be an expiration date. I can cite as an example Title II of the Social Security Act. This is the law that provides for the payment of retirement and survivor benefits under social security. I want those benefits paid in full. I do not think that it would be in the public interest to create an uncertainty in the minds of our people to the effect that five years from now the Congress might radically modify or repeal the program.

I thank you for giving me this opportunity to comment.

Sincerely yours,

CARL T. CURTIS, *USS.*

The CHAIRMAN. Thank you very much, Senator Muskie.
[The hearing adjourned at 12:09 p.m.]



APPENDIX

94TH CONGRESS
2D SESSION

S. 2925

[Report No. 94-1137]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 1976

Mr. MUSKIE (for himself, Mr. ROTH, Mr. GLENN, Mr. BELLMON, Mr. RIBICOFF, Mr. ABOUREZK, Mr. ALLEN, Mr. BAKER, Mr. BAYH, Mr. BEALL, Mr. BENTSEN, Mr. BROCK, Mr. BUCKLEY, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. CHILES, Mr. CHURCH, Mr. CRANSTON, Mr. CULVER, Mr. CURTIS, Mr. DOMENICI, Mr. EAGLETON, Mr. EASTLAND, Mr. FANNIN, Mr. GARN, Mr. GOLDWATER, Mr. HANSEN, Mr. HARTKE, Mr. HASKELL, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JOHNSTON, Mr. KENNEDY, Mr. LAXALT, Mr. LEAHY, Mr. McCLURE, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MANSFIELD, Mr. MATHIAS, Mr. MONDALE, Mr. MOSS, Mr. NUNN, Mr. PERCY, Mr. PEARSON, Mr. PROXMIER, Mr. SCHWEICKER, Mr. HUGH SCOTT, Mr. STAFFORD, Mr. STEVENS, Mr. SYMINGTON, Mr. TAFT, Mr. TUNNEY, and Mr. WEICKER) introduced the following bill; which was read twice and referred to the Committee on Government Operations

AUGUST 6, 1976

Reported by Mr. MUSKIE, with an amendment, and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italics]

AUGUST 6, 1976

Referred to the Committees on Rules and Administration and Finance, simultaneously, with instructions to report back by September 15, 1976

A BILL

To provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every four years, to establish a procedure for zero-base review and evaluation of Government programs and activities every four years, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That this Act may be cited as the "Government Economy and~~
4 ~~Spending Reform Act of 1976".~~

5 ~~DEFINITIONS AND SPECIAL RULES~~

6 ~~SEC. 2. (a) For purposes of this Act—~~

- 7 ~~(1) The term "budget authority" has the meaning~~

1 given to it by section 3 (a) (2) of the Congressional
2 Budget Act of 1974.

3 (2) The term "permanent budget authority" means
4 budget authority provided for an indefinite period of time
5 or an unspecified number of fiscal years, but does not
6 include budget authority provided for a specified fiscal
7 year which is available for obligation or expenditure in
8 one or more succeeding fiscal years.

9 (3) The term "Comptroller General" means the
10 Comptroller General of the United States.

11 (b) For purposes of this Act, functional and subfunc-
12 tional categories are those set forth in the Budget of the
13 United States Government, Fiscal Year 1977, transmitted
14 to the Congress by the President on January 21, 1976.

15 (c) For purposes of this Act, the first review date
16 applicable to a program or activity is the termination date
17 applicable to such program or activity under section 101
18 (or in the case of a program or activity, which is included in
19 subfunctional category 551, 601, or 602 and which is funded
20 through a trust fund, the termination date which would apply
21 but for the exception provided by section 101 (b)), and
22 each subsequent review date applicable to a program or

1 activity is the date four years following the preceding review
2 date.

3 ~~(d) For purposes of this Act, the Members of the Sen-~~
4 ~~ate who are members of the Joint Committee on Atomic~~
5 ~~Energy shall be treated as a standing committee of the~~
6 ~~Senate, and the Members of the House of Representatives~~
7 ~~who are members of the Joint Committee shall be treated~~
8 ~~as a standing committee of the House.~~

9 ~~TITLE I AUTHORIZATIONS OF NEW BUDGET~~
10 ~~AUTHORITY~~

11 ~~TERMINATION DATE OF LAWS AUTHORIZING OR PROVIDING~~
12 ~~NEW BUDGET AUTHORITY~~

13 ~~SEC. 101. (a) All provisions of law in effect on the~~
14 ~~effective date of this section which authorize the enactment~~
15 ~~of new budget authority for a Government program or~~
16 ~~activity or which provide new budget authority (including~~
17 ~~permanent budget authority) for a Government program or~~
18 ~~activity for a fiscal year beginning after the termination~~
19 ~~date applicable to such program or activity under the fol-~~
20 ~~lowing table shall terminate on such date and shall have no~~
21 ~~force or effect after such date:~~

Programs and activities included within functional or subfunc- tional category	Termination date
050 National defense	
150 International Affairs	
250 General Sciences, Space, and Technology	
750 Law Enforcement and Justice -----	September 30, 1979.
250 Agriculture	
400 Commerce and Transportation	
450 Community and Regional Development	
501 Elementary, secondary, and vocational education	
502 Higher education	
503 Research and general education aids	
604 Public assistance and other income supplements (public housing only) -----	September 30, 1989.
200 National Resources, Environment, and Energy	
550 Health	
600 Income Security (except public housing in sub- category 604)	
700 Veterans Benefits and Services -----	September 30, 1981.
504 Training and employment	
505 Other labor services	
506 Social services	
600 General Government	
850 Revenue Sharing and General Purpose Fiscal Assistance -----	September 30, 1982.

1 (b) Subsection (a) shall not apply to programs and
2 activities which are included within subfunctional category
3 551 (Health care services), 601 (General retirement and
4 disability insurance), or 602 (Federal employee retirement
5 and disability) and which are funded through trust funds.

6 (c) Subsection (a) shall not apply to new budget
7 authority initially provided for a program or activity for a
8 fiscal year beginning before the termination date applicable
9 to such program or activity which is available for obligation
10 or expenditure in a fiscal year beginning after such date.

1 ~~HILLS AND RESOLUTIONS AUTHORIZING OR PROVIDING~~
2 ~~NEW BUDGET AUTHORITY~~

3 ~~SEC. 102. (a) On and after the effective date of this~~
4 ~~section, it shall not be in order in either the Senate or the~~
5 ~~House of Representatives to consider any bill or resolution~~
6 ~~(or amendment thereto)—~~

7 ~~(1) which authorizes the enactment of new budget~~
8 ~~authority for a program or activity for a fiscal year be-~~
9 ~~ginning after the next review date applicable to such~~
10 ~~program or activity, unless the report required under~~
11 ~~section 311 on the zero base review and evaluation of~~
12 ~~such program or activity preceding such review date~~
13 ~~has been submitted to the Senate or the House of Rep-~~
14 ~~resentatives, as the case may be;~~

15 ~~(2) which changes any program or activity which~~
16 ~~is included within subfunctional category 551, 601, or~~
17 ~~602 and which is funded through a trust fund, if such~~
18 ~~change is to take effect after the next review date ap-~~
19 ~~plicable to such program or activity, unless the report~~
20 ~~required under section 311 on the zero base review and~~
21 ~~evaluation of such program or activity preceding such~~
22 ~~review date has been submitted to the Senate or the~~
23 ~~House of Representatives, as the case may be; or~~

1 ~~(3) which provides permanent budget authority for~~
2 ~~a program or activity for which a termination date is~~
3 ~~applicable under section 101, unless such bill, resolu-~~
4 ~~tion, or amendment has been reported to the Senate~~
5 ~~or the House of Representatives, as the case may be,~~
6 ~~by the Committee on Appropriations of that House.~~

7 ~~IDENTIFICATION OF PROGRAMS AND ACTIVITIES BY~~
8 ~~FUNCTIONAL OR SUBFUNCTIONAL CATEGORIES~~

9 ~~SEC. 102. (a) On or before July 1, 1977, the Com-~~
10 ~~mittees on Appropriations and the Committees on the~~
11 ~~Budget of the Senate and the House of Representatives,~~
12 ~~acting jointly, shall submit to their respective Houses a~~
13 ~~report setting forth, with respect to each program or ac-~~
14 ~~tivity—~~

15 ~~(1) the functional or subfunctional category in~~
16 ~~which such program or activity is included; and~~

17 ~~(2) the committee or committees of that House~~
18 ~~which have legislative jurisdiction over such program~~
19 ~~or activity.~~

20 ~~The informaton required by paragraphs (1) and (2) shall~~
21 ~~be cross indexed so as to provide information to the com-~~
22 ~~mittees of the Senate and the House of Representatives as~~
23 ~~to the termination dates and review dates of programs and~~
24 ~~activities under their jurisdiction.~~

25 ~~(b) At the request of the Committee on Appropria-~~

1 ~~tions or the Committee on the Budget of the Senate or the~~
2 ~~House of Representatives, the Comptroller General shall~~
3 ~~furnish to such committee such assistance as it may request~~
4 ~~in carrying out its functions under subsection (a).~~

5 ~~IDENTIFICATION OF PERMANENT AUTHORIZATIONS AND~~
6 ~~PERMANENT BUDGET AUTHORITY~~

7 ~~SEC. 104. (a) On or before April 1, 1977, the Comp-~~
8 ~~troller General shall submit to the Senate and the House of~~
9 ~~Representatives a report setting forth each program or~~
10 ~~activity—~~

11 ~~(1) which is carried on under a provision of law~~
12 ~~which permanently authorizes the enactment of new~~
13 ~~budget authority for such program or activity (includ-~~
14 ~~ing programs or activities for which permanent authori-~~
15 ~~zations are implied); and~~

16 ~~(2) which is carried on under a provision of law~~
17 ~~which provides permanent budget authority for such~~
18 ~~program or activity.~~

19 ~~(b) The report submitted under subsection (a) shall~~
20 ~~also set forth—~~

21 ~~(1) the law or laws under which each such pro-~~
22 ~~gram or activity is carried on;~~

23 ~~(2) the committee or committees of the Senate and~~
24 ~~the House of Representatives which have legislation~~
25 ~~jurisdiction over each such program or activity;~~

1 ~~(3) in the case of programs and activities to which~~
2 ~~paragraph (1) of subsection (a) applies, the annual~~
3 ~~appropriation bill which provides new budget authority~~
4 ~~for each such program or activity; and~~

5 ~~(4) the amount of new budget authority provided~~
6 ~~for each such program or activity for each of the last~~
7 ~~four completed fiscal years ending before April 1, 1977.~~

8 ~~The information required by this section shall be cross-~~
9 ~~indexed so as to provide information to the committees of~~
10 ~~the Senate and the House of Representatives with respect to~~
11 ~~programs and activities under their jurisdiction which are~~
12 ~~carried on under permanent authorizations or permanent~~
13 ~~budget authority.~~

14 ~~(e) On or before April 1, 1978, and each year there-~~
15 ~~after, the Comptroller General shall submit to the Senate~~
16 ~~and the House of Representatives a report setting forth the~~
17 ~~amount of new budget authority provided for each of the~~
18 ~~last four completed fiscal years for each program or activity~~
19 ~~identified in the report submitted under subsection (a)~~
20 ~~which, as of the date on which such report is submitted,~~
21 ~~is carried on under a provision of law which permanently~~
22 ~~authorizes the enactment of new budget authority for such~~
23 ~~program or activity or which provides permanent budget~~
24 ~~authority for such program or activity.~~

1 ~~JURISDICTION OVER LEGISLATION CHANGING TERMINA-~~
2 ~~TION AND REVIEW DATES~~

3 ~~SEC. 105. All proposed legislation, messages, petitions,~~
4 ~~memorials, and other matters relating to changes in the~~
5 ~~termination dates and review dates applicable to programs~~
6 ~~and activities under this Act shall be referred in the Senate~~
7 ~~to the Committee on the Budget of the Senate, and shall be~~
8 ~~referred in the House of Representatives to the Committee~~
9 ~~on the Budget of the House, and each such committee shall~~
10 ~~have jurisdiction to report to its House, by bill or otherwise,~~
11 ~~proposed changes in such dates.~~

12 ~~EFFECTIVE DATE~~

13 ~~SEC. 106. Sections 101 and 102 shall take effect on the~~
14 ~~first day of the first session of the Ninety-fifth Congress.~~

15 ~~TITLE II—EARLY ELIMINATION OF INACTIVE~~
16 ~~AND DUPLICATE PROGRAMS~~

17 ~~STUDY AND REPORT BY GENERAL ACCOUNTING OFFICE~~

18 ~~SEC. 201. (a) The Comptroller General shall promptly~~
19 ~~conduct a study of all Government programs and activities~~
20 ~~for the purposes of identifying—~~

21 ~~(1) those programs and activities for which no~~
22 ~~outlays have been made for the last two completed~~
23 ~~fiscal years; and~~

1 ~~(2) those programs and activities which have~~
2 ~~duplicate objectives.~~

3 ~~(b) The Comptroller General shall submit interim re-~~
4 ~~ports to the Senate and the House of Representatives on the~~
5 ~~results of the study conducted under subsection (a), and~~
6 ~~shall submit a final report on or before July 1, 1977.~~

7 ~~(c) The Comptroller General shall transmit a copy~~
8 ~~of each report submitted under subsection (b) to the stand-~~
9 ~~ing committees of the Senate and the House of Representa-~~
10 ~~tives which have legislative jurisdiction over the programs~~
11 ~~and activities included in such report.~~

12 ~~ACTION BY CONGRESSIONAL COMMITTEES~~

13 ~~SEC. 202. Each standing committee of the Senate and~~
14 ~~the House of Representatives shall give prompt considera-~~
15 ~~tion to each report transmitted to it under section 201 (c)~~
16 ~~with a view to—~~

17 ~~(1) eliminating inactive programs and activities;~~
18 ~~and~~

19 ~~(2) eliminating programs and activities which~~
20 ~~duplicate other programs and activities, or consolidating~~
21 ~~such duplicate programs and activities.~~

22 ~~To the extent possible, action shall be taken by each such~~
23 ~~standing committee on all reports transmitted to it on or~~
24 ~~before March 15, 1978.~~

1 ~~TITLE III—QUADRENNIAL PROGRAM REVIEW~~
 2 ~~AND EVALUATION~~

3 ~~PART 1—TIMETABLE; DEFINITION~~

4 ~~TIMETABLE~~

5 ~~SEC. 301. The timetable for zero base review and evalua-~~
 6 ~~tion of a Government program or activity the review date~~
 7 ~~for which is on September 30 of a year is as follows:~~

~~On or before—~~

~~December 31 of preceding year. General Accounting Office reports results of prior audits and reviews and evaluations and reports other requested information and analyses to standing committees.~~

~~December 31 of preceding year. Congressional Budget Office reports requested information and analyses to standing committees.~~

~~15th day after Congress meets in the year. President submits budget accompanied by results of zero base review and evaluation of the program or activity.~~

~~March 15 of the year. Standing committee completes zero base review and evaluation of the program or activity and reports to its House.~~

8 ~~DEFINITION~~

9 ~~SEC. 302. For purposes of this title, the term “zero base~~
 10 ~~review and evaluation” means, with respect to any Govern-~~
 11 ~~ment program or activity, a comprehensive review and~~
 12 ~~evaluation to determine if the merits of the program or~~
 13 ~~activity supports its continuation rather than termination~~
 14 ~~and to reach findings as to what incremental amounts of new~~
 15 ~~budget authority for the program or activity should be~~

1 ~~authorized to produce correspondingly larger levels of service~~
2 ~~output.~~

3 ~~PART 2 CONGRESSIONAL REVIEW AND EVALUATION~~
4 ~~REVIEW AND EVALUATION BY STANDING COMMITTEES~~

5 ~~SEC. 311. (a) (1) The standing committees of the~~
6 ~~Senate and the House of Representatives shall conduct a~~
7 ~~zero base review and evaluation of all Government programs~~
8 ~~and activities within their jurisdiction every fourth year.~~
9 ~~The zero base review and evaluation of each program or~~
10 ~~activity shall be conducted during the twelve month period~~
11 ~~ending on March 15 of the year in which occurs the review~~
12 ~~date for such program or activity.~~

13 ~~(b) Each zero base review and evaluation of a program~~
14 ~~or activity conducted under subsection (a) shall include~~
15 ~~but not be limited to—~~

16 ~~(1) an identification of other Government pro-~~
17 ~~grams and activities having the same or similar objec-~~
18 ~~tives, along with a comparison of the cost and effective-~~
19 ~~ness of such programs or activities and any duplication~~
20 ~~of the program or activity under review;~~

21 ~~(2) an examination of the extent to which the ob-~~
22 ~~jectives of the program or activity have been achieved~~
23 ~~—a comparison with the objectives initially set forth for~~
24 ~~the program or activity and an analysis of any signifi-~~
25 ~~cant variance between projected and actual performance;~~

1 ~~(3) a specification, to the extent feasible, in quanti-~~
2 ~~tative terms of the objectives of such program or activity~~
3 ~~during the next four fiscal years; and~~

4 ~~(4) an examination of the impact of such program~~
5 ~~or activity on the national economy.~~

6 ~~(e) A report of the results of each zero base review and~~
7 ~~evaluation of a program or activity conducted under sub-~~
8 ~~section (a), and of the recommendations of the committee~~
9 ~~with respect thereto, shall be submitted to the Senate or the~~
10 ~~House of Representatives, as the case may be, on or before~~
11 ~~March 15 of the year in which occurs the review date for~~
12 ~~such program or activity. Such report shall include an identi-~~
13 ~~fication of other programs or activities having the same or~~
14 ~~similar objectives and the recommendations of the committee~~
15 ~~with respect to the elimination or consolidation of such~~
16 ~~other programs or activities. Whenever a committee has~~
17 ~~identified a comparable program or activity and recommends~~
18 ~~authorization of new budget authority for the program or~~
19 ~~activity under review and evaluation or the establishment~~
20 ~~of a new comparable program or activity, the report shall~~
21 ~~state with particularity the justification for the authorization~~
22 ~~of new budget authority, or for the establishment of a new~~
23 ~~comparable program, and explain the manner in which it~~
24 ~~avoids duplication of other efforts.~~

~~ASSISTANCE BY GENERAL ACCOUNTING OFFICE AND
CONGRESSIONAL BUDGET OFFICE~~

1 ~~SEC. 312. (a) The Comptroller General shall furnish~~
2
3 ~~to each standing committee of the Senate and the House~~
4 ~~of Representatives the results of prior audits and reviews~~
5 ~~and evaluations of each Government program or activity~~
6 ~~which is the subject of a zero base review being conducted~~
7 ~~by that committee under section 311. At the request of any~~
8 ~~such standing committee, the Comptroller General shall~~
9 ~~furnish to such committee such information and analyses~~
10 ~~as it may request to assist in its conduct of any such zero~~
11 ~~base review and evaluation. Assistance authorized by this~~
12 ~~subsection shall be in addition to assistance authorized by~~
13 ~~section 201 of the Legislative Reorganization Act of 1970.~~

14 ~~(b) Consistent with the discharge by the Congressional~~
15 ~~Budget Office of its duties and functions under the Congres-~~
16 ~~sional Budget Act of 1974, the Director of the Congressional~~
17 ~~Budget Office shall, at the request of any standing commit-~~
18 ~~tee of the Senate or the House of Representatives, furnish to~~
19 ~~such committee such information and analyses as it may~~
20 ~~request to assist in its conduct of a zero base review and~~
21 ~~evaluation of a Government program or activity under sec-~~
22 ~~tion 311.~~

23 ~~(c) Information required to be furnished to a standing~~
24 ~~committee under subsection (a) and information or analyses~~
25

1 ~~requested by a standing committee under subsection (a)~~
2 ~~or (b) with respect to a program or activity shall be fur-~~
3 ~~nished to such committee on or before December 31 of the~~
4 ~~year preceding the year in which occurs the review date~~
5 ~~for such program or activity.~~

6 ~~PART 3 EXECUTIVE REVIEW AND EVALUATION~~

7 ~~REVIEW AND EVALUATION BY THE PRESIDENT~~

8 ~~SEC. 321. (a) Prior to transmitting the Budget for a~~
9 ~~fiscal year, the President shall conduct a zero base review~~
10 ~~and evaluation of each Government program or activity the~~
11 ~~review date for which is September 30 preceding the begin-~~
12 ~~ning of such fiscal year. Each such review and evaluation~~
13 ~~shall include the matters described in section 311 (b).~~

14 ~~(b) Section 201 of the Budget and Accounting Act,~~
15 ~~1921 (21 U.S.C. 11), is amended by adding at the end~~
16 ~~thereof the following new subsections:~~

17 ~~“(j) The Budget transmitted pursuant to subsection (a)~~
18 ~~for each fiscal year shall include a report of the results of the~~
19 ~~zero base review and evaluation conducted under section~~
20 ~~321 (a) of the Government Economy and Spending Re-~~
21 ~~form Act of 1976 of each Government program or activity~~
22 ~~the review date for which is September 30 preceding the~~
23 ~~beginning of such fiscal year, together with the recommen-~~
24 ~~dations of the President with respect thereto.~~

25 ~~“(k) Estimated expenditures and proposed appropria-~~

1 ~~tions under subsection (a) for any Government program or~~
2 ~~activity for a fiscal year shall be based on the most recent~~
3 ~~zero base review and evaluation of such program or activity~~
4 ~~conducted under section 321 (a) of the Government Econ-~~
5 ~~omy and Spending Reform Act of 1976."~~

6 ~~TITLE IV—CONTINUING REVIEW AND~~
7 ~~EVALUATION~~

8 ~~ADDITIONAL FUNCTIONS OF GENERAL ACCOUNTING~~
9 ~~OFFICE~~

10 ~~SEC. 401. (a) Whenever, in the judgment of the Comp-~~
11 ~~troller General, any audit conducted by the General Account-~~
12 ~~ing Office discloses any substantial deficiency in achievement~~
13 ~~of the objectives of any Government program or activity,~~
14 ~~he shall conduct subsequent audits of such program or ac-~~
15 ~~tivity periodically at such times as he deems necessary, but~~
16 ~~not less often than every six months, until he determines~~
17 ~~that the deficiency or deficiencies in such program or ac-~~
18 ~~tivity have been eliminated. The Comptroller General shall~~
19 ~~report the results of each such subsequent audit, together~~
20 ~~with his findings as to progress made to eliminate the defi-~~
21 ~~ciency or deficiencies in such program or activity, to the~~
22 ~~Committees on Appropriations of the Senate and the House~~
23 ~~of Representatives and to the standing committees of the~~
24 ~~Senate and the House which have legislative jurisdiction~~
25 ~~over such program or activity.~~

1 ~~(b) The Comptroller General shall furnish to the Com-~~
2 ~~mittees on Appropriations of the Senate and the House of~~
3 ~~Representatives, and to the standing committees of the Sen-~~
4 ~~ate and the House which have legislative jurisdiction over~~
5 ~~any Government program or activity, a summary of each~~
6 ~~audit conducted by the General Accounting Office involving~~
7 ~~such program or activity.~~

8 ~~INCLUSION OF PROGRAM INFORMATION IN PRESIDENT'S~~

9 ~~BUDGET~~

10 ~~SEC. 402. (a) Section 201 of the Budget and Account-~~
11 ~~ing Act, 1921 (31 U.S.C. 11), is amended by adding after~~
12 ~~subsection (k) (as added by section 321 (b) of this Act)~~
13 ~~the following new subsection:~~

14 ~~“(1) The Budget transmitted pursuant to subsection (a)~~
15 ~~for each fiscal year shall include information, with respect to~~
16 ~~each Government program or activity, on the specific ob-~~
17 ~~jectives of such program or activity for such fiscal year, and~~
18 ~~a comparison of the achievement of the objectives of such~~
19 ~~program or activity for the last completed fiscal year with the~~
20 ~~planned objectives of such program or activity for such fiscal~~
21 ~~year.”.~~

22 ~~(b) The amendment made by subsection (a) shall~~
23 ~~apply with respect to the fiscal year beginning on October 1,~~
24 ~~1978, and succeeding fiscal years.~~

~~TITLE V—MISCELLANEOUS~~~~EXERCISE OF RULEMAKING POWER~~

1
2
3 ~~SEC. 501. The provisions of this section and sections 101,~~
4 ~~102, 103 (a), 105, 202, and 311 of this Act are enacted by~~
5 ~~the Congress—~~

6 ~~(1) as an exercise of the rulemaking power of the~~
7 ~~Senate and the House of Representatives, respectively,~~
8 ~~and as such they shall be considered as part of the rules~~
9 ~~of each House, respectively, or of that House to which~~
10 ~~they specifically apply, and such rules shall supersede~~
11 ~~other rules only to the extent that they are inconsistent~~
12 ~~therewith; and~~

13 ~~(2) with full recognition of the constitutional right~~
14 ~~of either House to change such rules (so far as relating~~
15 ~~to such House) at any time, in the same manner, and to~~
16 ~~the same extent as in the case of any other rule of such~~
17 ~~House.~~

18 *That this Act may be cited as the "Government Economy and*
19 *Spending Reform Act of 1976".*

20 *SEC. 2. (a) For purposes of this Act—*

21 *(1) The term "budget authority" has the meaning*
22 *given to it by section 3(a)(2) of the Congressional*
23 *Budget Act of 1974.*

24 *(2) The term "permanent budget authority" means*

1 *budget authority provided for an indefinite period of time*
2 *or an unspecified number of fiscal years, but does not*
3 *include budget authority provided for a specified fiscal*
4 *year which is available for obligation or expenditure in*
5 *one or more succeeding fiscal years.*

6 (3) *The term "Comptroller General" means the*
7 *Comptroller General of the United States.*

8 (4) *The term "agency" means an Executive agency*
9 *as defined in section 105 of title 5, United States Code,*
10 *except that such term includes the United States Postal*
11 *Service and the Postal Rate Commission.*

12 (5) *The term "program" includes, but is not limited*
13 *to, Government programs which are carried out, whether*
14 *in whole or in part, under regulatory authority.*

15 (6) *The term "regulatory authority" includes au-*
16 *thority to issue and enforce rules, regulations, standards,*
17 *decrees, citations, and orders, to issue licenses, to establish*
18 *rates, and to impose civil penalties.*

19 (b) *For purposes of this Act, functional and subfunc-*
20 *tional categories are those set forth in the Budget of the*
21 *United States Government, Fiscal Year 1977. All off-budget*
22 *programs shall be assigned to functional and subfunctional*
23 *categories by the Director of the Office of Management and*
24 *Budget in consultation with the Committees on Appropria-*
25 *tions and the Budget of the Senate and the House of Rep-*

1 *representatives. Each committee of the Senate or the House of*
2 *Representatives which reports any bill or resolution*
3 *which authorizes the enactment of new budget authority for*
4 *a new program shall include, in the committee report ac-*
5 *companying such bill or resolution, a statement from the*
6 *Committees on Appropriations and the Budget of its House*
7 *of the functional and subfunctional category in which such*
8 *program will be included.*

9 *(c) For purposes of titles I and II of this Act, the first*
10 *review date applicable to a program is the date specified for*
11 *such program under section 101(a), and each subsequent*
12 *review date applicable to a program is the date five years*
13 *following the preceding review date.*

14 *(d) For purposes of this Act, the Members of the Sen-*
15 *ate who are members of the Joint Committee on Atomic*
16 *Energy shall be treated as a committee of the Senate, and*
17 *the Members of the House of Representatives who are mem-*
18 *bers of the Joint Committee shall be treated as a committee*
19 *of the House.*

20 *TITLE I—AUTHORIZATIONS OF NEW BUDGET*
21 *AUTHORITY*

22 *SEC. 101. (a) The first review date applicable to a*
23 *Government program is the date specified in the following*
24 *table:*

<i>Programs included within functional or subfunctional category</i>	<i>First review date</i>
050 National defense	
150 International affairs	
250 General sciences, space, and technology	
303 Recreational resources	
351 Farm income stabilization	
752 Federal judicial activities-----	September 30, 1979
302 Conservation and land management	
401 Mortgage credit and thrift insurance	
450 Community and regional development	
502 Higher education	
503 Research and general education aids	
751 Federal law enforcement and prosecution----	September 30, 1980
404 Ground transportation	
405 Air transportation	
406 Water transportation	
407 Other transportation	
550 Health	
600 Income security (except public housing in sub- category 604)	
753 Federal correctional and rehabilitation activ- ities -----	September 30, 1981
300 Natural resources, environment, and energy (except for subfunctional categories specifi- cally provided for)	
301 Water resources and power	
352 Agricultural research and services	
402 Postal service	
403 Other advancement and regulation of com- merce	
500 Education, training, employment, and social services (except for subfunctional categories specifically provided for)	
501 Elementary, secondary, and vocational edu- cation	
504 Training and employment	
505 Other labor services	
700 Veterans' benefits and services-----	September 30, 1982
304 Pollution control and abatement	
305 Energy	
306 Other natural resources	
506 Social services	
604 Public assistance and other income supplements (public housing only)	
754 Law enforcement assistance	
800 General government	
850 Revenue sharing and general purpose fiscal assistance	
900 Interest -----	September 30, 1983

1 **(b)(1)** *All provisions of law which authorize the enact-*
2 *ment of new budget authority for a program, or which pro-*
3 *vide new budget authority (including permanent budget*
4 *authority) for a program, for a fiscal year beginning after*
5 *the first review date applicable to such program under sub-*
6 *section (a) shall terminate on such date and shall have no*
7 *force or effect after such date.*

8 **(2)** *Paragraph (1) shall not apply to programs which*
9 *are included within functional category 900, or which are*
10 *included within subfunctional categories 551 (Health care*
11 *services), 601 (General retirement and disability insur-*
12 *ance), or 602 (Federal employee retirement and disability)*
13 *and are funded through trust funds.*

14 **(3)** *Paragraph (1) shall not apply to new budget*
15 *authority initially provided for a program for a fiscal year*
16 *beginning before the first review date applicable to such pro-*
17 *gram which is available for obligation or expenditure in a*
18 *fiscal year beginning after such date.*

19 **(4)** *Whenever a provision of law which authorizes the*
20 *enactment of new budget authority for a program, or which*
21 *provides new budget authority for a program, is ter-*
22 *minated under paragraph (1), any provision of law which*
23 *establishes mandatory entitlement to payments or services*
24 *under such program shall thereafter be effective only to the*

1 extent that new budget authority is provided for such pay-
2 ments or services.

3 (5) Whenever a provision of law which authorizes the
4 enactment of new budget authority for a program, or which
5 provides new budget authority for a program, is terminated
6 under paragraph (1), any provision of law which provides
7 regulatory authority for such program shall thereafter be
8 effective only if and when new budget authority is again
9 authorized or provided for such program. This paragraph
10 shall not affect any civil or criminal proceeding deriving from
11 any rule, regulation, standard, decree, citation, or order
12 issued pursuant to such regulatory authority which was
13 commenced prior to the termination of such provision of law.

14 SEC. 102. (a) On or before April 1, 1977, the Comp-
15 troller General, in cooperation with the Director of the Con-
16 gressional Budget Office and the Director of the Office of
17 Management and Budget, shall submit to the Committees on
18 Appropriations and the Committees on the Budget of the
19 Senate and the House of Representatives a report setting forth
20 each program new budget authority for which is by law—

- 21 (1) authorized for a definite period of time;
22 (2) authorized without limit of time;
23 (3) not specifically authorized; and
24 (4) permanently provided.

1 **(b)** *The report submitted under subsection (a) shall also*
2 *set forth—*

3 **(1)** *the law or laws under which each such program*
4 *is carried on;*

5 **(2)** *in the case of programs to which paragraphs*
6 *(1), (2), and (3) of subsection (a) apply, the annual*
7 *appropriation bill which provides new budget authority*
8 *for each such program;*

9 **(3)** *the amount of new budget authority provided*
10 *for each such program for each of the last four com-*
11 *pleted fiscal years ending before April 1, 1977; and*

12 **(4)** *each program for which no outlays have been*
13 *made during each of the last two completed fiscal years*
14 *ending before April 1, 1977.*

15 *The information required by this section shall be cross-*
16 *indexed so as to provide information to the committees of*
17 *the Senate and the House of Representatives with respect to*
18 *programs under their jurisdiction.*

19 **(c)** *In the case of programs carried out in whole or in*
20 *part pursuant to regulatory authority, the report submitted*
21 *by the Comptroller General under subsection (a) shall also*
22 *set forth—*

23 **(1)** *the provisions of law which provide regulatory*
24 *authority for such programs; and*

1 (2) the nature of the regulatory authority provided.

2 (d) The report submitted by the Comptroller General
3 under subsection (a) shall identify programs in a manner
4 which—

5 (1) assures that all provisions of law which serve as
6 authorization of new budget authority, or which provide
7 regulatory authority, are included in the identification of
8 programs;

9 (2) classifies each program in only one functional
10 and only one subfunctional category;

11 (3) provides that each program is administered by
12 only one department or agency of the Government;

13 (4) is consistent with the structure of national needs,
14 agency missions, and basic programs required by sec-
15 tion 201(i) of the Budget and Accounting Act, 1921;

16 (5) to the maximum extent feasible, is consistent
17 with the appropriation account structure of the United
18 States Government; and

19 (6) to the extent appropriate, groups related author-
20 izations into a single program.

21 SEC. 103. (a) On or before July 1, 1977, the Com-
22 mittees on Appropriations and the Committees on the Budget
23 of the Senate and the House of Representatives, acting
24 jointly, shall review the report submitted under section 102

1 *and submit it to their respective Houses together with a report*
2 *setting forth, with respect to each program—*

3 (1) *the functional or subfunctional category in*
4 *which such program is included; and*

5 (2) *the first review date of each such program.*

6 (b) *At the request of the Committee on Appropriations*
7 *or the Committee on the Budget of the Senate or the House*
8 *of Representatives, the Comptroller General and the Direc-*
9 *tor of the Congressional Budget Office shall furnish to such*
10 *committee such assistance as it may request in carrying out*
11 *its functions under subsection (a).*

12 SEC. 104. *New budget authority shall not be provided*
13 *for any program for any fiscal year beginning after the first*
14 *review date applicable to such program under section 101*
15 *(a), unless the provision of such new budget authority is*
16 *specifically authorized by law or unless pursuant to the*
17 *standing rules of the Senate and the rules of the House of*
18 *Representatives.*

19 SEC. 105. (a) *It shall not be in order in either the*
20 *Senate or the House of Representatives to consider any bill*
21 *or resolution (or amendment thereto)—*

22 (1) *which authorizes the enactment of new budget*
23 *authority for a program for a fiscal year beginning after*
24 *the next review date applicable to such program, unless*

1 the report required under section 205(b) on the zero-base
2 review of such program has been submitted to the Senate
3 or the House of Representatives, as the case may be; or
4 (2) which changes (or has the effect of changing)
5 budget authority for or outlays under any program which
6 is included within functional category 900, or within
7 subfunctional category 551, 601, or 602 and which is
8 funded through a trust fund, if such change is to take
9 effect after the next review date applicable to such pro-
10 gram, unless the report required under section 205(b)
11 on the zero-base review of such program has been sub-
12 mitted to the Senate or the House of Representatives, as
13 the case may be.

14 (b) Nothing contained in this Act shall be construed to
15 require the enactment of authorizations of new budget au-
16 thority for a program for a period of five fiscal years. In any
17 case in which it is determined necessary or desirable to enact
18 authorizations of new budget authority for a program on an
19 annual basis, or for any period of less than five fiscal years,
20 such new budget authority may, subject to the provisions of
21 subsection (a)(1), be authorized for the period so determined.

22 SEC. 106. (a) All proposed legislation, messages, peti-
23 tions, memorials, and other matters relating to changes in the

1 review dates applicable to programs under this title and title
2 II shall be referred in the Senate to the Committee on the
3 Budget of the Senate, and shall be referred in the House
4 of Representatives to the Committee on the Budget of the
5 House, and each such committee shall have jurisdiction to
6 report to its House, by bill or otherwise, proposed changes in
7 such dates.

8 (b) Notwithstanding the provisions of subsection (a),
9 any committee of the Senate or the House of Representatives
10 may report bills and resolutions changing the review date
11 applicable to any program under its legislative jurisdiction.
12 Any such bill or resolution so reported shall then be referred
13 to the Committee on the Budget of its House, which shall
14 report such bill or resolution to its House within fifteen
15 days after such bill or resolution is referred to it (not
16 counting any day on which its House is not in session),
17 beginning with the day following the day on which such bill
18 or resolution is so referred, accompanied by its recommenda-
19 tions. If the Committee on the Budget does not report such
20 bill or resolution to its House within such fifteen-day period,
21 it shall automatically be discharged from further considera-
22 tion of such bill or resolution and it shall be placed on the
23 appropriate calendar of the Senate or the House of Rep-
24 resentatives, as the case may be.

1 **TITLE II—ZERO-BASE PROGRAM REVIEW**

2 **SEC. 201.** *The timetable for zero-base review of a Gov-*
 3 *ernment program the review date for which is on Septem-*
 4 *ber 30 of a year is as follows:*

On or before—

<i>March 1 of preceding year -----</i>	<i>Committees adopt tentative plans for zero-base review of the program and submit them to their respective Houses, and transmit copies to executive departments or agencies.</i>
<i>April 1 of preceding year -----</i>	<i>Committees report final plans for zero-base review of the program to their respective Houses.</i>
<i>October 1 of preceding year -----</i>	<i>Comptroller General furnishes results of prior audits and reviews of the program.</i>
<i>December 1 of preceding year -----</i>	<i>Executive department or agency submits report on the program.</i>
<i>May 15 of the year-----</i>	<i>Committees report results of zero-base review of the program to their respective Houses.</i>

5 **SEC. 202.** *For purposes of this title, the term “zero-base*
 6 *review” means, with respect to any Government program, a*
 7 *systematic evaluation by the committees of the Senate and*
 8 *the House of Representatives which have legislative jurisdic-*
 9 *tion over the program, with the assistance of the appropriate*
 10 *department or agency of the Government and congressional*
 11 *support agencies, to determine if the merits of the program*
 12 *justify its continuation rather than termination, or its con-*
 13 *tinuation at a level less than, equal to, or greater than the*
 14 *existing level.*

1 *SEC. 203. (a) On or before March 1 of the year pre-*
2 *ceding the year in which occurs the review date of a program,*
3 *the committees of the Senate and the House of Representatives*
4 *which have legislative jurisdiction over such program shall*
5 *adopt, and report to their respective Houses, a tentative plan*
6 *for the zero-base review of such program. On or before April*
7 *1 of such year, such committees shall adopt, and report to*
8 *their respective Houses, a final plan for the zero-base review*
9 *of such program. The plan for zero-base review of a program*
10 *shall include—*

11 *(1) the priority which should be given to the zero-*
12 *base review of such program, taking into consideration*
13 *the other programs for which review dates occur in the*
14 *same year;*

15 *(2) the criteria and standards to be applied in the*
16 *zero-base review of such program;*

17 *(3) the extent to which the elements specified in sec-*
18 *tion 204 shall apply in the zero-base review of such*
19 *program;*

20 *(4) the information, analyses, and reports, if any,*
21 *to be requested under section 207 from the General*
22 *Accounting Office, Congressional Research Service, Office*
23 *of Technology Assessment, and the Congressional Budget*
24 *Office to assist the committee in the zero-base review of*
25 *such program; and*

26 *(5) the scope and detail of the report to be sub-*

1 mitted under section 206 (a) by the department or agency
2 which administers such program and of other informa-
3 tion and assistance to be requested under section 206 (b)
4 from such department or agency or from any other
5 agency of the Government to assist the committee in con-
6 ducting the zero-base review of such program.

7 A committee may modify its final plan for the zero-base re-
8 view of such program, and report such modification to its
9 House.

10 (b) Each committee shall transmit a copy of the tenta-
11 tive plan for the zero-base review of a program adopted by
12 it under subsection (a) to the department or agency which
13 administers such program on the same day on which such
14 plan is submitted to its House.

15 (c) A committee may consolidate the zero-base review
16 plans of two or more programs within its legislative juris-
17 diction into a single report, provided that such report clearly
18 specifies for each program each of the matters required under
19 subsection (a).

20 SEC. 204. Each zero-base review of a program shall,
21 to the extent provided in the plan adopted (or as modified)
22 pursuant to section 203, include, but not be limited to—

23 (1) an identification of the objectives intended for
24 the program and the problem or need which the program
25 was intended to address;

1 (2) an assessment of the degree to which the original
2 objectives of the program have been achieved expressed
3 in terms of the performance, impact, or accomplishments
4 of the program and of the problem or need which it was
5 intended to address. Such assessment shall employ proce-
6 dures or methods of analysis which the committee deter-
7 mines to be appropriate to the type or character of
8 program;

9 (3) a statement of the performance and accomplish-
10 ments of the program in each of the last four completed
11 fiscal years and of the budgetary costs incurred in the
12 operation of the program;

13 (4) a statement of the number and types of bene-
14 ficiaries or persons served by the program;

15 (5) a summary statement, for each of the last three
16 completed fiscal years, of the number, by grade, and cost
17 of personnel employed in carrying out the program and
18 a summary statement of the cost of personnel employed
19 under contract in carrying out the program;

20 (6) an assessment of the effect of the program on
21 the national economy, including but not limited to the
22 effects on competition, economic stability, employment,
23 productivity, and price inflation including costs to con-
24 sumers and to businesses;

25 (7) an assessment of the degree to which the overall
26 policies of the program, as expressed in the rules, regu-

1 *lations, orders, standards, criteria, and decisions of the*
2 *department or agency administering the program, meet*
3 *the objectives of the Congress in establishing the program;*

4 *(8) an evaluation of the reporting and recordkeep-*
5 *ing requirements and activities of the program, including*
6 *the management and control of information and records*
7 *and the value of the information gathered compared to*
8 *the cost to respondents, and an assessment of methods to*
9 *reduce and simplify the reporting and recordkeeping re-*
10 *quirements and to promote the sharing of information*
11 *among departments and agencies and with State and*
12 *local governments and the private sector; and*

13 *(9) an analysis of the services and performance*
14 *estimated to be achieved if the program were continued.*
15 *Such analysis shall include, but not be limited to, the*
16 *following cost levels—*

17 *(A) The priority level of activity or perform-*
18 *ance which shall be the level of activity (i) below*
19 *which it is not feasible to carry on the program*
20 *effectively, or (ii) 75 per centum of the current*
21 *budget authority, whichever is lower.*

22 *(B) If appropriate, an incremental service and*
23 *performance level which can be provided at a cost*
24 *between the priority level and the current level of*
25 *budget authority.*

1 (C) *If appropriate, an incremental service and*
2 *performance level above the level considered under*
3 *subparagraph (B).*

4 *The information provided for each incremental cost*
5 *level shall include (i) a projection of the services and*
6 *performance that would be provided, (ii) a ranking of*
7 *service priorities, (iii) an estimate of personnel require-*
8 *ments, including services to be performed under contract,*
9 *and (iv) a statement of the impact on the national*
10 *economy.*

11 *SEC. 205. (a) With respect to each program within its*
12 *legislative jurisdiction, each committee of the Senate and the*
13 *House of Representatives shall conduct a zero-base review of*
14 *such program prior to the review date specified for such pro-*
15 *gram, in accord with the plan adopted pursuant to section*
16 *203.*

17 *(b) Each such committee shall submit a report of the re-*
18 *sults of the zero-base review conducted under subsection (a),*
19 *together with its recommendations, to the Senate or the House*
20 *of Representatives, as the case may be, on or before May 15*
21 *of the year in which occurs the review date for such program.*
22 *A committee may submit the results of the zero-base reviews*
23 *of two or more related programs in a single report.*

24 *(c) Whenever a committee recommends the authoriza-*
25 *tion of new budget authority for the program under review*
26 *or the authorization of new budget authority for a new pro-*

1 *gram with objectives similar to the reviewed program, the*
2 *report accompanying the first bill or resolution reported by*
3 *such committees which authorizes the enactment of such new*
4 *budget authority or any portion thereof shall include*
5 *the report required by subsection (b), or a summary thereof,*
6 *and shall include but not be limited to the following—*

7 (1) *an identification of the problem or the needs*
8 *that the program is intended to address;*

9 (2) *a statement, to the extent practicable, in quanti-*
10 *tative and qualitative terms of the objectives of such*
11 *program and its anticipated accomplishments;*

12 (3) *an identification of any other programs having*
13 *similar, conflicting, or duplicate objectives;*

14 (4) *an assessment of the consequences of eliminating*
15 *the program of consolidating it with another program,*
16 *or of funding it at a lower level (with specific reference*
17 *to section 204(a)(9) if included in the committee plan),*
18 *taking into consideration similar or duplicate programs*
19 *in the public or private sectors of the economy;*

20 (5) *an assessment of alternative methods of*
21 *achieving the purposes of the program;*

22 (6) *a justification for the authorization of new*
23 *budget authority, and an explanation of the manner in*
24 *which it avoids duplication of or conflict with other*
25 *efforts; and*

1 (7) a projection of the anticipated needs for and ac-
2 complishments of the program, including an estimate of
3 when, and the conditions under which, the program will
4 have fulfilled the objectives for which it was established.

5 SEC. 206. (a) On or before December 1 of the year
6 preceding the year in which occurs the review date for a
7 program, the department or agency which administers such
8 program shall submit a report thereon to each committee of
9 the Senate and the House of Representatives which has legis-
10 tive jurisdiction over such program. The report to each such
11 committee shall be in accord with its zero-base review plan
12 for such program, and may be submitted to such commit-
13 tee after December 1 of such year if a later date is specified
14 in its zero-base review plan.

15 (b) To assist in the zero-base review process, the depart-
16 ment or agency which administers a program, and any other
17 agency of the Government, shall provide to each commit-
18 tee of the Senate and the House of Representatives which
19 has legislative jurisdiction over such program such in-
20 formation and assistance as may be requested pursuant to
21 its zero-base review plan for such program.

22 SEC. 207. (a) On or before October 1 of the year
23 preceding the year in which occurs the review date for a
24 program, the Comptroller General shall furnish to each
25 committee of the Senate and the House of Representatives

1 *which has legislative jurisdiction over such program the re-*
2 *sults of prior audits and reviews of such program.*

3 (b) *At the request of any committee of the Senate or the*
4 *House of Representatives pursuant to its zero-base review*
5 *plan for a program, the Comptroller General shall furnish*
6 *to such committee information, analyses, and reports to assist*
7 *it in carrying out its duties under this title.*

8 (c) *Consistent with the discharge by the Congressional*
9 *Budget Office of its duties and functions under the Con-*
10 *gressional Budget Act of 1974, the Director of the Con-*
11 *gressional Budget Office shall, at the request of any commit-*
12 *tee of the Senate or the House of Representatives pursuant to*
13 *its zero-base review plan for a program, furnish to such*
14 *committee information and analyses to assist it in carrying*
15 *out its duties under this title.*

16 (d) *Consistent with the discharge by the Office of Tech-*
17 *nology Assessment of its duties and functions under the*
18 *Technology Assessment Act of 1972, the Director of the*
19 *Office of Technology Assessment shall, at the request of any*
20 *committee of the Senate or the House of Representatives*
21 *pursuant to its zero-base review plan for a program, shall*
22 *furnish to such committee information, analyses, and reports*
23 *to assist in in carrying out its duties under this title.*

24 (e) *At the request of any committee of the Senate or*
25 *House of Representatives pursuant to its zero-base review*

1 *plan for a program, the Director of the Congressional Re-*
2 *search Service shall furnish to such committee information,*
3 *analyses, and reports to assist it in carrying out its duties*
4 *under this title.*

5 *Sec. 208. (a) Each committee of the Senate and the*
6 *House of Representatives shall furnish to the Comptroller*
7 *General copies of—*

8 *(1) each tentative and final plan, and modification*
9 *thereof, for the zero-base review of a program adopted*
10 *by it under section 203(a); and*

11 *(2) each report on the zero-base review of a pro-*
12 *gram submitted by it under section 205(b).*

13 *The Comptroller General shall maintain indexes of the*
14 *materials furnished to him under this subsection and shall*
15 *make such indexes available to the general public under such*
16 *conditions as he may prescribe.*

17 *(b) The Comptroller General shall, at the request of*
18 *any committee of the Senate or the House of Representa-*
19 *tives, provide technical assistance in the development of pro-*
20 *cedures and techniques for conducting zero-base reviews to*
21 *enable the personnel of such committees to carry out their*
22 *duties under this title.*

23 *(c) The Comptroller General shall provide such other*
24 *assistance to the committees of the Senate and the House of*
25 *Representatives as they may request to assist them in carrying*
26 *out their duties under this title.*

1 *TITLE III—CONTINUING REVIEW*

2 *SEC. 301. (a) Section 236 of the Legislative Reorganiza-*
3 *tion Act of 1970 (31 U.S.C. 1176) is amended to read as*
4 *follows:*

5 *“AGENCY REPORTS*

6 *“SEC. 236. Whenever the General Accounting Office has*
7 *made a report which, in the judgment of the Comptroller*
8 *General, discloses any substantial deficiency in the achieve-*
9 *ment of the objectives of any agency program, or which con-*
10 *tains recommendations to the head of any Federal agency,*
11 *such agency shall—*

12 *“(1) not later than sixty days after the date of such*
13 *report, and not less often than once every six months*
14 *thereafter, submit a written statement to the Committees*
15 *on Government Operations of the House of Representa-*
16 *tives and the Senate, committees of the House of*
17 *Representatives and the Senate which have legislative*
18 *jurisdiction over such agency program, and the Comp-*
19 *troller General of the action taken with respect to such*
20 *deficiency or recommendations and of the specific prog-*
21 *ress made toward eliminating such deficiency until such*
22 *time as the Comptroller General determines that all*
23 *reasonable actions have been taken by the agency and*
24 *no further purpose would be served by the provision of*
25 *further written statements; and*

1 “(2) provide, in connection with all applicable re-
2 quests for appropriations for that agency submitted to
3 the Congress, a copy of all written statements submitted
4 during the past fiscal year in accordance with para-
5 graph (1) to the Committees on Appropriations of the
6 House of Representatives and the Senate.”.

7 (b) The Comptroller General shall furnish to the Com-
8 mittees on Appropriations of the Senate and the House of
9 Representatives, and to the committees of the Senate and
10 the House which have legislative jurisdiction over any
11 Government program, the report of each audit or review
12 conducted by the General Accounting Office involving such
13 program.

14 SEC. 302. (a) Section 201 of the Budget and Account-
15 ing Act, 1921 (31 U.S.C. 11), is amended by adding at
16 the end thereof the following new subsection:

17 “(j) The Budget transmitted pursuant to subsection (a)
18 for each fiscal year shall include information, with respect
19 to each Government program, on the specific objectives of
20 such program for such fiscal year, and a comparison of the
21 achievement of the objectives of such program for the last
22 completed fiscal year with the planned objectives of such
23 program for such fiscal year. Such information shall be con-
24 sistent with the information required under subsection (i),
25 and shall be based on criteria developed by the Director of

1 *the Office of Management and Budget in cooperation with the*
2 *Comptroller General of the United States, the Director of*
3 *the Congressional Budget Office, and the Committees on the*
4 *Budget of the House of Representatives and the Senate. The*
5 *Budget shall also include, with respect to each Government*
6 *program, a summary of personnel levels and contract re-*
7 *quirements projected for the fiscal year.”.*

8 *(b) The amendment made by subsection (a) shall apply*
9 *with respect to the fiscal year beginning on October 1, 1979.*
10 *and succeeding fiscal years.*

11 *TITLE IV—CITIZENS’ BICENTENNIAL COM-*
12 *MISSION ON THE ORGANIZATION AND OP-*
13 *ERATION OF GOVERNMENT*

14 *SEC. 401. There is established, as an independent in-*
15 *strumentality of the United States, the Citizens’ Bicenten-*
16 *ennial Commission on the Organization and Operation of*
17 *Government (hereafter in this title referred to as the*
18 *“Commission”).*

19 *SEC. 402. It is hereby declared to be the policy of the*
20 *Congress to promote economy, efficiency, and improved serv-*
21 *ice in the transaction of the public business in the depart-*
22 *ments, agencies, independent instrumentalities, and other*
23 *authorities of the executive branch of the Government. To*
24 *achieve these purposes, the Commission shall make such*
25 *recommendations as it determines necessary to—*

1 (1) increase the effectiveness of Government services,
2 programs, functions, and activities by changing the struc-
3 ture and execution of administrative responsibilities;

4 (2) improve delivery of services through elimination
5 of needless duplication or overlap, consolidation of simi-
6 lar services, programs, activities, and functions, and
7 termination of such services, programs, activities, and
8 functions which have outlived their intended purpose;

9 (3) maintain expenditures at levels consistent with
10 the efficient performance of essential services, programs,
11 activities, and functions;

12 (4) simplify and eliminate overlaps in agency regu-
13 latory functions by review of the laws, regulations,
14 and administrative reports and procedures; and

15 (5) determine the appropriate responsibilities of
16 each level of government, the manner and alternative
17 means for each level of government to finance such
18 responsibilities, the forms and extent of intergovern-
19 mental aid and assistance, and the organization re-
20 quired for proper balance and division of respective
21 Federal, State, and local government roles, responsi-
22 bilities, and authorities.

23 SEC. 403. (a) The Commission shall conduct a non-
24 partisan study and investigation of the organization and
25 methods of operation of all departments, agencies, inde-

1 *pendent instrumentalities, and other authorities of the execu-*
2 *tive branch of the Government.*

3 **(b)** *The Commission shall undertake a comprehensive*
4 *review of all programs and functions of the Government,*
5 *including their objectives and statutory authority, and, in*
6 *addition to the recommendations specified in section 402,*
7 *shall make specific and detailed recommendations for the*
8 *restructuring, consolidation, and improved efficiency of the*
9 *functions of the Government as it determines necessary to*
10 *improve the delivery of services, to allocate more effectively the*
11 *resources available for program spending, and to eliminate*
12 *duplication of programs and services. The Commission shall*
13 *also make recommendations for such legislative or adminis-*
14 *trative actions as it determines necessary to assure a proper*
15 *balance and division of shared responsibilities between and*
16 *among the Federal Government, State governments, and*
17 *local governments.*

18 **(c)** *The Commission shall submit to the President and to*
19 *the Congress such interim reports as it deems advisable, and,*
20 *not later than September 30, 1979, shall submit a final re-*
21 *port together with its findings and recommendations.*

22 **(d)** *At least once every year for two years after the sub-*
23 *mission of the final report, the Comptroller General shall*
24 *report to the Congress on the status of actions taken on the*
25 *Commission's final report.*

1 *SEC. 404. (a) The Commission shall be composed of*
2 *eighteen members appointed from among individuals with*
3 *extensive experience in or knowledge of American Govern-*
4 *ment as follows:*

5 (1) *Eight members shall be appointed by the Presi-*
6 *dent, by and with the advice and consent of the Senate.*

7 (2) *Five members shall be appointed by the Presi-*
8 *dent pro tempore of the Senate, three upon recommenda-*
9 *tion of the majority leader and two upon recommenda-*
10 *tion of the minority leader of the Senate.*

11 (3) *Five members shall be appointed by the Speaker*
12 *of the House of Representatives, three upon recommen-*
13 *dation of the majority leader and two upon recommenda-*
14 *tion of the minority leader of the House.*

15 (b) (1) *Two members appointed under subsection (a) (1)*
16 *shall be appointed to serve as chairman and vice chairman*
17 *(as provided in paragraph (2) of this subsection) and shall*
18 *not engage in any other business, vocation, or employment.*
19 *Such two members shall not be of the same political affiliation.*

20 (2) *The member described in paragraph (1) who is not*
21 *of the same political affiliation as the President shall serve*
22 *as Chairman of the Commission and the other member shall*
23 *serve as Vice Chairman of the Commission.*

24 (c) *Of the members appointed under subsection (a) (1)*

1 (other than the members to whom subsection (b) applies),
2 not more than three shall be of the same political affiliation.

3 (d) Any vacancy in the Commission shall not affect its
4 powers, but shall be filled in the same manner in which the
5 original appointment was made.

6 (e) Ten members of the Commission shall constitute a
7 quorum, but the Commission may establish a lesser number
8 to constitute a quorum for the purpose of holding hearings.

9 SEC. 405. (a) The Commission or, on the authorization
10 of the Commission, any subcommittee or member thereof,
11 may, for the purpose of carrying out the provisions of this
12 title, hold such hearings and sit and act at such times and
13 places, administer such oaths, and require, by subpoena or
14 otherwise, the attendance and testimony of such witnesses
15 and the production of such books, records, correspondence,
16 memoranda, papers, and documents as the Commission or
17 such subcommittee or member may deem advisable.

18 (b)(1) Subpenas shall be issued under the signature
19 of the Chairman or any member of the Commission desig-
20 nated by him and shall be served by any person designated
21 by the Chairman or such member. Any member of the Com-
22 mission may administer oaths or affirmation to witnesses
23 appearing before the Commission.

24 (2) The provisions of section 1821 of title 28, United
25 States Code, shall apply to witnesses summoned to appear

1 at any such hearing. The per diem and mileage allowances
2 to witnesses summoned under authority conferred by this
3 section shall be paid from funds appropriated to the
4 Commission.

5 (3) Any person who willfully neglects or refuses to
6 appear, or refuses to qualify as a witness, or to testify, or
7 to produce any evidence in obedience to any subpoena duly
8 issued under the authority of this section shall be fined not
9 more than \$500, or imprisoned for not more than six months,
10 or both. Upon the certification by the Chairman of the
11 Commission of the facts concerning any such willful dis-
12 obedience by any person to the United States Attorney for
13 any judicial district in which such person resides or is
14 found, such attorney may proceed by information for the
15 prosecution of such person for such offense.

16 (c) The Commission is authorized to secure directly
17 from the head of any department, agency, independent instru-
18 mentality, or other authority of the executive branch of the
19 Government, available information which the Commission
20 deems useful in the discharge of its duties. All departments,
21 agencies, independent instrumentalities, and other authori-
22 ties of the executive branch of the Government shall coop-
23 erate with the Commission and furnish all information re-
24 quested by the Commission to the extent not prohibited by
25 law.

1 *SEC. 406. (a) Subject to such rules and regulations as*
2 *may be adopted by the Commission, the Commission shall*
3 *have the power—*

4 *(1) to appoint and fix the compensation of an*
5 *Executive Director, and such additional staff personnel*
6 *as it deems necessary, without regard to the provisions*
7 *of title 5, United States Code, governing appointments*
8 *in the competitive service, and without regard to chapter*
9 *51 and subchapter III of chapter 53 of such title re-*
10 *lating to classification and General Schedule pay rates,*
11 *but—*

12 *(A) in the case of the Executive Director, at a*
13 *rate equal to that for level V of the Executive*
14 *Schedule under section 5316 of title 5, United*
15 *States Code; and*

16 *(B) in the case of all other personnel, at rates*
17 *not in excess of the maximum rate for GS-18 of*
18 *the General Schedule under section 5332 of such*
19 *title; and*

20 *(2) to procure temporary and intermittent services*
21 *to the same extent as is authorized by section 3109 of*
22 *title 5, United States Code.*

23 *(b) The Commission is authorized to enter into agree-*
24 *ments with the General Services Administration for procure-*
25 *ment of necessary financial and administrative services, for*

1 *which payment shall be made by reimbursement from funds*
2 *of the Commission in such amounts as may be agreed upon*
3 *by the Chairman and the Administrator of the General Serv-*
4 *ices Administration.*

5 *SEC. 407. (a) The Chairman of the Commission shall*
6 *receive compensation at a rate equal to the rate prescribed*
7 *for level III of the Executive Schedule under section 5314*
8 *of title 5, United States Code, and the Vice Chairman shall*
9 *receive compensation at a rate equal to the rate prescribed*
10 *for level IV of the Executive Schedule under section 5315*
11 *of title 5, United States Code.*

12 *(b) All other members of the Commission who are not*
13 *officers or employees of the Federal Government shall re-*
14 *ceive compensation at the rate of \$200 for each day such*
15 *member is engaged in the performance of the duties vested*
16 *in the Commission.*

17 *(c) Members of the Commission shall be reimbursed*
18 *for travel, subsistence, and other necessary expenses incurred*
19 *in connection with their activities as members of the*
20 *Commission.*

21 *SEC. 408. The Commission shall cease to exist ninety*
22 *days after the submission of its final report.*

23 *SEC. 409. There is authorized to be appropriated, with-*
24 *out fiscal year limitations, the sum of \$12,000,000 to carry*
25 *out the provisions of this title.*

1 *tion, or its continuation at a level less than, equal to, or*
2 *greater than the existing level.*

3 *(b) For purposes of this title, the first review date for a*
4 *tax expenditure provision is the termination date of such*
5 *provision prescribed by law enacted pursuant to section 502,*
6 *and each subsequent review date for a tax expenditure pro-*
7 *vision is the date five years following the preceding review*
8 *date.*

9 *SEC. 502. (a) The Joint Committee on Internal Rev-*
10 *enue Taxation shall conduct a study for the purpose of*
11 *identifying and recommending termination dates for all tax*
12 *expenditure provisions. The termination date for each tax*
13 *expenditure provision shall be on December 31 of one of*
14 *the five years beginning with 1979. The Joint Committee,*
15 *after consultation with the Secretary of the Treasury and*
16 *the Committees on the Budget of the House of Representa-*
17 *tives and the Senate, shall submit its recommendations to*
18 *the Committee on Ways and Means and the Committee on*
19 *Finance as soon as practicable, but not later than April 1,*
20 *1977.*

21 *(b) During the first session of the Ninety-fifth Congress,*
22 *the Congress shall complete action on a bill prescribing ter-*
23 *mination dates for all tax expenditure provisions in effect on*
24 *the date of the enactment of the bill. The termination date*
25 *for each tax expenditure provision shall be on December*

1 31 of one of the five years beginning with 1979, and shall
2 be effective with respect to taxable years beginning after the
3 termination date of such provision.

4 (c) Any tax expenditure provision which is enacted
5 after the enactment of the bill described in subsection (b)
6 first applies to a taxable year beginning before January 1,
7 1980, and is to remain in effect (but for this subsection)
8 for taxable years beginning after December 31, 1979, shall
9 have a termination date which shall be effective with respect
10 to taxable years beginning after December 31 of one of the
11 five years beginning with 1979.

12 (d) Any tax expenditure provision which is enacted after
13 the enactment of the bill described in subsection (b) and first
14 applies to taxable years beginning after December 31, 1979,
15 shall have a termination date which shall be effective with
16 respect to taxable years beginning after December 31 of one
17 of the five years beginning with the first taxable year to which
18 such provision applies.

19 (e) Insofar as possible, termination dates shall be pre-
20 scribed under subsections (b), (c), and (d)—

21 (1) for all tax expenditure provisions so as to pro-
22 vide an even distribution of the work of reviewing tax
23 expenditure provisions during each year, and to take
24 into consideration the economic impact of this process;
25 and

1 (2) for each tax expenditure provision so as to
2 provide for a review of such provision during the same
3 period as the zero-base review under title II of programs
4 having similar objectives.

5 (f) The Committees on the Budget of the House of
6 Representatives and the Senate shall report to the Joint
7 Committee on Internal Revenue Taxation and to the House
8 of Representatives and the Senate on the relationship between
9 the purposes of tax expenditure provisions and those of re-
10 lated programs as both are identified by functional and sub-
11 functional categories, as soon as practicable, but not later
12 than February 1, 1977.

13 SEC. 503. It shall not be in order in either the House of
14 Representatives or the Senate to consider any bill or resolu-
15 tion (or amendment thereto)—

16 (1) which contains a tax expenditure provision
17 which does not comply with section 502 (c) or (d); or

18 (2) which continues any tax expenditure provision
19 (whether or not in a modified form) for any taxable
20 year beginning after the next review date for such pro-
21 vision, unless the report required under section 513 on
22 the zero-base review of such provision preceding such
23 review date has been submitted to the House of Repre-
24 sentatives or the Senate, as the case may be.

1 *PART 2—PROCEDURE FOR ZERO-BASE REVIEWS*

2 *SEC. 511. (a) On or before March 1 of the year pre-*
3 *ceding the year in which occurs the review date of a tax ex-*
4 *penditure provision, the Committee on Ways and Means and*
5 *the Committee on Finance shall adopt, and report to their*
6 *respective Houses, a tentative plan for the zero-base review*
7 *of such provision. On or before April 1 of such year, such*
8 *committees shall adopt, and report to their respective Houses,*
9 *a final plan for the zero-base review of such provision. The*
10 *plan for zero-base review of a tax expenditure provision shall*
11 *include—*

12 *(1) the priority which should be given to the zero-*
13 *base review of such provision, taking into consideration*
14 *the other tax expenditure provisions for which review*
15 *dates occur in the same year;*

16 *(2) the criteria and standards to be applied in the*
17 *zero-base review of such provision;*

18 *(3) the extent to which the elements specified in sec-*
19 *tion 512 shall apply in the zero-base review of such*
20 *provision;*

21 *(4) the information, analyses, and reports, if any,*
22 *to be requested under section 515 from the General*
23 *Accounting Office, Congressional Research Service,*
24 *Office of Technology Assessment, and the Congressional*

1 *Budget Office to assist the committee in the zero-base*
2 *review of such provision; and*

3 (5) *the scope and detail of the reports to be sub-*
4 *mitted under section 514(a) by the Department of the*
5 *Treasury and other departments and agencies which*
6 *administer programs having similar objectives, and of*
7 *other information and assistance to be requested under*
8 *section 514(b) from the Department of the Treasury,*
9 *such other departments and agencies, and any other*
10 *agencies to assist the committee in conducting the zero-*
11 *base review of such provision.*

12 *Either such committee may modify its final plan for the*
13 *zero-base review of such provision, and report such modifica-*
14 *tion to its House.*

15 (b) *Each such committee shall transmit a copy of the*
16 *tentative plan for the zero-base review of a tax expenditure*
17 *provision adopted by it under subsection (a) to the Depart-*
18 *ment of the Treasury, and to those departments or agencies*
19 *which administer programs having similar objectives, on the*
20 *same day on which such plan is submitted to its House.*

21 (c) *Either such committee may consolidate the zero-*
22 *base review plans of two or more tax expenditure provisions*
23 *into a single report, provided that such report clearly specifies*
24 *for each provision each of the matters required under sub-*
25 *section (a).*

1 *SEC. 512. Each zero-base review of a tax expenditure*
2 *provision shall, to the extent provided in the plan adopted*
3 *(or as modified) pursuant to section 511, include, but not*
4 *be limited to—*

5 (1) *an identification of the objectives intended for*
6 *the provision and the problem or need which the provision*
7 *was intended to address;*

8 (2) *an assessment of the degree to which the original*
9 *objectives of the provision have been achieved expressed*
10 *in terms of the accomplishments of the provision and of*
11 *the problem or need which it was intended to address.*
12 *Such assessment shall employ procedures or methods of*
13 *analysis which the committee determines to be appropriate*
14 *to the type or character of tax expenditure provision;*

15 (3) *a statement of the accomplishments of the provi-*
16 *sion in each of the last four completed fiscal years and*
17 *of the revenue losses incurred as a result of the provision;*

18 (4) *a statement of the number and types of persons*
19 *benefited by the provision;*

20 (5) *an assessment of the effect of the provision on*
21 *the national economy including competition, economic*
22 *stability, employment, productivity, and inflation;*

23 (6) *a review of the impact of the regulations, rules,*
24 *and forms (including questionnaires) issued to carry*
25 *out the provision; and*

1 (7) *an analysis of the accomplishments estimated*
2 *to be achieved if the provision were continued. Such*
3 *analysis shall include, but not be limited to, the following*
4 *revenue loss levels—*

5 (A) *The priority level of accomplishment which*
6 *shall be the level (i) below which it is not feasible*
7 *to continue the provision effectively, or (ii) 75 per*
8 *centum of the current revenue loss, whichever is*
9 *lower.*

10 (B) *If appropriate, an incremental accom-*
11 *plishment level which can be provided at a revenue*
12 *loss between the priority level and the current level*
13 *of revenue loss.*

14 (C) *If appropriate, an incremental accomplish-*
15 *ment level above the level considered under sub-*
16 *paragraph (B).*

17 *The information provided for each incremental revenue*
18 *loss level shall include (i) a projection of the accom-*
19 *plishments that would be provided and (ii) a statement*
20 *of the impact on the national economy.*

21 SEC. 513. (a) *The Committee on Ways and Means*
22 *and the Committee on Finance shall conduct a zero-base*
23 *review of each tax expenditure provision prior to the review*
24 *date specified for such provision, in accord with the plan*
25 *adopted pursuant to section 511.*

1 (b) *Each such committee shall submit a report of the re-*
2 *sults of each zero-base review conducted under subsection (a),*
3 *together with its recommendations, to the House of Repre-*
4 *sentatives or the Senate, as the case may be, on or before*
5 *May 15 of the year in which occurs the review date for such*
6 *provision. A committee may submit the results of the zero-*
7 *base reviews of two or more related tax expenditure provi-*
8 *sions in a single report.*

9 (c) *Whenever the Committee on Ways and Means or*
10 *the Committee on Finance recommends the continuation of*
11 *the tax expenditure provision under review (whether or not*
12 *in a modified form) or the enactment of a new tax expendi-*
13 *ture provision with similar objectives, the report accompa-*
14 *nying the first bill or resolution reported by such committee*
15 *which continues such provision or contains such new tax*
16 *expenditure provision shall include the report required by*
17 *subsection (b), or a summary thereof, and shall include but*
18 *not be limited to the following—*

19 (1) *an identification of the problem or the needs that*
20 *the tax expenditure provision is intended to address;*

21 (2) *a statement, to the extent practicable, in quanti-*
22 *tative and qualitative terms of the objectives of the*
23 *provision and its anticipated accomplishments;*

24 (3) *an identification of any other tax expenditure*

1 provisions or any other programs having similar, con-
2 flicting, or duplicate objectives;

3 (4) an assessment of the consequences of eliminating
4 the provision, of consolidating it with another tax ex-
5 penditure provision, or of reducing the revenue loss from
6 the provision (with specific reference to section 512(a)
7 (6) if included in the committee plan), taking into
8 consideration similar and duplicate tax expenditure pro-
9 visions and similar or duplicate programs in the public
10 or private sectors of the economy;

11 (5) an assessment of alternative methods of achiev-
12 ing the purposes of the provision;

13 (6) a justification for the continuation of the provi-
14 sion or for enactment of the new tax expenditure provi-
15 sion, as the case may be, and an explanation of the man-
16 ner in which it avoids duplication of or conflict with other
17 efforts; and

18 (7) a projection of the anticipated needs for and
19 accomplishments of the provision, including an estimate
20 of when, and the conditions under which, the provision
21 will have fulfilled the objectives for which it was
22 established.

23 SEC. 514. (a) On or before December 1 of the year
24 preceding the year in which occurs the review date for a
25 tax expenditure provision, the Department of the Treasury

1 shall submit a report on such provision to the Committee
2 on Ways and Means and the Committee on Finance, and the
3 departments or agencies which administer programs having
4 objectives similar to the objectives of such provision shall
5 submit a report on such programs to such committees. The
6 report to each such committee shall be in accord with its
7 zero-base review plan for such provision, and may be sub-
8 mitted to such committee after December 1 of such year if a
9 later date is specified in its zero-base review plan.

10 (b) To assist in the zero-base review process of a tax
11 expenditure provision, the Department of the Treasury, the
12 departments or agencies which administer programs having
13 objectives similar to the objectives of such provision, and any
14 other agency of the Government shall provide to the Com-
15 mittee on Ways and Means and the Committee on Finance
16 such information and assistance as may be requested pur-
17 suant to its zero-base review plan for such provision.

18 SEC. 515. (a) On or before October 1 of the year
19 preceding the year in which occurs the review date for a
20 tax expenditure provision, the Comptroller General shall
21 furnish to the Committee on Ways and Means and the Com-
22 mittee on Finance, the results of prior reviews of such tax
23 expenditure provision and the results of prior audits and
24 reviews of programs having similar objectives.

25 (b) At the request of the Committee on Ways and

1 *Means or the Committee on Finance pursuant to its zero-*
2 *base review plan for a tax expenditure provision, the Comp-*
3 *troller General shall furnish to such committee information,*
4 *analyses, and reports to assist it in carrying out its duties*
5 *under this title.*

6 (c) *Consistent with the discharge by the Congressional*
7 *Budget Office of its duties and functions under the Congres-*
8 *sional Budget Act of 1974, the Director of the Congressional*
9 *Budget Office shall, at the request of the Committee on Ways*
10 *and Means or the Committee on Finance pursuant to its*
11 *zero-base review plan for a tax expenditure provision, or upon*
12 *his own initiative, furnish to such committee information and*
13 *analyses to assist it in carrying out its duties under this title.*

14 (d) *Consistent with the discharge by the Office of Tech-*
15 *nology Assessment of its duties and functions under the*
16 *Technology Assessment Act of 1972, the Director of the Office*
17 *of Technology Assessment shall, at the request of the Com-*
18 *mittee on Ways and Means or the Committee on Finance*
19 *pursuant to its zero-base review plan for a tax expenditure*
20 *provision, furnish to such committee information, analyses,*
21 *and reports to assist it in carrying out its duties under this*
22 *title.*

23 (e) *At the request of the Committee on Ways and Means*
24 *or the Committee on Finance pursuant to its zero-base review*
25 *plan for a tax expenditure provision, the Director of the*

1 *Congressional Research Service shall furnish to such com-*
2 *mittee information, analyses, and reports to assist it in carry-*
3 *ing out its duties under this title.*

4 *TITLE VI—MISCELLANEOUS*

5 *SEC. 601. The Director of the Office of Management and*
6 *Budget shall conduct a study of the feasibility and advisabil-*
7 *ity of establishing a zero-base budgeting system for the de-*
8 *partments and agencies of the executive branch, and furnish-*
9 *ing zero-based budgeting information to the Congress. The*
10 *Director shall submit a report of the results of this study,*
11 *together with his recommendations, to the Congress not later*
12 *than December 31, 1977.*

13 *Sec. 602. (a) The Director of the Congressional*
14 *Budget Office shall conduct a study for the purposes of—*

15 *(1) assessing the relationship between (A) per-*
16 *sonnel ceilings on employees of the United States estab-*
17 *lished by law or administrative action, and (B) private*
18 *contracts for the performance of functions in carrying*
19 *out programs and activities;*

20 *(2) estimating the present and future impact on*
21 *overall costs to the United States resulting from imposing*
22 *such personnel ceilings and entering into such private*
23 *contracts; and*

24 *(3) evaluating alternative standards for determin-*
25 *ing appropriate personnel levels to carry out programs*

1 *and activities, and for determining whether functions*
2 *should be performed under private contracts in carrying*
3 *out programs and activities and the conditions and limi-*
4 *tations which should be included in such private contracts*
5 *with respect to services of personnel thereunder.*

6 *(b) In conducting the study under subsection (a) the*
7 *Director shall consult with the Comptroller General, the*
8 *Director of the Office of Management and Budget, the Chair-*
9 *man of the Civil Service Commission, and representatives*
10 *of organizations of employees of the United States.*

11 *(c) The Director shall submit a report of the results of*
12 *the study conducted under subsection (a) to the Senate and*
13 *the House of Representatives not later than July 1, 1977.*

14 *SEC. 603. (a) The head of each department, agency,*
15 *and establishment of the executive branch of the Govern-*
16 *ment and of each regulatory agency and commission of*
17 *the Government shall transmit to the Senate and the House*
18 *of Representatives a statement of each request for new budget*
19 *authority for a fiscal year, and a statement of estimated*
20 *outlays during a fiscal year, which that department, agency,*
21 *establishment, or regulatory agency or commission has sub-*
22 *mitted to the President or the Office of Management and*
23 *Budget.*

24 *(b) The statements required to be transmitted to the*
25 *Senate and the House of Representatives under subsection*

1 (a) shall be transmitted on the day after the day on which
2 the President transmits the budget to the Congress under
3 section 201 of the Budget and Accounting Act, 1921, for
4 the fiscal year.

5 (c) At the request of any committee of the Senate or
6 the House of Representatives, the head of any department,
7 agency, or establishment of the executive branch of the
8 Government or of any regulatory agency or commis-
9 sion of the Government shall furnish to such committee
10 such information as the committee may request with respect
11 to (1) requests submitted to the President or the Office of
12 Management and Budget for supplemental new budget au-
13 thority for a fiscal year and statements of supplemental pro-
14 posed outlays during a fiscal year and (2) requests for new
15 budget authority and statements of proposed outlays made to
16 the head of such department, agency, establishment, or regula-
17 tory agency or commission, or any officer or employee act-
18 ing for him, by any component of such department, agency,
19 establishment, or regulatory agency or commission.

20 SEC. 604. (a) Nothing in this Act shall require the
21 public disclosure of records which are specifically authorized
22 under criteria established by an Executive order to be kept
23 secret in the interest of national defense or foreign policy
24 and are in fact properly classified pursuant to such Executive
25 order, or which are otherwise specifically protected by law.

1 (b) *Nothing in this Act shall require the committees of*
2 *the Senate or House of Representatives to publicly disclose*
3 *records described in subsection (a) except as otherwise pro-*
4 *vided by the rules of the respective House.*

5 *SEC. 605. The provisions of this section and sections*
6 *103(a), 104, 105, 106, 203, 204, 205, 502, 503, 511, 512,*
7 *513, and 606 of this Act are enacted by the Congress—*

8 (1) *as an exercise of the rulemaking power of the*
9 *Senate and the House of Representatives, respectively,*
10 *and as such they shall be considered as part of the rules*
11 *of each House, respectively, or of that House to which*
12 *they specifically apply, and such rules shall supersede*
13 *other rules only to the extent that they are inconsistent*
14 *therewith; and*

15 (2) *with full recognition of the constitutional right*
16 *of either House to change such rules (so far as relating*
17 *to such House) at any time, in the same manner, and to*
18 *the same extent as in the case of any other rule of such*
19 *House.*

20 *SEC. 606. (a) The process of zero-base review of pro-*
21 *grams and tax expenditures provisions provided by titles I, II,*
22 *and V, and the rules of title I and V applicable with respect*
23 *thereto, shall be subject to review as provided in this section.*
24 *Except as hereafter provided by law or concurrent resolution*
25 *of the two Houses of Congress, only the first review of a*

1 program shall be conducted under titles I and II and only
2 the first review of a tax expenditure provision shall be con-
3 ducted under title V.

4 (b) The Committee on Government Operations of
5 the Senate and the committee of jurisdiction of the House
6 of Representatives shall conduct a study of the zero-
7 base reviews of programs under titles I and II and the zero-
8 base reviews of tax expenditure provisions under title V
9 conducted by the committees of their respective Houses,
10 and the application of the rules provided by titles
11 I and V with respect to such reviews. Such study
12 shall include, but not be limited to, the quality and the ef-
13 fectiveness of such reviews, the implementation of the recom-
14 mendations of such committees made in their reports on such
15 reviews, and the impact of the zero-base review process on
16 the Congress.

17 (c) On or before May 15, 1982, the Committee on
18 Government Operations of the Senate and the Committee
19 of jurisdiction of the House of Representatives shall submit
20 to their respective Houses a report of the results of the study
21 conducted under subsection (b) together with their recom-
22 mendations—

23 (1) as to whether the zero-base review of programs
24 under titles I and II and the zero-base review of tax
25 expenditure provisions under title V should be
26 continued; and

1 (2) if it is recommended that such reviews be con-
2 tinued, for any changes in the zero-base review process
3 and the rules applicable thereto which the committee con-
4 siders necessary or desirable.

5 (d) During the second session of the Ninety-seventh
6 Congress, the Congress shall complete action on a bill or
7 resolution which either—

8 (1) continues the zero-base review of programs
9 under titles I and II and the zero-base review of tax
10 expenditure provisions under title V, with any changes
11 in the provisions of such titles which may be neces-
12 sary or desirable;

13 (2) terminates the zero-base review of programs
14 under title II and the zero-base review of tax expenditure
15 provisions under title V, but continues limitations on
16 bills and resolutions described in sections 105 and 503
17 similar to the limitations provided by such sections; or

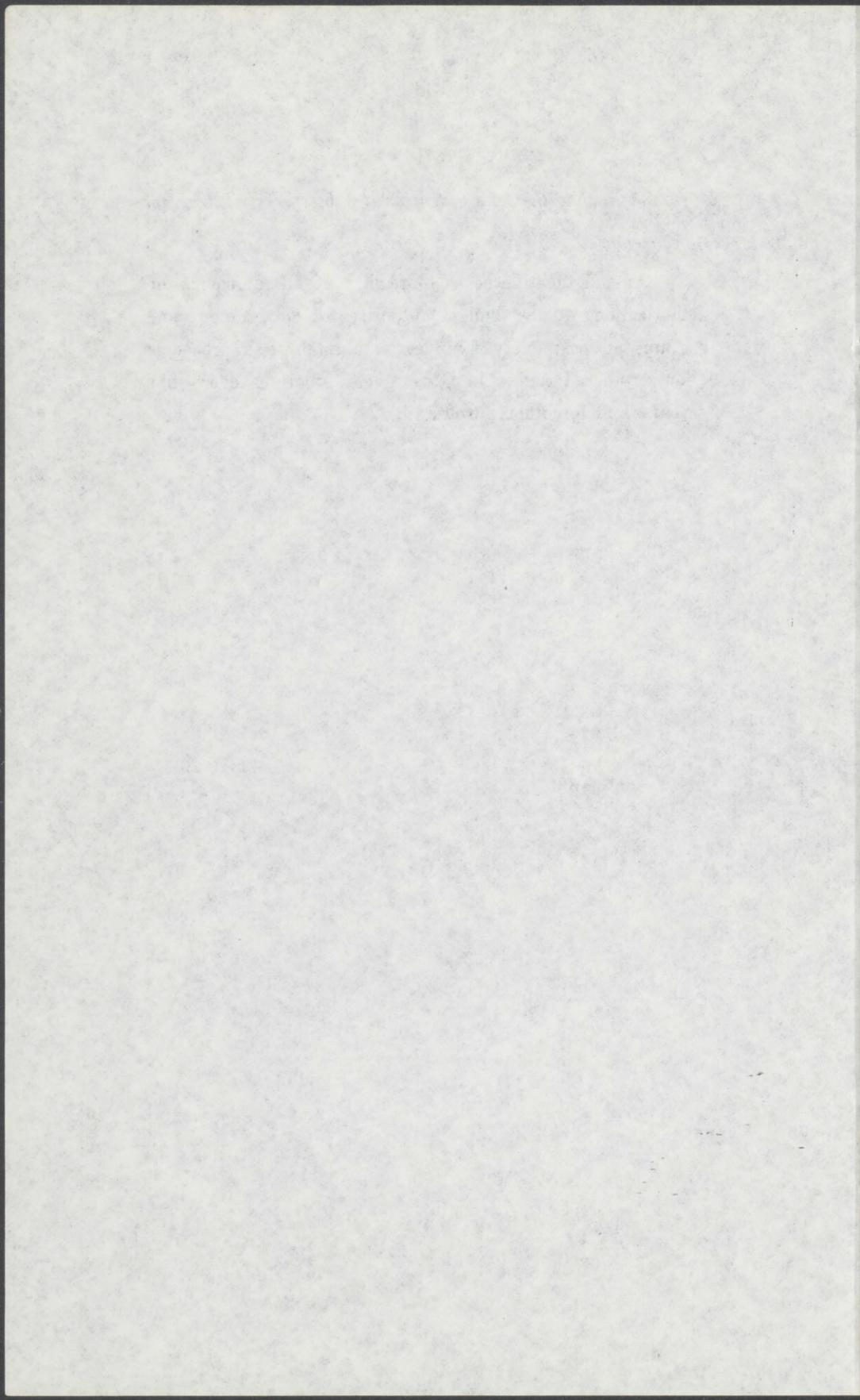
18 (3) terminates the provisions of titles I, II, and V.

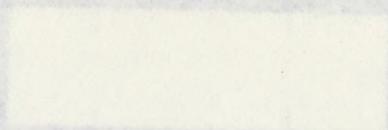
19 (e) Notwithstanding the provisions of subsection (a),
20 the provisions of sections 105 and 503 shall apply, subject
21 to action of the Congress under subsection (d), in the same

- 1 *manner and to the same extent as if subsection (a) had not*
- 2 *been enacted.*

Amend the title so as to read: "A bill to require authorizations of new budget authority for Government programs at least every five years, to establish a procedure for zero-based review of Government programs every five years, and for other purposes."









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