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SUNSET, SUNRISE, AND RELATED MEASURES

GOVERNMENT

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HEARINGS

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BEFORE THE

COMMITTEE ON RULES

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 8585

THE SUNSET REVIEW ACT OF 1979

NOVEMBER 29 AND DECEMBER 5, 1979

Part 2 of 2 parts

Printed for the use of the Committee on Rules



1025



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SUNSET, SUNRISE, AND RELATED MEASURES

THURSDAY, NOVEMBER 29, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, D.C.

The committee met, pursuant to notice, at 2:40 p.m., in room H-313, the Capitol, Hon. Richard Bolling (chairman of the committee) presiding.

Present: Representatives Bolling, Pepper, Long, Moakley, Dodd, Derrick, Beilenson, and Lott.

Also present: A. A. Sayers, staff director and William D. Crosby, Jr., minority counsel.

Mr. BOLLING. The committee will be in order.

This is a meeting of the full Committee on Rules to hear testimony with regard to the work on sunset and the Sunset Review Act of 1979 done by the subcommittee chaired by the distinguished gentleman from Louisiana, Mr. Long, and because of the chopped-up nature of the afternoon and our inability to start on time, to not inconvenience our witnesses, we are going to change the order of the witnesses and ask Ms. Althea T. L. Simmons, the director of the Washington Bureau of the National Association for the Advancement of Colored People, to be our first witness. We will be delighted to hear from you.

STATEMENT OF ALTHEA T. L. SIMMONS, DIRECTOR, WASHINGTON BUREAU, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Ms. SIMMONS. Thank you, Mr. Chairman and members of the committee.

I am Althea T. L. Simmons, director of the Washington Bureau of the NAACP and this afternoon the testimony I give will represent our 1,800 branches and youth units in the 50 States and the District of Columbia.

I appreciate this invitation to appear and to testify on the new proposed sunset legislation.

As you recall, I testified earlier before the subcommittee on behalf of the association on H.R. 2 and H.R. 65 urging the exemption of civil rights laws from this legislation. We said at that time that civil rights laws are always in the sunshine. We are very pleased to see that Chairman Long and other cosponsors have likewise recognized this problem, not only with respect to civil rights laws, but generally, and have provided that no legislation will be subjected to automatic termination by reason of congressional inaction.

We strongly support the noninclusion of the automatic termination provision in any sunset law the Congress decides to pass. As Congressman Long noted in his remarks at the time he introduced the bill, it would be possible under congressional procedures to kill a beneficial statute without ever bringing it to a vote if some of the previously suggested sunset reforms were adopted. And, as he also noted, a program that Congress wanted to continue could be ended by a minority of either House of Congress under a self-executing sunset provision if the President agreed with that minority and exercised his veto power on a bill extending existing law.

We therefore believe that, in order for Congress to maintain its proper legislative function, Congress should not surrender its discretion to determine what laws should or should not be repealed, and we agree that this Congress should not inhibit future Congresses in the full exercise of that legislative function. We strongly then support the noninclusion of an automatic termination provision in any sunset law that the Congress passes. But, Mr. Chairman, even with that improvement, we still continue to support an exemption for civil rights laws from a required 6-year review. When we consider that it is 25 years since the *Brown* decision and it is still far from full implementation, it is quite obvious that 6 years is too short a period to evaluate the effectiveness of civil rights laws or court decisions. We believe that civil rights statutes can be treated in the normal legislative processes and that whatever changes, and we hope they will be strengthening changes, that Congress deem necessary can be accomplished within those processes.

It is quite reassuring to me as I read the new draft of the bill that there is some concurrence in positions that the NAACP has taken previously; that tax expenditures should be subject to review. We also were delighted to note that the Citizens' Review Commission was stricken because we concur in the sponsor's judgment that such a commission is unnecessary.

The commission, we fear would add another layer of bureaucracy and could suggest reform or repeal of laws, not for appropriate reasons, but merely to justify the existence of the commission. We are willing to entrust the judgment of Congress, supported by informed public opinion.

Mr. Chairman, I must admit that the provision requiring cost effectiveness analysis in section 7(b)(4) could prove troublesome in the civil rights arena. The black experience in America of some 360 years of less than full equality has created a situation in which even the best of laws does not yield immediate full corrective action. We feel in this period of budget cutting, cost-consciousness and antiregulatory pressures that such an analysis could suggest elimination of programs that have not had a fair opportunity to demonstrate their true value, which is often measured in human rather than monetary benefits.

Although section 7(b)(5) takes these factors into consideration to a limited degree, we trust that the legislative history will make it clear to all persons that civil rights and other programs that benefit the poor and those in distress are not fair game for their opponents merely because some computer spouts forth an unfavorable cost-benefit ratio.

Because of the magnitude of the task that the bill seeks to address, we would urge again that it might be a good idea to have a pilot project focusing on a single agency or a limited number of agencies rather than a full review of every governmental program contemplated by H.R. 5858.

Although we do not profess to be experts on congressional procedures, we do feel that the procedures the bill would provide are well thought out and that they should establish a sound basis to meet the challenge that Congress would impose upon itself by adopting H.R. 5858.

In the course of our presentation, we have alluded to some changes we feel that would improve the bill and we trust that the committee would accept them in the spirit of constructive criticism, as they were intended, and adopt them.

But, whatever action the committee takes, unless it makes other drastic changes that we would consider adverse, H.R. 5858, in our opinion, will certainly emerge as a better bill than those that have been considered by the subcommittee when we appeared before it earlier this year. If, in fact, sunset legislation is necessary, I believe that the bill sponsored by Congressman Long and his colleagues appears to be the least likely to disrupt the continuity of civil rights progress made under the legislation passed in the last 15 years.

Again we would urge that civil rights legislation be exempted from the required 6-year review and that cost effectiveness analysis should not depend upon the precision of a computer printout and that you consider the possibility of adopting initially a pilot program.

We certainly thank you for the opportunity to appear before you today.

Mr. PEPPER [presiding]. Thank you very much, Ms. Simmons. Mr. Long.

Mr. LONG. Thank you, Mr. Chairman.

Ms. Simmons, my thanks to you for your excellent testimony.

As you remarked, we, in our redrafting of the legislation, picked up a number of the points that you had made in your prior testimony before the subcommittee and we are appreciative to you for that.

I would like to comment on two points of your statement today, if I may. One of them concerns the provision requiring cost effectiveness analysis and the fact that it could prove troublesome in the civil rights area.

I agree with that point. Sometimes when you attempt to evaluate those gains and quantify them in dollars, you have to look at them over periods of 10, 20, 30, or even 100 years rather than look for immediate or short-term gains.

Ms. SIMMONS. You say that better than I could say it, sir.

Mr. LONG. I think that as we build the history of this legislation your point will have to be taken into consideration.

The second point I would like to make is that you seem to imply that under H.R. 5858 all Federal programs and tax expenditures would have to be reviewed over a 6-year cycle; you suggest that we consider instead trying a pilot project.

While H.R. 5858 does require that a comprehensive inventory be developed and that committees be required to submit a 6-year plan, it does not require the Congress to review every program during that 6-year period. We leave the decision regarding whether a program should be reviewed to the discretion of the committee. We did not make reviews mandatory because we felt that flexibility was necessary. I believe that our selective approach would take care of the problem that you anticipated if review of all programs were made mandatory.

Just for the record, this is the way it would work: Every 2 years Congress would select a limited number of programs from the inventory for review.

The 6-year projection of reviews prepared by each committee is really an informational tool designed to assist the committees in planning their review agendas. It will permit those committees with partial jurisdiction, those dealing with a related tax expenditure, and committees in the other body dealing with the same program to coordinate their review activities. That way, we can look at a program in its totality and see how it works. That is why we put in the requirement that they prepare an agenda stating what programs they hope to look at. It is merely a guidance so that everyone is given advance notice as to what programs the many committees are considering for review. It will be up to each Congress, however, to decide which programs it actually will review. The committees will not be restricted to those that they had set forth in their 6-year projection. We did this because we felt that it was necessary for the Congress to be able to respond to the dictates of the times. In this fast-moving technological society in which we find ourselves, new problems come up that require changes in old programs on a priority basis. It is for that reason that we built in all of this flexibility.

I think that this formulation will resolve the two problems that concern you. And I assure you that the third one that you have raised—the requirement that the inventory of Federal programs include some estimation of a program's cost-effectiveness—will also receive serious consideration prior to the time we go into a markup session on this legislation.

Mr. PEPPER. Mr. Long, will you yield?

Mr. LONG. I will be happy to, Mr. Chairman.

Mr. PEPPER. I haven't studied your bill as I will, but I generally had the impression that this type of legislation was aimed to reexamine programs which involved a rather considerable expenditure like some program of this, that or the other, and the idea was to look back at it and see whether it was justified or not.

Does it require a review of all Federal legislation that has ever been enacted into law?

Mr. LONG. Mr. Chairman, it requires the creation of an inventory so that each committee will know all of the programs within its jurisdiction. At the present time many of the committees do not have a complete list of every program and every law over which they have jurisdiction. Our feeling is that before we do anything, we need to know the magnitude of Federal legislation.

How many programs are there? We don't know because no official list has ever been made. The General Accounting Office has

estimated, I think, that there are somewhere between 2,000 and 3,000 such programs.

However, the method that we have selected here, as distinguished from H.R. 2 and S. 2, would not require mandatory review of any of them. It would be for the individual committee to determine which ones need review and at what particular time. The reasons for this nonmandatory approach are, among others, the ones that I outlined to Ms. Simmons.

Mr. PEPPER. Mr. Moakley.

Mr. MOAKLEY. I have no questions, but I think just the point that the chairman of the subcommittee was talking about, the finding out what committees have jurisdiction over what programs, and there has been no official list, I think if nothing else comes out of the subcommittee, just a listing of the ongoing programs would be a great benefit to Members of the Congress.

Mr. PEPPER. No doubt, and there might be instances where a lot of useless laws on the books ought to be repealed.

Mr. Derrick.

Mr. DERRICK. Thank you, Mr. Chairman.

Ms. SIMMONS. I appreciate your coming back up here for the second time before this committee to testify. I thought your testimony was very informative then, as it has been today. Looking through your testimony, and this may seem like a rather strange question, but do you think we need this legislation? Honestly, do you think we really need it, or is this just something you want to try to avoid, if possible?

Ms. SIMMONS. I think if you get a listing of all of the legislation that is under the committee's jurisdiction, it would be very helpful. I think one of the reasons why I put something in my testimony that Mr. Long raised the question about was I wanted to be certain that there will be some time left over for the committee to consider new legislation and didn't want oversight to take all of the time.

I think that it could be helpful if it does not consume an inordinate amount of attention, but I do think that Congress has a right, once it enacts laws, to oversee them.

Mr. DERRICK. I understand that in the civil rights area there is a peculiar situation and, as you have succinctly pointed out that you are looking at it over a long period of time, but still you would not exempt that entirely from this legislation, would you?

Ms. SIMMONS. Yes, sir, if I were sitting where you were, I really would.

Mr. DERRICK. Well, how do we argue on tax expenditures? You want to put tax expenditures in there, and businessmen make the argument to me that they have to plan over 10, 15, 20, 25, 30, 50 years, and they make basically the same argument you do.

Ms. SIMMONS. I am not sure, as I said when I testified originally, how you quantify that difficult problem. For example, the 1968 housing law that still has no teeth in it, how do you quantify something like that? I think it would be very difficult.

When I testified before and since that time, I tried to figure that one out. I have come to no solution on how to quantify the effect of civil rights legislation and I just wonder whether or not there is a method of doing it where you really would not be taking civil rights laws and allowing them to fade into the sunset without them

having the requisite time—what the requisite time is, I don't know—to actually prove the effectiveness of the law. I am just not certain.

That is, I think, the major reason why civil rights laws ought to be exempted from it.

Mr. DERRICK. I thank you very much.

Mr. PEPPER. Mr. Beilenson.

Mr. BEILENSEN. No questions, Mr. Chairman.

Mr. LONG. Mr. Chairman, if I may, Ms. Simmons, our thanks again to you for coming.

Ms. Chisholm is handling a rule on the floor. The fact is, she is handling one I was supposed to handle. You know her deep interest in this subject and she asked me to voice that to you.

Thank you again.

Ms. SIMMONS. Thank you so much for asking me to come.

Mr. PEPPER. Thank you so much, Ms. Simmons. We appreciate it very much.

Our next witness is Mr. Staats and we will be delighted to have the Comptroller General of the United States, a very distinguished leader of our Government and very distinguished citizen.

Mr. Long would like me to say, Mr. Staats, since you have been good enough previously to appear before the subcommittee, we all appreciate your coming back again to testify before the full committee. Be glad to have you.

STATEMENT OF HON. ELMER STAATS, COMPTROLLER GENERAL OF THE UNITED STATES, ACCOMPANIED BY HARRY S. HAVENS, DIRECTOR, U.S. GENERAL ACCOUNTING OFFICE, PROGRAM ANALYSIS DIVISION

Mr. STAATS. Thank you very much, Mr. Chairman. We are very pleased to come back today to comment on H.R. 5858. We certainly believe this is a most important subject and I do have a brief statement which I can read very quickly, I believe.

On my right, I might add, is Mr. Havens, who is head of our Program Analysis Division. He and his staff have had a very close relationship with this committee during the development of H.R. 5858.

In the past few months we have considered and commented on many proposals for improving congressional and administrative decisionmaking and control processes, including sunset, sunrise, legislative veto, regulatory reform, grant reform, debt ceiling, multiple-year authorization and funding for research and development, and prevention of fraud and abuse.

In each of these presentations we focused on the particular reform being considered. But there are several common threads which have kept reappearing, and which underlie our views on this entire area. In summary, we believe that the Congress, the executive, and ultimately the Nation must strive to:

No. 1, think, debate, and act with a much longer time horizon in mind, recognizing that the full implications of policies will often not be felt for several years or even decades;

No. 2, focus more of its analysis, debate and actions on broad policy areas and groups of interrelated programs;

No. 3, make a greater effort to analyze the effects of policy changes before they are enacted, along the lines indicated in Senate Rule 29.5;

No. 4, be more specific and realistic when establishing goals and expectations for policies, programs, and administrative reforms;

No. 5, provide administrators the authority and resources needed to make the realization of such goals and expectations plausible, or revise them to fit the available resources or degree of authority granted;

No. 6, establish evaluation and reporting procedures which provide policy officials clear statements by the administrators on the performance of the programs and activities for which they are accountable; and

No. 7, take prompt action to make changes when needed.

In actual implementation of even the best designed decisionmaking and control processes, the key element is the commitment of the leaders and participants to the goals of the reform. New laws cannot create this commitment. New laws can only create mechanisms and procedures which will permit the commitment to be translated into action as efficiently and systematically as possible.

In the case of reforming the congressional oversight process, I believe this commitment exists, and that H.R. 5858, the proposed Sunset Review Act of 1979, would create the kind of mechanism and procedures necessary for this commitment to be translated into improved congressional oversight.

This bill represents, in our view, an improvement over earlier sunset bills. It is consistent with our ideas and we hope that it is acted upon favorably. We think the revisions made to the earlier bills as embodied in H.R. 5858 would reduce the possibility of overloading the oversight and legislative capabilities of the Congress. A most attractive feature of the new bill is its emphasis on review, rather than reauthorization and automatic program termination. In our view improved program review is a critical element of oversight reform. It will improve the information and analysis of programs which must be developed and reported to the Congress if it is to act responsibly on proposals to continue, modify, or terminate programs. Given H.R. 5858's emphasis on program review, it—when compared to earlier bills—is less likely to create unrealistic expectations as to what oversight reform can achieve, while it is more likely to result in the kind of selective, intensive oversight needed for making major policy and program improvements, which may involve occasional termination of programs.

As we have suggested on other occasions, most recently in testimony before the Subcommittee on Rules of the House, there are many ways for the Congress to achieve better oversight and accountability. To improve the effectiveness of the oversight process, however, the Congress will have to make more effective use of available opportunities and resources available to it and focus those resources on the policy issues which it must decide. These opportunities occur when the Congress enacts legislation, when agencies design programs and promulgate rules and regulations, and when information and analysis on program effectiveness is developed and reported to the Congress. Legislation along the lines

of H.R. 5858 could represent a major step toward accomplishing this objective.

We do appreciate the close working relationship, as I indicated at the outset, we have had with your committee concerning the development of this bill, and we would be pleased to continue assisting you in any way we can. We have a few minor suggestions which we will be happy to provide to your staff, but I don't think they are important enough to take the time of the committee to bring them up today.

Thank you very much.

Mr. BOLLING. Thank you very much, Mr. Staats. I apologize for not being here for the previous witness' full statement and for your full statement, but I was called to vote on the filling of two vacancies in the Judiciary Committee by the Steering Committee and we did not succeed in filling two vacancies. We only filled one.

But, in any event, that is the reason for my absence.

Mr. Pepper.

Mr. PEPPER. I have no questions except to observe, as the witness has said, I think this is very meritorious legislation. As I understand it, the bill does not make it mandatory for the respective committees to do a particular thing. The opportunity is created for examining and being informed about it and have an opportunity to determine whether the need to curtail or to modify exists.

Is that right, Mr. Long?

Mr. LONG. Yes.

Mr. PEPPER. I think there is a great tendency to build up a bureaucracy and build up legislative programs. This is an opportunity to look at our own work.

Mr. STAATS. I might add here, Congressman Pepper, that we have been working with the sunset proposals now for several years, since this bill idea first came before Congress.

We believe that this bill represents the most workable approach of any of the bills so far that have been developed. We think it is workable. We think it would achieve a great deal.

We have been concerned from the very beginning about the idea of automatic termination because we felt that this could create lots of fears. Also, having a termination date for programs does not necessarily mean that those programs will be reviewed. They can always say we will postpone that for another year or 2 years, or it may be that it will get a once over lightly type of review which really doesn't accomplish the purposes of the sunset idea at all.

Consequently, we believe H.R. 5858 represents a very practical approach to the whole problem.

Mr. PEPPER. I share your views about the automatic termination provisions that were in some other legislation.

Mr. STAATS. Another thing we like about this bill is its all-inclusiveness. We have felt that the sunset idea ought to cover all programs. Now, what is involved here is that H.R. 5858 calls upon each committee to make a judgment as to which programs should be reviewed.

For example, on tax expenditures, while it covers tax expenditures, the committee would still have the opportunity to decide case by case whether it wanted to review a given tax expenditure. We think it is particularly important to review tax expenditures

when your tax expenditure is for the same purpose as appropriated funds for a program and they ought to be looked at together. That is the main point.

Mr. PEPPER. Thank you, Mr. Staats.

Mr. BOLLING. Mr. Lott.

Mr. LOTT. Thank you, Mr. Chairman.

First I would like to say again to you that we appreciate the very fine job you do, Mr. Staats, at GAO. I think that you have a long record of doing an excellent job for the people of this country.

I would like to ask you just a couple of questions.

One, you do mention here that you have a few minor suggestions which you would like to provide. Are they truly minor? Could you give us a couple of examples?

Mr. STAATS. Mr. Havens has some comments on page 8 of the bill. [See p. 138.]

Mr. HAVENS. Yes. They are primarily language changes, Mr. Lott.

On page 8, for example, in the section dealing with the information which GAO shall maintain and publish as a supplement to the inventory, subsection (2)(d) there is language a bit more precise than we feel would be desirable. This might be interpreted as suggesting that we must do detailed cost effectiveness comparisons of all programs. We would prefer to see that language along the lines of "information which would facilitate comparisons of cost and effectiveness," because the state of the art simply doesn't permit the sort of universal cost effectiveness analysis that this subsection might imply.

Mr. STAATS. We will be doing some cost effectiveness studies and we will be supplying under the terms of the bill copies of cost effectiveness studies that we have made which bear upon a particular subject.

What we are concerned about here is the way the language reads would imply that we would have to make new ones on every single program in the entire Government.

It would really be well beyond our resources to do that.

What we are suggesting, I think, is in line with the intent of the bill. It is a matter of being sure that the language says what we intend.

Mr. LOTT. Is there another particular one you think you should mention?

Mr. HAVENS. There was a similar sort of language problem on page 21 of the bill, concerning the information to be reported by committees. Again that language appearing in line 10 on page 21, in paragraph 4 [see p. 151] suggests a greater degree of precision than we think would be realistic to expect.

Mr. STAATS. It is the same point, essentially.

Mr. LOTT. Doesn't GAO already have a Federal programs inventory?

Mr. HAVENS. We have the rudiments of one which has been developed on a basis to support the views and estimates process primarily, which was the original source of it, in connection with the Budget Act. That inventory is not yet complete; it is not yet universal in coverage, that is; and it does not in each case contain all the information that would be required to meet the objective.

Mr. LOTT. So the answer is you have made a partial one, but not a complete one and therefore you would need a year or so to develop a complete Federal inventory program?

Mr. HAVENS. Yes, sir.

Mr. STAATS. We are not opposed to that at all, but it is a question of finishing up the job that we have already started.

Mr. LOTT. If nothing else came out of all of this, I think a complete inventory would be something very nice to have around, just a list of all these programs.

You do say that in your view this legislation is workable. One thing that bothers me quite frankly—I will take these two questions together—is that it is not a time sunset approach.

I personally think you have to have some sort of automatic termination. Otherwise we are going to go through a massive process here involving the committees, the whole House, GAO, all of us, and we may get nothing in return, no results, no programs terminated.

They may not even be selected. A committee may decide we don't want to review any of these, and under the bill, as I understand it, they could make that decision.

Have you looked at this as far as it being workable?

There are questions of time frame restrictions, a lot of work and effort on the part of the Congress with no sure results.

Mr. STAATS. I appreciate what you are saying, but also it seems to me you have here in this proposal a built-in discipline to at least force each legislative committee to come up with a program of review, and it is a review and evaluation that we are really after.

We are not necessarily after the termination of a program. Threatening the termination of a program is only one way to force that kind of review, if I understand the idea of sunset.

My concern very frankly from the beginning is that if you are talking about automatic termination of programs like social security, and a lot of the other types of programs which can be enumerated, then the focus will be to say, well, let's postpone that a year, let's postpone that even if written in the statute, since you can always get the statute amended.

Or, it will be such a once over lightly type of evaluation that it really won't be too meaningful.

I like the concept that is built into this bill. I think the objective of a thorough review is more likely—this is a personal view now—to take place under this concept than if you just add a straight automatic termination of a program.

Mr. LOTT. Thank you, Mr. Chairman.

Mr. LONG. Mr. Chairman.

General Staats, first let me say how much we appreciate the cooperation of your office. You and your staff have been very helpful to us as the subcommittee has developed this legislation and we are appreciative to you. We would like to avail ourselves of the opportunity to call upon you for your further suggestions, and to ask you and your staff to bring to our attention any further suggestions you think worthy of our consideration. We would be appreciative and we would consider them very seriously.

The interrelationship between an automatic termination provision and tax expenditures is perhaps the focal point of the contro-

versy surrounding this piece of legislation. This is because many fear—and I share this view—that automatic termination coupled with the inclusion of tax expenditures could subject the business community and the whole economy to great uncertainty. There would be no certainty as which programs would continue and whether some programs might be terminated without any positive action being taken by the Congress itself. No one has yet been able to devise a method of automatic termination that would remove the possibility of a program expiring without a positive action by Congress or when that result was not intended. Unintentional cancellations of programs could occur as a result of the legislative veto, a minority filibuster in either House of Congress, or by the actions of a minority when time is running out at the end of the year.

It seems to me that Congress is giving away a great deal of its authority if it allows a minority to terminate programs that took a majority of the Congress to enact in the first instance, whether they be tax expenditures or direct spending programs.

That is the reason, again stressing the tax expenditure aspect and its relation to the long-range planning done by the business community, that we felt that it was necessary to remove the automatic termination mechanism. If we included an automatic termination mechanism we had to exempt so many programs—both direct spending and tax expenditures—that we ran into the very distinct possibility that we would exclude more than we included in the program.

I think your point that the two are tied together is well taken. If you have any further comments on that aspect, I think that would help the committee.

Mr. STAATS. Our position on it has been I guess consistent from the beginning, from the time we first testified on S. 2 before the Senate Governmental Affairs Committee.

We come back fundamentally to the point that there needs to be some discipline in the Congress to force reviews of programs and the question is how best can you get that discipline, and it was our view that automatic termination of many programs would not really yield that kind of review.

The attractive feature in this bill is that it requires each committee to come up with a program of review and evaluation and they don't get their money until they do that. Even if judged to be inadequate, then it can still be amended on the floor so that the Congress as a whole has an opportunity to amend what the committees themselves come up with.

I believe that the bill spells out the particulars in a very good way as to what is to be evaluated in a better fashion than earlier bills that we have seen on sunset.

The idea of allowing sufficient time from one session of Congress to the next session of Congress I think is another good feature in this bill. We believe that the role that our office would play is a practical role for us and, of course, it does contemplate calling upon the resources of the Congressional Budget Office and Congressional Research Service and the executive branch.

That latter, by the way, has been an important point with us from the beginning also in that we feel that as large an amount of

evaluation as that can and should take place by the agencies carrying out these programs. Congress has the right to have those evaluations. We can help the Congress critique those evaluations but there is a good deal of work going on in these executive agencies that doesn't get fed into the process that I think will be dealt with in this bill.

It doesn't in any way affect the normal authorization process of the legislative committees. That goes ahead just as it always has been. That is the reason I used the word "workable." I think this is a workable approach to sunset.

Mr. LONG. In that regard, one of the things we were interested in accomplishing was to set up a system that not only was workable, but workable in a way that did not interfere with the other processes of the legislative committees.

As all of us know, this institution is having difficulty completing everything it undertakes to do. That is one of the things we tried to be particularly careful about.

One other subject that raises concerns in the minds of a lot of people, and did particularly with respect to H.R. 2 and S. 2, was that another bureaucracy would be created on Capitol Hill. It is something that we too were worried about and that we put in the front of our minds as we developed this piece of legislation.

The original estimates as to the annual cost of H.R. 2 were somewhere between \$40 and \$60 million to insure that the provisions of the act were carried out on an annual basis.

We hope and believe that virtually the same can be accomplished with this piece of legislation as with the earlier versions without the hiring of any additional people and without the expenditure of substantial additional sums of money.

There would obviously be some increase in spending by the executive agencies and by your office to cover the costs of preparing the materials that will have to be submitted.

As you pointed out, however, you are already doing some of that now. What we are hoping to do through this legislation is to establish a comprehensive plan whereby everybody would work in the same way, and consider the same programs at the same time, so that we can see how they interrelate. The lack of such coordination is the cause of much of the problem we have today.

Do you have any idea at all as to how much less expensive this piece of legislation would be to administer than the \$60 million estimated for the earlier versions?

Mr. STAATS. I haven't personally focused on that. Members of my staff may have, but I certainly would agree with you that the cost of this would be far less than S. 2. For example, roughly half of the GAO's work today is in the nature of program evaluation. That has grown obviously since 1970 when the Legislative Reorganization Act was enacted that Chairman Bolling had such a large part in bringing about.

But all that information would be available to the legislative committees that have responsibility for evaluation under this legislation.

Mr. LONG. Do you feel that the setting up of a comprehensive system within the Congress would enable the Congress to make better use of the material that you are presently gathering?

Mr. STAATS. Yes, sir.

I testified before this committee just a few days ago saying that I didn't feel that Congress is using all the information that it had available to it today for oversight. I firmly believe that.

Mr. LONG. Thank you, Mr. Chairman.

Mr. BOLLING. Mr. Dodd.

Mr. DODD. No questions.

Mr. BOLLING. Mr. Derrick.

Mr. DERRICK. Thank you, Mr. Chairman.

General, we are delighted to have you back before this committee and thank you for taking the time. A few misguided souls have suggested to me that this legislation really will not accomplish a great deal; that all it will do is just add another layer of bureaucracy; that the committees are already reviewing our legislation; that there is no termination or there is nothing that would force them to do it to begin with or force them to terminate programs, and that really the end results will amount to nothing.

Would you mind addressing that and the argument that I hear so much that you can't have sunset or review without some termination date?

Mr. STAATS. As I have said, I don't think you have to have automatic termination to get enough discipline. I think what the process here does is to force some action and, as Chairman Bolling will recall, we had a lot of discussion about the need for more oversight going back to 1970 when the Congress enacted the Legislative Reorganization Act.

There is nothing that I know of, whether you have automatic termination or any other procedure, that is going to automatically result in the Congress doing more evaluation.

Mr. DERRICK. There is nothing that is going to make the Congress do what they don't want to do to begin with, right?

Mr. STAATS. That is right. What I do think we can do is to provide an orderly process which will force some discipline upon the Congress to at least bring before the whole body a plan for oversight.

I think that is what we are trying to accomplish here. You are not going to get all needed oversight in this way. Nobody would argue that is the only way you are going to get congressional oversight.

There are many ways that you can get oversight, but I do think, and I felt this way going back to the 1970 legislation, that unless there is some better process, the legislative committees are always going to be more interested in enacting new legislation or acting on reauthorizations of legislation as oversight is in some ways kind of a grubby job.

It is not the most pleasant thing that Congress does.

Mr. DERRICK. It is not very glamorous.

Mr. STAATS. It is not very glamorous, but it is an absolutely essential function of the Congress.

I have thought about this a great deal over the last 10 years, when we first testified before Chairman Bolling's committee, going back even before I became Comptroller General, testifying on this when I was in the executive branch, and my view on it hasn't

changed a bit since I have been in the legislative branch now nearly 14 years.

Mr. DERRICK. So what you are really saying is that what we are setting up is an oversight structure that will maybe not force but at least show the Congress the way to handle the oversight. Is that right?

Mr. STAATS. I think that is a process that perhaps legislative committees would welcome once they go through this once or twice, that they will find this can be a very useful way to go about determining whether a program should be continued or modified; can be expanded or can be contracted.

In other words, that is the focus as I see it that we are trying to bring in here.

Mr. DERRICK. Do you feel that we have dealt with the tax expenditure provisions in such a way that it would be reasonable to expect that business would be able to plan without feeling that they would be cut off arbitrarily at some later date on some of the programs that they rely on?

Mr. STAATS. I do. It doesn't force every legislative committee to look at tax expenditures either, but it authorizes that review. Where we would like the tax expenditure review to take place particularly would be where you have a tax expenditure which has the same objective as a program which involves appropriated funds, to look at them together.

It is a tax dollar, the same way whether you appropriate it from the Treasury or whether you just don't collect that tax. That is what we have been missing. We don't have any way today to relate tax expenditures to appropriated programs in any orderly way.

Mr. DERRICK. What is the amount of tax expenditures? About \$150 billion now?

Mr. STAATS. It depends on how you define it. The figure is at least \$100 billion.

It is over a hundred. I don't remember the exact figure.

Mr. DERRICK. And growing at a rapid rate over the last several years?

Mr. STAATS. Oh, yes, it has grown very rapidly.

Mr. DERRICK. I thank you for your excellent testimony for the time prior and this time. I suppose probably I feel that way because we agree with each other.

Mr. STAATS. I guess you might say oversight is our business on behalf of the Congress. That is our main business in GAO, oversight of executive branch operations, and we are delighted to work with you on anything that is going to improve that oversight role.

Mr. DERRICK. Thank you very much.

Mr. BOLLING. I think you have already made the point, Mr. Staats, that sometimes we even had material available perhaps from you that isn't used very effectively by the Congress today, at this moment. I think that is a valid situation and anything that will encourage us to use the material that is available would be a beneficial approach to the problem.

Mr. Beilenson.

Mr. BEILENSEN. I have no questions.

Mr. BOLLING. Thank you very much.

Our next witness is the distinguished gentleman from California, the Honorable Norman Y. Mineta.

We will be glad to hear you in whatever fashion you wish to proceed.

**STATEMENT OF HON. NORMAN Y. MINETA, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. MINETA. Mr. Chairman and members of the committee, I am pleased to be testifying before the full House Rules Committee on the subject of sunset legislation.

I am encouraged by the serious and close attention which has been given to the issue by Representative Gillis Long and the Subcommittee on the Legislative Process. Throughout this year, the subcommittee has held numerous briefings, hearings, and discussions on sunset and different ideas for improved congressional program review. This is obviously a subject that deserves a thorough and unbiased study.

As the sponsor of H.R. 2, one of the major bills under consideration, I would like to note that I am satisfied that both H.R. 2 and the issue in general have received that kind of examination.

The new bill developed by our colleague Representative Long and the subcommittee, H.R. 5858, is the product of their year-long effort and reflects the high caliber of their work. I have cosponsored H.R. 5858 as an expression of my support for Representative Long's efforts and my interest in developing program review legislation that is both workable and effective.

While this bill's aim is different from that of H.R. 2, the Sunset Act of 1979—improved oversight rather than systematic program review and reconsideration—I believe that the approach it takes is a useful one. The sunset review agenda procedure conforms with the current realities of Congress and offers strong incentives to encourage committees to undertake intensive program evaluation.

There are a number of features in H.R. 5858 which I endorse. These are: It makes no exemptions—all programs and tax expenditures are subject to review; tax expenditures as well as direct spending programs are included; and a detailed and informative program inventory is established.

In addition, H.R. 5858 responds to the workload concerns which many still had regarding H.R. 2. Rather than imposing an established schedule for program review, H.R. 5858 would give the committees a great deal of flexibility in allowing them to set their own review schedules.

This is acceptable as an initial approach to establishing regular program review. I have always believed that the workload under sunset legislation would not be more than committees could reasonably cope with and I hope that the approach of H.R. 5858 would serve to demonstrate what can be accomplished.

Despite my basic support for the approach to improved program review taken by H.R. 5858, however, I feel strongly that certain concepts embodied in H.R. 2 have additional advantages which the committee should consider. Specifically, I believe that some type of enforcement provisions are necessary to assure that the intended sunset review will in fact be accomplished. It is my hope, therefore,

that the committee will entertain—and approve—a number of amendments which I will present to you today.

As the committee members are too well aware, there are already many oversight requirements in existing law that have never been carried out in an orderly and comprehensive manner. This failure was acknowledged by the caucus early this year when it approved resolutions calling for enactment of sunset legislation and for stronger oversight procedures during the 96th Congress, and by the concerned efforts of the Subcommittee on the Legislative Process and its distinguished chairman, Mr. Long, over the past year to develop more effective oversight procedures.

The results of that work will go a long way toward encouraging more constructive program review.

Indirect incentive alone, however, in my view is not enough. As I have said many times during the debate on sunset and other program evaluation legislation, the 1970's have been a decade of declining confidence in Government. Many have hoped that the 96th Congress could be called the oversight Congress as a reflection of our dedication to examining the effectiveness of the Government programs that have proliferated so rapidly in the past 15 years.

It is important to underscore the commitment to serious oversight by adding some provisions to H.R. 5858 which will demonstrate our willingness to enforce the process we would be creating by this legislation. I feel that such enforcement provisions, if incorporated into H.R. 5858, would considerably strengthen the bill and are essential to its ultimate effectiveness.

I believe that the original sunset concept of expiring authorizations-automatic termination is a valuable, valid tool for enforcement.

It is the most direct approach, and I am not entirely convinced that alternatives will work. I believe that termination is the most comprehensive procedure. Nevertheless, there are other mechanisms, and I am willing to work with the committee in developing the one most suitable.

Some I would offer for the committee's consideration include a mechanism to freeze a program's funding level if it is not reviewed as scheduled, or points of order against the appropriations for an unreviewed agenda program or against a committee's other legislation if it failed to review its agenda items.

I believe the committee should consider, at a minimum, the following type of enforcement provision, drawn from the experience of the Budget Act:

First, to insure that the congressional committees will in fact report the legislation to continue, terminate, or modify programs or tax expenditures on the agenda, I propose that a point of order may lie against the appropriation for a program or tax expenditure, or its implementation, enforcement, or administration, if the authorizing committee fails to meet its reporting requirement.

Second, to make sure congressional consideration is given to the programs or tax expenditures on the sunset review agenda, I recommend that the Congress be prevented from adjourning until final action is taken on all legislation committees reports in accordance with the agenda for that Congress.

A final concern of mine is that, while H.R. 5858 persuades committees to coordinate their sunset review agendas with each other and to plan to review a broad scope of programs over time, the legislation does not go far enough to guarantee that all programs will be reviewed over a definite period of time, such as 10 years, or that similar programs will be evaluated simultaneously.

Certainly, one of the main goals of sunset legislation has been to eliminate the overlapping and duplication of Government programs in an effort to tighten the Federal belt and improve Government efficiency. To further these ends, I would suggest the following changes in H.R. 5858:

First, it would be useful to require committees, in reporting their proposed agenda, to take a look periodically at which programs on the inventory have been reviewed and which have been omitted from their agendas. Every fifth agenda report, therefore, should include a summary of those programs which have received oversight during the previous 10 years and an explanation of any omissions. This will better enable the full House and Senate to judge how well the committees are meeting their review responsibilities under this bill.

Second, to facilitate coordination and implementation of the sunset review process, it would be helpful for some unit of the House to be in a position to oversee the new system H.R. 5858 establishes. The Budget Committee, I believe, has been effective in this role with the Budget Act. Although not explicitly mandated to enforce the budget process, the Budget Committee over the past 5 years has furthered its goals through persuasion and debate and has raised the consciousness level of members about the budget implications of major new legislation.

Similarly, the Rules Committee could further the goals of the Sunset Review Act by monitoring implementation of the agenda and coordinating the agendas proposed by the different committees.

Under the bill, however, the committee would be precluded from playing such a role by the provision in section 5(b) which states the committee can make only such changes in the committees' agendas "as are necessary to assure the accuracy of the consolidated agenda." To permit the committee to better oversee and coordinate the process, a provision might be added to permit the committee to make "such changes as may be necessary or appropriate."

Mr. Chairman, the groundwork which the subcommittee has laid through its careful work on this legislation paves the way for improved oversight by Congress. I feel strongly that improvements are needed in the way in which Congress exercises control over Federal programs. In my view, H.R. 5858 represents a significant step toward that goal. With several modifications, the passage of H.R. 5858 could help the 96th Congress rightfully earn the designation of the "oversight Congress." More importantly, we will begin to regain greater control over Federal programs, thus making our role as legislators and public servants more effective.

I appreciate this opportunity, Mr. Chairman, to testify on behalf of this bill and would be pleased to respond to any inquiries.

Mr. BOLLING. Thank you very much, Mr. Mineta. We are grateful for your very real contribution to this hearing, and also to the

process all the way around. You are one of the innovative legislators who has come to this place, and we welcome your presence.

Mr. Pepper.

Mr. PEPPER. I have no questions, just a commendation to Mr. Mineta.

Mr. MINETA. Thank you.

Mr. BOLLING. Mr. Lott.

Mr. LOTT. You have a very fine statement here, and I see you are not ready to buy H.R. 5858 hook, line, and sinker.

In recommendation No. 1, you talk about points of order. What about the so-called uncontrollables that we face in our annual appropriations bills?

Mr. MINETA. As far as entitlement programs are concerned?

Mr. LOTT. Yes.

Mr. MINETA. Of course those are exempt under the Budget Act, so I am not sure we should be including them here. But I think there are other legislative pieces that are being considered to deal with those uncontrollables. As I recall, that portion is not dealt with in H.R. 2 either.

Mr. LOTT. In another area, you mention the committees coordinating their sunset agendas. How workable do you think that will be?

Mr. MINETA. I think it important that we have the ability to review similar programs at a single sitting, so to speak.

Whether or not the voluntary approach of the coordination would occur is the part I have reservations about.

Mr. LOTT. I doubt that it would. Would you not suggest there be some other group to see that it was coordinated?

Mr. MINETA. That is where I thought the Rules Committee might be the proper committee to consider that. I know there are a couple of things that raise eyebrows as to whether it would be the way to do it. H.R. 5858 provides us with the process, but we do not have any of the sanctions necessary to make sure that certain minimum things get done. I think that is the part of it we have to strengthen.

Mr. LOTT. I think you have some of the same questions I have. Without the sanctions, one has to wonder what will be accomplished. While we hope a lot more work will not be forced on the Rules Committee, the other committees, and the whole Congress, I just wonder how much more work will we heap on ourselves? We will just be taking the time of committees and members and not have any positive results? Is that what you are concerned about?

Mr. MINETA. That is the very point I am trying to address.

Mr. LOTT. Thank you, Mr. Chairman.

Mr. BOLLING. I am not really willing to say this, but it needs to be said. We have had sanctions by law in this country that have been honored in the breach, like prohibition. I think one of the things we have to keep in mind as we consider this subject is that for years and years the book of Rules of the House of Representatives had a process in it that nobody even knew existed. There was an omnibus appropriation approach and also a budget bill approach. It stayed in there for years and years and years after 1946 and we finally took it out in the Reorganization Act of 1970, and in 1 year it was attempted to honor it; 2 years? Well I only saw one; I

think it was in the early 1950's. I guess there was an extra one before I got here, but it must have been in 1946, 1947, or 1948. The book was full of language not implemented. So you have to get not only a rule that is accepted when passed, but you also have to have a willing implementation of it, and that is, I think, the real dilemma we face with sanctions. They turn out to be emptier.

Mr. LOTT. Does a sanction not make you more willing?

Mr. BOLLING. Not always. I just gave one illustration which I thought was fascinating. It lasted almost 25 years.

Mr. Long.

Mr. LONG. Thank you, Mr. Chairman.

Norman, I would like to personally express my appreciation to you for your support as we work through this process, trying to accomplish something politically acceptable that also would not unduly burden legislative institutions. We are greatly concerned that if we put a forcing mechanism, into the legislation, we run the risk of having it honored in the breach. It's like the old maxim of being able to lead a horse to water but not being able to make him drink.

Some of the worst legislation enacted by this body—and re-enacted sometimes—occurs when we run to the floor 2 weeks before the close of the session and say, "Good God, if we don't do something the program will expire." That might well happen and it would not accomplish the principal thing that we want done: A review of the particular legislation in relation to all other legislation in that particular program activity.

We were not able to work out anything that appeared to us to be able to resolve that very real problem.

I think the forcing mechanisms that you have discussed here, which do not go as far as automatic termination, are worthy of consideration.

I would appreciate it if you would develop the two of those you think would work the best and submit them to us. We would like to take a look at them. As to automatic termination, I am greatly concerned. I think the business community would have a very difficult time if tax expenditures were included in legislation that included an automatic termination provision. It would make it very difficult for them to do their long-range planning if they are faced with the possibility of automatic termination.

Perhaps something can be worked out to resolve that problem, but we have not come up with anything that in my own mind can accomplish that.

It seems to me that there is a great danger if we do not include expenditures in this legislation and that danger is over the long term. If we do not include them, we as a political body know what will happen: more and more programs will move toward tax expenditures and away from direct appropriation-type financing. Already, 50 and 60 percent of the budget is not reviewable as you well know. You and Mr. Derrick, having served on the Budget Committee, know more about this than I. But if we accelerate the movement toward tax expenditure financing we will lose control over those things that we still have control of, and lose the ability to control the spending of the Federal Government. I think this poses a very great danger to the institution of democratic govern-

ment. How could we keep that from happening if we do include both an automatic termination provision and tax expenditure, coverage or, as is more likely, if we exclude tax expenditures because of the inclusion of automatic termination?

Mr. MINETA. I think that issue, because of the work schedule in, I guess you might call it, H.R. 2, becomes more of a self-enforced mechanism than under H.R. 5858.

Just going back in terms of my own background in insurance, we used to use the phrase "Plan your work and work your plan." Under H.R. 5858, I find that there is not that definite schedule, so we do have to work out some kind of enforcing mechanism. Maybe automatic termination is not the way to do it, as you and others have suggested, but it just seems to me without that kind of an overhanging threat, then we will not have the ability to get that work schedule that requires a review of all these programs.

But I would be more than happy to explore these various kinds of approaches both on a schedule and enforcement mechanism.

Mr. LONG. Thank you. You have made an important contribution today, as you have many times in the past.

Thank you, Mr. Chairman.

Mr. MINETA. Thank you.

Mr. BOLLING. Mr. Derrick.

Mr. DERRICK. Thank you, Mr. Chairman.

Norman, before I start, I want to say also, I think you are great, too.

Mr. MINETA. But here it comes.

Mr. DERRICK. I thank you for your testimony.

Your suggestion as to requiring committees to take a periodic look at the program and going through to see what has not been reviewed, I think is a particularly worthwhile suggestion, and something I will take a good look at.

I just think we have some differences on this matter of the termination. As you know in H.R. 65, I did not have your automatic terminations, and we do not have it in H.R. 5858. Aside from the practical matter of getting sunset legislation through the House, which I think would be very difficult with a termination in the case of the business community and others, but particularly the business community on the tax expenditures, I think it would be disruptive of the process to the point it would be ignored and you would end up with, in effect, nothing.

I believe, obviously, that H.R. 5858 is the way we can get good, effective oversight to set up a structure for it, but still at the same time not be so disruptive of the system that we get nothing, assuming we could get S. 2 passed, which I have doubts about.

But nonetheless I thank you for your cosponsorship, and I expect somewhere between the two extremes we will have a meeting of the minds.

Mr. BOLLING. Mr. Beilenson.

Mr. BEILSON. I think your testimony was excellent, too. The suggestions you made should be seriously thought about and incorporated in the legislation.

As someone who disagrees with you on forceful termination, I think we can have useful mechanisms which do not go quite that far, but I think you have made useful suggestions.

Mr. BOLLING. Thank you.

We will now hear from the first scheduled witnesses, the chairman of the subcommittee and his principal cosponsor, Mr. Long and Mr. Derrick. Are you going to sit together or sit there and look at each other?

Incidentally, the statement will be included in the record in full.

Mr. LONG. That is what I was going to suggest.

Mr. BOLLING. Without objection, so ordered. It seems to be a unanimous view.

STATEMENT OF HON. GILLIS W. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. LONG. I would, though, encourage the members of the committee to read the full statement, Mr. Chairman, because we have done a great deal of work trying to outline the program as clearly as possible. I am especially pleased to be here today and bring before you this product of long and serious study on our part. The Subcommittee on the Legislative Process, which you established and gave me the honor of chairing, has spent nearly a year in development of ways to improve congressional oversight. We have been deliberate. We have been cautious. But most of all, we have been determined—determined that our end product meet the high standards we set for ourselves. Our goals were multiple—to encourage review of Federal programs; to enhance budget control; to improve oversight of regulatory practices; and to accomplish these aims while preserving the integrity of the legislative process. I think we have succeeded.

H.R. 5858 combines the most favorable qualities of sunset and sunrise proposals. Its ability to gain significant cosponsorship in a relatively short period of time reflects its wide appeal to the various elements of the House. At a time when citizens are questioning Government performance, this is a sensible response to public concerns.

Each time I return to my district, I am told about a Government program or regulation that is not working the way it should. While most Government programs work well, it is the failing ones that capture public attention. My reading of public sentiment is that the outcry is not as much against big government as it is against inefficient government. Citizens are willing to pay taxes if they feel that their dollars are being well spent.

Despite the often repeated cry for less government, America still turns to Congress to seek solution of our most pressing problems. In the area of health care, protection of the environment, and the development of new energy resources, to name a few, a Government role is continually sought. Over the past few decades, we have asked Government to take on many new responsibilities. Our difficulties in getting Federal programs to operate at top efficiency represent the growing pains of government. We now need to match that growth with a major effort to make corresponding gains in government efficiency and productivity. As we enter an era of limited budgets, the need to closely monitor how tax dollars are spent becomes critical.

Oversight by standing committees is the traditional way Congress monitors programs once enacted. Sensing the public mood,

some predicted that this 96th Congress, as Mr. Mineta mentioned, would be known as the "Oversight Congress." Our oversight activities have been on the rise. Many committees now diligently monitor Government programs through the use of hearings, reports, and investigations. But there is little doubt in my mind that we can do better than we have in the past. Recognizing that there is room for improvement, proposals such as sunset and sunrise have been put forth. They are intended to upgrade Congress oversight practices. It needs to be made clear that these proposals would go beyond a mere enlargement or multiplication of current oversight efforts. It is not a lack of oversight that sparked these ideas alone. Rather, it was the view that we need to include coordinated, periodic review as a regular part of the legislative process. This is the point that General Staats addressed.

Let me emphasize the need for review to be coordinated as well as periodic. A major problem in conducting oversight is that often the right hand doesn't know what the left is doing. A program in one committee may bear directly on a program or tax expenditure in another committee. For a single policy area, such as health or energy, programs will fall into the jurisdictions of a number of House and Senate committees. Committees in both Houses need to coordinate their reviews if we are going to be able to take in the whole picture. Just as the enactment of the Congressional Budget Act was aimed at better integrating Congress taxing and spending decisions, this legislation is intended to better organize and coordinate Congress oversight activities.

Our subcommittee has held eight hearings to date, receiving the testimony of over 60 witnesses. Those submitting testimony include Members of Congress, representatives of the administration, program and regulatory agencies, public interest groups, labor, and business. Testimony was heard from academic witnesses on Congress and fiscal policy, and from officeholders in States that have enacted sunset legislation.

We also held a field hearing in Columbia, S.C. Witnesses at that hearing gave firsthand accounts of their experiences with Government programs and regulations. Their vivid testimony underscored the need for improved oversight by Congress. Once again, I compliment our colleague from South Carolina, Butler Derrick, for his diligent work in arranging and chairing that hearing, as well as for his diligent and very hard work in pulling this legislation together.

The more the subcommittee delved into this subject, the more we became convinced that these far-reaching proposals cannot be judged solely on their face. It is of paramount importance that we assess how these proposals would mesh with the current authorization, appropriation, and budget processes. The present balance between these processes is a precarious one. I think we have seen that more this year than in the past. The rigorous timetable imposed by the Congressional Budget Act, combined with the need for this Congress to enact major legislation in many key policy areas, has placed heavy demands on the schedules of both committees and the floor. Any additional requirements imposed by new oversight legislation has to work with and not against these institutional procedures.

Above all, oversight legislation must be able to match its promise with performance. It must work in practice, not just on paper. We feel this legislation does do that and we want to submit this for the consideration of the Rules Committee.

[Mr. Long's prepared statement follows:]

PREPARED STATEMENT OF HON. GILLIS W. LONG, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF LOUISIANA

Mr. Chairman and members of the committee, it is not often that I take the opportunity to address the Committee from this side of the witness table. I am especially pleased to do so today because I bring before you the product of long and serious study. The Subcommittee on the Legislative Process, which you established and gave me the honor of chairing, has spent nearly a year in development of ways to improve Congressional oversight. We have been deliberate. We have been cautious. But most of all, we have been determined—determined that our end product meet the high standards we set for ourselves. Our goals were multiple—to encourage review of Federal programs; to enhance budget control; to improve oversight of regulatory practices; and to accomplish these aims while preserving the integrity of the legislative process. I think we have succeeded.

Earlier this month I introduced H.R. 5858, the Sunset Review Act of 1979. The bill is co-authored by our colleague on the Subcommittee, Butler Derrick. As the author of H.R. 65, he has brought special expertise and sound counsel to our collaboration on this bill. We have forged a strong partnership in this effort.

I have also greatly benefited from the advice of members who have long been interested in the problems of oversight. Our colleague on the Committee, John Anderson, has devoted a great deal of study to the issues of oversight and regulatory reform. His concerns about excessive regulation, expressed in his authorship of H.R. 2364, the Regulatory Reform Act of 1979, have influenced our new approach. Representatives Blanchard, Mineta, and Gephardt, the original sponsors of H.R. 2, the Sunset Act of 1979, provided valuable guidance and encouragement throughout our deliberations. I am also grateful for the counsel of all Members of the Rules Committee, with special thanks going to our colleague Trent Lott, the ranking minority Member of our Subcommittee. Their participation in Subcommittee hearings and briefings was enlightening for all involved.

H.R. 5858 combines the favorable qualities of sunset and sunrise proposals. Its ability to gain significant cosponsorship in a short period of time reflects its wide appeal to all elements of the House. At a time when citizens are questioning government performance, this is a sensible response to public concerns.

Each time I return to my district, I am told about a government program or regulation that is not working the way it should. While most government programs work well, it is the failing ones that capture public attention. My reading of public sentiment is that the outcry is not as much against big government as it is against inefficient government. Citizens are willing to pay taxes if they feel that their dollars are being well spent.

Despite the often repeated cry for less government, America still turns to Congress to seek solution of our most pressing problems. In the area of health care, protection of the environment, and the development of new energy resources, to name a few, a government role is still sought. Over the past few decades, we have asked government to take on many new responsibilities. Our difficulties in getting Federal programs to operate at top efficiency represent the "growing pains" of government. We now need to match that growth with a major effort to make corresponding gains in government efficiency and productivity. As we enter an era of limited budgets, the need to closely monitor how tax dollars are spent becomes crucial.

Oversight by standing committees in the traditional way Congress monitors programs once enacted. Sensing the public mood, some predicted that this 96th Congress would be known as the "Oversight Congress." Our oversight activities have been on the rise. Many committees now diligently monitor government programs through the use of hearings, reports, and investigations. But there is little doubt in my mind that we can do better. Recognizing that there is room for improvement, proposals such as sunset and sunrise have been put forth. They are intended to upgrade Congress' oversight practices. It needs to be made clear that these proposals would go beyond a mere enlargement or multiplication of current oversight efforts. It is not a lack of oversight that sparked these ideas alone. Rather, it was the view that we need to include coordinated, periodic review as a regular part of the legislative process.

Let me emphasize the need for review to be coordinated as well as periodic. A major problem in conducting oversight is that often "the right hand doesn't know what the left is doing." A program in one committee may bear directly on a program or tax expenditure in another committee. For a single policy area, such as health or energy, programs will fall into the jurisdictions of a number of House and Senate committees. Committees in both Houses need to coordinate their reviews if we are going to be able to take in "the whole picture." Just as the enactment of the Congressional Budget Act was aimed at better integrating Congress' taxing and spending decisions, this legislation is intended to better organize and coordinate Congress' oversight activities.

To understand the evolution of ideas that led to H.R. 5858, it is useful to look back at the starting point of the Subcommittee on the Legislative Process. The Subcommittee was charged with the study of several proposals referred to the Committee on Rules. These included H.R. 2, H.R. 65, and joint referral of H.R. 2364 with the Subcommittee on Rules of the House, chaired by our colleague, Joe Moakley.

The Subcommittee's work builds on the efforts of its predecessor in the 95th Congress, the Subcommittee on Rules and Organization of the House. While committees of the Senate have devoted several years of study to S. 2, the companion measure to H.R. 2, the efforts of our Subcommittee represents the first in-depth study of these measures in the House of Representatives. It also represents the first time in either house that both sunset and sunrise approaches were considered in a comparative context.

Our Subcommittee has held eight hearings to date, receiving the testimony of over sixty witnesses. Those submitting testimony include Members of Congress, representatives of the Administration, program and regulatory agencies, public interest groups, labor, and business. Testimony was heard from academic witnesses on Congress and fiscal policy, and from office-holders in states that have enacted sunset legislation.

We also held a field hearing in Columbia, South Carolina. Witnesses at that hearing gave first-hand accounts of their experiences with government programs and regulations. Their vivid testimony underscored the need for improved oversight by Congress. Once again, I compliment our colleague from South Carolina, Butler Derrick, for his diligent work in arranging and chairing that hearing.

We circulated an extensive questionnaire to committees, soliciting their views on the impact this legislation would have on their work. We have since sent a follow-up letter seeking committee views on our new proposal. All told, it has been a most intensive effort.

The more the Subcommittee delved into this subject, the more we became convinced that these far-reaching proposals cannot be judged solely on their face. It is of paramount importance that we assess how these proposals would mesh with the current authorization, appropriation, and budget processes.

The present balance between these processes is a precarious one. The rigorous timetable imposed by the Congressional Budget Act, combined with the need for this Congress to enact major legislation in many key policy areas, has placed heavy demands on the schedules of both committees and the floor. Any additional requirements imposed by new oversight legislation has to work with and not against these institutional procedures.

Above all, oversight legislation must be able to match its promise with performance. It must work in practice, not just on paper. Both "sunset" and "sunrise" proposals hold great promise, but there are troubling aspects as well.

First, we are concerned about the exemption of major areas of spending in some proposals. A primary goal of review legislation is to enhance Congressional control over the budget. Exempting major direct spending programs from review weakens that control. Treating tax expenditures differently from spending also lessens control. I am concerned that exemption of one category of spending will lead to a move to classify all new programs into that category as a means to escape review.

Second, we are worried about the problems arising from "sudden-death" automatic termination procedures. The notion that an established program or tax expenditure could end without a vote of the Congress has justifiably alarmed many.

Civil rights groups worry about the protection of constitutional rights. Business worries about abrupt changes in tax laws that could create economic instability. Pensioners worry that programs for which they paid into for years will be ended. Each group can make a legitimate case for exemption from automatic termination. The end result, as I outlined earlier, is a list of exemptions that rival the inclusions. The essence of the sunset principle is that Congress reexamine programs, and if they no longer justify continuation, terminate them. Automatic termination is not

the only or the best way to encourage this review. To the contrary, under automatic termination, programs or tax expenditures could be ended by filibuster, delay, or threat of Presidential veto. Programs enacted by Congress could end without a vote, much less without a review.

What exactly does happen if a program authorization is ended by automatic termination? Does the substantive law that established the agency and its powers also end? Does the agency lose the authority to enforce regulations? An ominous example of what might occur was suggested by Roberta S. Karmel, a Securities and Exchange Commissioner, in testimony before the Subcommittee:

"A person cannot go into business as a securities broker-dealer without registering with the Commission . . . companies cannot raise capital from the public before a registration statement has been filed . . ."

"They would be required to comply with the laws without the benefit of rules and regulations implementing and interpreting them."

The end result is not a neat and clean termination, but a prolonged state of limbo. This is the worst of all possible worlds—one that leaves the agency, the public, and the Congress in doubt. Under such a climate, business cannot make investment decisions. Government cannot plan for the disposition and reassignment of the "terminated" agency's responsibilities. We thus came to the conclusion that there had to be a better way to encourage review than through threat of automatic termination.

Third, we are troubled by forcing an inflexible review schedule on committees and future Congresses. Attempting to schedule every program for review, even over ten years, is a Herculean task. Committees need flexibility if they are going to successfully coordinate reviews. An inflexible schedule, set long in advance, cannot forecast what the pressing issues of each Congress will be. Each Congress must be able to set its own priorities for review.

Finally, we are very aware that placing unrealistic sanctions or demands on committees may result in pro-forma compliance with the requirements. The surest path for improved oversight is to create incentives for committees to incorporate review into their regular legislative activities. It is unrealistic for requirements to go beyond the resources and responsibilities of committees. We in the Rules Committee must be especially cognizant of this. For it is before our committee that every chairman will turn to seek waivers of ill-conceived requirements. Committees must be willing to conduct the reviews or they won't be done.

Given these concerns, we went to work at framing legislation that would achieve the goals of "sunset" and "sunrise" while ironing out some of these problems. H.R. 5858 is truly a "combination" approach. From H.R. 2, we adopted the idea of an oversight agenda, and the role given committees in setting review priorities. From H.R. 65, we included the establishment of performance measures. From H.R. 2364, we have included provisions for regulatory analysis. The program inventory of H.R. 5858 is a feature common to both "sunset" and "sunrise." I think we have developed a framework in this bill that all can support. This bill is not just good theory, it is meant to work in practice. Let me outline the basic features of our proposal.

The process works on a Congress-by-Congress basis. It begins with the development and adoption of "committee review agendas" by legislative committees. These agendas, which must be prepared by March 1st of the first session of each Congress, will include those programs and tax expenditures that each committee intends to review that Congress. The committee's primary funding resolution will not be in order until it has reported its agenda. The agendas are then assembled by the Committee on Rules in the House and the Committee on Rules and Administration in the Senate into a "consolidated review agenda." This role of the Rules Committee is strictly administrative and limited to the assembling of the agendas into a single, concurrent resolution. Floor procedures designed to expedite consideration of the consolidated agenda are spelled out in our proposal.

The consolidated review agenda contains a separate directive to each committee of the House and Senate. The directive instructs committees to review items listed on their agenda and to report, by May 15 of the second session, legislation modifying, continuing, or terminating the items reviewed. After the expiration of a two-Congress "learning-period," amendments may be offered on the floor to add an item to the agenda, provided that the committee had not previously conducted a review of that item during the last three Congresses. This restriction protects committees from having to repeat reviews already conducted. The "learning-period" provides committees with ample time to familiarize themselves with the procedures. Amendments that would delete items from the consolidated agenda would be in order from the start of the process. Deadlines under our proposal are integrated with those in the Budget Act.

An essential tool for the review process will be the compilation of the first complete inventory of Federal programs and tax expenditures. The inventory will arrange programs and tax expenditures by committee jurisdiction. It will provide the "common language" for House and Senate Committees by assigning each program and tax expenditure an official name and unique identification number. Cross-references will be provided for committees sharing jurisdiction, and between programs and related tax expenditures. Let me make clear that the inventory will not change or assign committee jurisdictions. Each committee will review the draft inventory to insure that it correctly reflects their jurisdiction.

The program inventory is a key component of this process. In combination with the agenda, it will facilitate the coordinated review of programs and tax expenditures. It will provide a ready comparison between a committee's jurisdiction and items selected for review. In this way the Congress and the public can track the review records of committees.

H.R. 5858 effectively links the review priorities of committees to the reporting of legislation during the same Congress. The tying of review to legislative action provides the major incentive for committees to conduct a serious review. By allowing committees to focus on priority items, the reviews are more likely to be of greater depth and detail. Committees will not become bogged down with having to conduct reviews of every single program at the expense of giving the crucial ones serious attention.

Committees will be on notice that their performance will be subject to judgment by the full Congress. This occurs twice in each Congress—when committees submit their agendas for approval in the first session, and when they are directed to report legislation based on their review in the second session.

Most important, no program or tax expenditure will terminate automatically. Committees will have the opportunity to conduct a thorough review, and the Congress will have the opportunity to vote on committee recommendations. This feature allows us to include all programs and tax expenditures without exception.

Our approach is simple in design, building on current Congressional procedures and the committee system. We have given committees the major role in governing the review process, for that is where the work has to be done. We have given Congress the major role in determining the status of program and tax expenditures, for they were originally enacted into law by Congress. It is a sensible approach to sunset—one that grafts the principle of sunset review onto a workable and realistic procedure.

Throughout our deliberations, our major concerns have been two-fold. First, that whatever process we develop for improving oversight work with, and not against, current Congressional procedures; and second, that the reviews to be conducted have a high likelihood of being meaningful reviews. I believe the approach we have developed in H.R. 5858 meets both those concerns.

Thank you.

Mr. BOLLING. You did the kind of job I expected of you in the first place, and I am delighted and hopeful that we will actually be able to proceed with this legislation.

I think the only question which remains in my mind is the question of whether the charge, which I think is ill founded, that this would create another layer in the process, which is already perhaps too cumbersome for other reasons. My own judgment at this stage of the game is that it really is not another layer, but represents a refinement of pulling together a rather complicated method by which each committee does or does not do its oversight. I think this would be a regularization process rather than an additional layer process.

So I congratulate you and all the members of your subcommittee for a very excellent job. Mr. Derrick, that goes for you, too.

STATEMENT OF HON. BUTLER DERRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. DERRICK. Thank you, Mr. Chairman, I am delighted to be included in those remarks.

Mr. BOLLING. Proceed.

Mr. DERRICK. I think if the committee keeps going at the rate we are going, Mr. Long, we will get this bill passed in the 96th Congress.

Mr. Chairman, I am very pleased to appear before my colleagues on the Rules Committee today on an occasion that I believe to be a major milestone on the road to greatly improved congressional program evaluation and cost control. It has often been said that this is the "oversight Congress." I think to many of us this expression means that this is the Congress that has felt it necessary to pause a bit, to reflect upon the directions taken by the programs which we have established. We, as well as our constituents, are uncertain about program effectiveness and are uneasy about the consequences of programs in terms of their impact on Federal spending, their impact on Federal revenues where they involve tax expenditures, and their impact on costs to the public, particularly in the regulatory area.

We have also become concerned about the effect that long-established programs have had in limiting our ability as a Congress to shift resources to meet new national needs and priorities. I become particularly interested in these issues during two terms of service with the House Budget Committee. But as former chairman of the Budget Process Task Force of the Budget Committee, I am also very much aware that Congress has made enormous strides in improving its capability to act on the Federal budget in an integrated fashion. Clearly, any further system improvements to achieve better congressional program evaluation and oversight must be compatible with and enhance the benefits of the strides we have already made through the Congressional Budget Act of 1974.

For some 3½ years, I have worked, through the Budget Committee and the Rules Committee, toward the passage of a bill to establish an appropriate legislative system to improve program oversight. I believe that a willing Congress, with the right legislative tools, can get a grip on programs whose costs are escalating more than their benefits. I believe we can do this without unrealistic procedural or workload burdens, and without negating the progress we made in establishing the congressional budget process.

Like Chairman Long, I have sought ways to provide tools and incentives for the Congress to do a better job at program oversight. I concluded long ago that the path to improved oversight cannot be through elaborate and risky procedures designed to force an unwilling Congress to review programs. What we need are prudent procedures that will encourage more careful thought and clearer decisions by the Congress on what programs are supposed to accomplish at the time that authorizations are enacted, and a review mechanism that automatically focuses our limited oversight resources on those programs which Congress decides are most in need of review. We also need clear decisions by the Congress on how program success will be measured, and a straightforward procedure for easily following up on whether or not program objectives are being met and whether the objectives themselves remain compatible with current priorities. My legislative proposals for addressing these matters, which earned the nickname "sunrise" because of the importance we placed upon the front end of the legislative process, are embodied in the legislative oversight bill I introduced

originally in January 1978, and again at the beginning of this Congress. The bills have received widespread support, with over 120 cosponsors in the House.

This year, the Legislative Process Subcommittee of the Rules Committee has held numerous hearings on my bill, on the sunset bill, and on various other proposals to improve congressional oversight. As a result of these hearings, I have worked closely with Chairman Long on the development of a new bill, H.R. 5858, the Sunset Review Act of 1979, which embodies many of the essential features of the sunrise bill together with key aspects of the sunset concept. Like the sunrise bill, this bill provides an orderly procedure for reviewing programs and tax expenditures with little or no risk of unintended terminations. The bill preserves key features of sunrise, which include the front-end statement of objectives and accomplishment plans, the front-end establishment of the key indicators of program success which Congress will consider in its subsequent oversight activities, a means for identifying and comparing related programs, and submissions to the Congress of concise information from the administering agencies on the indicators of program success which the Congress has identified. The sunrise requirements will be applied to legislation resulting from congressional review of Federal programs selected by each new Congress for inclusion in a sunset review agenda.

The bill represents a reasonable and workable amalgamation of the sunrise concepts and the sunset review concept, but without the rigidities and potential workload problems that have concerned people about previous approaches. The bill contains a mechanism by which Congress can terminate programs which its evaluations show are no longer of high priority, but it virtually assures that no such termination will occur unintentionally or arbitrarily. Like the sunrise bill, H.R. 5858 takes an evenhanded approach toward all programs, and none are exempted from the selective review mechanism which the bill establishes. Similarly, the bill provides for selective review of tax expenditures but without any risk of unintended termination.

The bill as it was introduced is not quite as clear on one particular point as we think it should be. Chairman Long is in agreement with me that we should work in markup to clarify our intent that the measurements of program accomplishment which committees shall identify in the reports accompanying authorization and tax expenditure bills are to be considered annually in connection with regular committee oversight activities. Similarly, concise data on the accomplishment measures should be submitted annually by the executive branch. Thus, after Congress has selected key measures of program success in the course of the sunset review process, they will thereafter be available on an annual basis for continuing program monitoring purposes.

As with any successful piece of legislation, the bill reflects the ideas of many individuals. I wish to thank my distinguished subcommittee chairman for his cooperation and support in helping us to further develop a practical and effective program oversight bill which I sincerely believe the vast majority of the Members of the House and Senate, of both parties, will be able to support.

Thank you.

Mr. BOLLING. Thank you, Mr. Derrick, and I thank you again for your contribution and support of this effort.

I am very pleased, as I have said, with the work you have done and that which the subcommittee has done, and I think there is a real possibility that we will be able to proceed, as you say, in this Congress.

Excuse me for 1 minute. That is the 10-minute bell on the rollcall and the conference report, S. 239, Domestic Volunteer Service.

Mr. DERRICK. I wanted to say also, that I thought the hearings we had in South Carolina were very effective. As you recall, the Governor and Lieutenant Governor were leadoff witnesses, and we heard from 17 witnesses from governmental agencies and the private sector as well, and they gave us information which will assist us.

Mr. BOLLING. I agree. Everybody was impressive, but in particular the very, very able Governor and the very charming and able Lieutenant Governor. I must admit this Missourian was surprised that South Carolina had arrived at the point of electing a lady Lieutenant Governor.

Mr. DERRICK. We also have inside plumbing.

Thank you, Mr. Chairman.

Mr. BOLLING. Mr. Pepper.

Mr. PEPPER. No questions. I agree. I think you gentlemen have done a splendid job in working this thing out in a way that I think the Congress will accept it.

Mr. BOLLING. Mr. Beilenson.

Mr. BEILENSEN. I want to echo the chairman's comment. Since I have been a member, of the full committee I have been going to your subcommittee meetings and I have been impressed with the way you picked up all the best material from existing material and from the testimony of various persons on both sides of the question, and you have incorporated them.

Mr. Long, I feel a little guilty by being one of those who discouraged you from reading your entire prepared statement [see p. 23]. I have read it, and it is an excellent statement, particularly the language regarding automatic termination and not including tax expenditures, with the lack of flexibility you found in some of the other provisions, and placing unrealistic sanctions or demands upon committees. You have spoken to a lot of the problems and questions Mr. Lott raised. You have answered them very well, and I would commend them.

With respect to Mr. Derrick, I am not sure what "expenditures" mean.

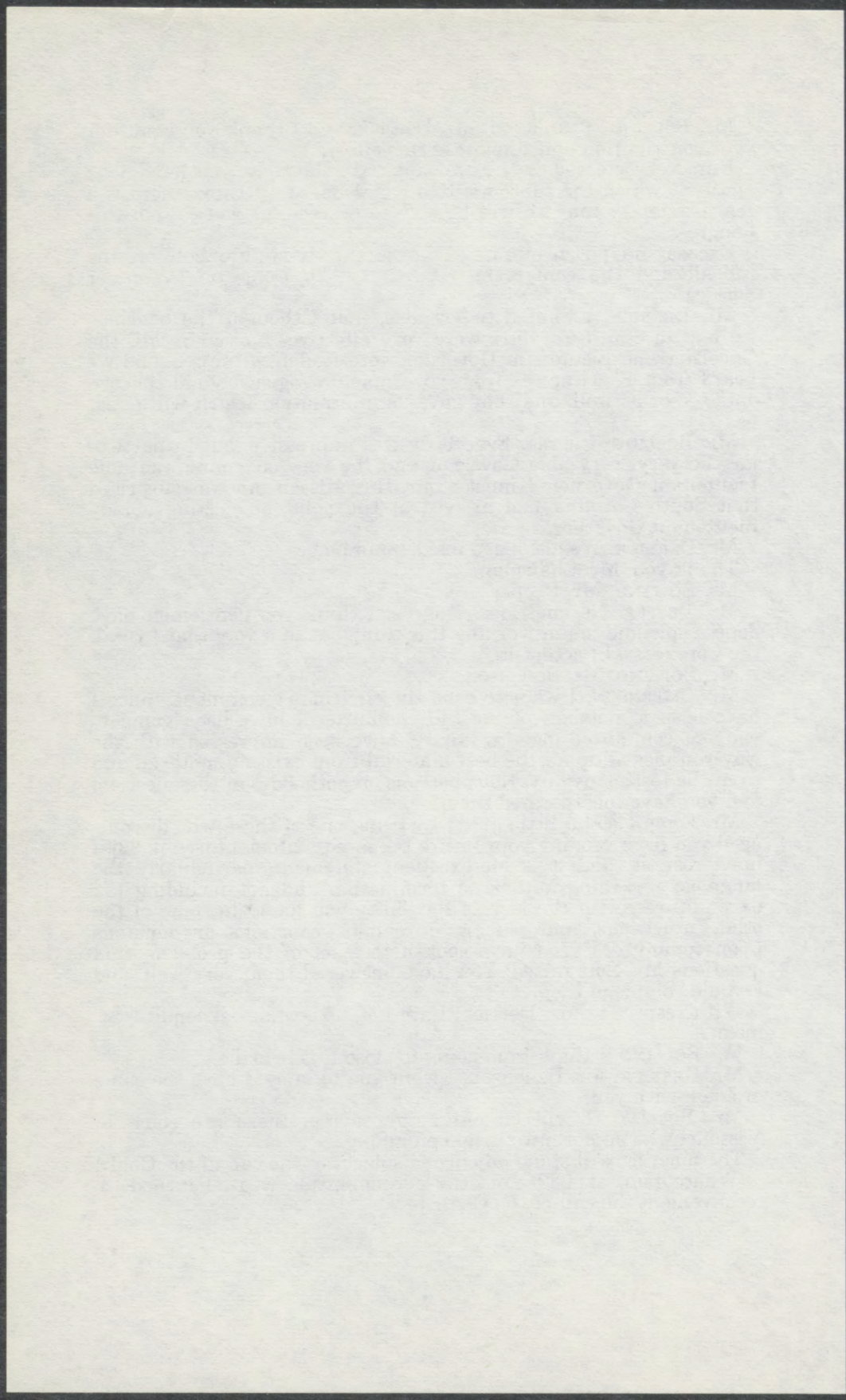
Mr. BOLLING. I think I am going to close this hearing.

Mr. DERRICK. Mr. Beilenson, I want you to know I have the same problem with you.

Mr. BOLLING. I will close this by saying, there are some in Missouri who do not have inside plumbing.

The meeting will stand adjourned subject to the call of the Chair.

[Whereupon, at 4:20 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]



SUNSET, SUNRISE, AND RELATED MEASURES

WEDNESDAY, DECEMBER 5, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, D.C.

The committee met, pursuant to notice, at 2 p.m., in room H-313, the Capitol, Hon. Richard Bolling (chairman of the committee) presiding.

Present: Representatives Bolling, Long, Chisholm, Derrick, Beilenson, Lott, and Bauman.

Also present: William D. Crosby, Jr., minority counsel.

Mr. BOLLING. The committee will be in order.

This is the second day of hearings of the full Committee on Rules on the proposal which has come from the Subcommittee on the Legislative Process of this committee, which has done such a fine job of going into the problem of sunset.

I am going to break the order of witnesses in a little bit because one of our witnesses, a very distinguished businessman, has a need to move along from here when he has finished his testimony. So I am going to first call on Mr. L. Stanton Williams, the chairman of Pittsburgh Plate Glass on behalf of the Business Roundtable to come to the table and testify for us.

We are delighted to have you with us. We appreciate your interest and the interest of your organization.

STATEMENT OF L. STANTON WILLIAMS, CHAIRMAN, PPG INDUSTRIES, INC., ACCOMPANIED BY JOHN POST, EXECUTIVE DIRECTOR, BUSINESS ROUNDTABLE AND CLAUDE BURLISON, CHAIRMAN, TAXATION COORDINATING COMMITTEE, BUSINESS ROUNDTABLE

Mr. WILLIAMS. Thank you, sir.

Mr. BOLLING. You may proceed as you wish. Your statement in full will be included in the record.

Mr. WILLIAMS. Very good, and it is officially PPG Industries.

In addition to my being here, we also have with us John Post, who is the Roundtable's executive director—

Mr. BOLLING. One of our old friends.

Mr. WILLIAMS. Claude Burlison, who is vice president of taxes for GTE and chairman of the Taxation Coordinating Committee for the Roundtable, and several of my associates from PPG.

The Business Roundtable testifying in connection with H.R. 2 and H.R. 65 has endorsed the use of the sunset concept in the regulatory area, but even there only on a pilot project basis until the sunset methodology has been proven successful. We vigorously

oppose the extension of the sunset concept to so-called tax expenditure items, and our position remains the same today.

The roundtable supports simplification and equitable revision of our tax laws. However, the application of the sunset concept, particularly as embodied in H.R. 2, to provisions of the tax code is not appropriate or necessary and would profoundly destabilize the economy, damage business, consumer and investor confidence, create a back door means of raising taxes, undermine the stability and flexibility of the Federal income tax system, and disrupt the carefully planned interrelationships between various parts of the U.S. tax laws.

Leaving tax expenditures aside for a moment, the Business Roundtable believes that in the regulatory area insufficient cost-benefit analysis of continuing or proposed regulation has been done. Due to the dramatic changes that have occurred over the past several years in the Government regulatory environment in the United States, it is imperative that Congress and the executive branch periodically complete a thorough review of the regulatory functions in order to ascertain whether a regulation's overall benefits exceed the costs.

We certainly recognize the need for careful, realistic evaluation of Federal programs and agencies on a continuing basis. This committee is to be commended for trying to devise a workable mechanism for reviewing governmental programs periodically without diverting Congress' energies unduly from other essential responsibilities and without imposing an excessive paperwork burden either on Congress or on the executive branch.

H.R. 5858 represents, in effect, an enhanced commitment to the oversight process, which is already a recognized congressional responsibility.

In terms of practicality, we welcome the attempt of H.R. 5858 to reduce to a manageable number the list of programs to be studied in any given Congress.

Indeed, as the Roundtable testified in June, in our view the workability of the legislation could be improved even further if the focus were narrowed to the Government's regulatory programs. That is the area in which the need for periodic review is greatest, not only because the regulators exercise quasi-legislative powers which are often beyond the control of the executive branch, but also because the opportunity for reevaluation through the annual appropriations process is generally much less useful in the case of regulatory programs than of other Government activities. In the regulatory area, the amount of money allocated to the agency is less important than the real expense of regulation which will be found in the cost to consumers as a consequence of additional requirements on business to be in compliance with regulations.

I will now return to tax expenditures, which are referred to many times in H.R. 5858.

The concept of tax expenditures was developed by advocates interested in accelerating the pace of tax reform in the United States.

While it is correct to say that the Federal Government does utilize the tax code to achieve certain economic and social goals, there are fundamental flaws in the tax expenditure concept, the

development of the tax expenditure budget and the revenue estimates attached thereto.

We reject the term "tax expenditures" as a misnomer which implies that all wealth belongs to the Government, with the exception of what citizens are specifically allowed to keep. On the contrary, all wealth belongs to the citizens, recognizing that Government can take part of that wealth to run its activities. The object of sunset is to find ways to reduce Government involvement, not increase it.

The concept of tax expenditures is misleading. My written testimony gives some specific examples which illustrate where this is so.

The tax expenditure concept attempts to divorce particular tax provisions from the remainder of the tax code and concentrates on the economic effect as if these provisions exist independently.

As a matter of fact, tax provisions are so interrelated that any change really requires an assessment of its effect on the whole tax code.

The Ways and Means Committee and the Senate Finance Committee have been very actively pursuing the revision and reform of the U.S. tax laws as evidenced by the numerous major tax bills considered and passed by the Congress in recent years.

The tax code is under constant review, and there has been and will be ample opportunities for any legislator or administration to propose the termination of an unnecessary tax provision.

As shown in exhibit 1 attached to my testimony, the Ways and Means Committee already has in effect a review system that has provided reviews of over 90 percent of tax expenditures in the last 5 years, some as many as 5 times in the last 5 years.

In summary, Congress has the authority and ability to exercise effective oversight of U.S. tax laws and is exercising its authority in this area. Further, we believe more attention could be directed to broad tax policy questions that have a significant impact on the Federal tax system, as for example the tax systems bias toward consumption and against savings and investment.

The roundtable proposes exclusion of tax expenditures from sunset legislation, and in the interest of a workable program, initially we propose deferral of sunset review of Government spending programs while prime attention is placed on the regulatory area.

That ends my testimony.

[Mr. Williams' prepared statement follows:]

STATEMENT OF L. STANTON WILLIAMS
Chairman
PPG Industries, Inc.
on behalf of
The Business Roundtable
Submitted to the
House Committee on Rules
December 5, 1979

Mr. Chairman: My name is L. Stanton Williams. I am the Chairman of PPG Industries, Inc. I am testifying today before your distinguished Committee on Rules on behalf of The Business Roundtable and in that capacity, I welcome the opportunity to express the Roundtable's views concerning H.R. 5858, the Sunset Review Act of 1979.

The Business Roundtable appeared before the Subcommittee on the Legislative Process on June 6, 1979 to testify in connection with H.R. 2 and H.R. 65. At that time, we endorsed the use of the sunset concept in the regulatory area but, even there, only on a pilot project basis until the sunset methodology has been proven successful. We vigorously opposed the extension of the sunset concept to so-called "tax expenditure" items, and our position remains the same today.

The Business Roundtable supports simplification and equitable revision of our tax laws. However, the application of the sunset concept, particularly as embodied in H.R. 2, to provisions of the tax code is not appropriate or necessary and would:

- profoundly destabilize the economy,
- damage business, consumer and investor confidence,

- create a "backdoor" means of raising taxes,
- undermine the stability and flexibility of the Federal income tax system, and
- disrupt the carefully planned interrelationships between various parts of the U.S. tax laws.

The Business Roundtable believes that in the regulatory area insufficient cost/benefit analysis of continuing or proposed regulation has been done. Due to the dramatic changes that have occurred over the past several years in the government regulatory environment in the United States, it is imperative that Congress and the Executive Branch periodically complete a thorough review of the regulatory functions in order to ascertain whether a regulation's overall benefits exceed the costs.

We certainly recognize the need for careful, realistic evaluation of Federal programs and agencies on a continuing basis. We are supportive of attempts to make the Federal government more efficient and responsive to the nation's needs. This Committee and many individual members of the House and Senate are to be commended for trying to devise a workable mechanism for reviewing governmental programs periodically without diverting Congress' energies unduly from other essential responsibilities and without imposing an excessive paperwork burden either on Congress or on the Executive Branch. One of the major criticisms we made of H.R. 2 was that it failed to meet the workability test.

H.R. 5858 represents, in effect, an enhanced commitment to

the oversight process, which is already a recognized Congressional responsibility. It would leave the initial choice of subjects to be reviewed in the hands of the legislative committees but would empower Congress as a whole beginning with the 99th Congress to add or delete items for a committee's review agenda, provided that the item had not been reviewed during the last three Congresses. This gives the Congress as a whole the opportunity to insist on timely reconsideration of programs with which it was particularly concerned.

In terms of practicality, we welcome the attempt of H.R. 5858 to reduce the list of programs to be studied in any given Congress to a manageable number. Indeed, as The Roundtable testified in June, in our view the workability of the legislation could be improved even further if the focus were narrowed to the government's regulatory programs. That is the area in which the need for periodic review is greatest, not only because the regulators exercise quasi-legislative powers which are often beyond the control even of the Executive Branch, but also because the opportunity for reevaluation through the annual appropriations process is generally much less useful in the case of regulatory programs than of other government activities. In the regulatory area, the amount of money allocated to the agency is rarely a central issue. The real cost of regulation will be found in the costs to consumers as a result of additional requirements on business to be in compliance with regulations.

I will now focus on so-called "tax expenditures" which are referred to many times in H.R. 5858.

The concept of "tax expenditures" was developed by advocates interested in accelerating the pace of "tax reform" in the United States. The Congressional Budget Act of 1974 gave official sanction to the concept and required that "tax expenditures" be listed in the budget. While it is correct to say that the Federal government does utilize the tax code to achieve certain economic and social goals, there are fundamental flaws in the "tax expenditure" concept, the development of the "tax expenditure" budget and the revenue estimates attached thereto. We reject the term "tax expenditures" as a misnomer which implies that all wealth belongs to the government, with the exception of what citizens are specifically allowed to keep. On the contrary, all wealth belongs to the citizens, recognizing that government can take part of that wealth to run its activities. The object of "sunset" is to find ways to reduce government involvement, not increase it.

The concept of "tax expenditures" is misleading. "Tax expenditures" supposedly arise as exceptions to the "normal structure" of individual and corporate income taxes, but the "normal structure" is not adequately defined in the tax code. The tax law has always permitted adjustments and exceptions in determining the appropriate tax base. Attempting to distinguish between a "normal tax" and the actual tax embodied in the code involves a value judgment by

whoever is making the definition and results in ambiguities. Some simple examples illustrate this point.*/

Example 1

The asset depreciation range system (20% range) is classified as a "tax expenditure" item. Accelerated depreciation methods may have seemed preferential during periods of low inflation because they were intended as investment stimulants, which is an appropriate objective. However, in today's economic environment accelerated depreciation methods are also intended as a simplified means of offsetting inflation.

Example 2

The "deferral" of tax on income earned by foreign subsidiaries of U.S. corporations is listed as a "tax expenditure". However, in fact, there is no deferral of tax in this context; the tax is imposed under the customary realization principles when the U.S. parent receives the income in the form of dividends. Taxation at an earlier stage would, in fact, amount to "anticipatory taxation." Moreover, since this is the normal concept of our taxing system, there is no provision in the code which taxes the foreign income immediately and also no provision which grants the deferral.

The "tax expenditure" concept attempts to divorce particular tax provisions from the remainder of the tax code and concentrates on the economic effect of those particular provisions as if they existed independently in an unchanging economic environment. As a matter of fact, tax provisions are so interrelated that any change really requires an assessment of its effect on the whole tax code.

*/ Other examples of technical issues and ambiguities involved in distinguishing between the "normal structure" of the income tax system and "tax expenditures" are discussed in Special Analysis, Budget of the United States Government, 1980, pages 185-189.

The House Ways and Means Committee and Senate Finance Committee have been actively pursuing the revision and reform of the U.S. tax laws, as evidenced by the numerous major tax bills considered and passed by the Congress in recent years. The tax code is under constant review, and there has been and will be ample opportunities for any legislator or Administration to propose the termination of an unnecessary tax provision.

As shown in the attached Exhibit I, of the 74 "tax expenditures" items listed; 42 or 57% have been reviewed once in the period 1974-1979; 16 or 22% have been reviewed twice; 7 or 9% have been reviewed 3 times; and the "excess of percentage standard deduction over minimum standard deduction" has been reviewed 5 times. Of the 6 "tax expenditure" items that have not been reviewed in this period only one -- "expensing of research and development expenditures" -- is a corporate deduction, all of the remaining 5 are individual items. In view of this record, we believe that Congress has exercised effective oversight of "tax expenditures" so there is no need to prescribe additional review arrangements.

The Roundtable testified in June that periodic review of the tax code is being accomplished in an orderly fashion under the current congressional terms of reference and, therefore, any additional mandatory or superficial congressional review is unnecessary and would merely create an administrative burden on the Committees of Congress and Congress itself.

Congress has the authority and ability to exercise effective

oversight over the U.S. tax laws. As stated above, Congress is exercising its authority in this area. The process of review currently being employed can be improved by putting it on a more organized and systematic basis. Also, more attention could be directed to broad tax policy questions that have a significant impact on the Federal tax system, as for example the tax system's bias toward consumption and against savings and investment and the integration of the corporate and individual tax systems. Placing "tax expenditure" items in a massive program involving all areas of the government would be cumbersome and would create more problems than it would solve. Review of the tax system must be done in a comprehensive manner, taking into consideration the interrelationships between various parts of the tax code.

In the current debate over H.R. 2 and H.R. 65, there has been a great deal of discussion about distinguishing "tax expenditures" from direct government spending programs. Direct spending programs are often targeted toward specific groups of individuals over a specific period of time. The beneficiaries are easily identifiable, and repeal or revision of the direct spending program is not ordinarily a difficult task. Direct spending programs are often confronted with reauthorization requirements and if placed under sunset rules, the programs would most likely have a concerned government constituency to assist in meeting sunset reauthorization requirements, such as those contained in H.R. 2. On the other hand,

the beneficiaries of "tax expenditures" are not easily identifiable, and the termination of "tax expenditures" through sunset laws could cause insoluble technical complications in the tax laws and have a disruptive effect on the nation's economy. Many "tax expenditure" items have an important impact on long range economic planning and as such, would be hard to adapt to the automatic termination approach present in most sunset bills.

Section 5(a)(3)(B) of H.R. 5858 provides that the tax-writing committees should consult with other committees having jurisdiction over any related Federal program in order to assure that all related programs should be reviewed in the same Congress. This approach requires acceptance of the theory that so-called "tax expenditures" represent "subsidies" from the government. As stated above, we believe that "tax expenditures" can be distinguished from direct spending programs, and it would create a serious distortion to review them as if their objectives were the same. Furthermore, it is unclear from this proposed legislation how a determination would be made as to which Federal programs were related to "tax expenditure" items. For example, what Federal programs are related to:

- deductibility of mortgage interest on owner-occupied homes,
- deductibility of property taxes on owner-occupied homes.

If for some reason "tax expenditures" were not excluded from

H.R. 5858, the bill has an important advantage over other sunset bills in that termination would not automatically occur. Automatic termination of "tax expenditures" is an invitation to "back door" tax increases without the specific vote of Congress.

In summary, we propose exclusion of "tax expenditures" from sunset legislation and in the interest of a workable program initially we propose deferral of review of government spending programs while prime attention is placed on the regulatory area.

HOUSE WAYS AND MEANS COMMITTEE REVIEW OF FEDERAL TAX EXPENDITURES

1974-1979

TAX EXPENDITURES ARE FROM THE LIST PUBLISHED JULY 8, 1975 BY THE STAFFS OF
THE TREASURY DEPARTMENT AND THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

DESCRIPTION	CORP.*	IND.*	YEAR OF REVIEW				
			BY HOUSE WAYS AND MEANS COMMITTEE				
			'74	'75	'76	'77	'79
<u>National Defense:</u>							
Exclusion of benefits and allowances to Armed Forces personnel**		x					
Exclusion of military disability pensions		x		x			
<u>International Affairs:</u>							
Exclusion of gross-up on dividends of LDC corporations	x						
Exclusion of certain income earned abroad by U.S. citizens		x					x
Deferral of income of domestic international sales corporations (DISC)	x			x			
Special rate for Western Hemisphere trade corporations	x			x			
Deferral of income of controlled foreign corporations	x	x		x			
<u>Agriculture:</u>							
Expensing of certain capital outlays	x	x		x			x
Capital gain treatment of certain income	x	x					
Natural resources, environment and energy:							
Expensing of exploration and development costs	x	x		x			x
Excess of percentage over cost depletion	x	x		x			
Capital gain treatment of royalties and iron ore	x						x
Timber: capital gain treatment of certain income	x	x					x
Pollution control: 5-year amortization	x			x			
Commerce and transportation:							
\$25,000 corporate surtax exemption	x						x
Deferral of tax on shipping companies	x			x			
Railroad rolling stock: 5-year amortization	x						x
Bad debt reserve on financial institutions in excess of actual	x						x
Deductibility of nonbusiness State gasoline taxes	x						x
<u>Community and regional development:</u>							
Housing rehabilitation: 5-year amortization	x						x
Credit for purchasing new home	x	x					
Education, manpower and social services:							
Child care facilities: 5-year amortization	x						
Exclusion of scholarships and fellowships		x					x
Parental personal exemption for student age 19 and over		x					x
Deductibility of contributions to educational institutions	x						x
Deductibility of child and dependent care expenses		x					
Credit for employing public assistance recipients under work							
Incentive (WIN) program	x	x					x

DESCRIPTION	CORP.*	IND.*	YEAR OF REVIEW					
			BY HOUSE WAYS AND MEANS COMMITTEE					
			'74	'75	'76	'77	'78	'79
<u>Health:</u>								
Exclusion of employer contributions to medical insurance**							x	
programs and medical care								
Deductibility of medical expenses		x						
<u>Income security:</u>								
Exclusion of social security benefits:								
Disability insurance benefits		x						
OASI benefits for aged		x						
Benefits for dependents and survivors		x						
Exclusion of railroad retirement system benefits		x						
Exclusion of sick pay		x						
Exclusion of unemployment insurance benefits		x						
Exclusion of workman's compensation benefits**		x						
Exclusion of public assistance benefits**		x						
Net exclusion of pension contributions and earnings:								
Employer plans		x						
Plans for self-employed and others		x						
Exclusion of other employee benefits:								
Premiums on group term life insurance		x						
Premiums on accident and accidental death insurance**		x						
Privately financed supplementary unemployment benefits		x						
Meals and lodging		x						
Exclusion of capital gains on house sales if over 65		x						
Excess of percentage standard deduction over minimum standard deduction		x						
Additional exemption for the blind		x						
Additional exemption for over 65		x						
Retirement income credit		x						
Earned income credit		x						
<u>Veterans' benefits and services:</u>								
Exclusion of veterans' disability compensation		x						
Exclusion of veterans' pensions		x						
Exclusion of GI bill benefits		x						

DESCRIPTION	CORP.*	IND.*	YEAR OF REVIEW				
			BY HOUSE WAYS AND MEANS COMMITTEE				
			'74	'75	'76	'77	'78 '79
<u>General government:</u>							
Credits and deductions for political contributions		x		x			x
<u>Revenue sharing and general purpose fiscal assistance:</u>							
Exclusion of interest on State and local debt	x	x					x
Exclusion of income earned in U.S. possessions	x	x			x		
Deductibility of nonbusiness State and local taxes (other than on owner-occupied homes and gasoline)		x					x
<u>Business investment:</u>							
Depreciation on rental housing in excess of straight line	x	x		x			x
Depreciation on buildings (other than rental housing) in excess of straight line		x					x
Expensing of research and development expenditures **	x	x					
Capital gain: corporate (other than farming and timber)	x	x		x			x
Investment credit	x	x					x
Asset depreciation range	x	x					x
<u>Personal investment:</u>							
Dividend exclusion		x			x		x
Capital gain: individual (other than farming and timber)		x					x
Exclusion of capital gains at death		x			x		
Exclusion of interest on life insurance		x					x
Deferral of capital gain on home sales		x					x
Deductibility of mortgage interest on owner-occupied homes		x					x
Deductibility of property taxes on owner-occupied homes		x					x
Deductibility of casualty losses		x					x
<u>Other tax expenditures:</u>							
Exemption of credit unions	x	x					x
Deductibility of charitable contributions (other than education)	x	x					x
Deductibility of interest on consumer credit		x		x			
Maximum tax on earned income		x		x			

*Corp. - Corporation

*Ind. - Individual

**Tax Expenditures not reviewed (1974-1979)

Summary of Tax Expenditure Review (1974-1979)

68 of 74 reviewed

12 of 13 Corporate only reviewed

16 of 16 Corporate & individual reviewed

41 of 45 Individual only reviewed

Mr. BOLLING. Thank you very much, sir.

Mr. Long?

Mr. LONG. Thank you, Mr. Chairman.

We appreciate your coming and giving us the benefit of your views in this matter.

The years that I spent as a financial lawyer and in the investment banking business caused me to have about as much concern as I think you do about the uncertainty that might be created with respect to the possible automatic termination of many of these programs.

Naturally the one that first comes to mind concerns tax expenditures because of the impact they have on the American economy. The old maxim in the investment banking business is that investment flees indecision and uncertainty.

We were attempting in this new draft legislation, to avoid just such indecision and uncertainty.

At the same time, however, we became greatly concerned that if we started excluding one thing from the application of the sunset review process, we were going to end up with a list of exclusions longer than the list of those things included. I am still concerned about that.

The second thing we became concerned about as we looked at this subject in depth, was the realization that when we in the legislative body make particular programs exempt from certain rules and regulations, an increasing number of programs shift in that direction to escape coverage and to secure exemption.

A very substantial portion of the national budget now falls into the tax expenditure category. That represents a conscious determination on the part of the Government to exempt those programs because of the social purpose served.

One of the things that really caused us a great deal of concern was that if we did not include these expenditures, even more of the Federal budget would be exempt, not only from the appropriations process—as it already is—but even from the application of any review except an informal one by either the Ways and Means Committee or the Finance Committee.

Do you think this is a real danger?

Mr. WILLIAMS. I think that our feeling is that these so-called tax expenditures are reviewed now by the Ways and Means and Finance Committees, as I indicated, and I think the record shows that there has been extensive review of these.

The other part of this—I have difficulty accepting the idea the tax expenditures really fall in the same area with direct Government expenditures—but as you noted from my comments, we are concerned that this is such a huge program that the Government ought to start this review process on some kind of a pilot basis until we find out really what is the best way to go at it.

That is why since the regulatory area is subjected to very little review of this kind now, that we think it would be well to start there and recognize that we already have a system that seems to be working on so-called tax expenditures.

Mr. LONG. The testimony that your witnesses gave when they came before the subcommittee was very helpful to us in devising the language that we used in regard to regulatory review.

I agree with you that regulatory review is extremely important. It is a little bit like the tax code. The quote that is used in the other body explains the problem: Everybody wants everything touched except for those things that affect them.

In this instance, we want to take a hard look at the regulatory agencies that are of concern to us and leave the rest of them alone. This is the opposite side of the coin. I recognize that it is basic human nature to react that way.

I think that we do have in this legislation a sufficiently effective mechanism to enable us to look at the regulatory agencies.

I think the first step that needs to be taken is to create the inventory that we speak of here. Because many of the people here, as well as in the executive branch, are not completely familiar with all of the programs that they are charged with administering, they are unable to evaluate programs in their entirety.

Creating the inventory would be of major assistance to them. You have been helpful before, and you were helpful today. I am appreciative.

Mr. BOLLING. Mr. Lott?

Mr. LOTT. Mr. Williams, we appreciate your coming to testify today. I have a number of questions I would like to ask you. But since you are going out of order so that you can go to a meeting and there are several Members of Congress, I will try to be very brief and just ask you a couple of questions.

First, I take it you do support the concept of sunset as it would be applicable to agencies and programs, exclusive of the tax provisions.

Mr. WILLIAMS. Yes.

Mr. LOTT. That is the way I thought our sunset legislation was going to be when we started out—specifically to review only the departments, agencies, and programs; and then somebody got the bright idea to bring in the tax preferences, too. That is where the problems started.

I take it that you would be opposed to sunset legislation, either the Senate version, H.R. 2, or H.R. 5858, if it includes the so-called tax expenditures. Is that correct?

Mr. WILLIAMS. We are opposed to the tax expenditures being part of that.

Mr. LOTT. So if the H.R. 5858 was strengthened to include some sanctions whereby there would have to be some action, some minimal amount of teeth put into this bill, you would still oppose it if it included the tax preferences. Is that correct?

Mr. WILLIAMS. Well, it is hard to speculate on what would be in it, but my position—and I think I can speak for the Roundtable with respect to this—is that if tax expenditures are in this bill, we are opposed to it.

And not only the Roundtable, but I have been led to believe that other segments of the business community would be as well.

Mr. LOTT. All right. Just briefly—it has been said before, but just for the record today—why? Is it just your concern about what impact it would have on businesses, and churches, and charities, and everybody else in the future if the tax provisions were allowed to be reviewed in this way?

Mr. WILLIAMS. No; I hope that I have made it clear that we are not opposed to a review and a constant review of matters that are in the tax code. The emphasis in what I said before was that that is an area that is getting reviewed today.

If there are other ways to improve the review of the whole tax code—and I think it is important to look not only at what are deductions from taxes, but at the whole code at one time, because it is so interrelated. But our problem is we don't see the connection between tax preferences and this other area of government programs and regulations.

Mr. LOTT. I agree with you.

Thank you, Mr. Chairman.

Mr. BOLLING. Mrs. Chisholm?

Mrs. CHISHOLM. Thank you.

I would like to ask you this question. You indicated in your testimony that tax expenditure items have a very important impact on the long-range economic planning and, therefore, it would be very hard to adopt an automatic termination approach that is put forth in most sunset bills.

Could you be a little bit more specific? How do you view this as having an overall possible negative effect on the economy?

Mr. WILLIAMS. Mrs. Chisholm, I think I will first go back to what Congressman Long said in his initial comments, to which I subscribe, which is that individuals and businesses are reluctant to take investment decisions when there is uncertainty in the tax area.

I think it is very important today that we—not we business, but we as a country—encourage investment. As long as there is uncertainty—I cannot say it will stop investment, but it is a negative impact on going ahead with investment when there is uncertainty as to what is going to happen in the tax laws.

Now, if I might go on just one more minute. Our concern about automatic termination of tax preference items is that this does put a lot more uncertainty into the whole problem. This is because by lack of Congress actually voting on the removal of a deduction item, we have what we call a back door method of increasing taxes.

We think that Congress certainly has the right and the obligation to review the tax code constantly. But they ought to do it positively rather than negatively.

Mrs. CHISHOLM. Thank you.

Mr. BOLLING. Mr. Bauman?

Mr. BAUMAN. No questions, Mr. Chairman.

Mr. BOLLING. Mr. Derrick.

Mr. DERRICK. Thank you, Mr. Chairman.

I thank you very much for your testimony, the testimony you gave before as well.

Let me see if I understand your position. As you well know, the identity of tax preferences is falling into the area of around \$130 billion or \$140 billion a year right now, and it is probably the fastest growing area that we have in the tax code. What I fail to see in your reasoning—and if you would help me a little, I would appreciate it—is that you seem to think, if I am correct, that that \$130 billion or \$140 billion is being spent meritoriously, or used

meritoriously, and there is no need for any particular review, whereas there is a need for review on the other side.

Now, I understand the matter of planning, and I think you probably have a legitimate point there. But in drafting this legislation, as Mr. Long pointed out, we were very conscious of this, it had been brought before us in the testimony that you made before this committee before, as well as the chamber of commerce and other groups, and we took that into consideration.

Quite frankly, short of just saying well, you go on your way and do as you please, we thought we had made this very applicable to the business community. As a matter of fact, we have met with several representatives of the business community and they have rather agreed that it was something that the business community could probably live with.

We give you a minimum there of a year and a half leadtime to know that these particular programs are going to be reviewed. And after all, we are not reviewing them in just some arbitrary fashion. They are being reviewed on behalf of the same people who pay a large part of the taxes that you represent. And it would seem to me that it would be in the best interests of those whom you represent.

I will call them tax preferences. I have no problem with that.

Mr. WILLIAMS. I am certainly not going to take the position that what we have in the way of tax preferences or tax expenditures are ideal and they ought not to be touched. That is not my position, nor is it, to my knowledge, the position of any businessman.

What we are saying is that we have a mechanism today which is looking at all aspects of the tax code, and we believe it is a somewhat difficult judgment to reach as to what are so-called tax preferences as opposed to other parts of the code. We are not against a review of any items in the tax code. What we are saying is that you now have a mechanism which is being actively followed in the Congress. The area that is not being addressed adequately, is the area of review of regulation. I thought the concept of sunset was to find ways to review Government expenditures and not to address how to increase income.

Mr. DERRICK. Well, I have apparently misunderstood your position, then. So your position is that it is not that you object to the way we do it. You find no fault with that?

Mr. WILLIAMS. That is right.

Mr. DERRICK. Your objection is that you feel that it is already being done?

Mr. WILLIAMS. Yes.

Mr. DERRICK. On the side of the coin that you are particularly interested in—but it is not being done on the other side?

Mr. WILLIAMS. Yes.

Mr. LONG. Will the gentleman yield?

Mr. DERRICK. Yes.

Mr. LONG. Mr. Williams, going back to the question of uncertainty, which both I and Mrs. Chisholm, were discussing with you. Basically, the procedure that is outlined here will do no more than systematize what the Ways and Means Committee and the Senate Finance Committee are doing at the present time.

If there were some degree of assurance that a particular tax expenditure was not going to be reviewed next year, or the year after, but 8 years from now, would that not in turn lead to more certainty within the business community? Would that not be an argument for the institution of a regular review of the type provided for in this legislation?

Mr. WILLIAMS. Well, in a vacuum, of course. If there is certainty that a certain method of taxing is going to be in place for a certain period of time, this makes everybody feel more comfortable about uncertainty.

I come back, I guess to the point that we are not unhappy with the way in which it is being done now, and we maintain that it is being reviewed now, and there is another area that is not being reviewed adequately. And we would argue: Why don't we get on with setting up a procedure in the regulatory area, which is terribly expensive, not so much to Government, but to business. As we develop techniques, then let's go on and maybe we will find a way to go after other parts of this whole cost of operating the Government. But we are not sure just why tax expenditures are dragged into this particular review area.

Mr. DERRICK. Let me suggest to you this. You know, when I go back to my district—and I am not unlike most of the other Members—the very people that you represent, the interests that you represent, are continually haranguing us, and not unjustly necessarily, about the excess regulations, the throwing of money here and throwing of money there.

But yet, you folks come before us and tell us that we have a budget of \$450 billion or \$550 billion, and tax preferences of \$135 billion, and want us to believe that that \$135 billion is being handled in an equitable manner and reviewed properly, whereas we won't attack everything over here you are concerned about.

Everybody has been working on this matter for some 3 or 4 years now. And there have been several States in the Union that you are aware of that have approached this problem from the angle that you suggest, dealing with the regulatory agency. And it has not worked.

Colorado I give you as an example, Florida I give you as another example. What they end up doing, and what I would suggest you would end up doing here, is they take the weak sisters, the barber shop committee, and so forth, and things like this.

I remember when I was out in Colorado, with all respect to that State, a couple of years ago they were very proud of the fact that they had eliminated five agencies, as I recall it—the barber shop, the boat shop, and several others of like importance. But I have since followed that and found in fact when you get to the tough ones, it just doesn't work.

I am going to be quiet in a minute, but let me tell you I think if you people would work with us, by saying we understand it is maybe not the most convenient thing, but we need to look at these tax preferences—if you work with us, that you are going to get in the long run the results that you want by handling these regulatory agencies.

With respect to your position, I think what you are looking for is a quick fix. And there just isn't any way to do that. It has to come

from a sound premise to begin with, and a base, and work into the entire system. You cannot single shot it—as much as we would like to, it just doesn't work that way.

Mr. WILLIAMS. I hope I made myself clear that I am not trying to defend the results of the review in the Ways and Means Committee and the Senate. I am saying it is being reviewed by Congress. And what we are suggesting is that we start a means of attempting to review other parts of the Government area.

It may turn out to be ineffective. But we would like to work with you in making that kind of a start.

Mr. LONG. I have taken more than my time. But I have never heard of a welfare recipient who wanted to have welfare programs reviewed. That is just human nature. I look to you people to be on the level; that is, that you would be willing to have the subjects you are concerned about examined.

Thank you, Mr. Chairman.

Mr. BOLLING. Mr. Beilenson.

Mr. BEILENSEN. Mr. Chairman, I found Mr. Williams' testimony to be very reasonable and very helpful. I think the sponsors of the bill should take it that way. I don't think they even half read between the lines. If you just read the lines themselves, starting at the bottom of page 8.

"If for some reason tax expenditures were not excluded from H.R. 5858, the bill has an important advantage over other sunset bills in that termination would not automatically occur. Automatic termination of tax expenditures is an invitation to back door tax increases without the specific vote of Congress.

I would suggest to my friends over here, they ought to accept the support of the gentleman without arguing too much with him. I think he has been very helpful to the bill.

Mr. BOLLING. Mr. Williams, I would like to comment on one thing. You were careful to show that you understood that we didn't get much review of the code or specific tax preferences or expenditures until the question of tax expenditures was included in the Budget Act. And I notice that you were very conscious of that in the language that you used. I think that is an important point.

I do find it a little difficult to understand your differentiation between tax expenditures, or tax preferences, and appropriations. I agree with you entirely that the money does not belong to the Government, none of it, that it does belong to the people. But if it is effectively spent, and it seems to me that is the test—a tax preference is effectively spent, just as an item not appropriated would be effectively spent.

So I find it a little difficult to follow the differences between one kind of spending and the other kinds of spending in that sense. But I am very grateful, as the chairman of the committee, that you are in support of the general concept. Certainly there is plenty of room for argument as to what should be included. Because if you include everything, it is such a massive job that it will make people understand really what the biggest business in the world is right now. That would perhaps be a good thing. But I think we have so much on our plate that we could well begin with less, certainly not more.

I am very grateful to you for your appearance. Thank you very much.

The committee will stand in recess for the time it takes Members to go vote.

[A short recess was taken to vote.]

Mr. LONG [presiding]. The committee will be in order.

The Chair would like to put forth a number of unanimous consent requests prior to the reinstitution of the hearing in the record.

First is permission to include certain items in the record, including statements from Members and other groups, a letter from the AFL-CIO, and written responses from committee chairmen and ranking minority members, to questionnaires submitted to them by me and Mr. Lott. Second is permission for a photographer to take photographs during the hearing, which was requested by one of the witnesses, Mr. Panetta.

Is there any objection to this?

Mr. BEILINSON. Except for the last one, I don't have any objection.

Mr. LONG. Without objection, so ordered.

Mr. LOTT. I would like to clarify that a bit. First of all, Mr. Shuster had hoped to testify, but he had to go on to another meeting. So I ask unanimous consent his statement go in the record.

Mr. LONG. Without objection, it will be made a part of the record, together with the AFL-CIO letter from Mr. Kenneth Young.

[The statement of Hon. Bud Shuster, as though read, follows:]

STATEMENT OF HON. BUD SHUSTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. SHUSTER. I wish to express my appreciation to you and the members of the Rules Committee for affording me this opportunity to testify on H.R. 5858, the Sunset Review Act of 1979.

At the outset, allow me to emphasize that I appear before you today offering my own views and that my testimony does not necessarily reflect the views of the House Republican Policy Committee, which has not yet taken a formal position on this bill. I must point out, however, that Republicans have long championed the cause of sunset review legislation.

The platform of the Republican Party adopted at the Republican Convention in Kansas City in 1976 specifically endorses sunset legislation as a means to insure "that unnecessary Federal agencies and programs are eliminated." Again, in the beginning of the 96th Congress, the House Republican Conference unanimously adopted a resolution calling for "enactment of legislation requiring a 'sunset' review timetable for all Federal agencies and programs."

Having established that the Republican Party firmly believes in sunset review, allow me now to address the specific piece of legislation pending before your committee. I wish to praise Congressman Gillis Long for his untiring efforts as chairman of the Subcommittee on the Legislative Process in fashioning a sunset review act; he is to be commended for his leadership.

I must admit, however, that I have two specific reservations about H.R. 5858.

First, I do not believe it goes far enough in establishing the precept of sunset review. Rather, it is more accurately a bill to

stimulate selective oversight of Federal programs. The bill leaves too much discretion with the individual authorizing committees in determining which programs to review. Without an automatic termination provision for Federal programs, it is quite possible, indeed, even probable, that many of the more controversial programs will not be scheduled for review. Unfortunately, there is no mandate provided in H.R. 5858 to insure that all programs are reviewed within a given time period.

Second, I do not believe that tax preference provisions should be included in the Sunset Act. I strongly concur with Representative Barber Conable's testimony before the Legislative Process Subcommittee of July 13, 1979, detailing the reasons for excluding tax provisions. Tax preferences work differently than other Federal programs by depending for their effectiveness on voluntary actions by taxpayers. As Congressman Conable succinctly stated: "People are not going to respond to tax provisions unless they have every reasonable expectation of stability and long-term continuity of those provisions." If we expect to accomplish many of the non-revenue-raising goals embodied in our tax code, we must provide the stability which private investors seek.

Finally, Mr. Chairman, allow me to pledge my personal support, and hopefully, the full cooperation of the Republican policy committee in enacting true sunset review legislation during the 96th Congress. The American people are demanding an end to profligate Government spending. Sunset review legislation, with an automatic termination provision, would be a major step toward answering these legitimate demands.

[The letter from Mr. Kenneth Young of the AFL-CIO, referred to by Mr. Long, follows:]

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

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815 SIXTEENTH STREET, N.W.
 WASHINGTON, D.C. 20008

(202) 837-8000

December 4, 1979

Honorable Richard Bolling, Chairman
 House Rules Committee
 U. S. House of Representatives
 Washington, D. C. 20515

Dear Mr. Chairman:

The House Rules Committee has had under consideration a number of bills to regularize and facilitate Congressional oversight of Federal programs, including H.R. 2, the "Sunset Act of 1979" and H.R. 65, the "Legislative Oversight Act of 1979." In addition, the Committee has before it H.R. 5858, the "Sunset Review Act of 1979," the bill recently introduced by Representative Gillis W. Long, Chairman of the Legislative Process Subcommittee, Representative Butler Derrick and others.

The AFL-CIO appeared before the Long Subcommittee during hearings on H.R. 2 and H.R. 65 and indicated its preference for strengthening legislative oversight procedures as proposed in H.R. 65 rather than establishing a mechanism for automatic termination of Federal programs, as provided in H.R. 2. At the time we testified, H.R. 5858 had not yet been introduced in the House. We have now, however, given preliminary study to this bill and we appreciate this opportunity to set forth our tentative views on this measure.

In general, the AFL-CIO feels that H.R. 5858, in the form in which it was introduced in Congress on November 9, 1979, would significantly regularize and strengthen the oversight process already provided for in the Legislative Reorganization Acts of 1946 and 1970 and the Congressional Budget and Impoundment Control Act of 1974. It would bring the whole scope of Federal programs under the oversight procedures established under the bill, including tax authorization and expenditure programs. We urged in our earlier testimony on June 6, 1979, that "evenhandedness be applied and spending through the tax code be subjected to the same scrutiny, review and national interest criteria that is applied to directly authorized programs." We are glad to see that H.R. 5858 recognizes the validity of this principle.

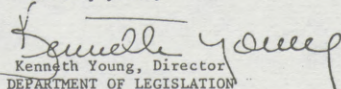
Perhaps our basic objection to H.R. 2 is its provision for automatic termination of Federal programs not affirmatively continued by the Congress. In a resolution adopted at its recent 1979 Convention, the AFL-CIO reiterated

its opposition to "legislation that would substitute automatic mechanisms like 'sunset' proposals for careful, rational analysis and review of programs," declaring that such proposals "are invariably used as a way to end necessary social programs." Because of our firm conviction on this matter, we welcome the fact that H.R. 5858, while providing for systematic review of Federal programs by the appropriate Congressional committees, also provides that no program can be terminated automatically and that these committees retain control over the oversight review process.

All in all, while we would like to give further study to H.R. 5858, we believe that it represents significant progress toward meeting the concerns we expressed in our earlier testimony. We would be glad to work with the Committee and its staff with a view to perfecting the bill for enactment by the Congress.

I would appreciate it if you would include this statement of the views of the AFL-CIO on H.R. 5858 in the record of your hearings on this measure.

Sincerely yours,


Kenneth Young, Director
DEPARTMENT OF LEGISLATION

Mr. LOTT. I have a statement from the Honorable Sam Devine, chairman of the Republican conference; I ask that it be included. [The statement of Hon. Samuel L. Devine, as though read, follows:]

STATEMENT OF HON. SAMUEL L. DEVINE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. DEVINE. In January 1979 the House Republican conference approved a resolution calling on the 96th Congress to give "priority consideration" to legislation "requiring a 'sunset' review timetable for all Federal agencies and programs * * *"

From my vantage point H.R. 5858 fails to satisfy the expectations raised in that resolution and, in addition, contains serious deficiencies that require modification. For one thing, in its present form H.R. 5858 gives the concept of "sunset" legislation a bad name. The "sunset" concept is widely understood to require expiring authorizations and automatic termination of Federal programs.

Unfortunately, the present bill does not fulfill this key test. It provides for the study and review of existing programs but contains no mechanism for implementing enforceable sanctions or automatically terminating Federal programs. Indeed, it does not even guarantee that all Federal programs will be reviewed over a definite period of time or that similar programs will be evaluated simultaneously.

To keep faith with a public that has come to view "sunset" legislation as an instrument for terminating Federal programs unless Congress chooses periodically to reauthorize them, we have an obligation to put teeth in H.R. 5858, not pass a diluted version of the "sunset" concept that lacks real substance.

Furthermore, I have serious reservations about the decision to include so-called tax expenditures in the legislation. While there is no question that tax provisions should be reviewed periodically to find out whether they serve the public interest, we should not include them in "sunset" legislation. To do so would be to add another layer of uncertainty for both consumers and investors, and thus further poison the Nation's business climate. This would harm workers who depend on productive investments for jobs, and it

would even create unmanageable uncertainty for religious and educational institutions.

I urge the Rules Committee to give renewed attention to these issues and to report a "sunset" bill that provides a meaningful way to terminate defective Government programs.

Mr. LOTT. I also would like to have included the letter from the Chairman and ranking minority member of the Committee on Ways and Means in the record at this time.

[The letter referred to by Mr. Lott follows:]

NINETY-SIXTH CONGRESS

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COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C. 20515

TELEPHONE (202) 225-3425

November 28, 1979

JOHN M. MARTIN, JR., CHIEF COUNSEL
J. P. BAKER, ASSISTANT CHIEF COUNSEL
JOHN E. HEADNER, MINORITY COUNSEL

The Honorable Gillis W. Long
Chairman, Subcommittee on the
Legislative Process
Committee on Rules
U.S. House of Representatives

Dear Mr. Chairman:

This letter is in response to your correspondence of November 15, 1979, relative to H.R. 5858, the proposed Sunset Review Act of 1979. This bill combines certain aspects of H.R. 2 and H.R. 65 with regard to which we submitted views in a joint letter dated July 12, 1979. Mr. Conable later testified before your Subcommittee on July 13, 1979, and Mr. Ullman submitted a subsequent letter dated September 5, 1979. As you will recall, we expressed support for existing oversight procedures and opposition to the specific application of the sunset concept to tax expenditures. We also expressed grave reservations with the additional procedural burdens and reporting requirements proposed to be imposed on standing committees of the House.

After careful review of the provisions of H.R. 5858, we are constrained to reiterate our fundamental objections to both the substantive and procedural aspects of this legislation. We are inalterably opposed to inclusion of tax expenditures in the proposed "consolidated sunset review agenda" and to the requirement that the Committee on Ways and Means report legislation by May 15th of the Second Session "modifying, continuing or terminating" such tax expenditures. Our substantive objections to the application of the sunset concept to tax expenditures were clearly stated in our prior correspondence and testimony. In this regard, the current interest and concern expressed to the Committee on Rules by State and local governments, the housing industry, savings and loan institutions, mortgage bankers, bond counsel and underwriters with respect to H.R. 3712, the Mortgage Subsidy Bond Tax Act, should be sufficient evidence of the difficulty and controversy associated with termination of any existing tax expenditure. It should be emphasized that H.R. 3712 and the associated response of interested individuals and interest groups involves termination of only one limited aspect of a single tax expenditure, the exclusion for interest on State and local government bonds. Yet, to give this limited subject the review it has demanded, has required a very

considerable part of the Committee's time since the introduction of the bill more than seven months ago. Based on our long and extensive experience in such matters, we firmly believe that oversight of tax expenditures should be left to existing procedures rather than inclusion in a comprehensive sunset review agenda.

The Committee on Ways and Means has been especially assiduous and faithful in meeting its oversight responsibilities under the existing procedures for legislative review. Many of these important, current activities of the full Committee, its Subcommittee on Oversight and the other subcommittees of the Committee, are outlined on pages 7 and 8 of Congressman Conable's testimony of July 13 before your Subcommittee. We are convinced that the existing procedures under the Rules of the House are entirely adequate if adhered to and honored by the committees. To be specific, the Committee on Ways and Means, pursuant to these rules, has already filed in this year four extensive reports to various bodies of the House on its oversight activities. On January 2, 1979, we filed our "Report on Legislative Review Activity During the 95th Congress of the Committee on Ways and Means." This report was filed pursuant to the requirement of 2 U.S.C. 190d and is House Report 95-1825. On March 9, 1979, we filed with the Committee on Government Operations, pursuant to House Rule X 2(c), our report on the planned oversight activity of the Committee for the 96th Congress. This report is included, along with the reports of all other committees of the House, in House Report 96-44, entitled "Oversight Plans of the Committees of the U.S. House of Representatives." On April 2, 1979, the Committee filed with the Speaker of the House an extensive letter outlining its planned oversight activities for the First Session of this Congress. This was done pursuant to a directive of the Democratic Caucus. On July 11, 1979, in response to a request from the Committee on House Administration, the Committee on Ways and Means filed a full report on the oversight work it has already accomplished in the first six months of this year.

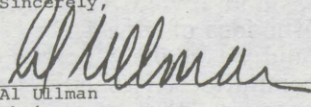
We are greatly concerned with the new reporting and other procedural requirements contained in H.R. 5858. These requirements appear to be as burdensome and onerous as those contemplated by H.R. 2 and H.R. 65 to which we expressed strong reservations in our prior communications. After five years' experience with the procedural requirements of the Congressional Budget Act, we seriously question whether the Committee on Ways and Means and other standing committees of the House can observe additional deadlines and additional statutory requirements. This is particularly so with respect to H.R. 5858, which contemplates extensive consultation by the Ways and Means Committee with other committees in the House and Senate exercising jurisdiction over related Federal programs prior to reporting its legislative review agenda to the Committee on Rules by March 1 of the first session. This will place an intolerable burden on the Committee on Ways and Means which, like other standing committees of the House, is required to organize in the early weeks of a new Congress and submit views to the House Committee on the Budget by March 15th. Given the serious consideration and time presently devoted to the March 15th Budget Report by our subcommittees, and by

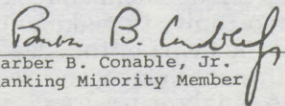
the full Ways and Means Committee, it is totally unreasonable and unrealistic to expect the Committee to comply with additional statutory deadlines, to consult extensively with other House committees in the early weeks of a new Congress and to comply with additional reporting requirements. In addition, these new requirements would most assuredly require additional staff at additional and unnecessary public expense.

With all due respect for the commendable intentions of the sponsors of H.R. 5858, we are constrained to submit that this legislation does not alleviate our previously articulated concerns with the sunset concept and, in addition, will seriously impair the efficient operation of this Committee.

We appreciate the opportunity to comment on this legislation which presents issues of serious substantive and procedural concern. We request that this letter be made a part of the record of the public hearings now in progress in the Committee on Rules on H.R. 5858.

Sincerely,


Al Ullman
Chairman


Barber B. Conable, Jr.
Ranking Minority Member

AU:BBC:jmf

Mr. LONG. It was specifically covered by the inclusion of those other statements.

Mr. Foley, we are pleased to have you. If you would proceed in your own way.

STATEMENT OF HON. THOMAS S. FOLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. FOLEY. Thank you very much; I appreciate the opportunity to testify before the committee on the bill, H.R. 5858.

I want to add my words of commendation and complaint to the committee and the members of the subcommittee who worked very diligently to produce this important proposal. It is without any derogation of their splendid efforts and the work of this committee in general, that I testify today. I suggest that perhaps H.R. 5858 is not yet sufficiently rigorous in its form to justify what I think many of us in the Congress thought, was an extremely important and necessary legislative initiative.

I don't need to tell the members of the committee, that there has been a great deal of interest in sunset legislation. To me the heart of the sunset legislation is some form of action-producing mechanism against the committees.

I want to say it as bluntly as possible. With the possible exception of this committee, one might exclude some other committee, all committees have special interest groups. All committees have special biases in a bipartisan way.

The Agriculture Committee certainly is one that has a heavy bias in favor of agricultural programs, programs for the benefit of

farmers in rural America. We are very proud of that fact. We make no bones about it, and we boast about it. It is not, however, what some thought committees would be in their inception. They are not a microcosm of the House, with the possible exception, of this committee. This committee is closer to a microcosm because it does not have the same kind of constituency of legislation.

Almost every committee is a biased special interest committee and there are programs that they want to protect from the review of Congress. The idea of sunset is to prevent committees, from preventing the House and the Congress from reviewing from time to time, the actions it has taken in the past.

With the single exception that I will come to later, H.R. 5858 puts the control back into the committees. It puts in effect the fox in the chicken coop. It says, "heal thyself" "strike the mote from their own eye," and review your own work. This is entirely in degradation of the idea of sunset.

The bill should be slightly hostile to the good will and good intentions of committees. It should presume that there are some bills in some programs that committees want to protect from the scrutiny of Congress. It should presume they want to deny their colleagues an opportunity to make a judgment upon certain legislation. This idea is the heart of the idea of sunset legislation.

We can go through elaborate requirements that committees review programs, analyze programs and use their staffs to come forward with statements of justification, but it really does not do much good if the committee controls the agenda.

If the committee can decide which programs it will take up, I think someone, Mr. Derrick perhaps it was, that mentioned about the failure of sunset programs in State legislatures, they may end up looking at the Barbershop Commission or something.

This is exactly what H.R. 5858 will produce. It will produce an opportunity for every major committee to report out either its most popular programs, which have no fear of being reviewed, or something that they don't really care very much about anyway.

I would like to say a word or two about the suggestion that automatic termination means that terrible things might be done by the inaction of committees or by a veto of a President or by a filibuster. This is well within the ingenuity of this committee to circumvent.

In the first place, if a committee does not act, I think it would be improper to automatically terminate a program. In that case you could have any number of mechanisms. A smaller number of members and a majority of the House might be able to discharge a bill.

The Rules Committee might be called upon to consider reporting a bill to the floor. Appropriations might be subject to a point of order on the program if the committee had not acted. We do not want to create a situation where the committee by inaction could itself legislate for the House.

Obviously, this is contrary to the sunset concept too. The idea of sunset insists that the House make a judgment and if you put the control back into the committees, that violates the principle. The President vetoes the legislation, and the program continues.

You don't have to put the House in a situation, if it hasn't had its will reflected in a Presidential signature, that it faces an auto-

matic termination. Those, with respect are not intended to be, are kind of strong arguments. It is easy to get around that kind of a consequence if the committee desires to do so. The automatic termination itself does not need to be the only method of sanction.

For example, if you wanted to be very mild, say that if a program is not reviewed by a committee periodically, the House will not extend any increase in appropriations, or a point of order would automatically lie against standing appropriations. In the current climate that would cut down the program.

Others would contend that appropriations are not always that important. The gentleman that just left this witness chair pointed out that some regulatory programs have much more important economic impact on the economy and in their expenditure. There are a variety of things that could be done to force action.

I come back to the point, the defect in H.R. 5858, with great respect to the people who worked on it, is that it puts the committees in too much control and does not put enough pressure on the committees to review precisely the programs that they want to protect.

If we have an assurance that the committees somehow cannot protect programs which, I think we all realize, in every committee there are some that they don't want to give the House a chance to vote on, that is the test whether sunset is effective or not.

The other thing I would do, Mr. Chairman, besides, I think you have already gotten general consent to put statements in the record, I hope that in its efforts the committee would not produce elaborate new requirements on the committees of Congress and on the Congress, and at the same time allow the essence of sunset to evade us.

It would be, I think, worse than useless to have an elaborate series of reviews of all kinds of programs by the committees and by the House, and at the same time protect the committee's right to control that agenda.

There is one feature of H.R. 5858 that might be the beginning of an answer. It's the provision that allows the amendment of the agenda review on the House floor after the second session of Congress. This is the kind of action that I would like to see expanded on.

I believe that otherwise I—every other committee chairman, and every member of the committee, will continue to try to conspire occasionally to prevent the House from having a full opportunity to review programs.

In defense of the Agriculture Committee, we subject to review almost every program. We use an automatic system of every 4 years or more frequently requiring bills to come back for authorization again. The floor has an opportunity to vote on them and we always seek open rules.

There is one classic exception, a program that I personally favor, and I have and will defend on the floor at every opportunity. This is the tobacco program, which is in permanent law, and the Tobacco Subcommittee is not going to vote out on any opportunity for anybody to review the tobacco program.

I don't single it out as a bad program. It's an excellent program, one of the best in the Congress, and that is why I am anxious to

have a chance to defend it on the floor. I believe it can be defended, but it is the fear of allowing the Congress to vote on that bill that I think very often obviates those who are strongly in support of it to prefer it not be subject to review.

If the programs can't be reviewed with confidence, with an opportunity to let the House make their judgments, and with a feeling that that judgment will be a wise and good one, there may be some question about whether those programs are not always serving the public interest.

Thank you very much.

[Mr. Foley's prepared statement follows:]

PREPARED STATEMENT OF HON. THOMAS S. FOLEY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF WASHINGTON

Mr. Chairman, Members of the Rules Committee, I appreciate this opportunity to testify on H.R. 5858 and to express again my hope and optimism that sunset legislation will be adopted in the 96th Congress.

The Committee on Rules and the Subcommittee on the Legislative Process in particular have worked diligently throughout this year and have produced legislation which establishes a solid basis for a sunset program. By creating an inventory of all federal programs, focusing on programs most in need of review, encouraging coordinated review of similar programs and establishing a rational schedule for committee review the subcommittee has created a firm foundation for a sunset program.

I strongly believe, however, that H.R. 5858 does not have an effective mechanism to insure that will be congressional action on the reports that the committees prepare. I believe the process of automatic termination of programs that H.R. 2 contains or other strong action-forcing mechanisms of this type are absolutely essential to any sunset bill. Without an effective action-forcing mechanism, the problems in the governmental process which sunset was meant to address will remain with us.

Sunset legislation has recently received strong support because it represents a direct response to growing constituent demand for better performance by the Federal Government. Through my contacts with the citizens of eastern Washington, including frequent town meetings, I have noticed a deep frustration. The belief is widespread that regulations of Government proliferate and are never rescinded; that regulatory agencies continue to be created and are never significantly cut back or abolished.

Congress has encouraged oversight in the past but has never invoked the threat of program termination to insure the oversight. The Legislative Organization Act of 1946 directed congressional committees to "Exercise continuous watchfulness" over the agencies, under their jurisdiction. The Legislative Reorganization Act of 1970 reiterated and strengthened this commitment to oversight. Still not enough oversight is conducted and precious little effective and comprehensive oversight.

Reports are produced, but they can be ignored. Sunset should not become merely a rhetorical slogan to placate the public. We in the 96th Congress must produce an effective sunset bill which insures an effective and complete review of programs.

The heart of the idea behind sunset legislation is an automatic termination of programs or a comparable action-forcing mechanism. The essential modification of H.R. 5858 that I believe is necessary is the addition of an effective threat to the committees to insure complete and comprehensive review. H.R. 5858 differs from the other major sunset bills in deleting the provision that requires automatic termination of a program if the full review process has not been completed by the Congress. This automatic termination is essential, not because I want to see many programs abolished, but to insure that meaningful review and meaningful action of the review will be completed.

There is strong support, locally and federally, for a sunset bill with an action-forcing mechanism, like automatic termination. On the State level, since 1976, 34 States have adopted some form of sunset process and all 50 States have studied the concept in some formal manner. All 34 States that have enacted sunset legislation have some form or threat of automatic termination. The performance record in these States, though not completely uniform, nevertheless illustrates that effective sunset laws with automatic termination devices can not only abolish needless or

poorly conceived programs but also lend a new, creative dimension to the business of Government through modification and reorganization.

On the Federal level, both the House and the Senate as well as the President have endorsed effective sunset legislation which included the threat of automatic termination. On October 11, 1978, the Senate approved such a bill by an overwhelming vote of 87 to 1.

As chairman of the House Democratic Caucus, I was impressed by the unanimity with which the caucus adopted a resolution on January 24, 1979 which strongly urged this committee to consider and report to the full House an effective sunset bill. This caucus resolution strongly urged that the legislation should terminate funding for any program which Congress does not reauthorize. H.R. 2, the main model for the sunset resolution that passed the caucus, currently has 194 cosponsors which is a testament not only to the energy and persuasiveness of its three primary sponsors, Mr. Blanchard, Mr. Gephardt and Mr. Mineta but also to the continuing strong support for sunset with an effective action-forcing mechanism.

I would strongly urge that H.R. 5858 be amended to include, if not an automatic termination provision, then (1) an automatic discharge mechanism to insure that the committee reviews of programs are reported to the House and (2) a mechanism to prevent future consideration of an appropriation for any program that was not reviewed within the scheduled timetable.

From its inception, the heart of the sunset concept has been the threat of automatic termination of programs if the review process is not completed. Former United States Supreme Court, Justice William O. Douglas may have been the first sunset advocate when, as an adviser to President Franklin Delano Roosevelt, he proposed a ten-year life-span for all Federal agencies that Roosevelt created, as Douglas states in his autobiography, "Roosevelt would always roar with delight at that suggestion, and of course, never did do anything about it!"

I hope that we, the Members of the 96th Congress, will act on the suggestion of former Justice Douglas and other concerned Americans of both parties by finally enacting effective sunset legislation and hopefully beginning the process of improving the performance of Government.

Mr. LONG. Tom, thank you for your excellent statement. I know that you have for a long time been interested in oversight and have put that interest into practice as chairman of the Committee on Agriculture.

I also understand your concern about the needs for a mechanism to insure that we do have some sort of automatic termination.

Mr. FOLEY. Action-forcing mechanism.

Mr. LONG. Before I pursue a different line, in H.R. 2, we had automatic termination as the action-forcing mechanism. The number of people and organizations that started looking for exemptions from its applications was absolutely frightening. It truly ran the gamut, including even the AFL-CIO. This caused us to start looking in another direction, and that is how we came up with this legislation. It is not very strong and I admit that it is not. The provision under which the agenda would be subject to amendment on the floor after the second session of Congress ought to be included.

Mr. FOLEY. May I comment a bit on that at this point? The one thing I fear a little bit, although I do compliment you for including that provision, I am a little afraid of the concert given by people who want to be excluded. When you have the authority to amend, to add to the agenda, people would say on the floor, "look, if you vote against including my program, then I will vote against including your program. You will get a concert of Congress of all of the people who don't want to have their program reviewed, from the Business Roundtable on tax matters to the AFL-CIO or the liberal groups on regulatory programs. I think you would have the result that it would be difficult to pass those amendments.

Mr. LONG. I share that concern, and that concern is just as relevant to actions taken at the beginning of the year. When you set up an agenda, there are trade-offs of that type. It is a very difficult problem.

Mr. FOLEY. I did not touch on that. The committee is going to get down to the very lowest common denominator of the program it wants to review.

Mr. LONG. You mention the possibility of a discharge mechanism, the possibility of a discharge petition. Expand upon that a bit, if you would.

How would you as a committee chairman feel with respect to that?

Mr. FOLEY. As the chairman of a major committee in Congress, I take the position of most committee chairmen of being opposed to discharge petitions. Very frankly, I won't be backed up by all of my members.

I am perfectly willing to say right now that if we had to take half the committees of Congress and start on them, you can start with "A" for Agriculture, and take every program in the Agriculture Committee, including the existence of the Department of Agriculture, and bring that out on the floor. I will defend them.

If I can't defend them, I will either think myself a poor legislator or the program is somewhat questionable.

I was suggesting, if the concern is that the committee can kill a program by backdoor action and that is just as bad as continuing a program by inaction, then you could provide that if the committee didn't act, that 50 Members of Congress instead of 218 could discharge that committee from a bill to terminate the program, if it was at the appropriate time for review.

Something of that kind that would prevent the committee from killing the program or smothering the program under the guise of inaction. Similarly, as to a Presidential veto, I see no problem with that. If the congressional action is frustrated by a Presidential veto, it just didn't take place.

Mr. LONG. Mrs. Chisholm?

Mrs. CHISHOLM. Thank you very much, Mr. Chairman.

Tom, I was wondering, and I am thinking out loud, that perhaps if the committees in Congress did the job of congressional oversight that they were supposed to do and that if we had a continuing basis for really reviewing those programs, you wouldn't have this kind of automatic refunding and have groups appearing before the committees trying to get money for their programs without your asking a lot of questions as to how Federal dollars are being spent.

Do you truly believe that the sunset legislation might help to indirectly assist us in terms of our entire budgetary process and in looking at programs that will come up for various fundings and yet make us very conscious of the fact that there is an end to all of this money that flows out constantly.

Mr. FOLEY. Maybe I am unduly sanguine about this but I don't think sunset will accomplish everything. I think if there is a day of reckoning for virtually all of the programs in Congress, whether that is once every 10 years or whatever it is, and the committees know that they have to defend that program on the floor, that is going to have a healthy impact on oversight.

If I got a program I support, I will want to be sure that the defects in the administration and perhaps the legislative mandate of the program are corrected before I have to bring it out for a vote. I believe the agencies that are responsible for administering it and the departments are going to want to see that these programs are in the best possible condition before they come out on the floor for review.

I think it would be a very healthy thing for both the legislative review process and for the administrative review and management process if people knew that the programs had to be amended.

I don't want to focus in on particular programs to the exclusion of others, but I have had the impression from time to time that sometimes committees have made a mistake overprotecting a program that is under criticism. By the time they think about amending it, the program is so unpopular that they are fearful that it will be killed.

I think there was some original criticism of the Occupational Safety and Health Administration, which could have been corrected, but by the time the Education and Labor Committee kept putting off any review of it, the hostility became so great and the mythology in some cases so elaborate that they worried about OSHA being killed if it came out on the floor.

I think that we would be better off periodically reviewing those programs. Knowing we are going to review them, the committee and the administration would do a better job.

Mrs. CHISHOLM. Thank you.

Mr. LOTT. I regret that all committee members could not hear your statement.

I totally agree with it.

Mr. LONG. Mr. Derrick?

Mr. DERRICK. Mr. Foley made the same statement to me in the cloakroom 2 or 3 days ago.

Mr. FOLEY. Mr. Derrick has heard it all before.

Mr. DERRICK. It was equally as fine.

I think your example about OSHA is an example that I would use to point out, if I may, some defects in the program which you suggest in that what you want to do is to catch it on the tail end and you just suggested that OSHA might have come out much better had something been done at the beginning rather than waiting.

What you want to do is wait 5 or 10 years until all of the damage has been done and then review it. Why not—

Mr. FOLEY. Excuse me—

Mr. DERRICK. Why not catch it on the front end and make those corrections as you would do, as a reasonable person would do if you see the thing going wrong, make the adjustments?

Mr. FOLEY. The point I was trying to make, Mr. Derrick, was in response to Mrs. Chisholm's question. If you know in 8 years this program is going to be out on the floor maybe in a way that the committee cannot control, as soon as you start to recognize defects in it, there will be an interest on the part of those who want the program to get it corrected early.

I was arguing that just exactly that would occur. If you are going to be before the jury of the House of Representatives rather than

the friendly jury of the committee or subcommittee, you will be there with certainty that you or none of the Members can avoid, you better get the program in good shape early on.

Mr. DERRICK. With all due respect, you are ignoring reality. What is going to happen, as I suggested to you, it isn't going to do anything 6 months before the deadline and someone will say we have got to get on that thing. It will be coming up in about 6 months and there will be this rush of the committee to try to get things justified and all of the lobbyists will come pouncing down.

Mr. FOLEY. This is a scenario that can occur, but I am not sure it will be the one that will occur if Members of the committee truly care about the program. This will occur on programs that they don't really care too much about, but if there is any organized constituency for the program on the committee, I think there will be more foresight than that.

Mr. DERRICK. If they really care, you wouldn't need sunset legislation to begin with.

Mr. FOLEY. Can I quarrel with that a minute?

Mr. DERRICK. Certainly.

Mr. FOLEY. I think there are Members who would rather tolerate defects in a program than take the risk of changes that go too far. I think many Members know that programs have defects but are unwilling to have the House of Representatives, as a less than warm and friendly group, do the correcting. There is a great deal of feeling that the House won't understand, that maybe Members would be swept by passion or emotions at the time, or this kind of program is in bad fashion at the moment, or we can't trust the House to do this.

All of those things you have heard, many times from members of the committees that come to you asking for closed rules. They don't say them on the record.

The whole idea of tax legislation coming out with closed rules is, we can't trust the House with tax legislation, right? They are going to do terribly irresponsible things, vote a lot of deductions, and there is some element of truth in that from time to time.

Overall, I think there are Members who will, unless forced, that will blink at some defects in the program.

Mr. DERRICK. What I fail to see is that this arbitrary deadline that you set is going to in some way correct a regression on the part of individual Members or the body at large, correct what you just point out. I can't argue about that. That is the nature of the institution, but I don't see where that is going to correct it.

Mr. FOLEY. Well, then, maybe the sunset concept is not a good one, and if you make that judgment that it is not a useful tool, then I would say reject it.

I have some problems with H.R. 5858, if that happens to be its final form, if we impose a lot of report writing, of report receiving, and additional deadlines, all of them controlled by the very committees that I see as the targets. I think that the sunset bill has to be at its heart a sort of anticommittee bill, that is the way I see it and I am a committee chairman.

If it isn't hostile to the control, the absolute power of the committee over those legislative acts, then one should not engage in the effort. If you make the decision that we can trust the committees

to review their own legislation, let them do it without a lot of deadlines, report writing and time schedules.

I think that the bill has to recognize the heart of the sunset principle that committees cannot be totally trusted with their legislative jurisdiction, that they are in some cases biased and deliberate in their obfuscation of the issues as far as the House of Representatives is concerned, and that accounts for a legislative problem. The way to correct it is to take this absolute control out of their hands, to a degree.

If you don't do that, I would suggest you eliminate the concept, and I could respect that judgment.

Mr. DERRICK. I think you make a good argument there. I hope you will present to the committee some suggested amendments that we might or that you might like, and maybe to correct it.

Mr. Long and I think the suggested legislation is perfect. It may be close. Seriously, suggest some things you think might help.

Mr. FOLEY. The thing that gives me the most concern about my own view is that Members of this committee whose judgment I have a great deal of respect for have worked long and hard on this issue. They have given it their sincere best judgment. If they have got some deep reservations about the sunset principles after that time, that is something we ought to consider.

Mr. DERRICK. As you well know, what has been obvious, we are trying to find some ground that will work, that: No. 1, will pass the body and that will accomplish, and the first is not an unusual request, and No. 2, that will accomplish maybe not everything but will start in that direction.

Just like the budget process, I mean and when it started out in its infancy, there was a question there for a long time whether it would survive and it has been added to and refined, and I think it has a ways to go yet.

Mr. FOLEY. You haven't asked me the question, and I will vacate here. If you ask me to choose which one was the most important of those principles, one that will work and one that will pass the House, I suggest you try to pass one that will work and those of us that are in support of this concept see if we can pass it.

Mr. LONG. Mr. Beilenson?

Mr. BEILENSEN. I thought Mr. Foley's statement was really an excellent one and I am sorry he feels the way he does about this issue.

Mr. LONG. Thank you very much.

Mr. Panetta, we are pleased to have you and know your long-time interest in this matter.

STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. PANETTA. I want to say, first of all, as a member of the Agriculture Committee and under the distinguished chairman, I want to assure the committee it is certainly not as sinister as the chairman has pointed out.

We operate with a very distinguished chairman.

Mr. Chairman and members of the subcommittee, I really would like to summarize some of the basic points that have already been

discussed and ask unanimous consent that I could insert my statement.

Mr. LONG. Without objection, so ordered.

Mr. PANETTA. Basically, I have been interested in the problem of quality and quantity of congressional oversight ever since I have come to the Congress. I think it is a major problem.

What you have done in the bill is essentially recognized the reality of what we are dealing with. You had to develop a hybrid based on a number of proposals that have been before this committee and try to find some compromise. I can tell you as chairman of the Legislative Savings Task Force on the Budget Committee there is no other alternative.

If we want to get the Members to adopt something that is meaningful, that establishes some kind of procedure, this is the kind of compromise that will attract the support of many Members.

If you don't move in this direction to a review process, if you mandate termination, you will get those that will automatically oppose it. It will terminate programs that they are supportive of, and they will attack it on that basis.

If you allow the process to go that way, you are going to be attacked for not trying to take hold of the oversight responsibility and simply allow the committee to go their merry way, so the problem is, you can take the hard line or the soft line.

I think what you have tried to do in this bill and the reason I support it, you recognize the realities what we are dealing with and developed a compromise that sets up a review process in the committees. That is important to do, to at least get them to focus on a consistent basis. Yes, it demands reports; and, yes, it may demand additional paperwork, but it sets up a process that doesn't exist today on the committees.

We have oversight committees. We do not exercise that role as effectively as they should. This would give the committee some context to operate within.

The other reason that I like the bill is obviously it begins to focus on what I have introduced in the Congress, which is 2-year budget frame. I think it is very important that we try to set aside a time frame that recognizes problems we have today in just having enough time to do what we do on a day-to-day basis.

We focus on a lot of new legislation in this institution. Something like 20,000 bills are introduced each Congress. At the same time we are supposed to have an oversight responsibility for the 500-odd programs that we are trying to do oversight on. We simply can't do both without setting up some kind of time frame. The 2-year budget approach that I have suggested is essentially to spend 1 year on oversight and the second year working on new legislation.

Admittedly, this would be a significant revolution in terms of the time frame of the Congress. I think the approach that is taken, however, by the bill is to in effect set up a 2-year time frame which literally 1 year is set aside for a review process. That is important to set that aside for that reason, and then operate on the reports the second year.

The last point I want to make is, as chairman of this Legislative Savings Task Force, what we are responsible for is trying to devel-

op areas of legislative savings. We know that 75 percent of the Federal budget is termed uncontrollable, entitlement programs of one kind or another that operate on their own and are not subject to review by the Congress, and we try to get committees to look at those programs and see where administrative changes can be made.

Most of the authorizing committees are resistant to going back over those programs. They have authored many of those programs and worked with them, and they don't want to admit that there may be failings with these programs, or take a hard look at areas where the programs do not work.

We have dealt with chairmen of committees who are not interested in trying to develop and go over those kinds of reforms. We face the issue of reconciliation in the budget battle. It was the Senate's way of saying to committee chairmen, you will report certain legislative savings.

I can tell you on the House side, that met with overwhelming rejection by most of the chairmen and committee members who said, we don't want to be told by the Senate or anybody else what areas we are going to look at.

Now, that is not to say that we can't continue to encourage them to do it, but it is the reality of the opposition that we are facing on this issue that I think is recognized by this proposal. Legislative savings in order to work demands that the committees review ongoing programs.

It demands that they look at entitlement programs, and it demands that they look at areas where the administration and Members here in the Congress have said those programs can be improved. Just in this budget alone, we are talking about \$4.2 billion worth of legislative savings that would occur if the committees acted on those savings.

In 5 years, that \$4.2 billion would translate into \$20 billion of savings, because by having those reforms we would progressively continue to receive the savings over a period of time, so we are not talking about something that is insignificant. We are talking of a real budgetary impact in the future, but unless we get committees to focus on those legislative savings, it is not going to happen.

We have got several areas of legislative savings where virtually the chairmen have said, we are not going to touch those programs because those constituencies are too poor, and there is no way to force that issue. Admittedly, this approach here is not necessarily going to force them to the wall either, but what it does, and it is important, it creates a focus.

You have essentially said those are the areas the committee is supposed to have oversight on. If they don't report and do the job, it is another way of focusing attention on what should be the committee's responsibility. We can't take it away from them, so for those reasons, basically it is a compromise approach that blends in a number of important points that have been raised in other measures, and it adopts the 2-year approach at least to the extent of oversight for the 1 year.

Third, because of legislative savings and the important role the savings play in the budget process to try to get committees to focus on them, the legislation is meritorious, and that is why I am a

cosponsor and that is why I hope the committee will report it out to the floor.

Mr. LONG. Thank you very much for your presentation here today and your general agreement with Mr. Derrick's views. I can see why you have earned your reputation as a sponsor of creative and innovative legislation.

The old maxim is that you can lead a horse to water but you can't make him drink, and that is basically what we concluded we were faced with.

We found out that there is no way that you can sit someone down and absolutely make him do something against his will.

Other innovative legislators will always devise a way around a strong mechanism if we include one. They have got to want to do it or it will not be done.

The one technical question I would like to ask you as a member of the Budget Committee who has done a great deal of work along that line is, how do you view the procedures of H.R. 5858 meshing with the Budget Act? We tried to coordinate the reporting date with the Budget Act, schedules. Do you think that this will tend to increase oversight? Will it help the work of the Budget Committee in this regard?

Mr. PANETTA. Two points, you did tie it into the reporting dates, I think it is May 15, as I recall, on the bill. May 15 is the date when we ask the committees to report out their key legislation. This gives them an opportunity to spend that 1 year reviewing ongoing programs, and hopefully by May 15 they can make reports to the Budget Committee regarding their legislative savings proposals.

It fits into the budget process very well.

The other point I would make is that we are talking about in the legislative savings area to try to set up a long term, 5-year time frame to look at legislative savings approaching over a 5-year period.

This would build in that kind of process by saying to committees, over 5 years we would like you to review certain areas from a budgetary point of view. This would require them to in effect build that into their committee process which is important. One of the problems we have is on the oversight committees. We just don't get those committees to really operate and really focus on overall programs.

They target where fire is, and they may focus on it for a few days, but that is it. They don't do a kind of ongoing approach to programs generally. I would like to see committees do that as a body.

I think oversight ought to be a responsibility frankly of the full committee, to have them look at those programs and see how they are operating.

I think what this approach does is it creates an incentive to get the full committees to set out these areas and begin to try to have some discipline in looking at the oversight responsibility.

[Mr. Panetta's prepared statement follows:]

PREPARED STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF CALIFORNIA

Mr. Chairman, members of the subcommittee, thank you very much for inviting me to speak before you today.

As many of you may know, I have long been interested in this problem of improving the quality and quantity of congressional oversight. In fact, I have testified twice before this subcommittee on my bill, H.R. 2000, the Biennial Budgeting Act, and I have worked closely with the Chairman, Mr. Long, and some of you, for some time on this issue.

Let me say at the outset of my remarks that I am very, very pleased with H.R. 5858. I believe it is a reasonable hybrid of the many complicated issues and proposals your subcommittee has had to face. In particular, it strikes a sensible balance between some of the other proposals on sunset, by subjecting all programmatic expenditures, including tax expenditures, to the review process, exempting none, and by eliminating any mandatory termination provisions of previous bills. This approach insures that every program will be scrutinized and protects against the political game-playing with unpopular or expensive social programs that would surely ensue, if termination were tied to the sunset process. In addition, the bill preserves the "sunrise" approach of Mr. Derrick, by providing "front end" statements of objectives of committees in their review process.

Moreover, the bill recognizes the attractiveness of a two year review schedule, built around the timetable of the congressional budget process. This is a feature of my bill, H.R. 2000, and one that I believe is necessary, if a thorough and responsible review is to be done. Because this issue—the time frame for review—is one of special interest to me, let me talk about it further with you.

I think most Members would agree, and I think this is demonstrated by your approach on H.R. 5858, that most individual Members and committees of the House do not have a great deal of time available for the performance of oversight functions. This is part of the reason that the work does not get done and this question has figured heavily in deliberations on all sunset measures to date. Indeed, on the Senate side, Senator Muskie's bill was revised from a five-year review schedule to a ten-year schedule, reflecting the shortness of time available to committees to do this work.

As many of you know, my Biennial Budget Act, H.R. 2000, would put the Congress itself on a two-year budget cycle, with one year specifically set aside for oversight, with no legislation reported. It would only be in the second session of a Congress that action would actually occur on legislation. This approach recognizes, as does H.R. 5858, that time and reflection are necessary, if this work is to be done properly. At this point, a separate review of the Budget Act is going on in the Rules Committee and elsewhere, but I think that the two-year framework of this bill would accommodate any possible future changes in the Budget Act timetable.

As a member of the House Budget Committee and, in particular, as chairman of the Budget Committee's Task Force on Legislative Savings, I have another particular interest in H.R. 5858. Many of you may know the tremendous effort that the Budget Committee has put this year into encouraging the adoption of legislative savings measures, measures that reform spending requirements in existing law and, therefore, result in reductions in federal expenditures. This effort has been controversial on many points, because the Senate wished to take a mandatory, reconciliation approach, because certain important savings measures were defeated, and because many of the proposed legislative savings involve programs that have powerful lobbies or constituencies.

However, one of the fundamental underlying problems with legislative savings initiatives, coming from the Budget Committee, is the fact that the authorizing committees have no incentive to review entitlement programs for reforms. They are not required to do so and they often have little interest in trimming back the programs they have created. H.R. 5858 will give the committees that incentive or that requirement. It is my judgment as a member of the Budget Committee and chairman of the Legislative Savings Task Force that this bill will result in the authorizing committees' reporting more legislative savings recommendations than they have in the past.

Moreover, the time frame for committee action ties in well with the Budget timetable, as you know. Most important, I think, will be the fact that the two-year approach will give the Budget Committee time to work with the authorizing committees in developing their ultimate legislative recommendations, especially where they might involve budgetary savings. Under the present scheme, we operate in a system where there is not any incentive for oversight and the actual reporting of legislation and where the reporting of legislation substantially affecting the federal

budget may occur suddenly without the Budget Committee having an opportunity to participate or advise in its formulation. Under H.R. 5858, the Budget Committee will have sufficient notice to testify before the authorizing committees and provide advice on budgetary implications.

Mr. Chairman, these are important aspects of H.R. 5858, because I think it is clear that the unrestrained growth of federal spending, in large part, is responsible for the momentum for this kind of reform. This bill will contribute significantly to the efforts of the Budget Committee and others to regain control of that spending. In so doing, it will have achieved one of the major goals of its creators.

Mr. Chairman, I applaud and admire the time-consuming and detailed study you have made of this issue and the work you have put into synthesizing and ironing out concerns from a wide variety of individuals and groups. I lend you my wholehearted support for H.R. 5858.

I would be happy to answer any questions you or members of the subcommittee might have.

Mr. LONG. Mr. Derrick?

Mr. DERRICK. I obviously agree with your testimony.

I thank you very much for your help.

I would like to be made an ex-officio member of this Legislative Savings Task Force, so that I might put it on my stationery.

Thank you very much.

Mr. LONG. Mr. Beilenson?

Mr. BEILENSEN. Thank you very much.

The BOLLING. I must have missed something.

Mr. LONG. Thank you very much, Leon.

Mr. PANETTA. Thank you.

Mr. LONG. Mr. Blanchard?

We are pleased to have you. We know how much work you have done on this subject over the years.

STATEMENT OF HON. JAMES J. BLANCHARD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. BLANCHARD. Thank you for allowing me to testify.

I will try to be brief.

Last week Congressman Mineta testified, and I largely share his views. I had hoped to be with him at that time and couldn't be, and earlier I heard Congressman Foley, and I guess I would concur with what he says, which is to say I am sure all of the others who are supporting sunset are deeply grateful for the time that your subcommittee and the staff have put in on this subject.

I am beginning to wonder whether there is any way to craft a strong, meaningful sunset bill which will be politically salable, and I say this after about 5 years of working on it.

It is true several of you have more experience than I at this business; but when I find disagreement from various quarters on what you have done, including for myself, I start to wonder whether we are not trying to tackle something that simply can't be done.

We must proceed on the basis that it can, or I guess none of us would want to serve in Congress and tackle a lot of the other issues, but I do want to express my gratitude personally to you and the staff and Congressman Derrick for spending almost a year looking at how such a system of program review and oversight would work.

Along with some others, I am a sponsor of H.R. 2. I also joined as a sponsor of your H.R. 5858, not because I thought it was the end-

all answer, but I felt, given your intentions and hard work, that in the spirit of moving toward some legislative solutions to the problems we face that I should support you and go along with you. But I do view H.R. 5858 as a working vehicle more than a finished product, and I sincerely believe it needs to be strengthened.

Let me touch on a few reasons as to why and then we can discuss them.

Basically, there has to be some form of action-forcing mechanism. That does not necessarily mean termination. Termination is a misuse of the concept. I really mean that all authorizations ought to expire at some point. As of now, some do and some don't, but they all ought to expire at some point.

I don't view expiration as unnecessarily harsh, but I remain open to be convinced. Most of you are aware of some of the oversight requirements on the books. I really believe, whether you look at the 1970 Legislative Reorganization Act or the 1974 Budget Act or even the report that Government Operations Committee is supposed to issue at the beginning of each Congress, you find, in other House rules, that there are numerous requirements for oversight already on the books.

Attached to my testimony is a summary of those requirements by CRS [see p. 77], but there are numerous requirements that have been placed on the statute books and in-house rules to require oversight, but nevertheless, we are still here trying to figure out a way to see that that gets done.

Perhaps you are right, you can lead a horse to the water but you can't get it to drink, but maybe if you turn off the other faucet in the barn you will get them to drink.

I guess that is the challenge I would throw out to you. I would strongly urge the committee adopt amendments to H.R. 5858 and there are four areas where I would like to see you try. No. 1, is to insure the committee will take action on its sunset agenda.

No. 2, to try to find a way in which there will be some congressional action on that matter;

No. 3, to seek better coordination between programs and tax expenditures, because I think the Congress and the committees ought to be considering related programs in relation to each other and at the same time;

No. 4, obviously some way to ultimately offer a time period insurance that all programs and tax expenditures be reviewed.

Now, that is easier said than done when we are talking about juggling the workload.

I find the subcommittee's work and your suggestion that we give the committees some latitude to be appealing, because I think we have to have our leadership committed to the idea of going forward. We have to have them committed to the process.

If we can't force them over time to let everything be reviewed and encourage them to work with other committees, I am not sure it is going to be worth the effort. Specifically, on action-forcing mechanisms, I think you certainly ought to consider, if you have a markup, expiration of program authority, in other words, have all programs expire at some point, instead of the present system where some expire and others are permanent.

Another way, of course, would be to provide that a point of order would lie against any appropriation for an agenda item not considered, or against other legislation reported by committee before it reports on its agenda.

One of the complaints we have heard is committees continue to crank out legislation for whatever reason and run in here or try to go on the suspension calendar. We are down there voting on stuff that we are all chuckling about, even if it is important to somebody.

Maybe the way to start getting a handle on the workload problem and enforce compliance with the oversight agenda is not allow them to bring other bills out at a certain point in the year, if they have not done their oversight. Another way is to provide for a discharge of the committee after a certain period of time so that the full House could take a look at the legislation.

Another way perhaps to enforce action by the full House would be not to allow adjournment until final action is taken. Another idea is one I mentioned to Congressman Foley recently, one that was in the original sunset bill I introduced in 1975.

Interestingly enough, I did not have termination in the original bill. It was only when we began working with Senator Muskie and looking at how we might make this a tough piece of legislation and working with Common Cause leadership, that I decided myself, that termination or expiration was the way to go. Originally in the bill I had back in 1975 was the condition that no program could get a funding increase unless it had undergone a review. It goes without saying that with the inflation rate that means we would get a very real decrease over time in a program operation and you begin to reduce the expansion of the budget of that item.

Let me also mention, I think coordination, enforcing the coordination is going to be very important; and I would suggest the Rules Committee consider itself a potential coordinating body. Other committees might not like that, and you will be rather modest about your power, but I believe the Rules Committee ought to keep a strong hand on any process we enact, and I have faith that you would exercise any judgments with wisdom.

I think we should require each committee under your bill to summarize periodically which programs under its jurisdiction it has reviewed and which it has not with explanation of why not. At the very least that ought to be added to the legislation.

But, as I review your bill, and I cannot claim to know all of the details, I come back to the notion that we are facing ultimately a political problem here within the House. You have critics saying you have already gone too far, apparently, and others will say H.R. 5858 is not strong enough.

I happen to think you easily satisfy those who might feel you are going to be too strong and that what needs to be done here is to satisfy those who feel you get too weak of a bill. That is going to be one mean feat.

I cannot speak for all 193 cosponsors of H.R. 2, and there are all sorts of reasons as to why they are on it including the fact it looks good when they write back home.

There is a list of cosponsors attached to my testimony. Regardless of what I do, certainly the majority of those cosponsors of H.R.

2 are going to expect you to strengthen this bill or will feel that it isn't worth fighting for, regardless of what Jim Blanchard or Dick Gephardt do or Tom Foley does.

I am concerned that in trying to make sunset legislation politically doable, you may render it no longer a credible sunset bill. I know you are worrying about that, too.

Therefore, I think if the committee finds itself, and by the way I have some amendments drafted that I would like to at some point share with you and your staffs if you go to a markup, if you find yourselves unable to materially strengthen H.R. 5858, then I would recommend that you at least provide for some sort of a consideration of a substitute on the House floor.

I don't want to go around championing modified rules, but it strikes me that that may be the only way to handle such an issue, and that in that case I respectfully request some form of a substitute.

The long and short of it is that obviously being in Congress and being in politics I have to believe in the art of compromise. I want to work with you and you have done more than your share of trying to work with me.

Lately, I have been worrying more about Chrysler Corp. than sunset, and you have been very patient with my input, and I am grateful for that.

I don't believe that myself or anyone else on H.R. 2 has to or should insist on your agreement to every little point. In addition, I remain convinced that there is some way to work this out and to pass it, and that reasonable minds will conclude, if we find that way, that this can be effective.

Given the politics of the issue, I don't envy your task that is for sure. I guess I am glad I am not sitting where you are in trying to handle this issue at this time. I am grateful for your work and sincerely hope I can be in support of your final product.

Mr. LONG. Thank you for your thoughtful statement, Jim.

We all know that you have been very busy here recently with respect to the Chrysler matter, but you and your staff have gone out of their way to be cooperative with us.

Without objection, we would like to make your statement and the suggested amendments a part of the record.

[Mr. Blanchard's prepared statement, with attachments, follow:]

PREPARED STATEMENT OF HON. JAMES J. BLANCHARD, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman and members of the Committee, I am very pleased to testify before the full Rules Committee on the issue of sunset and program review legislation. I very much appreciate your flexibility in allowing me to reschedule my testimony from last week.

I would like first of all to acknowledge the thorough and careful work which Representative Gillis Long and the Subcommittee on the Legislative Process have done on this issue. I think we would all agree that program review and Congressional oversight touch on some complicated areas—the federal budget, the appropriations process, and committee jurisdiction and procedures. The Subcommittee's work this year reflects its serious approach to a complex topic. As the sponsor of H.R. 2, one of the major bills considered by the Subcommittee, I want to thank them for their efforts.

I am in basic agreement with the statement presented to the Committee last week by my colleague, Representative Mineta. I believe that H.R. 5858, the new bill developed by Representative Long, steers a workable compromise approach for

program review and evaluation. However, at this stage I view H.R. 5858 as a working vehicle rather than a finished product and, as such, I believe that it needs to be strengthened.

I believe that provisions establishing some type of action-forcing mechanisms are essential additions to the bill. Without them, H.R. 5858 would be like most of the other oversight requirements that we already have—good ideas, but ineffectual.

The Committee is undoubtedly already well-versed on the current provisions, but I found it useful to orient myself about what is "on the books." Existing oversight requirements include the 1970 Legislative Reorganization Act (which requires most House and Senate standing committees to issue biennial oversight reports), the 1974 Budget Act (which authorizes committees to contract for an evaluation of a program or to require executive agencies to furnish an evaluation), the report which the Government Operations Committee is to issue at the beginning of each Congress outlining and coordinating the oversight activities of the other House committees, and a number of House rules which require oversight efforts by standing committees. I have attached a more detailed summary of these current requirements, prepared by CRS.

My point here is that there are quite a number of laws and rules in effect right now which are meant to encourage effective program review. Yet we are here today discussing still another approach to encourage "meaningful oversight." It seems obvious that the encouragements we now have aren't doing the job and that it would be useless to add one more to the list. If the Committee approves a bill aimed at improving oversight, it must make sure that the bill has some enforcement mechanisms and is not just "business as usual."

Therefore, I strongly urge that the Committee adopt amendments to H.R. 5858 which will ensure that the "sunset review agenda" is fully implemented and followed through.

I believe that there are four major areas in the bill which call for strengthening amendments: (1) the procedure to ensure committees' action on their sunset agenda items, (2) the procedure to ensure Congressional action on sunset agenda items, (3) the coordination of the review of related programs and tax expenditures, and (4) the procedure to ensure that all programs and tax expenditures are eventually reviewed.

H.R. 5858 in its current form relies exclusively on indirect pressures and incentives to ensure that its procedures are carried out. I suggest that more direct, action-forcing mechanisms be incorporated. Among those the Committee ought to consider are:

If a committee failed to meet its agenda review deadline: (1) expiration of program authority (or automatic termination), (2) a point of order against the appropriation for an agenda item, (3) a point of order against the committee's other legislation, or (4) some type of automatic discharge mechanism.

If Congress failed to take action on the full sunset review agenda: (1) no adjournment until final action is taken, or (2) a freeze on the funding levels for sunset agenda items which have not been acted on.

The coordination of the sunset review is very nearly as important as ensuring that the review takes place. Without coordination, the reviews would be little different from those done in the current situation in which similar programs under different committees, as well as related spending programs and tax expenditures, are considered separately. In this aspect also, H.R. 5858 depends solely on encouragement to accomplish its ends. I believe that more is needed and suggest that the Rules Committee (or at least some coordinating body) be permitted to monitor the implementation and coordination of the sunset agenda.

In addition, I believe that the bill should take a stronger approach to ensure that all programs and tax expenditures will ultimately be reviewed. A key distinction between H. R. 5858 and H.R. 2, the Sunset Act of 1979, is the emphasis in H.R. 2 on program reconsideration as well as evaluation. I believe that comprehensive oversight should mean that all programs are, within a reasonable period of time, looked at.

Within the framework of H.R. 5858's approach, I suggest requiring each committee to summarize periodically which programs under its jurisdiction it has reviewed and which it has not, with an explanation of the latter. This would be in addition to the committee's three-year projection of its agenda plans. I recommend that this be done in every 6th agenda, allowing a 10-year cycle for committees to cover all programs under their jurisdiction.

I feel that the inclusion of provisions such as these is vital for both the bill's effectiveness and its viability. We are all well aware that the support for sunset or any kind of program review legislation is a mix of many diverse elements. There

are critics on each end of the issue—some insisting that what we do will be too strong and some that it will be too weak.

In my view H.R. 5858 should already meet the concerns of those who feel that the original sunset concept is too strong. It is up to this Committee to ensure that it also responds to the concerns of those like myself who feel that it is too weak as currently drafted. I cannot necessarily speak for the 193 cosponsors of H.R. 2, but I do sincerely believe that a majority would be disappointed with the weakness of the current bill. I am concerned that, in trying to make this bill "do-able" in political terms, you may render it no longer credible as a genuine "sunset" bill.

Therefore if the committee finds itself unable to materially strengthen H.R. 5858, I strongly recommend that it provide for the consideration of a substitute on the floor of the House.

As one engaged in the art of politics, I believe in the art of compromise. Thus, I am willing to work together to get a more responsible review process started in Congress even if it is something short of my personal goal, provided that reasonable minds conclude that it can truly be effective. With some of the changes I've outlined, I hope that H.R. 5858 can be made effective and that it will gather the support of many who are committed to strengthening Congressional control over federal spending. Given the politics of this issue, I do not envy your task. I am sincerely grateful for the Subcommittee's fine work, and I truly hope that I can be in support of the final product.

CURRENT OVERSIGHT REQUIREMENTS

1. *Public Laws.* Three key laws assign oversight duties to committees. They are the Legislative Reorganization Acts of 1946 and 1970 and the Congressional Budget and Impoundment Control Act of 1974. The 1946 LRA required House and Senate committees to exercise "continuous watchfulness" of the administration of laws under their jurisdiction. The 1970 LRA revised and rephrased in more explicit language the oversight function of standing committees. In addition, it required most House and Senate standing committees to issue a biennial oversight report and strengthened the investigative responsibilities of the General Accounting Office and the policy analysis role of the Congressional Research Service. The 1974 Budget Act expanded House and Senate committee authority for oversight. It permitted committees to evaluate programs themselves "or by contract, or (to) require a Government agency to do so and furnish a report thereon to Congress." It also authorized committees to use such techniques as pilot testing, cost-benefit analysis, or "provision for evaluation after a defined period of time." The Budget Act required GAO to establish an Office of Program Review (now the Office of Program Analysis) and assist committees in program evaluation through such means as "developing a statement of legislative objectives and goals and methods for assessing and reporting actual program performance."¹

2. *House Rules.* House rules grant the Committee on Government Operations a unique role in coordinating oversight activities. Within 60 days after a new Congress convenes, the Committee is to issue a report to the House on the oversight plans of every committee and assist in coordinating oversight activities of the House. Pertinent review findings and recommendations of Government Operations are to be considered by the authorizing committees, if presented to them in a timely fashion. In addition, authorizing committees' reports must include Government Operations' finding and recommendations in a section of their reports on legislation whenever a summary of the oversight findings of the Government Operations Committee is contained within the report.

More generally, House rules require other oversight efforts by standing committees. First, all committees have the authority to review the impact of tax expenditures on matters that fall within their jurisdiction. Second, each committee (except Appropriations and Budget) has a responsibility for research on alternative futures and forecasting. Third, seven committees have a "special oversight" function, i.e., the right to conduct comprehensive review of a specific subject areas that are within the legislative jurisdiction of other committees. Special oversight is akin to the broad oversight authority granted the Committee on Government Operations by the 1946 LRA, except that special oversight is generally limited to named subjects, such as the "problems of all types of small business." Fourth, committees are authorized

¹ The 1970 LRA requires most House and Senate committees to include in their committee reports on legislation five-year cost estimates for carrying out the proposed programs. The 1974 Budget Act requires the Congressional Budget Office, to the extent practicable, to prepare for all House and Senate committees (except the Appropriations Committees) five-year cost estimates for each public measure reported from committee.

to create oversight subcommittees or to require their subcommittees, if any, to conduct oversight in their jurisdictional areas. Fifth, committee reports on measures are to include their oversight findings separately set out and clearly identified. Finally, the costs of stenographic services and transcripts for oversight hearings are to be paid from the House contingent fund rather than from committee budgets.

3. *Senate Rules.* Senate Rule 25 grants "comprehensive policy oversight" responsibilities to several standing committees. This duty is akin to special oversight in the House. The Committee on Agriculture, Nutrition, and Forestry, for example, is authorized by Rule 25 to "study and review, on a comprehensive basis, matters relating to food, nutrition, and hunger, both in the United States and in foreign countries, and rural affairs, and report thereon from time to time."

Senate Rule 29.5 requires all standing committees, except Appropriations, to prepare regulatory impact evaluations in their committee reports accompanying each public bill or joint resolution. The evaluations are to include an estimate of the numbers of individuals and businesses to be affected, a determination of the regulation's economic impact and affect on personal privacy, and a determination of the amount of additional paperwork that will result.

Cosponsors of H.R. 2, the SUNSET ACT OF 1979
Introduced by Representatives Blanchard, Mineta, and Gephardt

Daniel K. Akaka
Donald Joseph Albosta
Jerome A. Ambro
Glenn M. Anderson
Beryl Anthony, Jr.
Douglas Applegate
Alvin Baldus
Doug Barnard
Michael D. Barnes
Berkley Bedell
Adam Benjamin, Jr.
Charles E. Bennett
Tom Beville
Edward P. Boland
William Hill Boner
David E. Bonior
Marilyn Lloyd Bouquard
William M. Brodhead
Geo. E. Brown, Jr.
John Buchanan
Beverly B. Byron
Carroll A. Campbell
Bob Carr
John J. Cavanaugh
James C. Cleveland
Tony Coelho
Silvio O. Conte
Tom Corcoran
Baltasar Corrada
James A. Courter
Norman E. D'Amours
Dan Daniel
Robert W. Daniel, Jr.
Thomas A. Daschle
Mendel J. Davis
Ronald V. Dellums
Butler Derrick
Edward J. Derwinski
Norman D. Dicks
Brian J. Donnelly
Robert K. Dornan
Charles F. Dougherty
Thomas J. Downey
Robert F. Drinan
John J. Duncan
Robert Duncan
Robert W. Edgar
Don Edwards
Jack Edwards
David F. Emery
Glenn English
Allen E. Ertel
Billy Lee Evans
Dante B. Fascell
Vic Fazio
Geraldine A. Ferraro
Joseph L. Fisher
Floyd J. Fithian
Thomas S. Foley
Edwin B. Forsythe
Bill Frenzel
Don Fuqua
Sam Gibbons
Benjamin A. Gilman

Bo Ginn
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William F. Goodling
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Frank Guarini
Tennyson Guyer
Tom Hagedorn
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Lee H. Hamilton
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Andy Ireland
John W. Jenrette, Jr.
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Thomas N. Kindness
Ray Kogovsek
Robert J. Lagomarsino
Claude Leach
Jim Leach
Raymond F. Lederer
Gary A. Lee
William Lehman
Elliott H. Levitas
Jim Lloyd
Clarence D. Long
Thomas A. Luken
Andrew Maguire
Edward J. Markey
Ron Marlenee
Dawson Mathis
Robert T. Matsui
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Romano L. Mazzoli
Paul N. McCloskey, Jr.
Matthew F. McHugh
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Dan Mica
Barbara Mikulski
Abner J. Mikva
George Miller
Donald J. Mitchell
Anthony Toby Moffett
Robert H. Mollohan
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Bill Nelson
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Mary Rose Oakar
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Nick Joe Rahall, III
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William R. Ratchford
Frederick W. Richmond
Matthew J. Rinaldo
Robert A. Roe
Marty Russo
Jim Santini
James H. Scheuer
John F. Seiberling
James M. Shannon
Philip Sharp
Olympia J. Snowe
Gladys Noon Spellman
Arlan Stangeland
W. William Stanton
Portney H. (Pete) Stark
Tom Steed
Gerry E. Studds
Allan Byron Swift
Mike Lynn Synar
Bob Traxler
Paul S. Trible, Jr.
Morris K. Udall
Bruce F. Vento
Harold L. Volkmer
Douglas A. Walgren
Robert S. Walker
Wes Watkins
James Weaver
G. William Whitehurst
Charles Whitley
Charles Wilson (TX)
Charles H. Wilson (CA)
Larry Winn, Jr.
Timothy E. Wirth
Lester L. Wolff
Howard L. Wolpe
Antonio Borja Won Pat
Joe Wyatt, Jr.
Gus Yatron
Don Young
Robert A. Young
Clement J. Zablocki
Leo C. Zeferretti

AMENDMENTS TO H.R. 5858 OFFERED BY MR. BLANCHARD

Page 11, after the period in line 21, add the following new sentence:

In addition, in the case of the committee sunset review agenda submitted by any legislative committee in the One Hundred Third Congress and in the case of the agenda so submitted in every fifth Congress thereafter, such report shall include a summary of the programs and tax expenditures which the committee has reviewed under this Act during the period of the five Congresses immediately preceding the Congress in which the agenda is submitted, and a summary of the programs and tax expenditures within its legislative jurisdiction which it has not reviewed under this Act during that period, with a statement explaining its reasons for not having reviewed any of the latter programs and tax expenditures which are not scheduled for review in the agenda so submitted.

Page 12, lines 18 and 19, strike out "'projections referred to in'" and insert in lieu thereof "'matters reported by the various legislative committees (in the Congress involved) pursuant to'".

Page 12, strike out the parenthetical phrase in lines 7 through 9 and insert in lieu thereof "'(with such changes as may be necessary or appropriate)'".

Page 22, after line 2, insert the following new subsection:

(c) It shall not be in order in either the House of Representatives or the Senate to consider any resolution providing for the adjournment sine die of either House in the second session of any Congress unless action has been completed by the Congress on all bills which the various committees of the two Houses were required under subsection (a) to report in that Congress.

Mr. LONG. Mr. Bolling?

Mr. BOLLING. No questions.

Mr. LONG. Mr. Derrick?

Mr. DERRICK. Thank you.

I thank you for your excellent testimony. I would like to see those proposed amendments as soon as you have them available. [See p. 80.]

Just a suggestion, I think we are getting kind of hung up on the word "sunset." All of this is oversight legislation, regardless of what you try to call it, and that is what ours is, even if we choose to call it sunset.

I appreciate your willingness to compromise and understand the political realities of getting something through the House that is going to get started in the right direction that might or might not be an end in itself, but I thank you very much.

Mr. BLANCHARD. I don't think there is anything sacred about the term sunset, and that is another reason why I joined as a cosponsor of your bill some time ago.

Mr. DERRICK. Mine was sunrise.

Mr. BLANCHARD. I don't think there is any magic in sunrise either. I want to make sure if we are going to go down and fight for something that it will be tough enough that we will be convinced that it can do the job and that it is worth all of our going through that process. I also think if you have somebody like Tom Foley and others, feeling the same way, it is well worth considering some seriously strengthening amendments.

Mr. DERRICK. We do have action in our bill that I think will be sufficient, but I would be certainly delighted to see what you have to suggest, and maybe there is something that we can include.

Mr. LONG. Mr. Lott?

Mr. LOTT. Thank you.

First of all, thank you for your statement.

I wanted to get back in time to hear your remarks, and I share a lot of your feelings.

You listed a number of possibilities for action-forcing mechanisms. Which of the ones do you feel are most important?

Mr. BLANCHARD. I still believe that the expiration of program authority or some form of termination which would put the present programs that have a limited life in the same basket as those that are permanent.

I still prefer that. Lets say we can't do that, my fall-back becomes something like putting a freeze on funding levels so no program could get an increase until it underwent a review by the committee and reconsideration by the Congress, because we are really talking not only about oversight but one of the better ways to get it is to know the program expires.

Sunset is oversight, but it is also reconsideration, and based on the assumption that it is something that might have been passed and made permanent in 1948 isn't necessarily a priority of ours in 1980.

But I am sure there are other ways and I have listed the others, and I have great faith in your committee to come up with something that we can all agree on.

Mr. LOTT. It will be tough. I am for the automatic termination too as far as the connotation of the word "sunset" is concerned.

What it means to me is more than oversight. We have that. To me the word connotes really having some termination, that is, when something would come to an end.

We have reviewed at least every other year our tax preferences, and we change our tax brackets just about every 2 years, but how many programs do you know that we have terminated in the last 8 years since I have been here? I can only think of two or three.

Mr. BLANCHARD. Very few but, of course, even with the tax provisions, the full House never really gets to vote on a specific tax measure, either. We do have a tax bill at least every 2 years, and I would think if we have tax expenditures included in a meaningful review there would be more certainty than less.

Mr. LOTT. Do you think we might get more tax preferences?

Mr. BLANCHARD. We just might, yes.

But I think, if I were a businessman and thought this thing was going to be handled by the Congress, I am not sure I would oppose it, because if you have got a 10-year certainty for a tax expenditure, that is better than having your tax expenditure be on the chopping block every 2 years.

It appears that many liberals would rather tolerate the wildest tax precentage programs than have their pet program looked at. A number of businessmen who would rather tolerate all of the waste and mismanagement of Government programs than have their one little tax pet looked at. By adopting a procedure which forces us to take a look at them, we have got a lot of answers to these people that think we are out to get them.

That gets a lot of us off the hook, because it is no fun telling people who support us that we are going to take a look at something near and dear to them. I just see that, if we let outside groups who are genuinely concerned about this issue scare us off too much, we will have something that reviews everything a little but nothing very seriously.

Mr. LOTT. Let me ask a question:

As it presently is written, and I know that it is a work product, but what bothers me, is that, it will call for more work and deadlines and review; but at the end maybe nothing will happen. We don't need that type of result.

I mean it is just going to be a lot of extra work to review these programs, and without some enforcing mechanism we may end up with no significant changes.

Mr. BLANCHARD. The one nice direction that the Long bill takes is that it doesn't confront the committee right off the bat. It gives the committee some direction. You have got to have a check on that or you have the Tom Foley problem. I think, of course, we are plagued with other problems as well. An awful lot of people have had it with anything new, so that is another reason why I don't envy your task, Mr. Chairman.

Mr. LONG. Thank you very much, Mr. Blanchard. We appreciate it.

The next witness is Mr. Cohen.

We are pleased to have you here today. We know Common Cause's longstanding effort to deal with this problem, and its longstanding interest in problems of the Congress as an institution. We are glad to hear your views.

STATEMENT OF DAVID COHEN, COMMON CAUSE

Mr. COHEN. Thank you, Mr. Chairman.

What I would like to do is just ask my statement be made part of the record, and I would like to summarize briefly.

Mr. LONG. Without objection, so ordered.

Mr. COHEN. The efforts that you, Mr. Chairman, and Representative Derrick have made are constructive and significant and they are in the framework of finding ways of making the institution work.

I know there is a basic disagreement in our approaches about the concept of termination. I am going to discuss that. But it ought to be noted that we are all trying to find ways of developing something that is workable in the framework of having this Congress be able to deal in an effective way with important national problems.

In particular, your effort of including tax expenditures is important. It was a way of not taking the easy way out. As a believer in disclosure in other areas, I think the inclusion of the inventories is important, too. It is a different form of disclosure, and a valuable one.

If we were to talk about this issue in a larger setting, it is really how to find ways of not only improving congressional oversight, but finding ways of getting at program evaluation—it gets past a lot of limited kinds of categories.

There is not one major problem in this country that doesn't cut across lots of Federal departments and agencies. It cuts across your own committees. That is almost a never-ending kind of effort, at how to have the committees be responsive to being able to look at current problems.

With that you have a tremendous war going on within the Congress, within this body, between the part and the whole. Right now, the sum of the parts is greater than the whole. We see the job as making the whole greater than the sum of the parts.

You need tools for that. Those tools have to be action forcing, action producing, and we would argue that getting at the heart of effective Government requires some form of termination. Termination doesn't mean just one kind of thing.

I hope that there can be some exploration of what termination means.

It is critical that in trying to get at systematic evaluation, trying to find ways of getting and dealing with cross-cutting problems, that we provide a process for coordinated review of similar programs.

It is critical to get at the special evaluation of priority programs. That is one of the strengths of H.R. 2, the ability to call on independent reviews beyond OMB.

I realize your bill permits it, but H.R. 2 ties in the GAO and the CBO and the OTA and CRS, and there is real value in that.

I have been struck by all the times that I read newspapers about GAO reports, and I always wonder what happens to them. We are

now in the process of our own office trying to find out in our way what committees have done with GAO reports.

What we are talking about here is a way of forcing an action producing process to deal with it.

The fourth point is it is essential to not exempt turf, and that is why you were right in H.R. 5858 to include tax expenditures. That is why I think we are right to insist on it as part of a sunset process.

Now, when we talk about termination, I hope that we don't think about a kind of a guillotine concept. I hope that we also don't think about a body count mentality, or an agency count mentality, or a program count mentality.

We are talking about a way at forcing action, at forcing the legislative branch to take responsibility and make a judgment. It is possible to have a termination concept that includes a phaseout concept so that you do not have tax expenditures or anything else that terminates in a guillotinelike way.

You can put a time frame on it of 1 year or something else we have and weave that into the concept of termination.

Getting back to the point that right now in this body, and in the Senate as well, the parts are greater than the whole, and that the whole should be greater than the parts. The committees have responsibilities to the whole body.

If you had some sort of an action producing process that led to termination, there is a case to be made that the whole body ought to be in on the decision on termination. It would be valuable if the whole body knew what the committee's judgment was on a program.

So if you have a program coming out of the Interstate and Foreign Commerce Committee, or Ways and Means or any other committee in which they thought it shouldn't continue, that it ought to terminate, they would report it, and in fact, make a negative recommendation on that program or expenditure. Then the body would act.

You can build into it exactly that kind of a process that forces things up to the whole body, and the result being that the committees are more responsible to the full body.

Also, the workload problem has been talked about a lot in criticism of sunset, and it is part of the problem of the parts against the whole. If there is one trend item that you see in looking at things it is the increase of 1-year authorizations within individual programs as well as overall kinds of items.

Congress, as part of its budget process, as a part of strengthening itself to look at things in an overall way, has to look at a multiyear authorization approach. I think that will help evaluation, that will help oversight, and a framework of termination is a workable item.

I want to close on two items, Mr. Chairman. One deals with the States. What I am going to say about the States is not meant to be dispositive of this issue, but I think it is instructive and it is illustrative.

There has been this body count mentality about does sunset work or doesn't it work in the States. In many ways whatever the problems of Congress are, States are far less equipped, State legislatures are far less equipped to evaluate the State programs, and

certainly in most of the States I have visited, and even States that have strongly supported legislative systems.

Yet, it remains a legislative body. When you talk, as I did last week, with the Sunset Review Commission—it is called the Post-Audit Review Commission—in Kansas, they talk about the importance of their work being treated seriously because the State legislature, the State legislative committees have to act on it. That action producing mechanism results in a qualitative improvement of the evaluation process.

There are other examples of where sunset has meant real things to people. I have cited them in my testimony. Just take a State such as Texas, which has a recent sunset bill. One of the results of that activity was proconsumer legislation on the eyeglass question, which came out of looking at some of the regulatory body's work there.

So I think there is something to be found out as to what happens in the States without presuming the judgment on the question, if you just count how many agencies have been knocked off or the fact that State evaluation is both less comprehensive than it would be here, and perhaps the legislative bodies are less equipped to deal with the same kinds of things that you have to deal with.

Nevertheless, I think it provides instruction on the value of legislative bodies having to act.

Finally, whatever you come out with—and I certainly hope that you do go to markup—I would urge you not to give up, in spite of all the cross-currents that you hear—that what you come out with, that you enable it to be possible to have the significant differences be debated on and voted on the House floor.

I don't think there should be permission for surprise amendments. Personally I would be very happy to have a 24- or 48-hour rule on amendments. But I certainly think without creating a chaotic situation, I think the committee has a responsibility to enable the significant differences to be debated and voted on by the full House.

Thank you, Mr. Chairman.

[Mr. Cohen's prepared statement follows:]

PREPARED STATEMENT OF DAVID COHEN,
PRESIDENT, COMMON CAUSE

Mr. Chairman, Common Cause appreciates this opportunity to testify on H.R. 5858, the Sunset Review Act of 1979. We appreciate your continuing deep interest in improving Congressional procedures and your special insight into coordinating Sunset legislation with the Congressional budget process. We applaud the leadership of Representative Long and his diligent efforts in behalf of improved program evaluation. Drawing on his intimate knowledge of the workings of the House and from the testimony of a wide variety of witnesses before the Subcommittee on the Legislative Process he has drafted legislation that addresses many of the concerns raised about Sunset. We also appreciate Representative Derrick's contribution to improving Congressional oversight. Since the Committee is familiar with our views on Sunset from earlier testimony before the subcommittee, I will concentrate my remarks on the new Sunset bill.

H.R. 5858

The coverage of tax expenditures in H.R. 5858 is fundamental. We have always believed that tax expenditures must be reviewed along with related direct spending programs; and we congratulate Representative Long for his steadfast insistence that they be covered by this legislation, particularly in light of intense pressures from the business community to exempt their programs. To ignore tax expenditures is to overlook an increasingly significant part of federal spending.

The emphasis in H.R. 5858 on in-depth review of priority programs is essential to focusing committee resources for conducting meaningful oversight. Other positive features of the bill require independent reviews by the Office of Management and Budget, encourage coordinated review of related or overlapping direct spending programs, tax expenditures, and regulatory activities, and provide for a comprehensive inventory listing federal programs by committee jurisdictions. All of these provisions would help to establish an improved framework for Congressional oversight that would make the program and policy choices for Congress a product of a deliberative process.

Common Cause does not believe that H.R. 5858 as it now exists would sufficiently change the way Congress operates to achieve our mutual goals of improved Congressional oversight and better program evaluation. The history of Congressional oversight has been sporadic at best. H.R. 5858 relies too heavily on existing statutory oversight requirements and House rules which have been routinely ignored and largely discredited. For example, under House Rule X (2)(c) at the beginning of each Congress every standing committee must submit its proposed oversight activities to the Government Operations Committee for consolidation into an overall oversight report. After three Congresses, clause 2(c) of Rule X is a demonstrated failure. Many committees simply list their jurisdictions, and there is little coordination of oversight agendas. We see little in H.R. 5858 that will guarantee better results. Major changes in present Congressional oversight procedures

are needed to ensure that systematic and comprehensive Congressional review of federal programs, agencies, and tax expenditures will actually be carried out.

Essential Elements of Sunset Legislation

As we indicated in our testimony before the subcommittee in June, Common Cause believes that an effective Sunset bill must include the four key elements in H.R. 2--the periodic threat of termination, coordinated review of similar programs, special evaluation of priority programs, and coverage of tax expenditures. The latter three are addressed in H.R. 5858. We view the omission of the first--periodic termination--as the key deficiency in H.R. 5858.

First, Common Cause believes that Sunset legislation must provide for termination of federal programs, tax expenditures, and regulatory activities unless they are evaluated and periodically reestablished by Congress. The threat of termination is the action-forcing mechanism that lies at the heart of an effective Sunset process. Without potential termination, oversight too often becomes an activity that increases the flow of evaluative reports to Congress with no guarantee that the conclusions will be considered in a formal way let alone acted upon. Any proposal that fails to include the procedure of termination as an action-forcing mechanism is unlikely to accomplish any more than oversight requirements already on the books.

Second, Sunset legislation must provide a process for coordinated review of similar programs. We believe that the Sunset agenda should be drawn from the schedule in H.R. 2

that lists federal programs by budget subfunction. The random approach in H.R. 5858 leaves too much to the discretion of the committees. H.R. 2 would ensure that all programs would at least be regularly considered for review and it would facilitate coordinated review of related programs, tax expenditures, and regulatory activities in the same policy area. Nothing in the schedule would preclude Congress from adjusting oversight plans in response to changing national priorities, but it would establish a disciplined and rational review process.

Third, Sunset legislation must provide for special evaluation of priority programs. Common Cause has always viewed Sunset as a critical tool for forcing increased and improved program evaluation. We have consistently urged the inclusion of H.R. 2's provisions for intensive priority review by Congressional committees and executive branch agencies to meet this goal and are pleased to see it included in H.R. 5858.

Fourth, Sunset legislation must provide for review of tax expenditures along with related spending programs. As discussed previously, unless Sunset legislation requires periodic evaluation of tax expenditures, Congress will fail to review an essential portion of the federal government's spending programs. Tax expenditures currently account for 20% -- or \$150 billion -- of the total amount the federal government spends. The tax expenditure budget increased by 141% from 1971 to 1978. Yet it remains outside the Congressional budget process where it is seldom scrutinized and

rarely coordinated with related direct spending programs. The trend toward greater reliance on tax preferences is overloading the tax expenditure budget and throwing the budget process into greater imbalance.

The Workload Problem

Opponents of Sunset continue to question the ability of Congress to respond to an improved oversight schedule. We feel that the workload problems of a Congress that is obviously busy but has great trouble dealing with major national problems are partly the result of the burdensome number of short term authorizations. Every one, two, and three year authorization requires affirmative Congressional action and further clogs the legislative calendar while doing little to advance the cause of thorough evaluation. These short term authorizations add to delays and foreclose the opportunity to apply limited staff and time resources to the broad questions of policy and general oversight that more appropriately deserve Congressional attention. Common Cause believes that in-depth review of programs on a less frequent basis as proposed in H.R. 2 would be far superior to the rubberstamp process of short term authorizations now in effect.

The State Sunset Experience

The state Sunset experience illustrates the importance of termination as an action-forcing mechanism in Sunset reviews. Thirty-four states have enacted Sunset laws since 1976, all with automatic termination clauses. Alabama, the only state

to pass a Sunset law without automatic termination, amended its law this year to include termination. In every state, automatic termination has been the key to a successful Sunset review process.

To those looking for a device to dismantle government, Sunset admittedly is a disappointment. For example, after two Sunset review cycles in Colorado, only five agencies have been terminated, two have been combined, and twenty have been continued with modifications. An analysis of Sunset which goes beyond this simple bodycount mentality, however, reveals that important changes have been made as a result of Sunset evaluation. In a number of states, for example, individuals who represent consumers -- not just special interests -- have been added to occupational and professional licensing boards. Florida Governor Graham has set up screening panels to search out and recommend qualified individuals of diverse experience for appointment to regulatory bodies. Other state legislatures have enacted strict codes of ethics designed to ensure that the public interest, rather than private interests, is served. In Texas, legislators strengthened conflict-of-interest requirements for members of regulatory bodies. Restrictions on advertising -- which the Federal Trade Commission estimates increases prices in the eyecare industry alone by 25 to 40 percent -- have been prohibited. Bans on advertising for professional services were eliminated in Colorado where Sunset legislation was pioneered in 1976. Arbitrary requirements which have prevented qualified individuals from entering professions

have been lifted. We have seen a reduction in unnecessary regulation and better enforcement of those regulations which remain. Automatic termination triggered these impressive results.

Conclusion

Mr. Chairman, we view the Committee's hard work as a step toward enactment of comprehensive legislation. As I have indicated above, Common Cause believes H.R. 5858 should be strengthened with the key provisions of H.R. 2 -- automatic termination following in-depth review of programs chosen from a comprehensive schedule. Representative Mineta and others have made constructive suggestions along these lines, and we urge the Members of this Committee to study them carefully. Whatever bill this Committee decides to report, Common Cause feels strongly that it be considered under an orderly procedure that allows significant alternative approaches to be voted on by the full House. We look forward to working with you on this important legislation.

Thank you.

Mr. LONG. Thank you, Mr. Cohen.

You have obviously given a great deal of thought to this matter. I must say it is difficult for me to argue with any of your proposals.

The question remains as to how to develop a mechanism by which you can effectuate these recommendations without either unduly burdening the House of Representatives. Second, there is the very practical political question of how you are going to get the legislation enacted.

A lot of times we don't like to discuss this question publicly but, particularly in this instance, it is a question that has to be asked.

The big trade-off involved in this is of great concern to me: Whether if in picking up automatic termination you have to forfeit comprehensive coverage, including tax expenditures. I think—and you mentioned it in your testimony—that comprehensive coverage is a key element in sunset legislation.

The degree of opposition to the inclusion of tax expenditures, whether coming from the AFL-CIO on one side or from the Business Roundtable on the other, increases geometrically as you build in an enforcing mechanism. That is particularly true if that enforcing mechanism is automatic termination. That is the evidence from all the people we have talked to.

There is some validity to the arguments against automatic termination, in my opinion. Finding a substitute for that is very difficult.

You spoke of one thing that interests me. That is the possible nonguillotine effect of an automatic termination type of procedure. Would you expand upon that a bit?

Mr. COHEN. Yes; I think if you assume that you follow a process of considering legislation by a variety of functions along the lines of the Budget Act, you are operating on a schedule.

Within that priorities are established in advance in order to get the various considerations from the executive branch and independent agencies, as well as whatever the committee staff wanted to do, plus the independent bodies.

After consideration of say a half a dozen related tax measures tied into housing legislation, for example, which hopefully would be considered with some of the various subsidy programs, they would be hopefully considered with, say, the impact of Federal Home Loan Bank Board regulations or FHA regulations or so on.

If a judgment was made that two ought to be modified and two ought to be terminated and two ought to be continued and two more ought to be adopted, the two you would terminate, you would not terminate on the effective date that you would change the modifications or that you adopt the new one. You would have a grace period of a period of time.

I threw out the idea of 1 year, but it may be that you want to do it for 3 years of that grace period, phasing out different parts in 1-year increments. It is that kind of thing that—you see, I think it is—the notion of uncertainty is a real one in that people believe in it, and it is there.

There are other uncertainties as we know in the economic situation. Yet we are finding this tremendous growth in the use of tax expenditures. We are all familiar with that. We find in our studies of it an absence of serious review.

I think Chairman Bolling was right, that you didn't have any kind of review until it became sort of a minor kind of a controversy. But there is no serious review in the sense of is it serving the public purpose or isn't it.

I am interested on behalf of what we are representing in Common Cause to get a serious review going of these things, and that is why we look for other means to deal with the problem of the uncertainty question.

Now, there is a lot of talk, as you know, each time you make an institutional change of any kind of the so-called unintended consequences, and then you get into a worse situation than the evil that we were trying to correct.

Yet here you are going to have very intended consequences if tax expenditures are left out. There is going to be a real extra push. If you adopt a spending limit bill that doesn't include tax expenditures, that will be a further incentive to have a push on the tax expenditure route.

Mr. LONG. The result of that on inflation could be directly contradictory to what was intended.

Mr. COHEN. I think the issue has to be drawn because I don't think you can have sunset of the regulatory process and leave out a whole other area.

Mr. LONG. Mr. Lott?

Mr. LOTT. Well, maybe we can discuss that or argue about it another day. On all other things I agree with you. I disagree with you on the tax part. You obviously think they should be included. You do support the concept idea in principle, but you feel there should be an enforcing mechanism. Is that correct?

Mr. COHEN. When you say concept idea——

Mr. LOTT. Well, I mean sunset as we generally think of it with some method to terminate these programs.

Mr. COHEN. Exactly, termination and enforcing mechanisms.

Mr. LOTT. I assume, and I want to reiterate what you said, that you do feel very strongly this should come to the floor if it does under no mechanism other than an open rule.

Mr. COHEN. We can talk about what are open rules or closed rules or in between rules.

Mr. LOTT. You are beginning to sound like a lawyer. An open rule is one allowing amendments to be offered.

Mr. COHEN. I am not a lawyer. I deny it. I think the key test is to make sure that the important differences would be voted on and debated and argued about and rollcalled. That means that you have to permit amendments to whatever comes out.

I would hope that one of the things that the more open you make the rule, when you are dealing with the kinds of questions that you are dealing with here, as you are in the Budget Act, as you are on a reorganization, anything of that sort, I think it becomes important to find ways of assuring advance notice as to what those amendments will be, so that we don't have amendments written on the back of an envelope and that have all sorts of labels on it that don't speak to what the amendments are about.

You want to increase deliberation, and to increase deliberation you have to permit the areas that come out in these hearings, for example, to be debated, to be discussed, and also with some semblance of advance notice.

Mr. LOTT. So you are saying that you would, I presume, support a restricted rule only to the extent it would have to be printed in the Record, for instance, where there would be some notice it was coming out, and everybody would have an opportunity to delve into what the ramifications would be.

Mr. COHEN. Right. And notice I did not say germane amendments because I think that has—limiting yourself to germane amendments has enormous value on lots of legislation, most of the legislation you deal with.

The reason I did not say germane amendments is I am not sure in the work that the committee comes out with it is conceivable that what is a significant difference may not be germane—may not be germane to the bill, but it is germane to the problem.

Therefore, that kind of an amendment ought to be allowed to be offered.

Mr. LOTT. Thank you, Mr. Chairman.

Mr. LONG. Mr. Derrick?

Mr. DERRICK. Thank you, Mr. Chairman.

Thank you very much for your testimony, Mr. Cohen, today and several times prior.

You know, I thought that Mr. Foley gave a very relevant dissertation on the Congress doing the forcing mechanism and the need for it.

But I fail to see—and I see nothing in the legislative history, although I don't consider myself a student of it, that would indicate that Congress is going to do anything that they don't want to do.

I mean I think it is just pure folly to suggest that we are going to pass legislation that is going to make the Congress review programs they don't want to review. My problem with the forcing mechanism is that I think what will happen is that they will do what they have always done, and that is what they, if you excuse the expression, damn well please, and they won't do anything, and that we will have lost a real opportunity to have some meaningful oversight, and I think in H.R. 5858, although I don't project it as perfect, it will give Congress a mechanism which they can work within and bring about a more effective oversight.

Mr. COHEN. Well, I think that is the heart of our disagreement—deadlines, schedules provide a push, a guide, a way of trying to separate things that are sometimes politically difficult for legislative bodies to deal with, that they otherwise would avoid.

I think that becomes an important aspect of trying to have the kind of mechanism suggested in H.R. 2.

I also think this is enormous value in getting longer lead times. I totally agree that one Congress cannot bind another. But having said that, you really don't start anew each Congress. There is some continuity in committee membership, in experience, and indeed that is one of the great arguments made against rotation of committees.

I think the ability to organize the legislator's time, about being able to think through the effects of what is passed against what ought to be passed, particularly in a limited resources situation, whether you adopt a spending limit or not, effectively we are more limited than we were 5 years ago, when the budget process began.

I think all of that cuts in favor of having deadlines, of having schedules, of having a committee have a responsibility to say to this body that these programs ought to continue and these programs ought to end.

Mr. DERRICK. Well, you know, I think what you say—I don't question the merit of it. I go back, as we go along in this legislation from time to time, and look at the legislative history of the Budget Act. I think there is a great deal that we can learn from that in this particular situation.

As I said earlier, I think one of the things we can learn from it is that you just don't put Congress in a situation that they absolutely cannot handle. You know, we started out with the budget, although we have these deadlines, I agree with you—they were very flexible, I think.

I think this is something that we are going to have to have, if we are going to have meaningful oversight. Of course, I agree with you on the tax expenditures, tax preferences—I may make that concession, tax preferences.

Mr. COHEN. None of us call it loopholes anymore.

Mr. DERRICK. What is the saying—what is a loophole for someone else—I forget. Anyway, thank you very much.

Mr. LONG. Thank you very much, Mr. Cohen.

Mr. CUTTER, we are pleased to have you with us. Will you come forward.

**STATEMENT OF W. BOWMAN CUTTER, EXECUTIVE ASSOCIATE
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET**

Mr. CUTTER. Mr. Chairman, it is a pleasure to see you.

Mr. LONG. Mr. Cutter, proceed in your own way.

Mr. CUTTER. I think I have a relatively short statement. I will read it, attempting to shorten it where I can.

Mr. Chairman, we remain convinced that Congress and the executive branch need sunset legislation. We must give high priority to the development of a process that assures that programs are accomplishing what they are meant to do. We appreciate the close attention that you have given to improve sunset proposals in the many hearings, briefings, and discussions on sunset issues held by the Subcommittee on the Legislative Process this year. We commend the Legislative Process Subcommittee, Chairman Long, Congressman Butler Derrick, and other members of the committee for their efforts in moving toward enactment of good and workable sunset legislation.

As in earlier versions of sunset and sunset-type measures, this bill establishes a general framework for congressional sunset review, with provision for executive branch assistance. The bill provides for: No. 1, establishment of detailed procedures for review of selected Federal programs and tax expenditures; and No. 2, improvement of legislative oversight of Federal activities and regulatory programs.

Specifically, the bill focuses on establishing a timetable and procedures by which the Congress can develop and adopt a sunset review agenda in the first session of each Congress. In accordance with the agenda, committees would be expected to report bills that modify, continue or terminate programs or tax expenditures selected for review by May 15 of the second session of that Congress.

In a sense, the bill is a combination of various sunset and sunset-type proposals. For example, from H.R. 2, there is emphasis on procedures for congressional oversight, for implementing a review schedule and for setting review priorities. From H.R. 65, there is emphasis on statements of objectives and performance measurements.

However, the bill clearly presents a different approach to sunset review. It provides for an agenda that is determined anew each Congress and for review of only selected programs. There is no provision for periodic review of most Federal programs or tax expenditures over a specific period of time, and no mechanism for automatic termination of programs unless they are reauthorized.

There are some advantages to this approach. Flexible scheduling and fewer sunset reviews and reporting requirements each Congress can result in a more manageable workload for the Congress and the executive branch, putting limited resources to better use.

However, the effectiveness of the bill hinges, in a large measure, on the addition of procedures to strengthen congressional commitment to act on the results of sunset reviews. As we see it, a major disadvantage of H.R. 5858 is the absence of an action-forcing mech-

anism to assure that changes are put into effect. Without such a procedure, there is the danger that the bill could become a procedural and a paperwork exercise, with little or no impact on the programs or tax expenditures selected for review.

As currently drafted, H.R. 5858 requires that each agenda direct committees to report bills on each item on the agenda by May 15 of the second session of each Congress. However, it stops short of providing a mechanism to require some action by the Congress. I believe that this lack of an action-forcing mechanism is a problem. It could be remedied by several means. One alternative would be to adopt automatic termination provisions—similar to those in H.R. 2—for those programs subject to review. Another alternative would be to require that the Congress take positive action on each program or tax expenditure on the sunset agenda. This might include a requirement for an up or down vote on whether to modify, continue or terminate each agenda item. While we would defer to the legislative branch on the details of such a procedure, the alternatives mentioned by Congressman Mineta during the November 29 hearing merit attention.

Now I would like to discuss some of the problems we see with several executive branch reporting requirements prescribed by section 8 of the bill.

This section would require that, for each program or tax expenditure on the sunset agenda, the administering agency transmit a report of its findings and recommendations simultaneously to OMB and the appropriate committees of the Congress on matters set forth in committee sunset review reports. It would also require that the Director of OMB transmit his comments on agency findings and recommendations.

First, the reporting date—which is not later than the close of the first session of a Congress—is particularly burdensome since it is at that time that the agencies and OMB are in the midst of final preparation of the budget. It would also be extremely difficult to prepare useful and meaningful reports, since executive branch budget and legislative program issues that might affect the reports' recommendations may not yet be decided. We have strong doubts that effective reporting could be accomplished on the time schedule now specified in the bill.

The requirement for agencies to submit reports to OMB and the Congress concurrently presents a particularly troublesome problem for us. The programs selected would be reported by the agencies out-of-context and in a piecemeal fashion, without full coordination with the President's policies and program, budgetary and legislative proposals. In fact, the requirements for concurrent reporting to OMB and the Congress could easily be inconsistent with the concept of the Executive budget that was established by the Budget and Accounting Act of 1921.

But, we do agree with the premise of this requirement—that executive branch assistance in congressional sunset review is necessary, if the process is to be meaningful.

Therefore, we would propose, instead, that after clearance through OMB, agency reports on sunset agenda items be transmitted to the House and Senate around April 1 of the second session of each Congress—or at least at a time that is sufficient to permit a

coordinated review process after the budget is transmitted. This would provide Congress with a balanced view of programs and would eliminate the need for separate OMB reports.

Section 8 would also require that at the end of each year following the Congress in which a particular sunset review is conducted, the Director of OMB report to the appropriate congressional committees, upon request, concise data on program performance based on accomplishment indicators then being used by the committees conducting sunset reviews. Analysis of program performance data can and should be an important factor in evaluating and improving existing programs and developing new ones. Annual submissions to Congress of concise information from agencies administering programs that have undergone sunset review can be useful in Congress' oversight activities.

But, much information is already available through a large number of studies, analyses, and reports that are submitted to Congress each year. Many times, pertinent information can get lost in the volume of paperwork sent to the Congress. We suggest that the primary source of information might be a summary prepared by the appropriate agency, if the cognizant committee requests one, to highlight results of existing studies on program performance. Supplementary data can be provided to congressional committees should the committees request it.

We believe that this approach is preferable to legislating additional reporting requirements that add substantially to executive branch workload and paperwork burden and duplicate information that is often already available to Congress.

I would also like to make some general comments on sunset and H.R. 5858. We are particularly glad to see that H.R. 5858 includes sunset review of selected tax expenditures. They represent billions of dollars of revenue forgone each year and have a substantial impact on the budget and the economy. In an era of great concern over how each Federal dollar is spent, it makes good sense that tax expenditures should receive the same scrutiny by the Congress in the sunset process as direct expenditure programs.

It remains our belief that review of related programs, tax expenditures and regulatory activities during the same Congress is an important aspect of sunset. We urge that Congress make every attempt to plan and coordinate reviews of similar activities at the same time. However, since the bill would allow each Congress to select programs and tax expenditures for review because of workload considerations, a formal procedure for selecting related reviews—like the H.R. 2 schedule based on budget subfunctions—may not be necessary.

In conclusion, we believe that even though H.R. 5858 differs significantly from the original sunset concept, this bill, with some modifications, is a major step toward enactment of desirable sunset legislation. In our view, desirable legislation would require the addition of an action-forcing mechanism to H.R. 5858's sunset review procedures and the changes in reporting requirements that I have addressed here today.

We want to stress that we believe it is a major step forward in getting something accomplished.

Mr. Chairman, this concludes my statement. I hope that these comments will be useful in your efforts to develop workable legislation. I would be pleased to respond to your questions.

Mr. LONG. Thank you very much.

Mr. Cutter, as usual, you have presented a very concise and informative statement, and we are appreciative.

The action-forcing mechanism continues to plague us. We have drawn from every source that we can to see if we can develop one that would be effective and yet not have inherent in it some of the liabilities that affect automatic termination.

Have your staff people explored any other possibilities in that regard?

Mr. CUTTER. We have not explored specific language, because, in this instance, it is inherently and uniquely a congressional process.

We have looked at alternatives and those alternatives suggested by others, both Congressmen Mineta's and Blanchard's are interesting suggestions.

Let me make a couple of points: There are some ways in which this piece of legislation represents a very practical adjustment to reality, and one of them is the moving away from a set schedule.

I know that this is probably not something that I am expected to say but, nevertheless, I think that moving away from the kind of review that is based on a list of functions is a wise thing to do.

It was originally my view, as we were preparing for the transition of President Carter to his first year, that the OMB ought to conduct its budget process on the basis of a review, running through all of the functions and pay more attention to the functions than to the departments and relate to programs in that way.

We found that even that structure was not workable, although we have to look at every program every year. The point of my remark is that I think you have eased the action-forcing problem a little bit, maybe significantly by moving away from a fixed schedule.

You have certainly reduced your workload requirements and, therefore, I would think, following on the comments that Congressman Derrick was making to the previous witness, that you are in less of a position of forcing the Congress to do something it doesn't want to do.

Under the previous scheme, all of the programs in a particular set of subfunctions, except those specifically exempted, were, by God, going to come up and be terminated unless the committee chairman felt such and such a program shouldn't be considered during that Congress. Otherwise, you didn't have too much to do about the schedule.

Under this set of circumstances, the committee chairman will presumably have a very strong voice in determining what programs will be reviewed and will know in advance that the program that he or she decides to throw into the group for analysis will be subject to an action-forcing mechanism. I think you are asking a different thing of Congress than you would under a set schedule.

The second point I would like to make is that an action-forcing mechanism and termination don't have to be the same thing. I was never particularly enamoured of a hard-line interpretation of the sunset concept that, by God, after we have reviewed them, we must

sunset or terminate programs. Committees on a kind of revolving basis already have the opportunity to end programs anyway and few programs end.

In the course of the authorizing process most are improved or altered, but they don't end. I don't think we should set up the percentage of programs we end over any given period of time, because it is a measure that will likely doom us a failure.

You can look at the sunset process as one in which, you must review programs meaningfully and then take some action on them and you know that in advance, and that action can consist of continuing the program with a vote, changing it with a vote, ending it as an extreme option, and unless some action of that form is taken, you will incur a sanction. Then I think you do have a process that can begin to work.

This isn't helpful in the sense of giving you an alternative which no one is going to object to, but what I am really saying is that the movement away from a fixed report schedule and the possibility that it gives you for selectivity and a range of consequences ought to diminish very considerably the objection to action-forcing mechanisms.

Mr. LONG. It was our hope that we would accomplish that purpose when Mr. Derrick, the staff, and I started looking at that type of language.

It was also our hope that by so doing, we could eliminate some of the hostility emanating from both ends of the political spectrum. On the one side there is concern about the inclusion of civil rights programs and on the other side there is the opposition to the inclusion of tax expenditures.

We think we have done that to some degree, but not nearly to the degree that we had hoped. I think we are moving in the right direction. It's a very complex problem and we have got to be extremely careful that we do not create a mechanism that makes this institution any more shaky than it already is.

Mr. CUTTER. I think you have done away with the specter of an inadvertent termination. That simply can't happen from your standpoint, and you have done away with the larger argument that Congress or a committee chairman would institutionally have that this process somehow forces programs to go through a wringer on a set schedule that they may not want, because each committee proposes a review agenda and the Congress votes on that agenda. Under these circumstances, my own judgment is that you should have very considerably diminished the concern.

Mr. LONG. A very respected Member of the House testified earlier with respect to the basic problem of not being able to force any particular committee to take a look at any particular program.

I refer to Congressman Foley, who used one of his own programs—the tobacco program—as his example. He said that he favored it and that he felt he could justify it under any circumstances. Nevertheless, you are never going to get the Committee on Agriculture to report that program out nor are you going to get the Congress to take a really hard look at it unless we have a strong forcing mechanism. Congressman Foley believes that a forcing mechanism is the guts of sunset legislation, and while we have removed some problems by not having a forcing mechanisms, the

basic question arises: Have we removed so much of the major substance of sunset legislation that perhaps we have done it critical harm?

I don't know the answer to that question, and I throw it out rhetorically.

Mr. CUTTER. My own judgment is no. If I thought that, I would have testified differently. I think that Congressman Foley deserves to be one of those most respected Members of the House, and he is. One reason is that he gives hard and rigorous looks at the programs in his own jurisdiction as well as those in other areas.

I believe in the need for both rigorous reviews and an action-forcing mechanism, once you have something in the hopper, so to speak. But I think there I would agree fairly quickly with the point Congressman Derrick was making, that there are some things I suspect you can't force the Congress to do if it doesn't want to.

The tough question is, how you develop a mechanism in the Congress that reflects its collegial rather than hierarchical structure, that tells someone that they have to review programs for which the oversight is their responsibility, when they don't want to do it. I have been here for 3 years and 120 testimonies is enough to have taught me that lesson.

Mr. LONG. Mr. Derrick?

Mr. DERRICK. Maybe you try to lead instead of push, maybe is the superficial answer to it. As to the reporting machine in section 8, as written, committees may request data on program performance and accomplishments indicators. You suggest that this information be made available in summary form.

I anticipate that many committees would find this information useful and desirable.

What would your position be on making this reporting procedure automatic, rather than just on the request of committees?

Mr. CUTTER. Well, if they want it, then there is no difference. If they don't want it, it is making somebody do the work when the committee, by not wanting it, has indicated they don't use it.

Mr. DERRICK. You would oppose making it automatic?

Mr. CUTTER. I guess so, although I don't—

Mr. DERRICK. You gave a very logical answer.

Mr. CUTTER. I don't want to put a hard edge on the opposition. There is a value in permissive language, and my guess would be that a committee chairman would be in the position that he might as well ask for it because it doesn't hurt him, and he might as well get it. You would wind up in the position of virtually complete requests for such information anyway.

As a small part of my job, I sign off on most of those reports when they come into OMB. The staff looks at them, says they are fine, and sends them up.

There are a lot that come through every day, the cumulative volume is just immense, and it is very hard for me to believe that they are carefully considered by members of our staff in the cumulative volume that I see. Every once in a while, one of the members of our staff sends through a note that says that a report has been examined and presented annually for the last 30 years, and asks if we could propose to chairman so and so to stop it.

We don't do enough of that. But my sense is that a concise and rigorous document would probably be read a lot more, used a lot more than cumulative material.

Mr. DERRICK. I agree with you. This is a problem that I at least have been concerned with back in the State legislative days in the South Carolina Legislature. It is no different up here. We get stacks of stuff that you don't read.

Mr. CUTTER. You get stacks and volumes of it and the same thing happens on our side. You can't maintain with a straight face that you read it rigorously and thoughtfully but you are also not willing to say don't do that piece of analysis. You are not willing to. Neither the Congress nor the executive branch is willing enough to make the statement that there is some information that either we don't want to use we can't use. As a result, nothing is ever stopped.

Mr. DERRICK. You have to trust somebody else's judgment and I guess that is what it amounts to. I recall in South Carolina there for years they used to come out with these beautifully done in color, and we did put a stop to that.

I thank you very much for your testimony.

Mr. LONG. Thank you very much, Mr. Cutter.

Mr. Gephardt, we are pleased to have you and know that you have been a student of this problem for a number of years now.

STATEMENT OF HON. RICHARD A. GEPHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. GEPHARDT. Well, I continue to be a student, Mr. Chairman, and don't think I will ever be anything other than that.

I want to again express my appreciation for all of the time, time after time, and effort that your subcommittee has put into this effort.

I would say that in my view H.R. 5858 addresses many of the deficiencies that I became aware of, and we all became aware of, in the original bill that I cosponsored and offered to the Congress, and what you have come up with is a very positive approach that I have fully endorsed as a cosponsor.

It is obvious that there are a number of objections being raised to H.R. 5858 by both sides and by a number of sides.

We have heard a number of protests that the procedure is too weak, that it provides no guarantee that the committees will do what we have asked them to do and the agenda will be implemented. In light of that, Congressman Mineta was here and offered some testimony that had my name on it, and I urge the committee to give serious consideration to the various ideas that are being put forth for increasing a bit of enforcement on the committees. I fully understand as you have said, Mr. Derrick, that this is a big problem in making people do what you want them to do, and often leadership is more important than forcing people to do something they don't want to do.

It's a very difficult thing to find a blend in this bill that we think will make it the most successful product that we can put together. Other people are protesting that the committee is being charged with going too far to force congressional action on legislation. Of particular concern to some people is the requirement that Congress

has to act on each piece of legislation or each program that is put on the agenda.

Apparently this does present a problem in cases where permanent programs for tax expenditures are reviewed and committees include that no changes should be made. The concern is that, if there is no action to be taken, why do we have to have a bill to reenact something that is on the books and will continue anyway?

One idea I have come up with in the last few hours—and I don't know if it is worth considering, but it is another compromise position—we would add a procedure under which the House could waive the requirement of reenacting the bill by a recorded vote of the Congress, so that we would not have to have the opportunity necessarily for Congress to go through the reenactment of the bill but could waive the reenactment procedure by a majority vote of the House.

I think that the effort to eliminate the reenactment requirement in any form would be unwise and would totally take away the whole idea of what we are trying to do. Then you would really wind up with the requirement we have today, that a committee put a paragraph in a report and say we have done oversight, and it is a fine program and it should continue on.

If you fail to require a definite affirmative action on the part of Congress, you have so changed the procedure that it really doesn't mean very much at all. So I would urge the committee to keep some requirement that the committees do something with those programs that are on the agenda.

The final area that you have heard a lot about is the tax expenditures area, and I again urge that we maintain tax expenditures in the bill. I think it would be far too easy to move programs out into the tax expenditure area if we take it out of review.

I think it is important to note that Chairman Giaimo of the Budget Committee, in the bill he presented yesterday, put a limit on spending, including tax expenditures along with direct expenditures. His concerns are relevant to your judgments here, so I continue to urge you to keep tax expenditures in.

I was a member, as I have said to you before, of the Oversight Subcommittee of the Ways and Means Committee. I don't mean in any way to discourage our efforts on that subcommittee, and I think we did many valuable oversight activities. The value of H.R. 5858, though, for tax expenditures, is that it would require the Oversight Subcommittees on Ways and Means, and Senate Finance, for that matter, to systematically look at tax expenditures.

We never did take action on a whole area at a time and look at all of the tax expenditures in that area. The people in the world that are concerned with what we were going to do to tax expenditures never knew when their expenditure was going to come up, every 6 months or every 10 years.

The beauty of this procedure is that it organizes it, both for the Congress and for our constituents, and that is a valuable thing to have done.

One of the problems that has come up with regard to tax expenditures is the constitutional requirement that revenue majors originate in the House. To forestall confusion in this area, I suggest that the committee might consider a different procedure for devel-

oping the review agenda for tax expenditures under which the Joint Tax Committee, which is a committee made up of Senate Finance and the House Ways and Means Committee, could submit the required report to the Rules Committee nominating items for review, so we don't run into the constitutional problem that revenue majors have to originate in the House.

I would be happy to discuss that further, if you would like.

I would wind up by saying again that your efforts have been most important. I think it is vital that we try to fashion a compromise and a conclusion to the hard work that you have put in. We have been talking about sunset and review procedures and oversight for a number of years.

This is the first time that hard scholarship and work has been done on it. If all of this hard work does not result in a piece of legislation, then I think that will be a very great error on our part.

I think that even if the proposal meets great criticism from both sides, those that think it is too weak or too strong, it is most important that we embark in a program, that we see how it works, and we will be in a much better position to judge the criticisms of both sides as we tinker with, experiment with, deal with the program in the real world, so I urge us to get on with it.

I thank you, Mr. Chairman.

[Mr. Gephardt's prepared statement follows:]

PREPARED STATEMENT OF HON. RICHARD A. GEPHARDT, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman, I appreciate this opportunity to appear before the Rules Committee to discuss H.R. 5858, the Sunset Review Act of 1979.

As you know, twice before I have testified before the Subcommittee on the Legislative Process concerning the need to improve Congressional oversight. It is clear from the amount of time and effort Chairman Long and the other members of his Subcommittee have dedicated to this question that they share this concern about our failure to review the growing number of government programs on the books in an orderly and systematic fashion. Despite the numerous provisions in existing law and the House Rules requiring Congressional oversight activities, program review has been carried out in only a haphazard, inconsistent manner. Furthermore, the oversight efforts that have been undertaken range anywhere from a thorough investigation to only cursory, proforma review. Rarely is attention given to similar programs simultaneously to identify overlapping and duplication. In short, although we have often given lip service to better oversight, we have always lacked a system to make sure it was undertaken regularly and comprehensively.

The bill which Congressman Long and his subcommittee have so ably developed offers an approach for addressing these deficiencies. The proposed sunset review agenda procedure, by conforming with the current realities of Congress, would establish strong incentives to encourage committees to undertake intensive program evaluation. It would, for the first time, institutionalize oversight and program review as an established Congressional procedure and not just a desirable goal.

As these hearings are demonstrating, with more and more becoming known about H.R. 5858, objections are being raised from all directions—and many of the concerns being raised here and elsewhere are valid.

On the one hand, we have heard protests that the procedure is too weak, providing no guarantee that the sunset review agenda would be implemented. In light of our past failure to carry out oversight requirements, such arguments are legitimate. As a reaffirmation of our commitment to help restore confidence in government by putting some teeth into these requirements, I would urge the Committee to give serious consideration to adding enforcement provisions to H.R. 5858. Congressman Mineta in his testimony before the Committee last week outlined some amendments that would demonstrate our willingness to enforce the process we would be creating by this legislation without imposing an onerous burden on Congressional committees or seriously jeopardizing the programs scheduled for review. In particular, I hope the Committee will consider his proposals that a point of order may lie against

consideration of legislation under a committee's jurisdiction if it fails to meet its reporting requirements under the agenda, that Congress be prevented from adjourning until it takes final action on legislation relating to programs and tax expenditures on the review agenda, and that the Rules Committee or some other entity be given an enhanced role in coordinating the simultaneous review of similar programs.

At the same time, however, the Committee has also been charged with going too far to force Congressional action on legislation when it is not warranted. Of particular concern is the requirement for committees to report and the Congress to act on legislation relating to items on the agenda. This does present a problem in cases when permanent programs or tax expenditures are reviewed and committees conclude that no changes should be made. Thus, no legislation would be needed, even though H.R. 5858 requires that a bill be reported. To address this potential problem, the Committee might consider adding a procedure under which the House could waive the requirement by a recorded vote.

I would urge the Committee, however, to resist any effort to eliminate the requirement for Congressional action on all programs and tax expenditures on the agenda. Without it, the procedure established by H.R. 5858 would lose much of its promise for encouraging regular oversight and intensive program review. We would be left with little more than we have now.

A final area of objection the Committee has undoubtedly heard a great deal about is the inclusion of tax expenditures in the sunset review agenda. As I have stated in my previous testimony on this subject, excluding tax expenditures would render program review meaningless. It is too easy to convert direct spending into an indirect tax expenditure. If such items are not included in the review, it would be easy to escape the evaluation process altogether. In addition, the effort to coordinate review of similar programs would be damaged since many tax expenditures have the same policy goals as direct spending programs.

The procedure for developing the sunset review agenda could post some problems vis-a-vis tax expenditures in light of the Constitutional requirement that revenue measures originate in the House. To forestall confusion in this area, the Committee might consider a different procedure for developing the tax expenditure review agenda under which the Joint Tax Committee could submit the required report to the Rules Committee nominating items for review or could submit recommendations to the full Ways and Means Committee for its report.

I have spent a lot of time here discussing modifications of H.R. 5858. My purpose in this is to help the Committee fashion a bill which a majority of the House can support.

What is most important, in my view, is the enactment of H.R. 5858. This legislation proposes a significant step along the road to improving oversight of government programs. It incorporates many of the ingredients essential for an effective review process. The agenda procedure as framed in the bill would encourage coordinated evaluation of similar programs. It leaves to committees to decide their own review schedule, thereby improving the chances for in-depth, substantive review. And yet, it exempts no programs from the committees' responsibilities. With the addition of a few enforcement provisions, its effectiveness can be further enhanced.

Above all, the legislation offers, for the first time, an established procedure under which House and Senate committees will plan and conduct their oversight activities. By incorporating a program review process into House and Senate rules, we will have a system of checks on committees to carry out their oversight responsibilities.

H.R. 5858, by no means, offers guarantees that all necessary program review will be undertaken. But it is an important first step which, with vigilance and discipline, can greatly improve our record in this area.

Mr. LONG. Thank you, Mr. Gephardt, and thank you for your kind words about the work of this subcommittee and the work of the full committee.

We had a witness here earlier Mr. Williams from the Business Roundtable, who felt that the work done by the Ways and Means Committee and the Senate with respect to the review of tax expenditures—or tax preferences, as he called them—was more than adequate. He further expressed the feeling that if we impose additional requirements, mandating periodic review, two things will happen:

First, we will create instability in the economic sector; and, second, that would create too heavy a workload for the committees.

As a member of the oversight subcommittee of Ways and Means and having been through the oversight experience, what are your views with respect to Mr. Williams' position?

Mr. GEPHARDT. While, I think that the oversight work of the subcommittee is better than it has been in the past. I don't think it is adequate or sufficient.

I am not blaming that on the members or the chairman of the subcommittee. Many good things have been done. I think the subcommittee would be aided and helped if we were directed to set up an agenda and follow it on a systematic basis. It would create stability and not create instability.

There is instability in having open season on everything every day of the week which is the way the thing exists today. Often in the midst of a tax bill, Members would bring up other matters that would be melded into the tax bill that no one knew was coming up without having any consideration to the relationship of that program in the tax code.

I think that is a poor way to run a railroad. If you knew tax credit was going to be reviewed on the agenda this year you would know when that review was finished and re-enacted. The Ways and Means Committee would not be fooling with it for a very long time.

Last, workload, we have got an awful workload to begin with. We make that workload more manageable and more meaningful if we organize our work better. I could provide for you the amount of work that the Ways and Means Oversight Subcommittee has done in the last 3 years and show you the things that it has looked at.

I don't know how it could work any more or any less. It could work in a more organized fashion.

Mr. LONG. Thank you.

With respect to your suggestion that the Joint Committee on Taxation, might be made responsible for developing a tax expenditure review agenda: Expand on that, if you would, and show us how that would remove the possible constitutional problems with having the Ways and Means Committee and the Senate Finance Committee develop an agenda for tax expenditures.

Mr. GEPHARDT. I have not done a great deal of legal research into the question of what has to happen to satisfy the Constitution.

I do believe that the Joint Taxation Committee is ideally suited to handle this kind of an agenda, because I think what is called for here is a good deal of coordination and common thinking on the part of the two committees.

The Joint Tax Committee was established some years ago as a means of developing staff for the two committees, because it has such a large jurisdiction and because that jurisdiction isn't exactly common on both sides. In addition to that, the Joint Tax Committee has traditionally looked at subjects which cut across both jurisdictions and which require longer range views of both committees.

I have not approached this question with people on both committees, and I don't know what their reaction would be, but it would seem to me that we could get around very sufficiently the constitutional objections that may occur, if we have the Joint Taxation Committee as a joint committee of the two committees come up

with a common agenda which would be acceptable to both sides, and then have that given over to the Ways and Means Committee and the Senate Finance Committee to go through the usual procedure that the bill calls for, or to simply empower that committee to turn that agenda over after approval by the two committees to the Rules Committee as the agenda for those two committees.

Obviously, all committees dealing with direct or indirect spending, are going to have some problems in agreeing on this agenda. It just so happens that the Joint Taxation Committee is one instance where two standing committees in the Senate and the House have a standing joint committee, and it would seem to me, we could allay fears about constitutional problems and use an existing structure, which has been able in the past to quiet controversy and differences between the committees, in this instance as a superior way than perhaps as set out in H.R. 5858.

Mr. LONG. There is no question but that the problem with respect to Ways and Means and Finance is that their jurisdiction cuts in all directions across the board. This poses a major problem.

I think you have made a very constructive suggestion that is worthy of serious consideration. Thank you.

Mr. Derrick?

Mr. DERRICK. I have no questions. I thank you very much for your testimony.

Mr. LONG. Thank you very much.

Mr. Gephardt?

Mr. Nelson?

Mr. Nelson is from Florida. He has been very helpful to the committee in providing witnesses from the State of Florida, who have reported on their experience with sunset legislation. Mr. Nelson himself also has been very interested in the subject matter and has made significant contributions to our subcommittee in prior testimony.

We are glad to have you. Proceed in your own way.

STATEMENT OF HON. BILL NELSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. NELSON. I wanted to come and lend my support to your effort at compromise. I think you have a viable vehicle. I am, as is Mr. Gephardt, a little troubled at the nonmandatory, nonself-destruct aspect.

But I think that that is something that has to give way to compromise, as we try to sort out really what is going to work. I think aside from the entitlement programs, the ultimate sunsetter in theory should be the Appropriations Committee.

But, as I shared with you in my testimony before, when we were talking about the Florida experience, it is so often so difficult to get in and actually really rearrange a program when you are just allocating dollars, and the focus is on how much and whether or not a new program ought to start rather than going back and really reexamining old programs.

So I think this is a major step in the right direction, and I support it and am a cosponsor of your program.

Mr. LONG. As I said, we are thankful to you for your past contributions, and certainly are grateful for your kind remarks here today.

The basic problem, as you correctly stated, is one of being able to come up with a compromise that will work. Today have received a sufficient numbers of views from both sides to perhaps convince us that we are getting somewhere close to a piece of legislation that is both politically acceptable and that will work.

Serious doubts have been raised about going too far on the one hand in including tax expenditures, and, on the hand not going far enough by not including forcing mechanism of sufficient strength.

By the way, your friend, Mr. Shelton from Florida, has also been very helpful to the committee, and we are thankful to you for that.

Mr. Derrick?

Mr. DERRICK. I have no questions.

Mr. LONG. Thank you very much.

The committee will recess for 3 or 4 minutes to wait another witness. I understand Mr. Rousselot is on his way now.

[A brief recess was taken.]

Mr. LONG. The committee will come to order.

Our next witness is the Honorable John Rousselot from California. We are pleased to have you. Sit down and proceed in your own manner.

STATEMENT OF HON. JOHN H. ROUSSELOT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ROUSSELOT. Pleased to be here.

I will be brief and just say that I favor some type of sunset legislation, but especially important to it, as I see it, is some kind of concept of termination and true sunset for all agencies and bureaus and programs spread out sequentially over a 7- or 10-year period, and with maybe the exception the more permanent agencies, such as the State Department, Defense, Justice, et cetera.

But I think it doesn't have as much meaning without that. To put the discipline in the system, to force Congress to review very seriously all of these programs and all of these agencies, especially the more newly created ones, and that it is important that we be forced into that process and that they automatically terminate if it is truly to be sunset legislation.

I would like to urge you to include that idea because I think that is the basis of sunset legislation.

Mr. LONG. We appreciate having your views on the matter. They are unequivocal and that is particularly useful today because we have been dealing with some difficult technical problems. The testimony of most of our witnesses and the questions asked by committee members reflects an attempt to work out a compromise. The problem is that if you create a stronger forcing mechanism, whether it be automatic termination or something else, the more you have special interest groups seeking a way to gain exemption from the application of the law.

Mr. ROUSSELOT. I appreciate that. Of course, that is a problem we face anyway when authorization or entitlement bills, programs, come up for renewal. We face that problem anyway.

My feeling is, having been a Member of this body for a while, that unless we are forced to review it very seriously and that there was an automatic termination, it would not occur.

I see no disadvantages to having automatic termination.

Mr. LONG. The second and related question—

Mr. ROUSSELOT. Maybe you can relate to me what all the disadvantages are because we are not making any progress the way it is going now.

Mr. LONG. Let me recite one for you, and then get your comments on it. The witness today from the Business Roundtable raised the problem involved if automatic termination is applied to the tax programs in any way, or even if they are subject only to review, not automatic termination.

He went so far as to say that should you review them, even under the relatively weak provisions of H.R. 5858, you would bring substantial insecurity and instability into the economic system.

Mr. ROUSSELOT. We already have that anyway.

Mr. LONG. That is a very good answer.

Mr. ROUSSELOT. As a member of the Ways and Means Committee I can assure you that is already there, as relates to tax programs, because there is substantial sense of undecidedness in the marketplace because we have bills pending or not pending, or there is a room or that we are going to do this or that—just that sitting there as a proposal is creating all kinds of instability.

Mr. LONG. Well, the point I made to him was that if we set a schedule for review, say over a 6- 8- or 10-year period, the business community could be assured that a tax expenditure would remain in effect for a definite period of time.

Mr. ROUSSELOT. I totally agree with you. I think that makes eminent good sense, and I would support that.

Mr. LONG. Well, thank you very much.

Mr. Derrick?

Mr. DERRICK. I don't have any questions. I thank you very much.

Mr. ROUSSELOT. We have chatted about this.

Mr. DERRICK. We have discussed this on the floor.

Mr. ROUSSELOT. I want to thank you for doing this, for just taking it up. I think it is something we have needed for a long time. I understand I am the last witness of the day. You have listened, I am sure, to substantial testimony.

Mr. DERRICK. By no means the least important.

Mr. ROUSSELOT. I have been a strong supporter of this idea for a long time, and hope if you do decide on a final bill, you give us the opportunity to have an open enough rule so that we might consider the idea of termination, say, for some of the programs, maybe not everything, in both the tax side and in entitlement programs.

As you know, when we come to marking up a budget we have a terrible time on entitlement programs that are ongoing. I think we have got to explain—that should be our purpose. I know that is the purpose of the bill you have before us, to seriously review them.

But I think to force a serious review you have got to have some termination, 7 or 10 years.

Mr. LONG. Mr. Derrick?

Mr. DERRICK. If you could give us some suggestions that you might have to look at, realizing we don't think something that goes

as far as S. 2 is going to get through the House, so the point is mute on that.

If you care to, to give us something in between, I would like to look at it. I value your opinion.

Mr. ROUSSELOT. I appreciate that.

Mr. LONG. To go further, as we move along with this legislation we would like an opportunity to work with you on this subject.

Mr. ROUSSELOT. I would be pleased to do so.

Mr. LONG. You can be a very, very valuable part of our efforts to put this legislation together. I assure you I am going to avail myself of your offer of assistance.

Mr. ROUSSELOT. I can assure you I am just as serious about the whole idea as both of you are and other members of the committee. I would like to really see us make some progress.

Mr. LONG. Thank you very much.

Statements have been submitted by Representatives Robert N. Giaimo and John W. Wydler. Without objection, these statements will be made a part of the record, as though read, of today's hearing.

[The statements referred to follow:]

**STATEMENT OF HON. ROBERT N. GIAIMO, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CONNECTICUT**

Mr. GIAIMO. Chairman Bolling, and members of the Rules Committee, I am very pleased to appear before you to lend further support to the bill, H.R. 5858, the Sunset Review Act of 1979. This important and timely measure would establish a more coordinated and effective procedure for the periodic review and evaluation of Federal programs and tax expenditures and would markedly improve legislative oversight of Federal activities and regulatory programs.

Once enacted, this legislation will help both the legislative and executive branches to get a better handle on Government performance and total spending. This would be accomplished by requiring closer congressional scrutiny of direct spending, tax expenditure, and regulatory programs, particularly in terms of their efficiency and effectiveness in achieving intended program objectives and goals. It would provide a more systematic means for determining whether these programs are getting the job done, and if not, why not.

But it would not accomplish this desirable result in an arbitrary or precipitous manner, nor would it alter the spending jurisdiction of committees. Indeed, the bill H.R. 5858 combines the best features and approaches embodied in several oversight proposals, including H.R. 2, the Sunset Act of 1979, and H.R. 65, the Legislative Oversight Act of 1979, often referred to as the "sunrise" bill.

The Sunset Act of 1979 would require authorizations of new budget authority for Government programs at least every 10 years. If not expressly reauthorized following review, programs would automatically terminate. The Legislative Oversight Act, on the other hand, would emphasize greater specificity in setting direct spending, tax expenditure, and regulatory program objectives at the outset. It would also require the provision of continuing information on the extent to which programs are achieving their stated

objectives. Such information would be used, under the sunrise approach, in periodic reviews of program accomplishment in meeting stated objectives, to enable the Congress to decide whether to continue, modify, or terminate programs.

In combining these two essentially converse approaches, the Sunset Review Act would by concurrent resolution require legislative committees to review and evaluate their selected direct spending, tax expenditure, and regulatory programs during each Congress, beginning with the 98th Congress. By May 15 of the second session of each Congress, each legislative committee would be required to report legislation providing for the continuation, modification, or termination of the programs selected and reviewed during that Congress. The accompanying committee report must contain a thorough evaluation of the performance and cost effectiveness of each program, as well as a statement of specific intended objectives and planned annual accomplishments of the program in solving the problems or meeting the needs which it is intended to address in the future.

Such an approach would enable committees to select programs for review on a priority basis, and to conduct the reviews without any undue additional workload or scheduling burden. Similarly, it would help to eliminate program overlap and duplication by requiring that the consolidated agenda coordinate committee reviews so that related programs, regulatory activities, and tax expenditures are reviewed during the same Congress. That desirable end is strengthened by the fact that under the terms of H.R. 5858, no program authorization or related substantive provision of law is exempt from the sunset review process.

As chairman of the House Budget Committee, I am particularly pleased to endorse this bill, since its enactment will tend to increase the effectiveness of the congressional budget process in many ways. In particular, it will serve to encourage all committees with spending jurisdiction to identify opportunities to achieve legislative savings on an ongoing basis. This will be accomplished by, in effect, merging the program reauthorization and oversight phases of the legislative process, with respect to those programs specifically selected for sunset review during each Congress.

Clearly, during this era of necessary fiscal restraint and regulatory reform, there is an ever greater need to insure that all Government programs are operating with maximum efficiency and effectiveness. Those programs that fail to pass muster and would not prove more effective through modification, and those that simply no longer serve important national priorities, should be terminated.

It is very important, to note, however, that under the provisions of H.R. 5858 the termination of, or any other status change in, any program selected for sunset review would result only from a specific recommendation by the committee of jurisdiction following sunset review and affirmative approval of such a recommendation by the Congress. Thus, no one need fear that a selected program or group of selected programs will automatically terminate as of a given date, absent an affirmative decision to that effect by the Congress. I would find it very difficult indeed to design a fairer or more equitable approach suitable for dealing with the many con-

flicting and competing considerations involved in the difficult task with which we are confronted.

However, in closing I would like to suggest one modification which I believe might strengthen the bill. While under section 6(e)(2) a consolidated sunset review agenda must be reported from a committee of conference within 8 legislative days after the appointment of conferees, a date should also be specified by which the conference report on a consolidated agenda must be adopted by the Congress.

I am concerned that the absence of a required date for adoption of a consolidated review agenda may unintentionally invite parliamentary delay, thereby creating uncertainty among legislative committees and program beneficiaries as to which programs will be selected for sunset review. Of course, it may be argued that specification of such a date is unnecessary because of the basic structure of the program review process, and that no effective sanctions could be applied to insure compliance in any event. Nonetheless, I am persuaded that the additional discipline potentially afforded the Congress by specifying such a date is most desirable.

Mr. Chairman, as you know, the Budget Committee has taken an active interest in the evolution of oversight and sunset legislation over a period of several years. In the light of that background, I believe that H.R. 5858, the Sunset Review Act of 1979, will significantly improve the quality, relevance, and cost-effectiveness of existing and projected Federal programs, and strengthen the congressional budget process. I heartily recommend its enactment and vigorous implementation.

I would like to especially commend you, Mr. Chairman, along with Chairman Long and Representative Derrick of the Subcommittee on the Legislative Process, Representatives Mineta and Gephardt, for the very valuable and sustained effort each of you have put forth in producing this very fine and very timely piece of legislation. But having said that with all sincerity, I would remind each of us that very few laws are self-executing, including the Sunset Review Act of 1979, once it has been enacted. Thus, it will require a steady determination and the best efforts of all of us to insure that the great potential offered by this new legislation is fully and fairly realized. I pledge my support to those efforts.

STATEMENT OF HON. JOHN W. WYDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. WYDLER. True sunset legislation provides for establishment of a fixed schedule for legislative review and reauthorization of programs, under the threat of terminating them if no reauthorization is forthcoming.

The case for sunset, sunrise and related program review legislation rests on the premise that more systematic oversight is needed.

H.R. 5858 is not true sunset legislation. It established a procedure for periodic review of all Federal program and tax expenditures with a timetable geared to the existing congressional budget process.

Basically, it appears that all the bill would do is complicate and further slow the budgetary process as it mandates "committee

review agendas," "consolidated review agenda," and other worthless trappings.

I support true sunset legislation, such as S. 2, which establishes a 10-year cycle for authorization of budget authority and review of all Government programs.

The inclusion of tax matters in the bill is dangerous and unnecessary. Basically, such inclusion would create a permanent state of uncertainty with respect to the continued application of certain important tax provisions. This would, in turn, damage business, investor, and consumer confidence. It would cause undesirable fluctuations in investment and consumption decisions, and it would be one more powerful inhibitor to long-term capital investment.

Simply put, it would add to the Government bureaucracy without significantly improving the existing review process.

Presently, we frequently address ourselves to tax legislation which provides ample opportunity for review of existing tax expenditure provisions. Where there is sufficient interest, these matters can be and are taken up as needed. Therefore, the institutionalization of a time-consuming review and reenactment process for tax expenditure provisions would be a waste of time and would only unnecessarily encumber an already encumbered process.

Mr. LONG. A statement from the Public Employee Department, AFL-CIO was submitted for the record and will be inserted at this point.

[The statement referred to follows:]



Public Employee Department AFL-CIO

815 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 • (202) 393-2820-21

WILLIAM H. MCLENNAN
President

JOHN A. McCART
Executive Director

KENNETH T. BLAYLOCK
Treasurer

STATEMENT OF THE PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO,
BEFORE THE HOUSE COMMITTEE ON RULES, ON H.R. 5858,
SUNSET REVIEW ACT OF 1979

DECEMBER 10, 1979

We in the Public Employee Department of the AFL-CIO, representing over a million federal and postal employees as well as an equal number of state and local government employees, have of course a particular interest in sunset legislation, including H.R. 5858, the Sunset Review Act of 1979.

While a first reading of H.R. 5858 indicates it is a substantial improvement over some of the previous legislative proposals in this subject area, we must admit that we have not had the opportunity yet to fully analyze the pending bill and its implications.

In the circumstances we would like simply to make a general comment and restate some of the principles which should guide any final action by Congress.

The very term "sunset" connotes the end of a day or of an era, a "taps" played over a given agency or program. We find no problem with the interment of a program or agency which has finally discharged its mission, which is wholly inadequate to meet its objectives or which is aimed at a target now concluded to be a socially invalid one. Our objection, however, is directed to any legislation which shifts to the agency or program already approved, and provided authorization and appropriation by Congress, the burden of proof in justifying its continued existence. We think the uncertainty, as well as the gigantic workload, involved in any such bill, should give the Congress serious pause. Certainly the basic social programs enacted in the last half century should not automatically be placed under a chronological death sentence, without evidence of the need for such action.

Again, our first reading of H.R. 5858 indicates progress on the above points -- which we have made before. We hope, however, as your mark-up concludes, you will keep in mind the guidelines suggested above and elaborated in our earlier testimony.

We appreciate the opportunity to present the views of this Department and its 33 affiliated national unions on this question.

Mr. LONG. The committee stands adjourned.
[Whereupon, at 5:15 p.m. the committee adjourned.]

APPENDIX

EXHIBIT 1



CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

February 27, 1980

The Honorable Richard Bolling
Chairman
Committee on Rules
U.S. House of Representatives
H 312 Capitol
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 5858, the Sunset Review Act of 1979.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin
Director

cc: The Honorable James H. Quillen
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

February 27, 1980

1. BILL NUMBER: H.R. 5858

2. BILL TITLE: Sunset Review Act of 1979

3. BILL STATUS:

As introduced and referred to the House Committee on Rules, November 9, 1979.

4. BILL PURPOSE:

The purpose of this legislation is to establish a procedure for the periodic review by Congress of federal programs and tax expenditures. The bill also calls for the development of an inventory of all federal programs and tax expenditures. The provisions of this legislation are to become effective on January 3, 1981.

5. COST ESTIMATE:

The procedures mandated for the Congressional review of federal programs and tax expenditures are not expected to require the hiring of additional personnel or cause any significant additional expenditures by the federal government. It is anticipated that the effect of the bill will be to slightly alter the focus and method currently used to review programs. Existing resources in both the Legislative Branch and Executive Branch are assumed to be sufficient to cover any change in existing procedures. The creation and periodic updating of the program inventory is, however, expected to require an increase in expenditures, primarily by the General Accounting Office (GAO), as shown in the table below.

(by fiscal years, in millions of dollars)

	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Estimated Cost	2.3	2.1	2.3	2.6	2.8

The costs of this bill fall within budget function 800.

6. BASIS OF ESTIMATE:

The increased costs would result primarily from the need to establish a crosswalk between authorizations and appropriations and to estimate the amounts authorized and appropriated for each program. To track action on authorizations, data will have to be related to approximately 2,200 separate authorizations. Data on appropriations are currently maintained on about 1,300 budget accounts. The crosswalk is complicated by mixes of indefinite authorizations, lump sum authorizations, entitlements, formulas, and by partial funding of multiple authorizations.

Additional resources will also be needed by GAO to provide the necessary interaction with all Congressional committees on the definition of the inventory and to provide computer support. Including overhead, computer, and \$0.3 million in startup costs, additional expenditures are estimated to be \$2.3 million in 1981. With the exception of startup costs, all estimates have been inflated over the projection period.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE:

On September 26, 1979, the CBO prepared an estimate of the cost of H.R. 2 for the House Committees on Rules and Government Operations. The total cost for Titles II and VII of that bill is identical to the above estimate, with an adjustment for the date of enactment.

9. ESTIMATE PREPARED BY: Kathy Weiss (225-7760) *mw*
Dick Emery (225-4823)

10. ESTIMATE APPROVED BY:

C. L. Blum
James L. Blum
Assistant Director
for Budget Analysis

EXHIBIT 2

ELEMENTS OF SUNSET REVIEW LEGISLATION

PROVIDE COMPREHENSIVE COVERAGE OF ALL FEDERAL PROGRAMS. Sunset review legislation should cover all programs and exempt none. Direct spending programs and tax expenditures should be treated in an equal manner. Review should reach beyond the authorization of funds to include the substantive provisions of the law as well.

FOCUS ON PRIORITY AREAS. Pressures on committee and floor schedules mandate that review be focused on a limited number of priority programs and tax expenditures. Selecting a manageable number of programs is more likely to lead to meaningful, in-depth review of key programs and tax expenditures.

COMMITTEES SET SCHEDULES IN EACH CONGRESS. Each Congress must retain the ability to adjust review schedules to meet changing circumstances and priorities. Each committee is the best judge of those programs within their jurisdiction which are most in need of review.

REQUIRE CONGRESS TO ACT ON REVIEW FINDINGS. Congress should have the opportunity to vote on the recommendation of the committees of jurisdiction to modify, continue, or terminate a program or tax expenditure. Such a requirement insures:

- * Respect for the will of the Congress. A vote by the Congress will be the only basis for changes in program status. Programs will be protected from automatic termination as a result of filibuster, parliamentary delay, or Presidential veto.
- * Strong incentives for serious review. Tying the product of review to legislative action provides a strong incentive for committees to conduct a serious review.
- * Uncertainty kept to a minimum. Beneficiaries of programs and tax expenditures must have assurance that government activities on which they rely will not be precipitously terminated. Requirements for Congress to act early on an agenda and later on the review provides public notice of those items being reviewed.

REVIEW SIMILAR PROGRAMS & TAX EXPENDITURES CONCURRENTLY. The review agenda should coordinate the reviews of committees so that similar programs and tax expenditures are reviewed in the same Congress. This will assist Congress in eliminating duplication and overlap among programs.

COMPILE A PROGRAM INVENTORY. An inventory of all direct spending programs and tax expenditures is an essential tool for the operation of the sunset review process. The inventory should be arranged by committee jurisdiction, with cross-references as needed, and should provide additional information relevant to review.

ESTABLISH PERFORMANCE MEASURES. The establishment of performance measures for programs and tax expenditures will facilitate the regular oversight activities of committees.

PROVIDE FOR REGULATORY ANALYSIS. Many direct spending programs and tax expenditures regulate activities of the private sector. Committees conducting sunset reviews should analyze the regulatory impacts of such programs.

EXHIBIT 3

CAVEATS IN DRAFTING SUNSET REVIEW LEGISLATION

EXEMPTION OF MAJOR AREAS OF SPENDING. The exemption of major direct spending programs from the sunset review process weakens the ability of Congress to exercise control over the budget. Failure to treat tax expenditures in the same manner as direct spending programs ignores a growing component of government activity, and would encourage a shift to more tax expenditures as a means to escape review.

AUTOMATIC TERMINATION. Procedures that cause program authorizations or tax expenditures to terminate automatically would engender uncertainty as to the status of rights and existing law. "Sudden-death" procedures could result in the automatic termination of programs or tax expenditures by filibuster, parliamentary delay, or veto.

INFLEXIBLE, MULTI-CONGRESS REVIEW SCHEDULES. The setting of review schedules long in advance will not adequately take into account the changing priorities of each Congress.

UNREALISTIC SANCTIONS. Procedural requirements that are unrealistic in terms of the resources or legislative responsibilities of committees are likely to result in pro-forma compliance. Incentives should be provided to allow committees to incorporate review into their legislative activities.

EXHIBIT 4

SUMMARY OF THE "SUNSET REVIEW ACT OF 1979"

The "Sunset Review Act of 1979" establishes a process for the in-depth review of selected programs and tax expenditures during a Congress. The timetable is coordinated with the Congressional Budget Act.

Congressional Agenda for the Sunset Review of Federal Programs

- ** Legislative committees develop, adopt, and submit "committee review agendas" by March 1st of the first session. Each agenda lists the programs and tax expenditures which the committee intends to review during the Congress.
- ** The House Committee on Rules and Senate Committee on Rules and Administration merge the committee agendas into a "consolidated review agenda" which must be adopted by Congress in the form of a concurrent resolution no later than March 30th of the first session.
- ** The consolidated agenda contains a separate directive to each House and Senate committee to report by May 15th of the second session legislation modifying, continuing, or terminating the programs or tax expenditures under their jurisdiction included in the agenda.
- ** Special floor procedures are designed to expedite consideration of the consolidated agenda and limit the types of amendments which may be offered.

Congressional Inventory of Federal Programs

- ** Procedures under the Act are supported by a comprehensive program inventory listing programs by committee jurisdiction. It serves as a "common language" for House and Senate committees by assigning each program and tax expenditure an official name and a unique identification number. The inventory indicates the relationship between direct spending and tax expenditure programs.

Conduct of Sunset Reviews by Legislative Committees

- ** Committees must include specific analytical and evaluative information in their review reports. Committees exercising concurrent jurisdiction over a program scheduled for review may issue a joint report.

Other Features

- ** Executive and legislative agencies are authorized and directed to provide committees with program information and to assist them in conducting reviews under the Act.
- ** The Act encourages long-range planning of reviews by requiring legislative committees to provide plans for program review during the next three Congresses along with their "committee review agenda."
- ** Nothing in this Act affects (1) the authority of legislative committees to review or report legislation on programs or tax expenditures within their jurisdiction, or (2) the exercise by any House committee of the oversight functions vested in it by the Rules of the House.

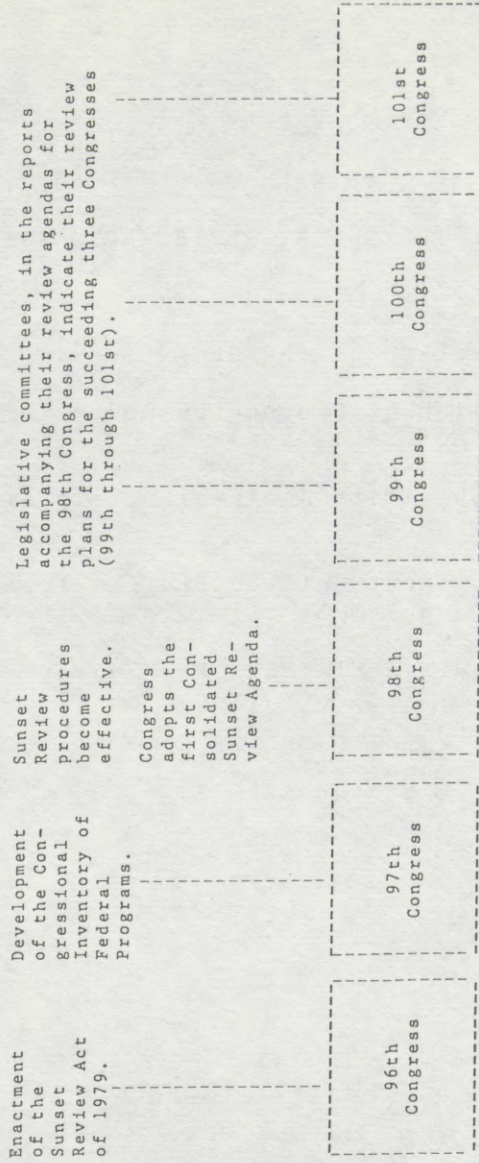
EXHIBIT 5

DETAILS OF H.R. 5858

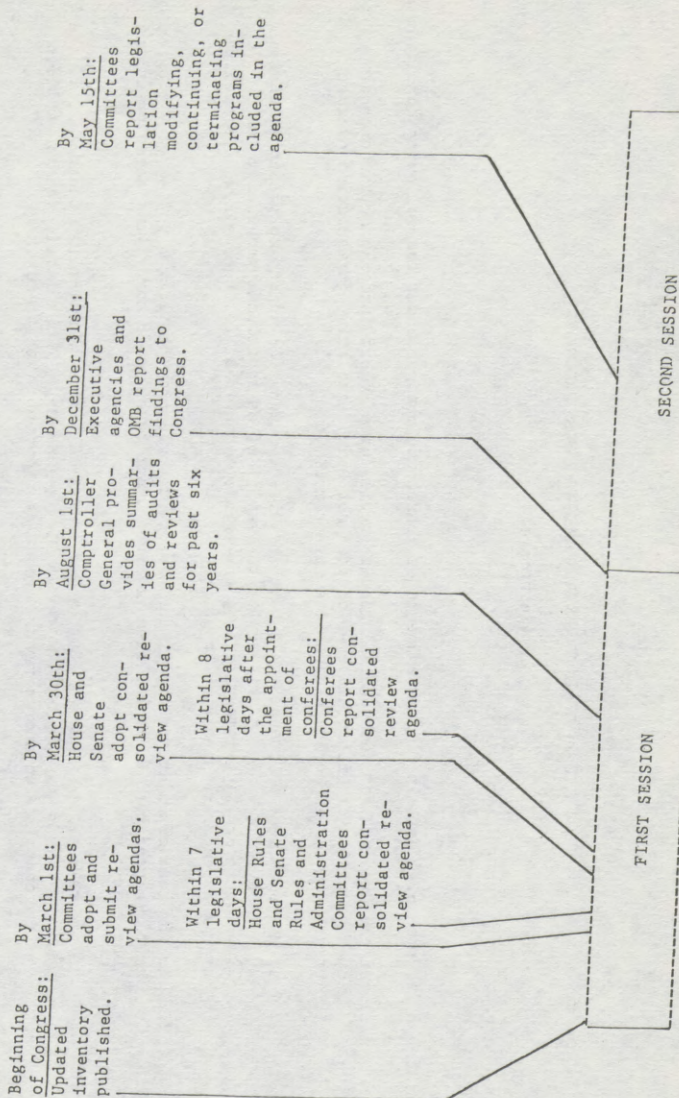
THE SUNSET REVIEW ACT OF 1979

1. Start-up of the Sunset Review Process
2. Timing of Procedures Under the Sunset Review Act of 1979
3. Prohibition Against Certain Amendments and Changes
4. Components of the Program Inventory and Supplement
5. Required Elements For Sunset Review Reports

START-UP OF THE SUNSET REVIEW PROCESS



TIMING OF PROCEDURES
Under the "Sunset Review Act of 1979"



PROHIBITION AGAINST CERTAIN AMENDMENTS AND CHANGES

(Section 6)

Section 6 (g) prohibits certain floor amendments or conference changes under the following conditions:

- (1) if the amendment or change would require review of a Federal program or tax expenditure by a committee of either House which does not have legislative jurisdiction over such program or tax expenditure under the inventory;
- (2) if the amendment or change would have any effect beyond (A) adding to the consolidated sunset review agenda a provision for the review of an additional program or tax expenditure or (B) eliminating from the agenda a provision for the review of a program or tax expenditure specified therein;
- (3) in the case of an amendment, if the amendment would provide for the review of a program or tax expenditure which has been reviewed under this Act in any of the three preceding Congresses; or
- (4) in the case of an amendment (during the Ninety-eighth or Ninety-ninth Congress), if the amendment would provide for the review of any program or tax expenditure not included in the consolidated sunset review agenda as reported by that House.

COMPONENTS OF THE PROGRAM INVENTORY AND SUPPLEMENT

(Section 4)

Program Inventory

1. official name of program or tax expenditure;
2. a unique identification number;
3. the agency responsible for administering the program or tax expenditure;
4. citations to the principal statutes governing the program or tax expenditure (and to the regulations promulgated thereunder);
5. House and Senate committees having legislative jurisdiction over the program or tax expenditure;
6. the year in which the program or tax expenditure was most recently reviewed under this Act (or, if it has not been so reviewed, the year in which it was initiated or most recently authorized);
7. in the case of a program, the amount authorized, the budget authority provided, and the budget outlays made under the program during the most recent fiscal year;
8. in the case of a tax expenditure, the estimated revenue loss during the most recent fiscal year.

Inventory Supplement

1. brief description of purposes;
2. in the case of a program--
 - (A) duration of the authorization,
 - (B) amounts of new budget authority authorized and provided for each of the three preceding and succeeding fiscal years,
 - (C) functional and subfunctional budget category, and
 - (D) cost-effectiveness comparisons between that program and other programs having similar or related objectives;
3. in the case of a tax expenditure, its expiration date, if any, and the estimated revenue loss for each of the three preceding and succeeding fiscal years;
4. in the case of a regulatory program, a list of the major regulatory activities and citations to the regulations promulgated thereunder.

REQUIRED ELEMENTS FOR SUNSET REVIEW REPORTS

(Section 7)

1. information on and analyses of the operation, costs, and results of the program or tax expenditure;
2. and identification of the intended objectives and planned annual accomplishments of the program or tax expenditure, and the problems or needs which it is intended to address;
3. recommended changes in law to eliminate conflict or duplication with other programs or tax expenditures;
4. an assessment of the cost effectiveness of the program or tax expenditure, compared to the estimated cost effectiveness of alternative methods for achieving the same purposes;
5. information on the number and types of persons benefitted or served by the program or tax expenditure, along with an assessment of the human and social benefits expected therefrom;
6. information on the regulatory impacts of the program or tax expenditure; and
7. an identification of and information on the measurements of accomplishment (using accomplishment indicators specifically appropriate to the particular program or tax expenditure involved) which the committee will consider in its regular oversight activities as an aid in determining whether the program or tax expenditure or its objectives require modification to meet changing circumstances and priorities.

EXHIBIT 6

H.R. 5858

SUNSET REVIEW ACT OF 1979
(November 9, 1979)Table of Contents

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5(b)	HRC and SR&AC, within 7 legislative days after all committee review agendas have been submitted, shall report a consolidated review agenda (in the form of a concurrent resolution) ** HRC and SR&AC make only those changes necessary to ensure accuracy ** the report accompanying the consolidated review agenda shall contain a summary of the committees' three-Congress review projections required in 5(a)(4)	12
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EXHIBIT 7

96TH CONGRESS
1ST SESSION

H. R. 5858

To establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1979

Mr. LONG of Louisiana (for himself, Mr. DERRICK, Mr. BLANCHARD, Mr. GEPHARDT, Mr. MINETA, Mr. ANDERSON of Illinois, Mr. ASHLEY, Mr. BEILENSEN, Mr. BOLLING, Mr. CAVANAUGH, Mrs. CHISHOLM, Mr. CLEVELAND, Mr. COELHO, Mr. DODD, Mr. FROST, Mr. GLAIMO, Mr. GIBBONS, Mr. MCKAY, Mr. MOAKLEY, Mr. MURPHY of Illinois, Mr. PANETTA, Mr. PEPPER, Mr. UDALL, and Mr. ZEFERETTI) introduced the following bill; which was referred to the Committee on Rules

A BILL

To establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*

1 That this Act may be cited as the "Sunset Review Act of
2 1979".

3 PURPOSE

4 SEC. 2. It is the purpose of this Act to establish a pro-
5 cedure for the periodic sunset review of Federal programs
6 and tax expenditures by the Congress, and to improve legis-
7 lative oversight of Federal activities and regulatory
8 programs.

9 DEFINITIONS

10 SEC. 3. For purposes of this Act—

11 (1) the terms "sunset review" and "review", with
12 respect to any Federal program (including regulatory
13 programs) or any tax expenditure, mean the study and
14 evaluation of such program or tax expenditure by a
15 legislative committee of the House of Representatives
16 or the Senate, as provided in section 7, for the purpose
17 of determining whether the continuation of such pro-
18 gram or tax expenditure is justified or whether or to
19 what extent it should be modified or terminated;

20 (2) the terms "committee sunset review agenda"
21 and "committee review agenda" mean a proposed
22 schedule for the review of specified Federal programs
23 or tax expenditures or both by a legislative committee
24 of the House of Representatives or the Senate, devel-
25 oped and submitted as provided in section 5(a);

1 (3) the terms "consolidated sunset review
2 agenda" and "consolidated review agenda" mean a
3 concurrent resolution setting forth all of the committee
4 sunset review agendas for the House of Representa-
5 tives or the Senate (or both) in any Congress, devel-
6 oped and adopted as provided in sections 5 and 6;

7 (4) the term "legislative committee" means a per-
8 manent committee of the House of Representatives or
9 the Senate which has legislative jurisdiction over one
10 or more Federal programs or tax expenditures under
11 the applicable rules of the House or the Senate, as the
12 case may be;

13 (5) the terms "congressional inventory of Federal
14 programs", "program inventory", and "inventory"
15 mean a listing of all Federal programs and tax expend-
16 itures by legislative committee jurisdiction, developed
17 and maintained as provided in section 4;

18 (6) the terms "program" and "Federal program"
19 mean any combination of Federal activities or laws in
20 an identifiable subject area, as classified in the con-
21 gressional inventory of Federal programs; and

22 (7) the term "tax expenditure" has the meaning
23 given it by section 3(3) of the Congressional Budget
24 Act of 1974.

1 CONGRESSIONAL INVENTORY OF FEDERAL PROGRAMS

2 SEC. 4. (a)(1) The Committee on Rules of the House of
3 Representatives and the Committee on Rules and Adminis-
4 tration of the Senate shall jointly develop and maintain an
5 inventory of all Federal programs and tax expenditures, in
6 accordance with this section.

7 (2) The inventory shall classify all Federal programs
8 and tax expenditures according to the jurisdiction of the var-
9 ious legislative committees of the two Houses. Programs
10 which are concurrently within the jurisdiction of two or more
11 committees of either House shall be classified under each
12 such committee, with appropriate cross-references to the
13 other committee or committees having jurisdiction. The in-
14 ventory may contain any additional classifications which, in
15 the judgment of the Committee on Rules and the Committee
16 on Rules and Administration, will assist the Congress in
17 evaluating the relationships among Federal programs and be-
18 tween Federal programs and related tax expenditures.

19 (3) Not later than the beginning of the Ninety-seventh
20 Congress, the General Accounting Office, after consultation
21 with the appropriate legislative committees, shall submit a
22 draft inventory to the Committee on Rules of the House and
23 the Committee on Rules and Administration of the Senate.
24 The Committee on Rules and the Committee on Rules and
25 Administration shall review the draft inventory and promptly

1 notify each legislative committee of the programs and tax
2 expenditures which are classified within its jurisdiction. Any
3 legislative committee may propose revisions in the list of pro-
4 grams and tax expenditures in the inventory which are classi-
5 fied within its jurisdiction (in a communication to the Com-
6 mittee on Rules or the Committee on Rules and Administra-
7 tion, as the case may be) at any time within thirty legislative
8 days after such notification. The Committee on Rules, in con-
9 sultation with the Speaker of the House and with the legisla-
10 tive committees involved, shall make any revisions in the
11 draft inventory which may be necessary to reflect correctly
12 the jurisdiction of the various committees of the House, bas-
13 ing such revisions on the rules and established precedents of
14 the House; and the Committee on Rules and Administration,
15 in consultation with the presiding officer of the Senate and
16 with the legislative committees involved, shall make any re-
17 visions in the draft inventory which may be necessary to re-
18 flect correctly the jurisdiction of the various committees of
19 the Senate, basing such revisions on the rules and established
20 precedents of the Senate.

21 (4) After determining that all programs and tax expendi-
22 tures are accurately classified according to the jurisdiction of
23 the legislative committees of their respective Houses, the
24 Committee on Rules and the Committee on Rules and Ad-
25 ministration shall jointly publish the program inventory in a

1 single document covering all Federal programs and tax ex-
2 penditures and all legislative committees in each House. The
3 official name and identification number of each program and
4 tax expenditure shall, for purposes of the inventory, be the
5 same for both the House and Senate; but neither the Com-
6 mittee on Rules of the House nor the Committee on Rules
7 and Administration of the Senate shall have any involvement
8 in the classification of programs or tax expenditures to the
9 jurisdiction of committees in the other House. The Commit-
10 tee on Rules and the Committee on Rules and Administration
11 shall have joint responsibility for maintaining the inventory
12 and assuring its availability for use by Members and commit-
13 tees.

14 (5) At the beginning of the Ninety-eighth Congress and
15 each Congress thereafter, the Committee on Rules and the
16 Committee on Rules and Administration shall jointly publish
17 an updated inventory of Federal programs and tax expendi-
18 tures, in the manner and under the procedures specified in
19 paragraphs (3) and (4). Prior to publishing the updated inven-
20 tory, the Committee on Rules and the Committee on Rules
21 and Administration shall each notify every legislative com-
22 mittee of its House of all programs and tax expenditures
23 which are proposed to be added to or stricken from such com-
24 mittee's jurisdiction as required by prior congressional action.

1 (b) The inventory shall include (with respect to each
2 Federal program and each tax expenditure)—

3 (1) the official name by which the program or tax
4 expenditure is to be referred to;

5 (2) a unique identification number;

6 (3) the agency (and, if applicable, the subdivision
7 thereof) which is responsible for administering the pro-
8 gram or tax expenditure;

9 (4) citations to the principal statutes governing
10 the program or tax expenditure, and to the regulations
11 promulgated thereunder;

12 (5) the committee or committees of the House and
13 Senate having legislative jurisdiction over the program
14 or tax expenditure;

15 (6) the year in which the program or tax expendi-
16 ture was most recently reviewed under this Act (or, if
17 it has not been so reviewed, the year in which it was
18 initiated or most recently authorized);

19 (7) in the case of a program, the amount author-
20 ized, the budget authority provided, and the budget
21 outlays made under the program during the most re-
22 cently completed fiscal year; and

23 (8) in the case of a tax expenditure, the estimated
24 revenue loss during the most recently completed fiscal
25 year.

1 (c) The General Accounting Office shall maintain and
2 publish (as a separate document) a supplement to the inven-
3 tory which shall be cross-referenced to it and shall include
4 (with respect to each Federal program and tax
5 expenditure)—

6 (1) a brief description of the purpose or purposes
7 of the program or tax expenditure;

8 (2) in the case of a Federal program—

9 (A) the period of time for which the enact-
10 ment of budget authority is authorized (and, if ap-
11 plicable, the date when the authorization expires);

12 (B) the amounts of new budget authority au-
13 thorized and provided for the program for each of
14 the three most recently completed fiscal years
15 and, where applicable, for each of the three suc-
16 ceeding fiscal years;

17 (C) the functional and subfunctional category
18 to which the program is assigned in the Budget of
19 the United States Government; and

20 (D) cost-effectiveness comparisons between
21 that program and other Federal programs having
22 similar or related objectives;

23 (3) in the case of a tax expenditure, its expiration
24 date, if any, and the estimated revenue loss incurred or
25 to be incurred during each of the three most recently

1 completed fiscal years and during each of the three
2 succeeding fiscal years; and

3 (4) in the case of a regulatory program, a list of
4 the major regulatory activities and citations to the reg-
5 ulations promulgated thereunder.

6 (d) The Congressional Budget Office and the Congres-
7 sional Research Service are authorized and directed to pro-
8 vide any assistance which may be requested in connection
9 with the preparation and updating of the program inventory
10 and the supplement thereto.

11 CONGRESSIONAL AGENDA FOR THE SUNSET REVIEW OF
12 FEDERAL PROGRAMS

13 SEC. 5. (a)(1) Each legislative committee of the House
14 of Representatives and the Senate, on or before March 1 in
15 the first session of each Congress beginning with the Ninety-
16 eighth Congress, shall develop, adopt, and submit to the
17 Committee on Rules (in the case of a House committee) or
18 the Committee on Rules and Administration (in the case of a
19 Senate committee) an agenda for the sunset review (during
20 such Congress) of selected Federal programs within its legis-
21 lative jurisdiction and (in the case of the Committee on Ways
22 and Means of the House and the Committee on Finance of
23 the Senate) of selected tax expenditures. Each program and
24 tax expenditure selected for the committee sunset review
25 agenda shall be designated according to the official name and

1 identification number provided for it under the congressional
2 inventory of Federal programs developed under section 4.
3 Such agenda shall specify each of the programs and tax ex-
4 penditures with respect to which the committee proposes to
5 conduct a sunset review and report legislation during such
6 Congress pursuant to section 7.

7 (2) The committee sunset review agenda developed and
8 submitted by any legislative committee under paragraph (1)
9 shall be based on such committee's judgment as to the pro-
10 grams or tax expenditures within its jurisdiction which are
11 most in need of review, and as to the most appropriate order
12 and spacing of the reviews. To the extent practicable, com-
13 mittees shall develop and submit sunset review agendas
14 which provide for the review of related programs, of pro-
15 grams and related tax expenditures, or of related regulatory
16 activities, during the same Congress.

17 (3)(A) Each legislative committee of either House shall
18 develop its committee sunset review agenda in consultation
19 with any other committees of such House which exercise
20 concurrent jurisdiction over any of the programs or tax ex-
21 penditures involved, and in consultation with the committee
22 or committees of the other House which exercise jurisdiction
23 over such programs or tax expenditures, with the objective of
24 assuring that any sunset review of a Federal program or tax
25 expenditure by such legislative committee pursuant to such

1 agenda will be conducted during the same Congress as the
2 sunset reviews of that program or tax expenditure by all
3 committees (in both Houses) which have legislative jurisdic-
4 tion over such program or tax expenditure.

5 (B) If the committee sunset review agenda being devel-
6 oped by the Committee on Ways and Means of the House or
7 the Committee on Finance of the Senate provides for the
8 sunset review of a tax expenditure, such committee shall also
9 consult with the committee or committees (in both Houses)
10 having legislative jurisdiction over any related Federal pro-
11 gram, with the objective of assuring that the sunset review of
12 the tax expenditure and the sunset review of all related Fed-
13 eral programs will be conducted during the same Congress to
14 the extent that the legislative schedules of the committees
15 involved permit.

16 (4) The report accompanying each committee sunset re-
17 view agenda submitted by a legislative committee under
18 paragraph (1) shall contain a projection of the program and
19 tax expenditure sunset reviews which such committee ex-
20 pects to conduct during the three Congresses immediately
21 following the Congress in which the agenda is submitted.

22 (5) It shall not be in order in either the House or the
23 Senate to consider a primary expense resolution for any leg-
24 islative committee in any Congress until that committee has

1 developed and submitted its sunset review agenda for that
2 Congress as provided in this subsection.

3 (b) Within seven legislative days after all committee
4 sunset review agendas have been submitted to it under sub-
5 section (a)(1), the Committee on Rules of the House and the
6 Committee on Rules and Administration of the Senate shall
7 each incorporate such agendas (making only such changes as
8 are necessary to assure the accuracy of the consolidated
9 agenda) into a consolidated sunset review agenda covering all
10 of the legislative committees of the House involved, and shall
11 each report such consolidated agenda to its House in the
12 form of a concurrent resolution (or, if a consolidated sunset
13 review agenda in the form of a concurrent resolution has
14 been received from the other House and referred to the com-
15 mittee, may instead report that resolution with an amend-
16 ment adding the consolidated sunset review agenda for its
17 own House). The report accompanying such consolidated
18 agenda shall include a summary of the projections referred to
19 in subsection (a)(4).

20 (c) The consolidated sunset review agenda shall have a
21 separate section for each legislative committee of the House
22 or Senate with jurisdiction over one or more Federal pro-
23 grams or tax expenditures. Each such section shall read as
24 follows:

1 "The Committee on is hereby directed,
2 on or before May 15 in the second session of the current
3 Congress, to report a bill modifying, continuing, or terminat-
4 ing the following Federal programs or tax expenditures:
5 ."; with the first blank being filled in with the
6 name of the committee which is to conduct the sunset review
7 or reviews, and with the second blank being filled in with the
8 official name of each of the programs and tax expenditures
9 which such committee is to review during the Congress in
10 which the consolidated sunset review agenda is adopted. The
11 consolidated agenda shall not contain any matter other than
12 that provided for in this subsection. In all questions involving
13 jurisdiction or official program name which may arise in ei-
14 ther House, the program inventory shall be controlling unless
15 that House makes a specific determination to the contrary.

16 (d) Each program and tax expenditure set forth in the
17 committee sunset review agenda submitted by a legislative
18 committee under subsection (a), in the consolidated sunset
19 review agenda reported under subsection (b) or any amend-
20 ment thereto, or in any conference report thereon under sec-
21 tion 6 shall be designated by its official name as set forth in
22 the congressional inventory of Federal programs; and in re-
23 porting the consolidated sunset review agenda to their re-
24 spective Houses, the Committee on Rules and the Committee
25 on Rules and Administration shall assure that each program

1 and tax expenditure listed therein is so designated. It shall
2 not be in order in either the House of Representatives or the
3 Senate to consider a consolidated sunset review agenda or
4 any amendment thereto (whether in the initial consideration
5 of the agenda or in the conference report thereon) unless
6 each program and tax expenditure included in the agenda or
7 amendment is designated by its official name as set forth in
8 the inventory.

9 PROCEDURES FOR THE ADOPTION OF THE CONSOLIDATED
10 SUNSET REVIEW AGENDA

11 Date for Adoption of Consolidated Sunset Review Agenda
12 in House of Representatives and in Senate

13 SEC. 6. (a) The consolidated sunset review agenda for
14 any Congress shall be adopted in the House of Representa-
15 tives and in the Senate no later than March 30 in the first
16 session of that Congress.

17 Procedure in the House of Representatives

18 (b)(1) After the Committee on Rules of the House of
19 Representatives has reported a consolidated sunset review
20 agenda under section 5(b), it shall be in order at any time to
21 move to proceed to the consideration of the agenda. The mo-
22 tion is highly privileged and is not debatable. An amendment
23 to the motion is not in order, and it is not in order to move to
24 reconsider the vote by which the motion is agreed to or disa-
25 greed to.

1 (2)(A) General debate on any consolidated sunset review
2 agenda in the House of Representatives shall be limited to
3 not more than 5 hours, which shall be divided equally be-
4 tween the majority and minority parties. A motion further to
5 limit debate is not debatable. A motion to recommit the reso-
6 lution is not in order, and it is not in order to move to recon-
7 sider the vote by which the resolution is agreed to or disa-
8 greed to.

9 (B) Consideration of any consolidated sunset review
10 agenda by the House of Representatives shall be in the Com-
11 mittee of the Whole, and the agenda shall be read for amend-
12 ment under the five-minute rule in accordance with the appli-
13 cable provisions of rule XXIII of the Rules of the House of
14 Representatives.

15 (C) After the Committee rises and reports the consoli-
16 dated sunset review agenda back to the House, the previous
17 question shall be considered as ordered on the agenda and
18 any amendments thereto to final passage without intervening
19 motion. Notwithstanding the preceding provisions of this sub-
20 paragraph (and the provisions of subsection (g)), it shall be in
21 order at any time prior to final passage (notwithstanding any
22 other rule or provision of law) to adopt an amendment (or a
23 series of amendments) changing one or more sunset reviews
24 scheduled in the agenda as so reported, without regard to the
25 point at which any such scheduled review appears in the

1 agenda, to the extent necessary to achieve consistency with
2 any other sunset review scheduled in the agenda.

3 (3) Motions to postpone, made with respect to the con-
4 sideration of any consolidated sunset review agenda, and mo-
5 tions to proceed to the consideration of other business, shall
6 be decided without debate.

7 (4) Except to the extent specifically provided in the pre-
8 ceding provisions of this paragraph (and the provisions of
9 subsection (g)), consideration of any consolidated sunset re-
10 view agenda and amendments thereto in the House of Repre-
11 sentatives shall be governed by the rules of the House which
12 are applicable to other bills, resolutions, and amendments in
13 similar circumstances. Appeals from the decisions of the
14 Chair relating to the application of the Rules of the House of
15 Representatives to the procedure relating to a consolidated
16 sunset review agenda shall be decided without debate.

17 Procedure in the Senate

18 (c) **【To be supplied.】**

19 Matters in Disagreement Between House and Senate

20 (d)(1) The consolidated sunset review agenda shall not
21 be considered to have been finally adopted by the Congress
22 so long as there are matters in disagreement between the two
23 Houses within the meaning of this subsection.

24 (2) If a consolidated sunset review agenda, after it has
25 been agreed to in both the House of Representatives and the

1 Senate, schedules one or more programs or tax expenditures
2 for review (during the Congress involved) by a legislative
3 committee of one House but not by a legislative committee of
4 the other, the scheduling of such program or tax expenditure
5 for such review shall be deemed to constitute a difference
6 between the House and Senate versions of the agenda and a
7 matter in disagreement between the two Houses.

8 Conference Procedure

9 (e)(1) As soon as practicable after both Houses have ap-
10 pointed conferees to a committee of conference on a consoli-
11 dated sunset review agenda, the Committee on Rules of the
12 House of Representatives and the Committee on Rules and
13 Administration of the Senate shall notify each legislative
14 committee of its House of any of the differences between the
15 House and Senate versions of the agenda which involve or
16 affect programs within the jurisdiction of such legislative
17 committee; and throughout the conference the Committee on
18 Rules of the House and the Committee on Rules and Admin-
19 istration of the Senate shall keep each such legislative com-
20 mittee fully informed with respect to the progress being made
21 in resolving those differences.

22 (2) If, at the end of seven days (excluding Saturdays,
23 Sundays, and legal holidays) after the appointment of con-
24 ferees on a consolidated sunset review agenda, the conferees
25 are unable to reach agreement with respect to all matters in

1 disagreement between the two Houses, the conferees shall
2 submit to their respective Houses, on the first day thereafter
3 on which their House is in session, a conference report rec-
4 ommending those matters on which they have agreed and
5 reporting in disagreement those matters on which they have
6 not agreed. For purposes of this paragraph, conferees on a
7 consolidated sunset review agenda are in disagreement with
8 respect to any program or tax expenditure only in the situa-
9 tion described in subsection (d).

10 Adoption of the Conference Report in the House and Senate

11 (f)(1) Consideration of the conference report on any con-
12 solidated sunset review agenda in the House of Representa-
13 tives shall be governed by the rules of the House which are
14 applicable to conference reports on concurrent resolutions
15 generally; except that a motion to recommit the conference
16 report is not in order, and it is not in order to move to recon-
17 sider the vote by which the conference report is agreed to or
18 disagreed to.

19 (2) **【Senate conference procedure—To be supplied.】**

20 Certain Amendments and Changes Prohibited

21 (g) Notwithstanding any other provision of this section
22 (except the second sentence of subsection (b)(2)(C)) or of the
23 Rules of the House involved, it shall not be in order in either
24 the House of Representatives or the Senate to consider an
25 amendment to a consolidated sunset review agenda, or to

1 consider a conference report on such an agenda which in-
2 cludes a change from the agenda as it was initially agreed to
3 by that House—

4 (1) if the amendment or change would require re-
5 view of a Federal program or tax expenditure by a
6 committee of either House which does not have legisla-
7 tive jurisdiction over such program or tax expenditure
8 under the inventory;

9 (2) if the amendment or change would have any
10 effect beyond (A) adding to the consolidated sunset re-
11 view agenda a provision for the review of an additional
12 program or tax expenditure or (B) eliminating from the
13 agenda a provision for the review of a program or tax
14 expenditure specified therein;

15 (3) in the case of an amendment, if the amend-
16 ment would provide for the review of a program or tax
17 expenditure which has been reviewed under this Act in
18 any of the three preceding Congresses; or

19 (4) in the case of an amendment (during the
20 Ninety-eighth or Ninety-ninth Congress), if the amend-
21 ment would provide for the review of any program or
22 tax expenditure not included in the consolidated sunset
23 review agenda as reported in that House.

1 CONDUCT OF SUNSET REVIEWS BY LEGISLATIVE

2 COMMITTEES

3 SEC. 7. (a) Not later than May 15 in the second session
4 of each Congress, each committee of the House or Senate
5 shall report a bill or bills modifying, continuing, or terminat-
6 ing each program or tax expenditure which it has been di-
7 rected to review under the consolidated sunset review agenda
8 adopted by the Congress during the first session of that Con-
9 gress. Prior to reporting any such bill, the committee shall
10 undertake and carry out a study and evaluation of the pro-
11 gram or tax expenditure involved which is of sufficient scope
12 and thoroughness to provide an informed basis for the com-
13 mittee and the House or Senate to determine whether the
14 continuation of such program is justified, or whether or to
15 what extent such program should be modified or repealed. If
16 two or more committees have legislative jurisdiction over the
17 same program, they may review such program jointly and
18 submit a joint report with respect to such review.

19 (b) Each committee which under subsection (a) is re-
20 quired to report a bill modifying, continuing, or terminating a
21 program or tax expenditure shall submit a report, to accom-
22 pany such bill, setting forth the committee's findings and rec-
23 ommendations and its justification for modifying, continuing,
24 or terminating the program or tax expenditure. Each such
25 report shall include (but need not be limited to)—

1 (1) information on and analyses of the operation,
2 costs, and results of the program or tax expenditure;

3 (2) an identification of the intended objectives and
4 planned annual accomplishments of the program or tax
5 expenditure, and the problems or needs which it is in-
6 tended to address;

7 (3) recommended changes in law to eliminate con-
8 flict or duplication with other programs or tax expendi-
9 tures;

10 (4) an assessment of the cost effectiveness of the
11 program or tax expenditure, compared to the estimated
12 cost effectiveness of alternative methods for achieving
13 the same purposes;

14 (5) information on the number and types of per-
15 sons benefitted or served by the program or tax ex-
16 penditure, along with an assessment of the human and
17 social benefits expected therefrom;

18 (6) information on the regulatory impacts of the
19 program or tax expenditure; and

20 (7) an identification of and information on the
21 measurements of accomplishment (using accomplish-
22 ment indicators specifically appropriate to the particu-
23 lar program or tax expenditure involved) which the
24 committee will consider in its regular oversight activi-
25 ties as an aid in determining whether the program or

1 tax expenditure or its objectives require modification to
2 meet changing circumstances and priorities.

3 ASSISTANCE TO COMMITTEES BY EXECUTIVE AND
4 LEGISLATIVE AGENCIES

5 SEC. 8. (a)(1) Each department, agency, and instrumen-
6 tality in the executive branch of the Government which is
7 responsible for the administration of a Federal program or
8 tax expenditure selected for sunset review in any Congress
9 pursuant to this Act shall, not later than the close of the first
10 session of that Congress, submit to the Office of Management
11 and Budget and to the appropriate committees of the House
12 of Representatives and the Senate a report of its findings and
13 recommendations with respect to each of the matters set
14 forth in section 7(b), and the Director of the Office of Man-
15 agement and Budget shall submit to such committees his
16 comments on such findings and recommendations.

17 (2) At or before the close of each year ending after the
18 Congress in which a sunset review of a particular program or
19 tax expenditure is conducted under this Act, the Director of
20 the Office of Management and Budget shall submit to the
21 appropriate committees of the House of Representatives and
22 the Senate, upon request, concise data on program perform-
23 ance based on the accomplishment indicators then being used
24 (in accordance with the applicable provisions of the report
25 most recently submitted in connection with such sunset re-

1 view pursuant to section 7(b)(7) or otherwise) in such com-
2 mittees' oversight activities with respect to such program or
3 tax expenditure.

4 (b) To assist in the review of any program or tax ex-
5 penditure included in the consolidated sunset review agenda
6 for a Congress, the department, agency, or instrumentality
7 which administers such program or tax expenditure shall pro-
8 vide to each committee of the House of Representatives and
9 the Senate which has legislative jurisdiction over such pro-
10 gram or tax expenditure such studies, information, analyses,
11 reports, and assistance as the committee may request.

12 (c) On or before August 1 in each odd-numbered year,
13 the Comptroller General shall furnish to each committee of
14 the House and Senate which has legislative jurisdiction over
15 a program or tax expenditure selected for review in the most
16 recently adopted consolidated sunset review agenda summar-
17 ies of any audits and review of such program or tax expendi-
18 ture which have been completed during the preceding six
19 years.

20 (d) Consistent with the discharge of the duties and func-
21 tions otherwise imposed on them by law, the Comptroller
22 General, the Director of the Congressional Budget Office, the
23 Director of the Office of Technology Assessment, and the
24 Director of the Congressional Research Service shall furnish
25 to each committee of the House of Representatives or the

1 Senate such information, studies, analyses, and reports as the
2 committee may request to assist it in conducting sunset re-
3 views of programs or tax expenditures under this Act.

4 RELATIONSHIP OF SUNSET REVIEW PROCEDURES TO
5 PERFORMANCE OF OTHER LEGISLATIVE FUNCTIONS

6 SEC. 9. (a) Except as specifically provided in the pre-
7 ceding sections of this Act, nothing in this Act or in any
8 procedure established by this Act shall affect in any way the
9 authority of any legislative committee to review programs or
10 tax expenditures within its jurisdiction and to report legisla-
11 tion modifying, continuing, or terminating such programs or
12 expenditures, at such times and in such manner as it deems
13 appropriate consistent with its authority and responsibilities
14 under the rules of the House involved.

15 (b) Nothing in this Act shall affect in any way the exer-
16 cise by any committee of the oversight functions vested in it
17 by the rules of the House involved.

18 RULES AMENDMENTS RELATING TO SUNSET REVIEW
19 PROCEDURES

20 Jurisdiction of Committee on Rules

21 SEC. 10. (a)(1) Clause 1(q) of rule X of the Rules of the
22 House of Representatives is amended by redesignating sub-
23 paragraphs (3) and (4) as subparagraphs (4) and (5), and by
24 inserting after subparagraph (2) the following new subpara-
25 graph:

1 “(3) Consolidated sunset review agendas and the
2 congressional inventory of Federal programs under the
3 Sunset Review Act of 1979.”.

4 Elimination of Biennial Report on Oversight Plans

5 (2) Effective immediately prior to noon on January 3,
6 1983, clause 2 of rule X of such rules is amended by striking
7 out paragraph (c), and by redesignating paragraph (d) as
8 paragraph (c).

9 Layover of Consolidated Sunset Review Agendas

10 (3) Clause 2(l)(6) of rule XI of such rules is amended by
11 inserting after “or other order of business” in the first sen-
12 tence the following: “, or in the case of a consolidated sunset
13 review agenda under section 5 of the Sunset Review Act of
14 1979”.

15 (b) **【Senate rules changes—To be supplied.】**

16 EXERCISE OF RULEMAKING POWERS

17 SEC. 11. The provisions of this Act (except the first
18 sentence of section 4(a)(3), section 4(c), and section 8) are
19 enacted by the Congress—

20 (1) as an exercise of the rulemaking power of the
21 House of Representatives and the Senate, respectively,
22 and as such they shall be considered as part of the
23 rules of each House, respectively, or of that House to
24 which they specifically apply, and such rules shall su-

1 persede other rules only to the extent that they are in-
2 consistent therewith; and

3 (2) with full recognition of the constitutional right
4 of either House to change such rules (so far as relating
5 to such House) at any time, in the same manner, and
6 to the same extent as in the case of any other rule of
7 such House.

8 EFFECTIVE DATE

9 SEC. 12. Except as otherwise specifically provided, this
10 Act and the amendments made by this Act shall become ef-
11 fective immediately prior to noon on January 3, 1981.



EXHIBIT 8

Total number: 194
 (Not including Mr. Long
 Mr. Derrick)

COSPONSORS OF H.R. 5858

THE SUNSET REVIEW ACT

April 21, 1980

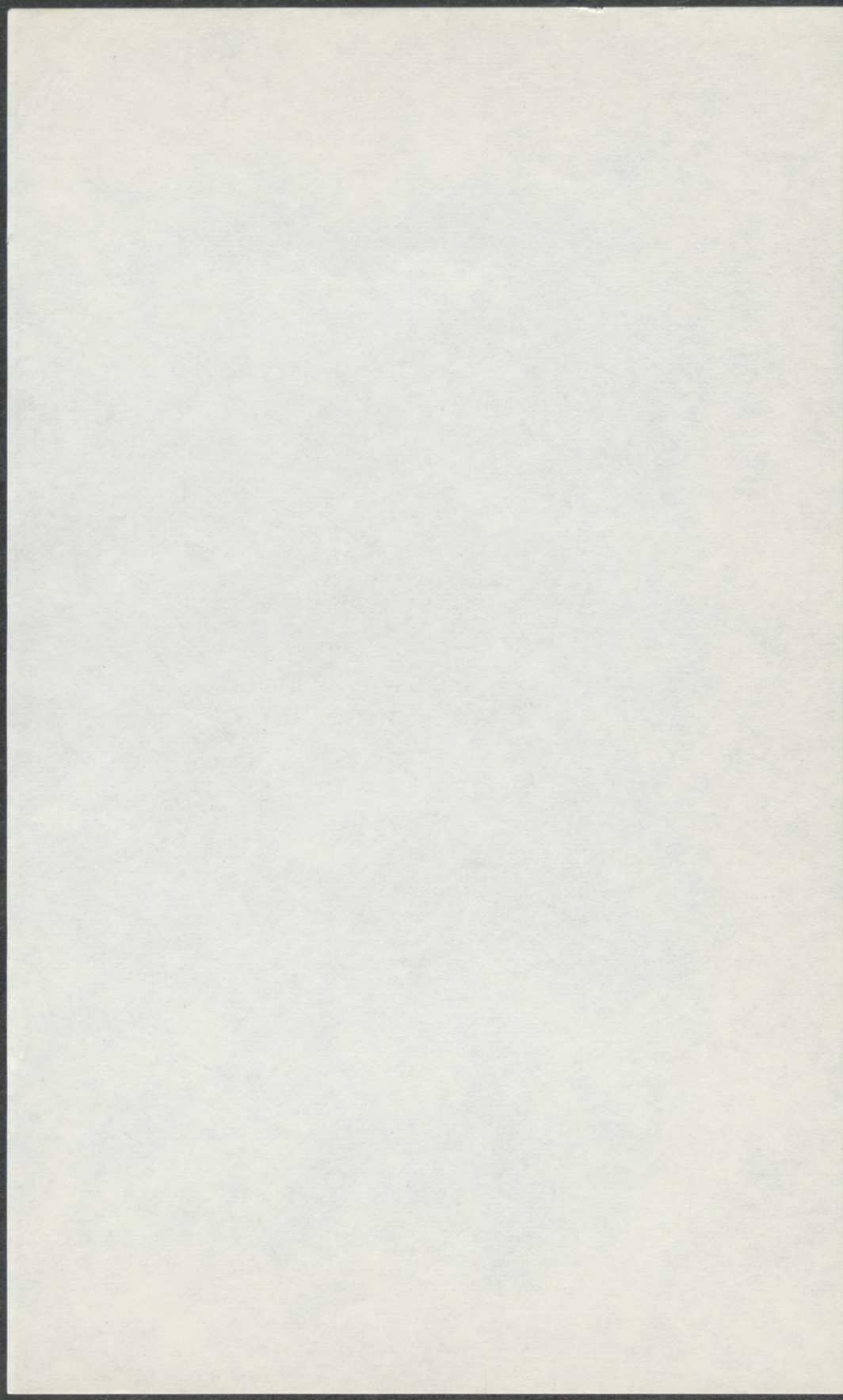
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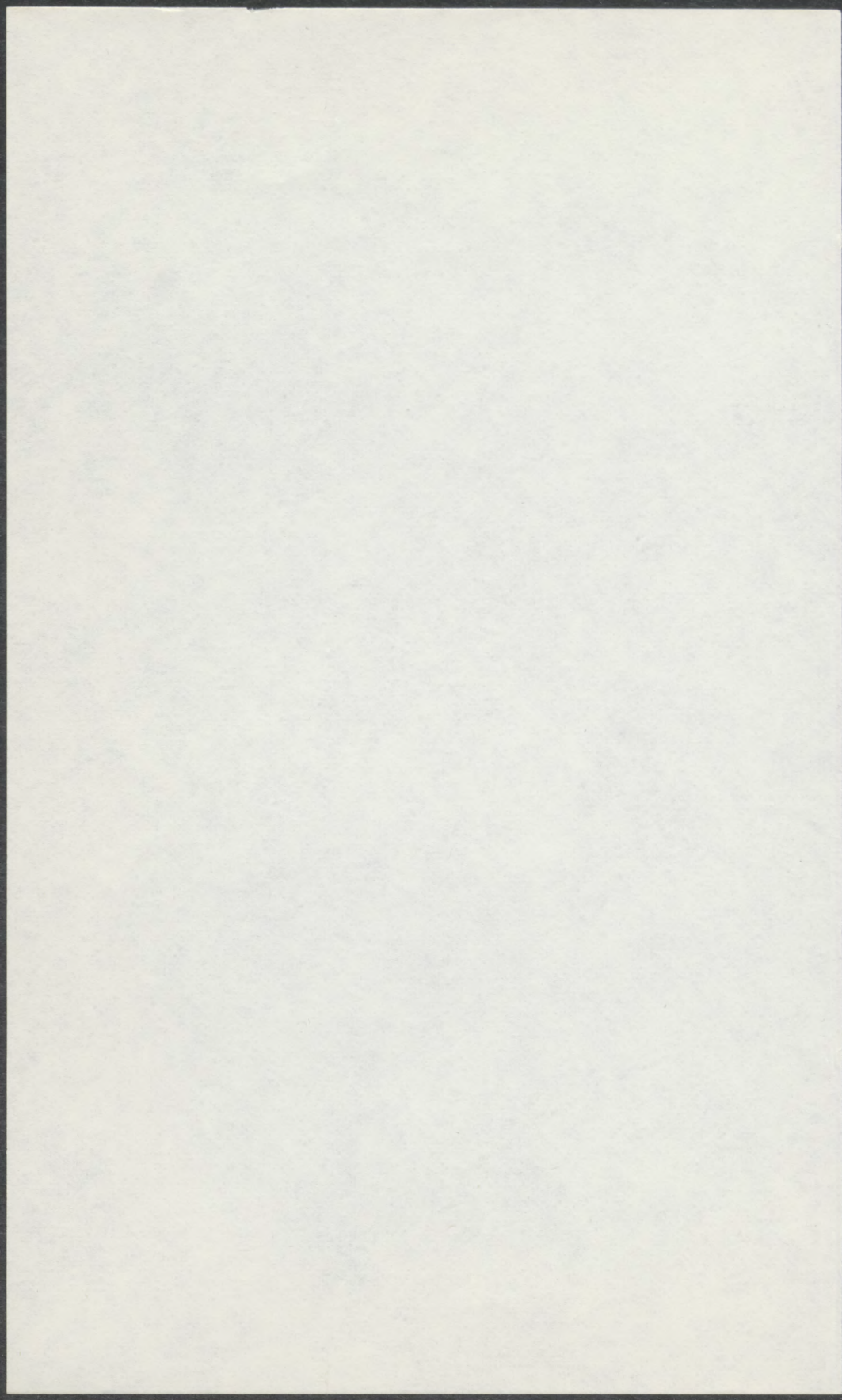
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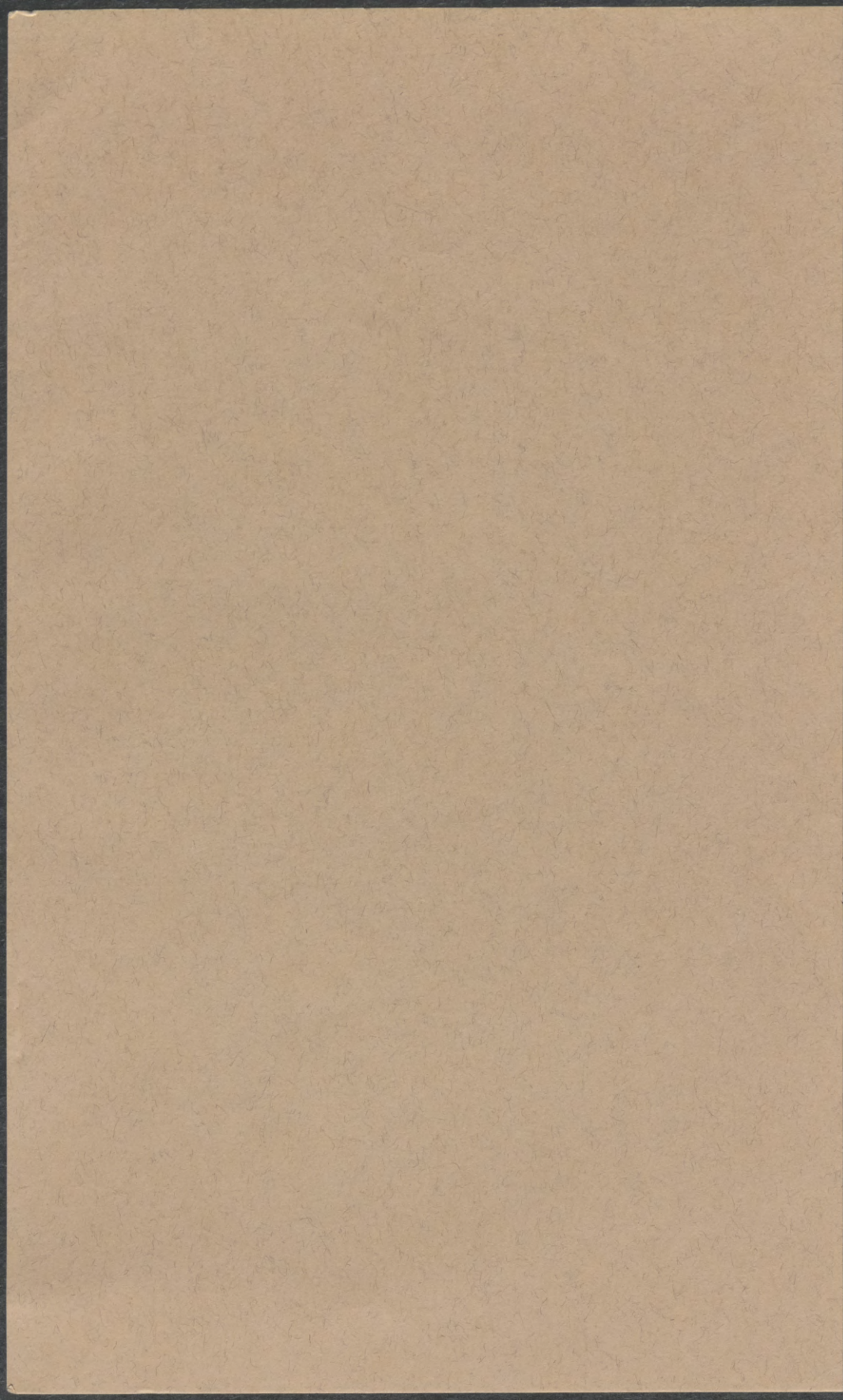
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