

Calendar No. 912

95TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 95-981

THE PROGRAM REAUTHORIZATION AND
EVALUATION ACT OF 1978

REPORT

OF THE

COMMITTEE ON
RULES AND ADMINISTRATION

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 2

TO REQUIRE AUTHORIZATIONS OF NEW BUDGET AUTHORITY
FOR GOVERNMENT PROGRAMS AT LEAST EVERY 5 YEARS,
TO PROVIDE FOR REVIEW OF GOVERNMENT PROGRAMS
EVERY 5 YEARS, AND FOR OTHER PURPOSES



July 13 (legislative day, May 17), 1978.—Ordered to be printed

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ACQUISITIONS



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No. 95-981

THE PROGRAM REAUTHORIZATION AND EVALUATION ACT OF 1978

JULY 13 (legislative day, MAY 17), 1978.— Ordered to be printed

Mr. PELL, from the Committee on Rules and Administration,
submitted the following

R E P O R T

together with
ADDITIONAL VIEWS

[To accompany S. 2]

The Committee on Rules and Administration, to which was referred the bill (S. 2) to require authorizations of new budget authority for Government programs at least every 5 years, to provide for review of Government programs every 5 years, and for other purposes, having considered the same reports favorably thereon with an additional amendment to the text (in the nature of a substitute) and an amendment to the title, and recommends that the bill as amended do pass.

1. INTRODUCTION

The Program Reauthorization and Evaluation Act is a form of "Sunset" legislation. Although there are many variations in "Sunset" legislative proposals and among "Sunset" procedures adopted by State governments, the core of "Sunset" is a requirement that government programs expire unless periodically reauthorized by the legislature.

An essential feature is that the legislative decision to reauthorize a program, or permit it to expire, must be preceded by a thorough review of the program's effectiveness.

The first "Sunset" law is said to have been enacted by the State of Colorado in 1976. The Colorado law applied to 39 State regulatory agencies, chiefly occupational licensing boards. Since then, "Sunset" laws have been enacted by at least 23 other States. Some State enactments have been selective, following the Colorado pattern; others have been comprehensive.

In considering the application of "Sunset" legislation to the Federal Government, the committee was acutely aware of the substantial differences in legislative procedures between State governments and the Federal Government. Prior to enactment of "Sunset" laws, no State government appears to have made widespread use of short-term periodic reauthorization of programs. The Congress, on the other hand, has made extensive use of program reauthorization, and most reauthorization measures are accompanied by committee reports which include supporting justifications.

The committee concluded, however, that although the Congress does make widespread and extensive use of reauthorization program review procedures, the application of these procedures is neither systematic, comprehensive, nor uniform. It is the committee's view that substantial improvements in procedures are possible and desirable.

The legislation reported by the committee will improve review and reauthorization procedures by broadening the coverage of the reauthorization process, establishing a comprehensive inventory of Government programs, by providing uniform standards for program reviews, instituting a process for comprehensive evaluation of selected programs, and by establishing a schedule under which related programs may be considered in the same Congress, thus increasing the ability of the Congress to reduce unwarranted overlapping or duplication in programs.

The committee, in its consideration of the legislation, was sensitive to concerns that poorly designed "Sunset" legislation could impose unmanageable and uneven workloads on congressional committees, subject worthwhile Government programs to termination through legislative obstruction in the "Sunset" process, or encumber the Congress with unnecessary and unproductive rigidities.

It was because of these concerns that the committee made extensive revisions in the provisions of S. 2. The committee is satisfied that the revisions, discussed in detail elsewhere in this report, provide an effective, workable, and improved program reauthorization and review process with adequate safeguards against termination of programs through either inadvertence or legislative obstruction.

The committee believes the legislation it has reported is responsive to the clear public demand for improvement in the effectiveness and efficiency of Government programs. The widely heralded "taxpayers revolt," including most notably the voter approval in California of a tax limitation referendum, is open to varied interpretations, but at a minimum, it is clear that taxpayers expect more rigorous, critical, and systematic evaluation of Government spending programs.

The committee believes the legislation it has reported will meet these objectives and provide the Congress with an improved ability to identify and eliminate obsolete or ineffective programs, reduce wasteful spending, and improve the effectiveness and efficiency of Government programs generally.

2. PURPOSE OF THE LEGISLATION

The purpose of the bill, as reported by the Committee on Rules and Administration, is to improve the effectiveness and efficiency of the Federal Government by strengthening congressional procedures for the review and reauthorization of Federal programs. These purposes are to be achieved through the establishment of:

- (1) a 10-year schedule over which all programs, with certain specific exemptions, are subject to termination unless reauthorized following a program review;
- (2) an inventory of Federal programs, updated at the end of each session of Congress;
- (3) procedures for the selection of specific programs each Congress for indepth evaluation; and
- (4) the creation of a 3-year study commission to recommend to the Congress and to the President improvements in Government operations and organization.

3. BRIEF SUMMARY OF THE LEGISLATION

The bill, as amended, includes the following major provisions:

(1) *Title I.*—Sets forth a five-Congress (or 10-year) schedule for the reauthorization of all Federal programs, with certain specific exemptions;

Requires that no funds can be spent for any program unless the expenditure has been reauthorized by Congress according to the reauthorization schedule (the "sunset" feature);

Requires authorization bills to be accompanied by reports which set forth sufficient information to permit Congress to determine that the programs should be continued; and

Provides for the comprehensive evaluation of programs exempted from the reauthorization schedule once every 10 years if amended significantly.

(2) *Title II.*—Directs the General Accounting Office and the Congressional Budget Office to compile an inventory of Federal programs prior to the beginning of the first review cycle; and

Requires that the inventory be updated at the end of each session of Congress to reflect actions taken by the Congress;

(3) *Title III.*—Establishes procedures for the Senate and the House of Representatives to select programs from among those scheduled for reauthorization for indepth evaluation;

Requires the President to recommend to the Congress programs for indepth evaluation; and

Requires the President to submit to the Congress his own evaluations of the program selected by Congress for indepth evaluation.

(4) *Title IV.*—Establishes a 3-year commission to study the efficiency and effectiveness of Government programs in the context of five major policy areas.

(5) *Title V.*—Provides for a privileged procedure to extend a program for 2 years at no increase in funding in the event its timely reauthorization is prevented by procedural delays; and

Provides for the submission, at the request of a committee of the Congress, of agency budget requests and materials supporting those requests at any time following the submission of the President's budget recommendations to the Congress in January.

4. HISTORY OF THE LEGISLATION

S. 2 was referred to the Committee on Rules and Administration, by unanimous consent, on July 20, 1977, after having been reported by the Committee on Governmental Affairs on July 1. The Committee on Rules and Administration considered S. 2 together with S. 1244, referred to the Rules Committee on April 6, 1977. The committee held hearings on September 28, 1977, and April 19 and June 8, 1978. At the hearing on September 28, 1977, it was decided to convene a working group of staff representatives from all Senate committees to consider the legislation and make recommendations to the committee. The staff working group, composed of 31 members, met for over 70 hours during November, December, January, and February between the first and second sessions of this Congress. The report of the staff working group was submitted to the committee on April 19, 1978. In its report the staff working group recommended an alternate approach establishing through Senate resolution new Senate procedures for committees to schedule and conduct reviews of programs under their jurisdiction.

At the hearing on April 19, the committee requested the Comptroller General to review the various alternative proposals, including an analysis the General Accounting Office had completed for Senator Leahy on improving program performance, and a bill which had been introduced in the House of Representatives by Representative Derrick. The report of the Comptroller General was submitted to the committee on June 8. At the June 8 hearing the committee requested staff representatives of the Subcommittee on Intergovernmental Relations (Senator Muskie, chairman) of Senator Biden, and the General Accounting Office to prepare a bill draft incorporating the various proposals. This draft was used in the Rules Committee markup on June 21. On June 21, the committee voted to report S. 2 with amendments incorporating features of the various other proposals.

The following is a list of witnesses who testified at the hearings:

Senator Edmund S. Muskie of Maine; Senator William V. Roth, Jr. of Delaware; Senator Joseph R. Biden, Jr., of Delaware; Senator John Glenn of Ohio; and Congressman James J. Blanchard of Michigan.

Also, James L. Blum, Assistant Director for Budget Analysis, Alfred B. Fitt, General Counsel, Congressional Budget Office; Elmer Staats, Comptroller General of the United States; Harry S. Havens,

Director, Morton Myers, Deputy Director, Program Analysis Division, General Accounting Office; Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People; Richard H. Keatinge, American Bar Association; David Cohen, president, Common Cause; Mark Green, director, Andrew A. Feinstein, staff attorney, Public Citizens Congress Watch; Roscoe L. Egger, chairman, Government and Regulatory Affairs Committee, Mark Schultz, regulatory affairs attorney, Chamber of Commerce of the United States; John A. McCart, executive director, Public Employee Department, AFL-CIO; Dwight A. Ink, president, American Society for Public Administration; and Thomas J. Donohue, executive vice president, Citizen's Choice, Inc.

Statements also were received from Senator Harrison A. Williams, Jr. of New Jersey; Senator Herman E. Talmadge of Georgia; Senator Henry M. Jackson of Washington; Senator Warren G. Magnuson of Washington; Senator James B. Pearson of Kansas; Senator Alan Cranston of California; Senator Lawton Chiles of Florida; Mylo S. Kraja, director, National Legislative Commission, The American Legion; Garry D. Brewer, Yale School of Organization and Management; William B. Gardiner, national director of legislation, Disabled American Veterans; Herbert E. Hoffman, director, Governmental Relations Office, American Bar Association; James H. Sammons, M.D., executive vice president, American Medical Association; and Peter Bloch, staff director, Commission on Law and the Economy, American Bar Association.

In general, witnesses favored the objectives of the legislation although some expressed concern over the procedures.

5. CHANGES MADE BY THE COMMITTEE

S. 2, as amended by the Committee on Rules and Administration, incorporates features from several sources:

(1) S. 1244, the "Federal Spending Control Act of 1977," introduced by Senator Joseph Biden;

(2) work performed by the General Accounting Office for Senator Patrick Leahy regarding proposals for more effective congressional oversight in connection with S. Res. 307 (94th Cong). The GAO document number is PAD-78-3.

(3) H.R. 10421, the "Legislative Oversight Act," introduced in the House of Representatives by Representative Butler Derrick;

(4) the recommendations of the staff working group on S. 2 and S. 1244, convened by the Rules Committee in November 1977;

(5) recommendations of the General Accounting Office prepared at the request of the committee on April 19, 1978. GAO document number PAD-78-73; and

(6) recommendations made to the committee by representatives of the Subcommittee on Intergovernmental Relations, Senator Biden, and the General Accounting Office on June 21.

The principal changes made by the committee are:

TITLE I—REAUTHORIZATIONS OF NEW BUDGET AUTHORITY

1. *Authorizing committees roles regarding subfunctional classifications—section 3(b).*—The authorizing committees are added to the Committees on the Budget and the Committees on Appropriations with which the Office of Management and Budget must consult in classifying off-budget agencies by subfunction. The section as amended also requires that authorizing committees include in their reports accompanying legislation authorizing new programs their recommendations regarding the subfunctional classification of the programs. In S. 2 as referred, authorizing committees were required to include recommendations of the Budget and Appropriations Committees respecting such classifications.

The committee thinks the new use for subfunctional classifications proposed by this act—as a means of scheduling the oversight and reauthorization work of committees—makes this involvement by the authorizing committees appropriate and necessary, and will be conducive to further assimilation of the functional and subfunctional categories into the legislative process.

The committee recommends that OMB consult with the appropriate authorizing committees in the future regarding changes to the existing subfunctional classifications and that an amendment to section 802 of the Congressional Budget Act of 1974 to this effect be considered.

2. *Length of reauthorization cycle—section 101(a).*—The reauthorization cycle is lengthened from 6 years (three Congresses) to 10 years (five Congresses). This is the review cycle recommended by Common Cause and by the staff working group. The General Accounting Office had recommended 8 years, so that the cycle corresponded to multiples of Presidential terms; the GAO proposal, however, included a ninth year for selected reauthorization actions. The committee concludes that a 10-year cycle satisfies the need to periodically review programs while allowing sufficient time for the reviews to be meaningful.

3. *Greater flexibility in scheduling programs for reauthorization—section 101(a).*—Section 101(a) is organized by Federal subfunction. Committees can propose changes to the schedule, however, which would schedule programs for review at times other than those scheduled for the subfunction in which classified. Such changes would have to sufficiently identify the programs. For example, such a change could be to insert “Except Drug Abuse Education” after “501—Elementary, Secondary, and Vocational Education” and to add “Drug Abuse Education” to the review list for another Congress, perhaps the Congress in which subfunction 551—Health Care Services is scheduled, or the Congress in which subfunction 554—Consumer and Occupational Health and Safety is scheduled.

The committee believes this satisfies the needs for committee flexibility and overcomes the objection to the use of subfunctions as the exclusive scheduling mechanism because the categories are not the most appropriate groupings for review in all instances. At the same time, this does establish a comprehensive structure which provides a schedule at the outset of the process with no further action required. The committee believes that authorizing committees can develop review schedules as flexible as those they could have developed under

the resolution proposed by the staff working group, but recognizes that the authorizing committees will not have the latitude under S. 2 as amended to make changes.

4. *Changes to exemptions from provisions terminating obligational and expenditure (outlay) authority—section 101(b)(4).*—The committee expanded the exemptions to cover other retirement and disability programs; veterans' readjustment benefits, insurance and indemnities and medical care and research; and broadened the exemption for programs to protect constitutionally guaranteed civil rights which previously only included litigation and the enforcement of court judgments. The committee believes that retirees and disabled persons dependent on retirement and disability programs other than social security, medicare, and the civil service retirement and disability fund (already exempted in S. 2 as referred to the committee) should have the same degree of protection from termination of their benefits as do beneficiaries of the previously exempted programs.

Another committee change (number 8 in this section) requires that those programs exempted from the automatic termination features are automatically subject to the indepth evaluation requirements of title III. No such linkage was in the bill as referred. This linkage makes the additional exemptions unlikely to result in the exempted programs not being reviewed.

5. *Greater flexibility in reauthorization review requirements—section 102(a).*—The required contents of reauthorization reviews have been made more flexible. The approach is similar to that proposed by S. 1244 which states a general requirement that reports be "sufficiently complete" to permit a determination of whether the program should be continued and with specific enumerated components to be included where "feasible and appropriate." The itemized components have been revised to incorporate recommendations prepared by the General Accounting Office for Senator Leahy and the recommendations of the staff working group. The committee believes the additional elements will contribute to the usefulness of the reports and that the added flexibility will reduce the amount of pro forma paperwork that might result.

6. *Authorization reports on new programs—section 102(b).*—A provision has been added requiring authorization reports on new programs to include, where feasible and appropriate, some of the requirements of reauthorization reports on existing programs; specifically, statements of objectives, identification of similar programs, and a statement of the information and analysis the committees will need from agencies for future legislative reviews. This change incorporates features of S. 1244, H.R. 10421, recommendations prepared by the GAO for Senator Leahy, and a recommendation of the staff working group. The committee believes this information on new programs is necessary for their effective review later.

7. *Conference reports—sections 102(c) and 103(d).*—Requirements have been added that conference reports be accompanied by statements of objectives and of the problems intended to be addressed by the program as recommended in the report. This was a feature of S. 1244, which the committee considers an essential component of any requirement intended to improve information on the objectives of programs.

8. *Exempt programs subject to comprehensive evaluation and to biannual agency reports—sections 103 (b), (c), and 504(b).*—Programs exempted by section 101(b)(4) or otherwise from the reauthorization requirements of section 101(b)(1) are made subject to title III comprehensive evaluations: (1) on authorization for the enactment of new budget authority (section 103(b)); or (2) when an amendment would significantly change the program (section 103(c)). Section 103(c) applies only once in any 10-year period however. Also, agencies are required to submit reports by November 10 of the second session of each Congress setting forth certain key performance indicators (section 504(b)). Sections 103, (b) and (c) incorporate recommendations of the General Accounting Office. Section 504(b) incorporates a feature of H.R. 10421. The committee believes these are desirable requirements for programs exempt from periodic reauthorization to ensure they are subject to review.

9. *Change in jurisdiction over review schedule—section 107.*—The amendment incorporates a recommendation of the staff working group that the coordination of changes in the review schedule (and exemptions thereto) be by the Committee on Rules and Administration. (No assignment is made in the amended bill for the House.) The GAO proposal recommended that the House and Senate leadership perform this function. Because of the close relationship between the schedule and the workload and resources of committees, the Rules Committee agrees with the recommendations of the staff working group that the coordination function be exercised by the Committee on Rules and Administration.

10. *Coverage of the omnibus bill for changes in the reauthorization schedule is expanded to cover additional exemptions from automatic termination—section 107(d).*—As referred to the committee the bill provided a 2-year period prior to the beginning of the review cycle during which recommendations for changes in the reauthorization schedule can be incorporated into an omnibus bill which is entitled to privileged consideration in the Senate. (No similar provision was made for the House. It is expected that a companion provision would be added during House consideration.) In the committee amendment the omnibus bill can provide for additional exemptions from the periodic reauthorization requirements. This is a compromise between the GAO proposal, the proposal of the staff working group, and S. 2. The committee believes this is a reasonable course to broaden the coverage of the reauthorization process while still offering the Congress the opportunity to vote on whether any individual program should or should not be subject to periodic reauthorization.

TITLE II—PROGRAM INVENTORY

11. *Responsibility for program inventory—section 201.*—The committee amendment makes preparation of the program inventory a shared responsibility of the General Accounting Office and the Congressional Budget Office. The participation of the authorizing committees in the specification of programs is strengthened also. The committee regards the distribution of responsibilities between GAO and CBO in title II as a guide for clarifying the relative roles and responsibilities of these two agencies. The clarification should help prevent

duplication of effort and bring the Congress closer to a unified body of budget and program information.

12. *Additional information in the inventory—section 201 (e) and (f).*—Information suggested by a requirement of S. 1244 and information recommended by the staff working group for inclusion in the inventory has been added, including: a separate tabulation of programs not required to be reauthorized pursuant to section 101(b)(1) and information on the year the program was first established, the year in which it expires, the year in which new budget authority was last authorized, the year in which such authorizations expire and whether the program is authorized without specific dollar amounts. Some of these items would be derived from the schedule and other requirements of this act, but having them in the inventory makes computer processing using such data possible.

TITLE III—PROGRAM REVIEW AND EVALUATION

13. *Recommendations required from GAO, CBO, and CRS—section 302(a).*—The committee amendment requires GAO, CBO, and CRS to submit by November 10 of the second session of each Congress recommendations for programs to be evaluated under title III. The committee believes these recommendations will be useful to committees in formulating their proposals.

14. *Preparation of oversight resolution—sections 303 and 304.*—In the committee amendment, responsibility for reporting the oversight resolution specifying the programs to be evaluated under title III provisions is assigned to the Committee on Rules and Administration of the Senate and the Committee on Rules of the House of Representatives. In the bill as referred this was assigned to the Committees on the Budget. This amendment reflects a recommendation of the staff working group that the Committee on Rules and Administration be responsible for coordination of the program review process in the Senate. (The staff proposal did not make recommendations for the House.)

15. *Contents of evaluations—sections 305 (b) and (c).*—The 12 mandatory components of the comprehensive evaluations in the bill as referred have been expanded and reorganized into five mandatory components and nine components to be included if appropriate or if specified in the oversight resolution. The committee believes the added flexibility is necessary to achieve meaningful evaluations.

16. *Communications between congressional committees and agencies—section 306(a).*—Section 306(a) as reported requires committees to discuss with the agencies administering the programs their needs for information and analyses for title III evaluations. This incorporates features from the analysis GAO did for Senator Leahy, and H.R. 10421. The committee believes these discussions are necessary to insure useful and effective evaluations.

TITLE IV—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT

17. *Emphasis on major policy areas—section 403(a).*—A requirement is added that the Commission's study be in the context of five major policy areas. The committee believes that this will add focus to the Commission's work and report.

TITLE V—MISCELLANEOUS

18. *Agency reports on programs not subject to reauthorization—section 504(b).*—See item 8 of this section for discussion of this item.

19. *Current services reauthorization bill—section 505.*—In the bill as amended by the committee the following changes are made in the current services reauthorization bill: (1) the maximum period for authorization under this procedure is changed from 6 years to 2 years (and instead of 10 years), and (2) a current service reauthorization bill can be considered even if no reauthorization review has been completed (section 102(a)). These two changes are related. As an emergency procedure, the committee believes that not completing a review should be one of the emergencies for which this procedure provides relief, but also believes that an emergency reauthorization enacted without benefit of a review report should not be for a full 10 years.

20. *Regulatory agencies and program included in coverage.*—Section 506 in the bill as referred exempted 21 regulatory agencies and the regulatory activities of three other agencies from the coverage of the act for the first cycle. The exemption was in anticipation of a separate "Sunset" bill for regulatory agencies and programs, upon which Congress has not acted. The bill, as reported by the Committee on Rules and Administration, contains no such exemption, and regulatory agencies are subject to the reauthorization and review requirements of title I and to comprehensive evaluation if selected according to the procedures in title III. The committee believes that the process will be enhanced if there is one "Sunset" law, the provisions of which are applicable to regulatory agencies and other agencies alike.

21. *Review of the act—section 506.*—The committee added a new section requiring the Committees on Government Operations and on Rules of the House of Representatives and the Committees on Governmental Affairs and on Rules and Administration of the Senate to review the operation of the procedures established by this act every 5 years. The reviews can be conducted jointly.

22. *Waiver provision—section 507.*—A new section is added providing for waiver in the Senate of the new rules created by the act by majority vote or by unanimous consent.

23. *Authorization for appropriations—section 508.*—A new section is added authorizing the appropriation of such sums as are necessary for titles I, II, and III. This section could be amended on the floor by the inclusion of a specific sum based on the cost estimate in this report. The cost estimate was not available at the time of committee action on this bill.

6. SECTION-BY-SECTION ANALYSIS

The first section assigns a short title to the act for purposes of concise reference—the "Program Reauthorization and Evaluation Act of 1978."

Section 2 sets forth the findings and purposes of the legislation. It is the intent of the committee that the adoption of the legislation will help—

(1) to provide a comprehensive and systematic process through which the Congress can exercise greater control over the results of its legislative work;

(2) to make available, through the use of such process, Federal resources to meet new problems and changing national needs and to insure a greater return to the taxpayer on their tax dollars;

(3) to provide broader coverage to congressional procedures for review and reauthorization of Federal programs; and

(4) to assure a more effective Federal Government at all levels of operation, including protection of fundamental rights and liberties without jeopardizing the implementation or enforcement of basic civil rights guaranteed by the Constitution or laws of the United States.

Section 3(a) (1) defines the term "budget authority" as in section 3(2) of the Congressional Budget Act of 1974. That is, authority provided by law to enter into obligations which will result in immediate or future outlays involving government funds. The definition does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government. Budget authority usually takes the form of appropriations, which permit obligations to be incurred and payments to be made. Some budget authority is in the form of contract authority, which permits obligations in advance of appropriations and, therefore, requires a subsequent appropriation or receipts to "liquidate" (pay) these obligations. There is also authority to borrow; such budget authority permits the use of borrowed money to incur obligations and make payments. In some cases budget authority is provided in the authorizing legislation.

The term "government funds" in the definition of budget authority has the effect of excluding programs of which the funds are not considered "government funds" from the termination and reauthorization provisions of this act. The committee is aware of one program in this category. The Federal Reserve Act provides that the funds derived by the Board of Governors of the Federal Reserve System from levies upon Federal Reserve banks "shall not be construed to be Government funds . . ." The funds received by the Tennessee Valley Authority from proceeds from operations such as the sale of electricity may also be in this category, although such funds are supplemented by appropriations. The committee, therefore, considers such programs to be subject to the requirements of section 103(c) which requires a comprehensive evaluation as set forth in section 305 just as if such programs were included among the exemptions enumerated in section 101(b)(4) from the reauthorization requirements of section 101(b)(1). The committee plans to request the General Accounting Office to compile a list of the programs the funds of which are considered not to be "government funds."

Section 3(a) (2) defines the term "outlays", as in section 3(1) of the Congressional Budget Act of 1974, to be, with respect to any fiscal year, expenditures of funds under budget authority during the fiscal year. Outlays may be the issuance of checks, disbursements of cash, the maturing of interest coupons in the case of some bonds, or the issuance of bonds or notes, or increases in the redemption value of bonds outstanding.

Section 3(a) (3) defines the term "permanent budget authority" as budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require current action

by the Congress. It does not include budget authority provided for a specified fiscal year which is available for obligation or expenditure in one or more succeeding fiscal years. The definition in this act is qualified to assure that it does not include funding which has been appropriated for a specific fiscal year, such as contract authority for a construction project, but which may be obligated or spent in succeeding fiscal years.

Section 3(a)(4) defines the term "Comptroller General" as the Comptroller General of the United States.

Section 3(a)(5) defines "agency" under the act to include all agencies subject to 5 U.S.C. 105 plus the U.S. Postal Service and the Postal Rate Commission. It does not include the General Accounting Office. Section 105 of title 5, United States Code, does not include organizations in the legislative or judicial branches, which are, therefore, not subject to the reporting requirements, applicable to "agencies", such as sections 504 (a), (b), and (c).

Section 3(b) establishes the subfunctional categories set forth in the fiscal year 1979 Budget of the United States Government as the basis for scheduling programs for review and reauthorization in title I of this act. The subfunctional categories represent the most readily usable grouping of government programs according to similarity of objectives. Scheduling programs classified in the same subfunctional category for review and reauthorization during the same Congress is intended to encourage the consideration of similar programs in relation to each other.

The Office of Management and Budget now classifies by functional category in the budget certain annexed budget items related to government owned and government sponsored activities (often referred to as off-budget activities). This section directs OMB to assign functional categories to those off-budget programs which have not yet received such designations, after consultation with the Senate and House Appropriations and Budget Committees and with the committees of the Senate and the House of Representatives which have legislative jurisdiction over the programs. The committee recommends that an amendment be considered to section 802 of the Congressional Budget Act of 1974 so as to require that the appropriate authorizing committees also be consulted on other changes to the functional categories or functional or subfunctional classification of programs, and that such committees be so consulted in the absence of such an amendment.

This section also requires that a report of an authorizing committee accompanying future legislation creating a new program include a statement from the authorizing committee recommending the functional and subfunctional classification of such program.

Section 3(c) provides that for the purposes of titles I, II, III, and V of this act, the reauthorization date applicable to a program is the date specified under section 101(a).

A. Title I—Reauthorizations of New Budget Authority

Section 101(a) sets forth a schedule for the reauthorization of programs. The reauthorization date for a program is that which corresponds in the schedule to the subfunctional category in which the program is classified unless the program is rescheduled for reauthori-

zation during another 2-year period in the cycle. The reauthorization cycle is 10 years or five Congresses beginning with the 97th Congress. At the end of a 10-year cycle, the cycle repeats. A program can be reauthorized more frequently, even annually, if the authorizing committee deems it appropriate, but, as provided elsewhere in title I, a program must be reauthorized (unless exempt) during the Congress which corresponds to the reauthorization date in section 101(a) and reauthorizations in such Congress must be accompanied by review reports not required for reauthorizations in other years.

Review and reauthorization is scheduled over a full Congress rather than one year to provide a timetable for program examination and reauthorization which is more appropriately suited to the congressional process. The schedule includes all subfunctional categories and is therefore intended to cover all programs, unless exempted. While there are budget accounts which are classified in more than one subfunctional category, it is the intention of the committee that programs, of which several are often funded by a single budget account, be classified in only one subfunctional category.

Section 101(b) (1) provides that no new budget authority, including permanent budget authority, can be obligated or expended for a program after the reauthorization date provided in section 101(a) unless it has been authorized after the enactment of this act. This section is the "action forcing mechanism" of this legislation, because it terminates authority to obligate or expend funds for a program unless the enactment of the authority to obligate and expend is reauthorized at least once every 10 years. This provision does not affect the underlying substantive law of a program. Thus, to continue funding for a program, Congress must approve a new authorization, but is not required to reenact all of the laws which govern or relate to the program. For example, the substantive provisions of the Federal antitrust laws, higher education programs, or formula grant programs would not be terminated.

The application of the termination mechanism at the point of obligation and expenditure makes the administering agencies and bureaus and the Department of the Treasury responsible for the enforcement of this mechanism because it is agencies and bureaus that obligate funds and because it is the Treasury's Bureau of Government Financial Operations which makes outlays (expenditures). In effect, this section forbids them from engaging in those financial actions for any program for which Congress has not reauthorized the enactment of budget authority after the passage of this act. Prior to the passage of the first reauthorization date, agencies and bureaus and the Bureau of Government Financial Operations will have to have procedures which will enable those officials who obligate funds within their bureaus and the Bureau of Government Financial Operations to know for each program at the time of each act of obligation and each expenditure whether the enactment of budget authority has been authorized pursuant to the provisions of this act. As noted below, the committee considers the inventory of Federal programs to be developed according to the requirements of title II to be the reference point for agencies and the Treasury in determining which are the individual programs for purposes of this title.

It is recommended that the Office of Management and Budget and the Department of the Treasury, in consultation with the General Accounting Office, develop a plan for implementing this section to assure that the agencies and subdivisions of agencies do not obligate funds and that the Treasury does not make outlays for programs after their reauthorization dates unless the enactment of new budget authority has been reauthorized, and that the individual programs are adequately specified in agency and Treasury accounting systems for purposes of this act. This should include a review of the sufficiency of existing procedures under the Anti-Deficiency Act for these purposes. It is further recommended that the Comptroller General review the implementation plan and report his recommendations to the Congress, including any recommendations with respect to congressional procedures.

The Federal budget contains some small gift and trust fund accounts. As examples, there are:

The Oliver Wendell Holmes Devise Fund. (Library of Congress; permanent indefinite appropriation, special fund; outlays in fiscal year 1978, \$11,000.) This fund is financed from the bequest of Justice Holmes and interest earned on the investment thereof, for the purpose of preparing a history of the Supreme Court of the United States, financing an annual lecture or series of lectures, and to publish a memorial volume of Justice Holmes' writings.

The Coast Guard General Gift Fund (U.S. Coast Guard; permanent indefinite appropriation; fiscal year 1978 outlays, \$30,000). This trust fund is financed from gifts and bequests to the Coast Guard for use as specified by the donor in connection with the Coast Guard training program.

The General Post Fund, National Homes (Veterans' Administration; permanent, indefinite appropriation; fiscal year 1978 outlays, \$5 million). This fund is financed by gifts, bequests, proceeds from the sale of property left by former beneficiaries; fund balances of patients and proceeds of sale of effects of beneficiaries who died leaving no heirs and without having otherwise disposed of their estates. Such funds are used for religious, recreational, and entertainment purposes to promote the comfort and welfare of veterans at hospitals and homes where no appropriation of Federal funds (funds from general revenues) are available.

Trust funds differ from general funds in that the funds are not funds "of" the Government but are funds held "in trust" by the Government for use in carrying out purposes or programs specified by the terms of a trust agreement or statute. Unlike general funds, the moneys are not available for the general purposes of the Government.

S. 2 would cut off the authority of agencies to obligate and the authority of the Treasury to make outlays (expenditures) from a trust fund for a program unless the program is reauthorized. Because the fund itself is not terminated and, unlike general revenues, cannot be spent for other purposes, there could accumulate fund balances that could not be used for any purpose. It is recommended that the Secretary of the Treasury review this subject and report to the Congress by September 30, 1980, listing all trust funds, their sources of fi-

nancing, the purposes for which the funds are expended, and their recommendations for disposition of the funds if the programs for which they are spent are not reauthorized. It is further recommended that the Comptroller General review the report and make recommendations to the Congress.

Section 101(b)(2) limits the authorization of any program to not more than 10 years. This provision also precludes the enactment of authorizations for an indefinite number of years. This section does not limit the committees of the Congress from recommending shorter authorization periods within the 10-year period provided that they review and reauthorize the program during the Congress in which the program is scheduled for reauthorization in section 101(a). It is the operation of section 101(b)(1), sections 101(b)(2) and 102(a) together that constitutes the "sunset" process. Section 101(b)(1) prevents obligation or outlays unless reauthorized after passage of the act; section 101(b)(2) prevents authorization for more than 10 years; and section 102(a) prevents consideration of an authorization unless a program review has been completed.

Section 101(b)(3) provides that funds appropriated for a program in a fiscal year beginning before the first reauthorization date for that program which are available for obligation or expenditure in a fiscal year beginning after that reauthorization date, shall not be terminated under section 101(b)(1). This section is designed to prevent the suspension of ongoing government obligations for which funds were appropriated in one fiscal year but for which expenditures continue over a longer period of time, a recognized practice in many Government construction programs. For example, if an appropriation for a program classified in subfunction 254 were enacted in 1978 and provided budget authority available for obligation until the objectives had been obtained (a "no-year" appropriation), obligations and outlays after September 30, 1982 (the first reauthorization date for programs classified in subfunction 254) would not, because of this subsection, be subject to termination. Upon obligation of all unobligated balances for such a program, the enactment of new budget authority would be subject (if after September 30, 1982) to the requirements of this act for prior review and reauthorization and to the 10-year limit on authorizations.

Section 101(b)(4) enumerates specific programs which are not subject to the prohibition on obligations and expenditures in section 101(b)(1). The exemptions include interest on the public debt (subparagraph A); retirement and disability programs (subparagraphs B, D, E, F, G, H, I, J, and K); medicare (subparagraph B); civil rights (subparagraph C); and certain veteran programs (subparagraph L).

Interest on the public debt is exempted from the termination schedule because of the catastrophic impact the anticipated termination of Federal interest payments would have on the national economy.

The exemption for civil rights programs (subparagraph C) includes activities which have as their objectives the protection and implementation of civil rights secured by the Constitution of the United States. These activities are conducted largely pursuant to authority granted by statutes such as the Civil Rights Act of 1964, the Civil Rights Act of

1968 as well as authority granted to the Attorney General to represent the interests of the United States under sections 516 through 519 of title 28, United States Code. The subsection also would cover criminal prosecutions under those statutes in chapter 13 of title 18, United States Code, which are designed to provide criminal sanctions for interference with constitutional rights. The subsection also would cover programs for defensive as well as prospective constitutional litigation. The amendment also would cover the implementation or enforcement of judgments resulting from civil rights litigation. The definition of civil rights guaranteed by the Constitution is meant to be fluid and evolving, and not limited to the rights that may exist at the date of enactment.

The exemption for certain veterans' programs (subparagraph L) includes activities which are comparable to the retirement and disability programs exempted in subparagraphs B, D, E, F, G, H, I, J, and K. The committee does not intend for the phrase "readjustment benefits" to include benefits not related to a service connected disability. For example, the committee intends for college education benefits, and home, farm, and business loans for veterans to be treated under this act in a manner similar to other education programs and home, farm and business loans, but for programs for vocational rehabilitation, housing grants, automobile assistance grants (including adaptive equipment, maintenance and repair) for disabled veterans, and education assistance for survivors, spouses and children of veterans whose deaths or permanent total-disabilities are service connected or of service-persons who were captured or missing in action to be included in this exemption. The committee intends for the phrase "compensation and pensions" to include all the activities funded through the account "Compensation and Pensions" (Identification code 36-0102-701) in the fiscal year 1979 budget. The committee does not intend, however, for the phrase "insurance and indemnities" to be limited to only those programs funded through the account "Veterans Insurance and Indemnities" (Identification code 36-0120-701), but to include such programs funded through other accounts in the fiscal year 1979 budget as well, such as: account 36-4012-701, "Service-Disabled Veterans Insurance Fund;" account 36-4010-701, "Veterans Reopened Insurance Fund;" account 36-4009-701, "Servicemen's Group Life Insurance Fund;" account 36-8132-701, "National Service Life Insurance Fund;" account 36-8150-701, "United States Government Life Insurance Fund;" and account 36-8455-701, "Veterans Special Life Insurance Fund."

The subfunctional titles in parentheses following the subfunctional categories set forth in this paragraph are the titles used in the Budget of the United States Government and in section 101(a). They are included in this paragraph for reference and the wording of the titles is not to be construed as expanding or restricting the coverage of the subparagraphs as defined by the descriptive language and the subfunction classifications.

As noted in the discussion of section 103(b) and 103(c) programs which are exempt from the provisions of section 101(b)(1) (which terminate obligational and outlay authority unless reauthorized), are subject to the comprehensive review and evaluation requirements when-

ever the enactment of new budget authority is authorized (section 103(b)) or whenever the program is changed "significantly" through amendment, but only once in any 10-year period (section 103(c)).

Section 102(a) is the third element of the "sunset" process established by this act. This section makes it not in order to consider a reauthorization measure during the Congress in which the program is scheduled for reauthorization by section 101(a), unless the measure is accompanied by a report which sets forth the results of a review completed during the same Congress. Reviews under this section are to be in the scope and detail deemed appropriate by the authorizing committee but are to contain sufficient information to permit a determination of whether the program should be terminated, modified, or continued without change. Certain specific elements are to be included where feasible and appropriate. These are:

(1) information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program, which is sufficiently complete to permit the Congress to determine whether the program is being implemented and is performing in accordance with the objectives and intent of the Congress;

(2) an identification of any other programs having similar objectives, and justification of the need for the program in light of findings that the other programs are potentially conflicting or duplicative;

(3) an identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance estimated to be achieved, based on the bill or resolution as reported;

(4) requirements for information and analyses to be developed and provided by Federal instrumentalities for use in the effective legislative review of such program, including a subsequent reauthorization review of such program; and

(5) a comparison of amounts authorized for the program in each of the previous 4 fiscal years and the amounts of new budget authority provided in each such year.

Section 102(b) requires that measures establishing new programs be accompanied by reports which contain (1) identifications of similar programs, (2) statements of objectives, and (3) requirements for information and analysis which will be needed in future reviews.

Section 102(c) requires conference reports on authorization measures to be accompanied by statements of objectives and the estimated program performance.

Section 103(a) provides a mechanism to ensure the completion of the comprehensive evaluations to be conducted for selected programs under title III. This section makes it not in order to consider a reauthorization measure for such a program if the comprehensive evaluation has not been submitted to the Congress.

Section 103(b) requires completion of a title III comprehensive review and evaluation in connection with the authorization of new budget authority for programs exempt from the reauthorization requirements of section 101(b)(1).

Section 103(c) requires the completion of a title III comprehensive evaluation upon amendment which changes "significantly" a program exempt from the reauthorization requirements of section 101(b)(1).

This requirement applies only once in any 10-year period, independent of the 10-year review cycle in section 101(a)(1). The once-in-10-year limit does not apply to section 103(b).

Section 103(d) requires conference reports of measures covered by sections 103(a), 103(b), and 103(c) to be accompanied by statements of the managers which set forth the objectives of the programs and the problems or needs the programs are intended to address.

Section 104 provides that before the Congress can appropriate funds for any program after its first reauthorization date, there must be a specific authorization in law to support the appropriation. This section is an important enforcement mechanism for sunset legislation and complements one of the goals of the congressional budget process to assure prompt completion of action on authorizing legislation before the Congress makes final decisions with respect to program funding.

At the same time, the committee recognizes that there will be extenuating circumstances when it will be appropriate and necessary for Congress to appropriate funds to a program without specific authorization. For example, when the legislative schedule delays final action on reauthorization for a program which has already advanced through much of the legislative process, the committee does not intend that the provisions of this section be used as an excuse to delay the appropriation process. Similarly, in the case of an emergency like the bursting of the Grand Teton Dam, appropriation of disaster relief funds without authorization enabled the Congress to act expeditiously to respond to a tragedy.

To allow the Congress the flexibility to respond to unforeseen emergencies, subsection (b) would permit an appropriation to go forward without objection when no money had been voted for it in the prior fiscal year and the committee explains the nature of the emergency in its report. Finally, subsection (c) recognizes that legislative delays can deter reauthorizations and would therefore permit an appropriation to be adopted for an ongoing program if an authorization has passed either the House or Senate or been reported by a committee in either House.

Section 104 effectively supersedes paragraph 1 of rule XVI of the Standing Rules of the Senate. Paragraph 1 of rule XVI contains three exceptions to a prohibition set forth therein against increasing an appropriation contained in or adding a new item of appropriation to an appropriation bill, unless the increase is made pursuant to law or treaty. The three exceptions are: (1) that the increase or addition be pursuant to an act or resolution previously passed by the Senate the same session, (2) that the increase or addition be moved by direction of a standing or select committee of the Senate, and (3) that the increase or addition be in pursuance of an estimate submitted in accordance with law. The second exception has been interpreted to allow increases and new items on the motion of the Appropriations Committee, it being a standing committee. The third exception has been interpreted to allow appropriations in the absence of an authorization to the extent included in the President's budget recommendations.

Section 104 of S. 2, as amended, makes it not in order to consider any measure providing new budget authority, which includes all appropriations bills, unless the provision of such new budget authority is

"specifically authorized by law." Section 104 does not include the second and third exemptions mentioned above but provides an exemption not in rule XVI. First, to permit appropriations for "emergencies" if the committee report states the nature of the emergency. Second, the section changes the first exemption mentioned above so as to permit the consideration of an appropriations bill if the authorization bill has progressed at least to the point of having been reported by a committee of either House, but this changed exemption only applies to a program during the first fiscal year following the year in which the program is scheduled in section 101(a) for reauthorization.

In the House of Representatives, clause 2, rule XXI, prohibits without exception the consideration of appropriations in the absence of an authorization. To do otherwise requires a waiver of the rule, which must be reported by the House Rules Committee. The committee has been informed that the two exceptions created by section 104 would not be effective in the House of Representatives unless referred in each instance to the Committee on Rules for a waiver under clause 2, rule XXI.

Section 105 deals with the status of the substantive laws relating to programs for which the enactment of new budget authority has not been reauthorized. There is no automatic immediate impact on such underlying laws. However, one year after each reauthorization date, the Director of the Congressional Budget Office, in consultation with the Comptroller General and the Director of the Congressional Research Service, is required to compile a list of the provisions of law related to programs which were not reauthorized. The CBO Director is required to report his findings to the Senate and House, and it will be the responsibility of the committees with legislative jurisdiction over the affected programs to examine those laws and report recommendations for their disposition.

Section 106 expresses the sense of the Congress that programs would be reauthorized in broad program categories which constitute major areas of legislative policy. It is the goal of this legislation to foster authorizations across related subject areas and for such periods of time as will encourage better oversight and enhanced opportunities for program analysis, evaluation, and review. As an example, some committees might wish to consider consolidating all programs classified within a single subfunctional category into a single authorization bill, with creation of new programs treated as amendments thereto. It is recognized, however, that such an approach might not be workable in the case of subfunctions which contain programs under the jurisdiction of several committees.

Section 106(b) assigns legislative jurisdiction over changes to the reauthorization schedule in section 101(a) and to the exemptions from section 101(b) (1) set forth in section 101(b) (4) to the Committee on Rules and Administration of the Senate. No assignment is made in the committee amendment for the House of Representatives; such an assignment would presumably be made in the course of consideration of this measure by the House.

Section 106(c) requires the Senate Rules Committee to solicit the views of the Comptroller General, the Director of the Congressional

Budget Office, and the Director of the Congressional Research Service regarding changes to the reauthorization schedule.

Section 106(d) clarifies that any committee of the Senate can report measures proposing changes in the reauthorization schedule or to the list of exemptions from section 101(b)(1) set forth in section 101(b)(4). Such measures are to be referred in the Senate to the Committee on Rules and Administration for not more than 30 days. Changes to the schedule are not limited to rearrangements of the subfunctional categories from one reauthorization review date to another. Individual programs could be excepted from a subfunctional category and scheduled for review elsewhere in the schedule. Programs so treated could be designated or identified in any sufficiently precise manner, such as public law citation. If a committee proposes no changes in the reauthorization schedule, the subfunctional categories as set forth in section 101(a) would constitute the committee's review schedule.

Section 106(e) provides a 2-year period after the enactment of this act during which proposed changes to the review schedule are not subject to the 30-day time limit on Rules Committee consideration. For proposed changes submitted before June 1, 1980, the Committee on Rules and Administration of the Senate shall report an omnibus bill or resolution containing its recommendations for changes in sections 101(a) and 101(b)(4). Action on such a measure is to be completed by August 1, 1980. This is 2 years before the first reauthorization date in section 101(a) and 7 months after completion of the program inventory (section 204). The provisions of the Impoundment Control Act of 1974 governing floor consideration of rescissions in the Senate are made applicable to the omnibus bill reported under this section.

Section 106(f) precludes changes in the schedule from establishing reauthorization dates beyond the next reauthorization date in section 101(a). This permits shifting the reauthorization date of a program to any point between the then present time and the next reauthorization date then established for the program, but prevents changes to the schedule which would have the effect of extending the time for the next reauthorization to more than 10 years after the preceding reauthorization. This section does not prevent additional exemptions from being added to section 101(b)(4).

B. Title II—Program inventory

Section 201(a) assigns to the Comptroller General and the Director of the Congressional Budget Office shared responsibility for the preparation of an inventory of Federal programs, working in cooperation with the Director of the Congressional Research Service.

Section 201(b) states that the purpose of the inventory is to (1) support the "scheduling, planning, and execution" of the reauthorization and review requirements of titles I and III; and (2) to maintain the information linkages between the reauthorization and review processes and the budget process. By this the committee intends for the inventory to be the basis for identification by committees, by agencies, and by the Department of the Treasury of the individual components of the operations of the Federal Government which are to be considered "programs" for purposes of reauthorization, review, statements of objectives, and termination of authority to obligate or expend funds. The

committee intends that the program inventory be the "standard classification" for program-related data and information which the Comptroller General is directed to "develop, establish, maintain, and publish" by section 202 of the Legislative Reorganization Act of 1970, as amended by section 801 of the Congressional Budget Act of 1974.

The committee intends for the inventory to provide a classification structure: (1) that is more stable from year to year than existing classification structures; (2) that is changed through a formal process which involves consultation with and the approval of the appropriate authorizing committees, rather than being susceptible to change through unilateral action by an agency; (3) in which the individual programs are objectively defined in relation to specific provisions of authorizing legislation; and (4) in which program designations reflect end-purposes or products of government activity, rather than the processes in furtherance of the end-purposes. The appendix, "An Example of Specificity in the Program Inventory," illustrates this point.

Section 201 (c) sets the date for submission of the inventory for congressional review as July 1, 1979.

Section 201 (d), (e), (f), (g), and (h) set forth the required contents of the inventory for each program.

Section 202 requires the General Accounting Office, the Congressional Research Service, and the Congressional Budget Office to exchange information which would aid in compilation of the inventory.

Section 203 requires CRS, CBO, OMB, and agencies and subdivisions of agencies to provide assistance to the GAO in compilation of the inventory.

Section 204 requires congressional committees, CRS, and CBO to review the draft inventory submitted by GAO to the Congress before July 1, 1979, and report to GAO by October 1, 1979, any recommendations for change. GAO is required to report a revised inventory to Congress by December 31, 1979, after consultation with congressional committees.

Section 205 (a) requires the GAO to update the inventory after each session of Congress. The committee intends for the mid-Congress updates to be summaries of changes resulting from action completed by the Congress during the first session, and for the updates after the second sessions to be publications of revised, complete inventories reflecting the legislative enactments of the Congress just ended.

Section 205 (h) requires the CBO to furnish budgetary information and estimates to GAO for inclusion in the updates of the inventory.

Section 206 requires GAO and CBO to report to the Congress every 2 years, beginning September 30, 1979, on the adequacy of the sub-functional categories as a basis for scheduling similar programs for review during the same Congress.

Section 207 requires CBO to maintain a running tabulation (keep score) of the amounts of authorizations for the enactment of new budget authority. This is in addition to the presently maintained tabulations of amounts of new budget authority provided or proposed to be provided. There is no ceiling, however, against which totals of authorizations would be compared, as is the case now with provisions of budget authority. Some programs are covered by "such sums" authorizations; in these cases CBO is required to include in the tabulation its

estimate of the amount of budget authority that would be needed to maintain a current level of services for the program.

C. Title III—Program review and evaluation

Title III establishes procedures for the designation through simple resolution of specific programs for comprehensive evaluation by each House. Committees propose programs for inclusion in the resolution through reports to the Committee on Rules and Administration of the Senate and the Committee on Rules of the House. The enforcement of the requirement is in section 103(a) which makes it not in order to consider a reauthorization measure for a program selected for title III comprehensive evaluation if the evaluation report has not been submitted to the Congress. Provision is made for the executive branch to recommend programs for evaluation under this title and to furnish information and assistance.

Section 301 states the purpose of the title—the selection of programs for comprehensive evaluation.

Section 302 requires GAO, CRS, CBO, and the President of the United States to submit to the Congress recommendations for programs for evaluation under this title. The GAO, CRS, and CBO recommendations are to be submitted on November 10 of the second session of each Congress. The President's recommendations are to be included in his budget message in the first session of each Congress, beginning with the 97th Congress.

Section 303 requires each authorizing committee to submit by March 15 of the first session of each Congress an oversight statement listing the programs which the committee will evaluate under this title during that Congress. The submissions are to be made in the Senate to the Committee on Rules and Administration and in the House of Representatives to the Committee on Rules. The selections are to be made from among those programs subject to reauthorization during that Congress. The language of the section thus limits the time available for comprehensive evaluation to the period within a Congress between the date an oversight resolution is agreed to in the first session and September 30 in the second session, the date at which the authority to obligate and expend funds would terminate if the program is not yet reauthorized. Some evaluations could take more time, perhaps several years, and would therefore have to begin in a Congress preceding the Congress in which the program is scheduled for reauthorization. Such work would have to take place outside the procedures of title III and would not become formalized under title III until during the Congress in which the program is scheduled for reauthorization under section 101(a). Committees may need internal evaluation plans covering several Congresses. This section requires committees not proposing a program for inclusion in the oversight resolution to state the reason. One reason might be that the committee is engaged in a multi-Congress review of a major program which is not scheduled for reauthorization under section 101(a) until a later Congress. As noted in the discussion of section 306, there is a possibility that a program in which a committee had invested substantial effort in evaluation over several years could be displaced from the oversight resolution on the floor.

Committees could make their long-range evaluation plans a matter of record by submitting them as an appendix to their required sub-

missions under this section. The submissions under this section can be included with the committee's annual funding resolutions. This section also states criteria for committees to consider in selecting programs for evaluation. These are:

- (1) the extent to which substantial time has passed since the program or group of programs has been in effect;
- (2) the extent to which a program or group of programs appears to require significant change;
- (3) the resources of the committee with a view toward undertaking reviews and evaluations across a broad range of programs; and
- (4) the desirability of examining related programs in the same Congress.

Section 304 requires the Committee on Rules and Administration of the Senate to report by April 15 of the first session a resolution which shall incorporate "without substantive change" the proposals of the authorizing committees. The Committee on Rules and Administration is not prevented from recommending amendments to the oversight resolution for consideration on the floor. This section also sets forth floor procedures for consideration of the oversight resolution in the Senate. Debate is to begin after disposition of committee funding resolutions and not later than May 15.

In the Senate, debate on the resolution would be limited in a manner similar to that provided for consideration of rescission bills under the Impoundment Control Act of 1974, and the Senate debate on such a resolution would be limited to ten hours equally divided between and controlled by the majority leader and the minority leader or their designees.

Debate on any amendments to the resolution would be limited to one hour to be equally divided between the mover and the manager of the resolution. Debate on any amendments to an amendment to such resolution and debate on any debatable motion or appeals in connection with such a resolution, would be limited to one-half hour, also to be equally divided.

In the event that the manager of the resolution is in favor of any amendment, motion, or appeal, the opposition time would be controlled by the minority leader or his designee. Non-germane amendments could not be received, and the majority or minority leader may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal. A motion to further limit debate is not debatable and a motion to recommit such resolution would not be in order.

Because there are different procedures in each House for the consideration of resolutions, this section does not describe a procedure for House consideration of a priority setting resolution.

Section 305 sets forth the objectives and contents of comprehensive evaluations. Section 305 (a) sets forth five objectives of comprehensive evaluations, which are:

- (1) more effective achievement of the intended purposes of the program or group of programs;
- (2) the elimination of needless duplication or overlap in the program or group of programs;

(3) the consolidation of similar functions and activities in the program or group of programs;

(4) the termination of the program or group of programs or portions of the program or group of programs not serving a useful purpose; and

(5) appropriate modification of the Federal role in the program or group of programs in relation to other levels of Government and the private sector.

Section 305(b) sets forth five required components, which are:

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

(2) an identification of any other program or group of programs having similar or potentially conflicting or duplicative objectives;

(3) an assessment of the effectiveness of the program or group of programs and the degree to which the original objectives of the program or group of programs has been achieved, expressed in terms of the performance, impact, or accomplishments of the program or group of programs, and of the problem or need which it was intended to address;

(4) an assessment of the relative merits of alternative methods which the committee suggests should be considered for achieving the purposes of the program or group of programs; and

(5) information on the regulatory, privacy, and paperwork impacts of the programs or group of programs.

Section 305(c) sets forth nine optional requirements which are to be included if appropriate or if specifically designated in the oversight resolution. They are:

(1) an assessment of the costs and accomplishments of the program or group of programs since the last previous review compared with the results anticipated at the time of that review;

(2) a statement of the number and types of beneficiaries or persons served by the programs or group of programs;

(3) an assessment to the extent practicable of the effect of the program or group of programs on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, and price inflation, including costs to consumers and to businesses;

(4) an assessment, if applicable, of the impact of the program or group of programs of the Nation's health and safety;

(5) an assessment of the degree to which the overall administration of the program or group of programs, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the department or agency executing the program or group of programs, meet the objectives of the Congress in establishing the program or groups of programs;

(6) a projection to the extent practicable of the anticipated costs to accomplish the objectives of the program or group of programs, including if applicable an assessment of the date on which, and the conditions under which, the program or group of programs may fulfill such objectives;

(7) the relation of other Government and private programs dealing with the objectives of the program or group of programs;

(8) results of studies of public perceptions of the need for or success of the program or group of programs or of activities of the type contained in the program or group of programs to provide a measure of public need; and

(9) an examination of the adequacy and appropriateness of the formulas used to allocate Federal funds under the program or group of programs.

Other evaluation components could also be included.

Section 306 requires committees to discuss with the appropriate executive agencies the information and analyses the committee will require to complete the evaluations. Subsection (b) requires the President to submit to Congress his evaluations and recommendations with respect to each program specified in the oversight resolution. The evaluation is to include the five components of evaluations which are mandatory in all cases. The evaluations are due by December 31 of the first session of each Congress.

This provides approximately 7 months from the time the oversight resolution is agreed to for the presidential evaluations to be completed and submitted. Where more substantial evaluative assistance is needed from the executive branch, the committees may have to make the necessary arrangements outside the procedures established by this act. Such arrangements could, however, run the risk that a planned comprehensive evaluation for which substantial evaluative assistance had been furnished could be displaced in the oversight resolution by a floor amendment requiring a different program to be evaluated.

Section 307 permits the evaluation of a program over which committees share jurisdiction to be conducted by one committee; and for a committee of one House to conduct an evaluation on behalf of both Houses. Evaluations may also be conducted jointly.

Section 307(c) requires the reports of comprehensive evaluations to be completed not later than May 15 of the second session of the Congress during which the program is scheduled for reauthorization according to section 101(a), unless a later date is specified in the oversight resolution. Generally, such later date would be within the same Congress. Were a date to be specified later than September 30 of the second session of that Congress, the continuation of the program would have to be authorized by a current services reauthorization bill pursuant to section 505. This provides authorization for up to 2 years, at no increase in funding. If an additional extension becomes necessary, a waiver under section 507 of the prohibition against considering a current services reauthorization bill in a Congress other than the Congress during which the program is scheduled for reauthorization according to section 101(a) would be necessary.

Section 307(c) also requires evaluations to be published as official reports of one or both Houses, and requires evaluation of programs classified in the same subfunctional category to be included in a single report to the "maximum extent feasible."

D. Title IV—Citizens' Commission on the Organization and Operation of Government

Establishment of Commission

Section 401 provides for the establishment of the Citizens' Commission on the Organization and Operation of Government as an independent instrumentality of the United States.

The establishment of this Commission is not intended to delay other efforts to improve operations of the Federal Government, such as reorganization and regulatory reform proposals.

Purposes of the Commission

Section 402 states that the policy of the Congress in establishing the Commission is the promotion of economic, efficient and improved service in the transaction of the public business in the departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government.

Section 403(a) directs the Commission to conduct a non-partisan study and investigation of the organization and methods of operation of all departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government, and to make such recommendations as it determines necessary to—

(1) increase the effectiveness of Government services, programs, functions, and activities by changing the structure and execution of administrative responsibilities;

(2) improve delivery of services through elimination of needless duplication or overlap, consolidation of similar services, programs, activities, and functions, and termination of such services, programs, activities, and functions which have outlived their intended purpose;

(3) maintain expenditures at levels consistent with the efficient performance of essential services, programs, activities, and functions;

(4) simplify and eliminate overlaps in agency regulatory functions by review of the laws, regulations, and administrative reports and procedures; and

(5) determine the appropriate responsibilities of each level of government, the manner and alternative means for each level of government to finance such responsibilities, the forms and extent of intergovernmental aid and assistance, and the organization required for proper balance and division of respective Federal, State and local government roles, responsibilities, and authorities.

The Commission is to organize its study and its report and make its recommendations with respect to five major policy areas: (1) international affairs and defense, (2) resources and technology, (3) economic development, (4) human resources, and (5) general government.

Section 403(b) requires the Commission to submit interim reports and its final report to the President and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

Section 403(c) requires the Comptroller General to report one and two years after the submission of the Commission's final report on the status of actions taken pursuant to the report.

Membership of the Commission

Section 404(a) provides for 18 members of the Commission to be appointed from among individuals with extensive experience in knowledge of American Government as follows:

(1) Eight members appointed by the President, by and with the advice and consent of the Senate.

(2) Five members appointed by the President pro tempore of the Senate, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the Senate.

(3) Five members appointed by the Speaker of the House of Representatives, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the House.

Section 404(b) provides that one of the members appointed by, but of a different political affiliation from the President, shall be appointed to serve as chairman, and a member appointed by the President and of the same political affiliation shall serve as vice chairman. Both shall be required to serve as full time officers of the Commission and are precluded from holding other positions.

Section 404(c) provides that of the remaining six members appointed by the President, no more than three shall be of the same political affiliation.

Section 404(d) provides that any vacancy in the Commission shall not affect its power but shall be filled in the same manner as the original appointment.

Section 404(e) requires 10 members of the Commission to constitute a quorum, but permits the Commission to establish a lesser number to constitute a quorum for holding hearings.

Section 405(a) authorizes the Commission, any subcommittee or member thereof, to hold such hearings and sit and act at such times and places, administer such oaths, and require by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable for the purpose of carrying out the provisions of this title.

Section 405(b)(1) permits the Chairman, or any member of the Commission designated by him, to issue subpoenas and permits subpoenas to be served by any person designated by the Chairman or such member. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

Section 405(b)(2) provides for the payment of per diem and mileage expenses to witnesses who are summoned to appear under this section and that such expenses will be paid from funds appropriated to the Commission.

Section 405(b)(3) makes it a Federal misdemeanor for a person to willfully neglect, or refuse to appear, or to qualify as a witness, or to testify or produce any evidence in violation of a lawful Commission subpoena and makes such offense punishable by a fine of not more than \$500 or imprisonment of not longer than 6 months. This section further establishes venue over a willful violator of this section in the judicial district in which such person resides or is found and authorizes the United States Attorney for that district to prosecute for such offense.

Section 405(c) requires all departments, agencies, independent instrumentalities, and other authorities of the executive branch to cooperate with the Commission and furnish any information it requests to the extent that it is in accordance with existing law.

Administrative provisions

Section 406 (a) gives the Commission the power to appoint and pay an Executive Director and the additional staff it needs without regard to the limitations of the requirements of the Civil Service Commission laws and regulations relating to classifications and pay rates. However, the Executive Director may be paid no more than the rate for a Level V on the Executive Schedule which is \$47,500, and all other personnel at rates no higher than that for a GS-18 of the General Schedule, which is \$47,500. The Commission may also hire experts and consultants at a daily rate not to exceed that for a GS-18 on the General Schedule.

Section 406 (b) authorizes the Commission to obtain financial and administrative services by entering into agreements with the General Services Administration. Payment for these services will be by reimbursement from Commission funds in such amounts as the Chairman and the Administrator of GSA shall agree.

Compensation of members

Section 407 provides for the chairman of the Commission to be paid at a rate for Level III of the Executive Schedule which is \$52,500, and the Vice Chairman at a Level IV which is \$50,000. All other members of the Commission who are not officers or employees of the Federal government shall be paid \$200 for each day the member is performing commission duties. This section also provides for members to be reimbursed for travel, subsistence and other necessary expenses incurred in connection with their activities as members of the Commission.

Effective date, termination

Section 408 provides that this title shall take effect on October 1, 1979.

Section 409 provides for the Commission to cease to exist ninety days after submitting its final report.

Authorization of appropriations

Section 410 authorizes to be appropriated without fiscal year limitations \$12,000,000 to carry out the provisions of this title.

Application of other laws

Section 411 provides that the Commission shall be subject to the Federal Advisory Committee Act.

E. Title V—Miscellaneous

Section 501 amends section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), by inserting immediately before the period a comma and "or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of the Budget and Accounting Act, 1921, for the fiscal year".

This section assures that committees of the Congress may request and obtain from the agencies of the government estimates or requests for appropriations or requests for increases in an item of any such estimate or request, and recommendations as to how the revenue needs of the government should be met.

Without this amendment, section 206 is subject to the interpretation that this budget information may be requested by only the Senate or House of Representatives. This section makes it clear that any committee of either House may request and receive agency budget requests submitted to the Office of Management and Budget as well as the internal budget requests submitted to an agency head by individual bureaus or divisions at any time after the President submits his annual budget to the Congress. The committee understands that the Office of Management and Budget has assured the Committee on Governmental Affairs that this amendment will also permit committees to obtain zero base budget information prepared by agencies.

Section 502 is to ensure that the act is not construed to require the public disclosure of information the confidentiality of which is protected by law, Executive order, or Senate resolution. This typically refers to national security related information, but also applies to any information covered by protections of confidentiality.

Section 503 is a statement of the provisions of this act which are adopted as an exercise of the rulemaking power of the Senate and the House of Representatives and are to be considered part of the rules of the Senate or House, respectively. They are the provisions of this section and sections 102, 103, 104, 106, 303, 304, 305, 307, 505, and 506 of this act.

Section 504(a) directs the agency which administers a program under review pursuant to this act and any other agency, when requested, to assist the committee in the review or evaluation of a program by providing to each committee of the Senate and House of Representatives which has legislative jurisdiction over such program, such information, analyses, reports, and assistance as the committee may request.

Section 504(b) requires the head of each agency administering a program not subject to reauthorization pursuant to section 101(b)(1) to submit a summary report on key program indicators. This requirement would apply to programs listed in section 101(b)(4) and other programs exempt from section 101(b)(1) such as those of the Federal Reserve System. The indicators to be included are: (1) funding levels, (2) related social and economic conditions, (3) workload, performance, and accomplishments, including comparisons of costs and accomplishments between the program set forth in the authorizing legislation and other governmental and nongovernmental programs having similar or related objectives. Other information may be included.

Section 504(c) directs the head of an agency which administers a program or the head of any other agency, upon the request of a committee of the Senate or House of Representatives, to conduct a review of the regulations currently promulgated and in use by that agency, and submit his report to the Senate or House of Representatives, as the case may be. That report should set forth the regulations that the agency intends to retain, eliminate or modify if the program is reauthorized, and state the basis for the agency's decisions including but not limited to the language to be proposed by the agency with respect to any modifications in its regulations. The review and report on regulations provided for by this section shall be submitted for any

program included in a resolution adopted by the Senate or House of Representatives pursuant to section 304 of this act.

Section 504(d) requires the Comptroller General to furnish the results of prior audits and reviews of any program scheduled for reauthorization in a particular Congress under section 101(a) on or before October 1 of the year before that Congress to each committee of the Senate and the House of Representatives which has legislative jurisdiction over the program. The prior audits and reviews should be gathered together for the six years preceding the review year for the program.

Section 504(e) directs the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service to furnish each committee of the Senate and House of Representatives such information, analyses, and reports that the committee may request to assist it in conducting reviews or evaluations of programs. Such assistance shall be provided consistent with the discharge of duties and functions imposed by law on them or the respective offices or service.

Section 505 creates a privileged procedure for continuation of a program for a limited time and with no increase in funding, as a safeguard against inadvertent termination due to procedural delays. The section establishes a "current services reauthorization bill" for this purpose. The current services reauthorization bill: (1) applies only to existing programs; (2) can reauthorize a program for not more than two years; (3) can reauthorize a program for not more than the amount of new budget authority for the fiscal year in progress; (4) can be considered only during the Congress during which the program is scheduled for reauthorization according to section 101(a); (5) can be considered if not accompanied by a reauthorization report satisfying the requirement of section 102; and (6) can be considered in the Senate only after a regular reauthorization measure on the same program has been under consideration not less than 50 hours.

A current services reauthorization bill does not need a waiver under section 402(a) of the Congressional Budget Act of 1974.

A current services reauthorization bill is required to be referred to the appropriate committee of the Senate or the House of Representatives. If the committee has not reported the current services reauthorization bill by May 15 of the year in which the program is scheduled for reauthorization and the current services reauthorization bill has been referred to the committee for at least 15 calendar days (not counting any day on which the particular House is not in session), it will be in order to move to discharge the committees from further consideration of the bill or to discharge the committees from further consideration of any other current services reauthorization bill relating to the same program which has been referred to the committee.

The motion to discharge could be made only by an individual favoring the current services reauthorization bill and may be made only if supported by one-fifth of the members of the House involved (a quorum being present). The motion to discharge would be highly privileged in the House and privileged in the Senate, except that it may not be made after the committee has reported or has been discharged from

further consideration of a current services reauthorization bill relating to the same program. Debate on the motion to discharge shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the bill, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. Amendments to the motion will not be in order, and it will not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to. A motion to discharge a committee from further consideration of a current services reauthorization bill may be made in the Senate only if the consideration of the bill would be in order under section 505 (b) that requires that a bill authorizing enactment of new budget authority for the same program, amendments to such bill, and motions in connection with such bill to have been debated for not less than 50 hours in the Senate.

The provisions of section 1017 (c) and (d) of the Impoundment Control Act of 1974 insofar as they relate to rescission bills shall apply in the House and Senate to the consideration of current services bills, amendments, motions and appeals with respect thereto, and conference reports thereon. This assures that in the Senate, for example, the debate would be limited to not more than 10 hours with the time equally divided on each side according to the direction of the majority and minority leaders.

The steps in the Senate for reauthorization and their corresponding time periods under the provisions of section 505 are:

1. Consideration of regular reauthorization measure for not less than 50 hours;
2. Current services reauthorization bill introduced and referred to committee;
3. Motion to discharge current services reauthorization bill is in order 15 days after the referral to committee. Debate on motion to discharge limited to 1 hour;
4. Debate on current services reauthorization bill limited to 10 hours.

Section 506 requires the Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House to review the operation of this act every 5 years, with the first report due December 31, 1986. The reviews may be conducted jointly. The bill links two major subjects, (1) the efficiency and effectiveness of Government programs, and (2) the effective operation of the Senate and the House of Representatives and their committees. It is expected that in their reviews of the operation of this act the Senate Committee on Governmental Affairs and the House Committee on Government Operations would focus on the first major subject and that the Senate Committee on Rules and Administration and the House Committee on Rules would focus on the latter.

Section 507 is a general waiver provision for the provisions of this act which are enacted under the rulemaking power of the Senate and the House of Representatives. The language is essentially that which applies to Titles III and IV of the Congressional Budget Act of 1974. Since this act would establish several new procedures which are un-

tested, it seems advisable to allow the Senate and the House of Representatives by majority vote to waive these procedural requirements in order to assure that unintended roadblocks are not created.

Section 508 contains a "such sums" authorization for appropriations through fiscal year 1990 for the review, evaluation and inventory requirements. Title IV has a separate \$12 million authorization for the Citizens' Commission. A floor amendment could be considered to authorize specific sums in this section, based on the cost estimate in this report.

7. 5-YEAR COST ESTIMATE

The 5-year cost estimate prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974 is as follows:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JULY 5, 1978.

1. Bill number: S. 2.
2. Bill title: Program Reauthorization and Evaluation Act of 1978.
3. Bill status: As ordered reported by the Senate Committee on Rules and Administration, June 21, 1978.
4. Purpose of bill:

TITLE I—AUTHORIZATIONS OF NEW BUDGET AUTHORITY (FUNCTION 800)

Title I requires that all Federal programs undergo a sunset review and that budget authority be reauthorized at least once every ten years. Programs are to be reviewed in accordance with a schedule established by budget subfunction beginning with the 97th Congress. A complete cycle of reviews is to have been completed by the end of the 101st Congress. Requirements for review and reauthorization do not apply to programs in functions 900 or which are funded from trust funds in subfunctional categories 551, 601, or 602, civil rights programs, military and civilian Federal employee retirement programs, specified veterans programs and programs related to the administration of the Federal judiciary. Reports accompanying bill reauthorizing programs are to include sufficient information to permit a determination as to whether the programs should be continued without change, continued with modifications, or terminated. The Congressional Budget Office is required to compile a list of provisions of law related to all programs for which budget authority is not reauthorized within one year after each review date.

TITLE II—PROGRAM INVENTORY (FUNCTION 800)

The Comptroller General is to compile and maintain an inventory of Federal programs for support of the oversight process and the Director of the Congressional Budget Office is to provide budgetary information for inclusion in the inventory. By July 1, 1979, the Comptroller General is required to submit a program inventory to the Senate and the House. By December 31, 1979, the Comptroller General is to submit a revised inventory taking the views of the committees of

Congress into consideration. The Comptroller General is required to revise the program inventory annually. The Director of the Congressional Budget Office is required to report periodically on the amount of budget authority authorized and provided for the current fiscal year and each of the five succeeding fiscal years. The Comptroller General and the Director of the Congressional Budget Office are required to submit periodic reports on the adequacy of the functional and subfunctional categories used in the schedule for grouping programs of like missions or objectives.

TITLE III—PROGRAM EVALUATION (FUNCTION 800)

Title III requires that the House and Senate at the beginning of each Congress select program areas subject to review pursuant to Title I for comprehensive evaluation. It establishes selection procedures involving both the executive and the Congress, and establishes the rules for Senate deliberation on a resolution setting forth the evaluation agenda. The contents of the comprehensive evaluations by the committees and the procedures for submission of the reports are specified. The President must submit his evaluations and recommendations with respect to each program area specified in the resolution not later than December 31 of the first session of the Congress.

TITLE IV—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT (FUNCTION 800)

Title IV establishes an independent commission to investigate the organization and operation of the government and to recommend changes to promote economy, efficiency and improved service. The Commission is to submit a final report no later than July 1, 1983. The Comptroller General is to report at least annually for two years on the status of actions taken on the Commission's final report.

TITLE V—MISCELLANEOUS

Section 504 requires the agency administering a program to provide such information and assistance as the committee may request. Agencies administering exempted programs are required to provide reports on key indicators on program operations to each Congress. Section 504 also requires the agency to review the regulations currently in effect for such program upon request of the committee. The Comptroller General is required to furnish the results of prior audits and reviews of such programs. Consistent with duties imposed by law, GAO, CBO, OTA, and CRS shall furnish information, analyses, and reports requested by the committees.

Section 507 authorizes the waiver of any provision of the Act by majority vote. Section 508 authorizes appropriations of such sums as may be necessary to carry out titles I through IV.

5. Cost estimate: The only part of the bill for which a specific amount is authorized is title IV. The bill specifies that \$12 million be authorized to be appropriated for the Citizens' Commission on the Organization and Operation of Government. Since the Commission's report is due July 1, 1983, this estimate assumes \$4 million will be spent in each of fiscal year 1980, fiscal year 1981, and fiscal year 1982.

Additional costs may result from new procedures for program review and evaluation. The costs of these provisions could vary substantially given the flexibility afforded the committees conducting reviews under the procedures established in the bill. Substantial amounts are currently budgeted to the executive branch, legislative support agencies and legislative committees for studies and evaluation. This estimate assumes that the structure established in title I and the Program Inventory in title II will make it possible to better organize existing efforts to meet the review and evaluation requirements of title I and title III. The estimates shown in the table below are the Congressional Budget Office's assumption of the maximum costs that might be associated with the bill.

	<i>By fiscal years</i>	<i>Millions</i>
Authorized amount :		
1979 -----		
1980 -----		\$12
1981 -----		
1982 -----		
1983 -----		
Estimated cost—Title IV :		
1979 -----		
1980 -----		4
1981 -----		4
1982 -----		4
1983 -----		
Additional estimated costs :		
1979 -----		1
1980 -----		1
1981 -----		36
1982 -----		46
1983 -----		49

6. Basis for estimate :

TITLE I AND III

The Program Reauthorization and Evaluation Act of 1978 establishes new procedures for program evaluation and reauthorization. To the extent that programs are already reauthorized regularly, S. 2 establishes a crosscutting schedule, but may not increase the work requirements. Comparably, to the extent that the Congress or the executive branch already evaluates programs rigorously, there may be limited additional work requirements. There may be additional costs in those cases where programs have been permanently authorized in the past or have not been carefully reviewed. The bill, however, gives substantial discretion to the committees in designating those programs that will be comprehensively evaluated.

The estimate assumes that the review requirements established in Title I can be met without additional costs. The evaluation requirements established in title III will be met by more efficient use of executive branch evaluation funds due to the definition of the review structure, and by a limited expansion of committee and legislative branch support agency staff as some responsibility for evaluation is shifted to these less partisan organizations.

Congressional committee staff salaries are estimated to be \$104,620,000 for fiscal year 1979. Assuming that there is no more than a

10 percent increase in committee workload, the bill would require an additional \$10,462,000.

TITLE II

The requirement for the "program inventory" will place limited additional manpower and computer costs on both the General Accounting Office and the Congressional Budget Office. A more detailed analysis of what can be done within existing resources will be required. Approximately \$500,000 will be required for computer support. An additional 16 staff members would carry out the functions of inventory development and maintenance, coordination with the committees and between the two agencies and scorekeeping for authorizations at an estimated cost of \$540,000.

SECTION 504

Section 504 requires the executive branch and Congressional support agencies to assist in the evaluation of programs through the provision of information and analyses. To a large extent this material already exists and is being provided to the Congress to meet existing demands.

This estimate assumes that there will be no additional costs to the executive branch. The zero based budgeting will require additional evaluative information. To the extent that additional information is needed, agencies should be able to provide it by redirecting existing resources.

This estimate assumes that there may be limited additional requirements placed on the Congressional support groups as new requirements are established and other studies are shifted to them. An increase of 10 percent of the combined fiscal year 1979 budget request—\$23,559,000—is included for GAO, OTA, CBO, and CRS. The General Accounting Office would be assumed to have a substantial portion of this responsibility given the breadth of its existing legislative mandate. This estimate includes \$18,784,000 for GAO.

REVIEW OF FEDERAL REGULATIONS

The section 504(b) requirement for the executive agencies to review regulations currently in effect for a program could represent additional costs. However, the requirement is similar to the existing Executive Order established on the review of Federal regulations. The section 504(b) requirement is by request of the Congressional committees. While the reviews could be required for each program there is no reasonable way to estimate the frequency of these requests.

7. Estimate comparison: None.

8. Previous CBO estimate: The CBO estimate on the costs of S. 2 as reported by the Senate Government Affairs Committee assumed an inaccurate base in projecting Congressional staff salaries resulting in an increase from \$3 to \$10 million. Costs of developing and maintaining the program inventory have increased due to the coordination that will be required between GAO and CBO and the increased emphasis on GAO's interaction with the committees, an increase of \$250,000. Requirements for evaluation support to committees have been expanded

by \$18 million to allow expanded resources for the General Accounting Office.

9. Estimate prepared by: Dick Emery (225-4823).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

In addition to the financial costs set forth in the CBO cost estimate above, the question of availability of space for additional staff should be considered. In the Senate alone, a 10 percent increase in committee staff would mean approximately 150 additional persons. At 5 persons per room, 30 additional rooms would be needed.

The above cost and personnel estimates do not necessarily reflect the views of the committee. In implementing the legislation, the Committee on Rules and Administration would review and examine the justification for increased staff as part of the committee's consideration of committees' annual funding resolutions.

8. COMMITTEE ROLLCALL VOTES

In compliance with section 133 (b) and (d) of the Legislative Reorganization Act of 1946, as amended, the record of rollcall votes in the Committee on Rules and Administration during its consideration of S. 2 is as follows:

1. On the question: Shall the text of the staff working group draft be substituted for that of the compromise version of S. 2? Rejected: 5 yays; 2 yeas.

YEAS—2

Mr. Cannon
Mr. Williams

NAYS—5

Mr. Clark
Mr. Hatfield
Mr. Griffin
Mr. Baker ¹
Mr. Pell

2. On the question: Shall the committee report favorably to the Senate S. 2, as amended by the committee substitute which had been previously amended by the committee? Adopted: 5 yeas; 2 nays.

YEAS—5

Mr. Clark
Mr. Hatfield
Mr. Griffin
Mr. Baker ¹
Mr. Pell

NAYS—2

Mr. Cannon ¹
Mr. Williams

¹ By proxy.

9. CHANGES IN EXISTING LAW

In accordance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 2, as reported by the Committee on Rules and Administration, are shown as follows (new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

SECTION 206 OF THE BUDGET AND ACCOUNTING ACT, 1921
(31 U.S.C. 15)

SEC. 206. No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress, *or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of this Act for the fiscal year.*

See the section-by-section analysis of this report for a discussion of the effect of section 104 of S. 2 on Rule XVI of the Standing Rules, of the Senate and on Rule 21 of the Rules of the House of Representatives.



ADDITIONAL VIEWS OF MR. CANNON

The sunset concept is today a very popular one. Legislators, local governments, and the average citizen alike are distressed by runaway inflation, government waste and mismanagement. Serious questions are being raised about the responsiveness of government programs to constituency needs, and whether programs are meeting the objectives which Congress intended for them. I appreciate and share Senator Muskie's objectives which he articulated upon introduction of S. 2, and originally I joined with many of my colleagues in cosponsoring this legislation because I support the effort to streamline the Federal bureaucracy. I have followed closely the development of the Program Reauthorization and Evaluation Act through the legislative process. While I agree that Federal laws and programs should remain viable and justify the expenditures made on them, I cannot support the approach taken by S. 2, as reported by this committee.

I recognize that the reported bill attempts to incorporate recommendations from a number of sources. Under the bill as reported, the review cycle was lengthened to 10 years. Authorizing committees now may suggest changes in review schedules. Authorization reports on new programs will specify the information needs for future reviews to ensure that such reviews have better information foundations. Responsibility for changes in the review schedule is now lodged in this committee, which will provide coordination of the review process. However, many of the problems which have been the subject of discussion in the Rules Committee and elsewhere continue to be unresolved.

Much has been written about the automatic termination provision in S. 2, by which all programs would automatically terminate unless Congress reauthorized their budget authority every 10 years. This prospect deeply concerns me. I fear that "automatic termination" could mean "inadvertent termination", and I remain unconvinced that the unwieldy procedures for the current services reauthorization bill contained in title V of S. 2, as reported, would preclude the possibility of inadvertent termination. On any program, at least 50 hours of debate would occur on a regular reauthorization measure before the special current services reauthorization bill could be considered. The reauthorization bill is required to be referred to the committee with jurisdiction for 15 days. Ten hours of debate would then be allowed on the bill, with more time for amendments to the bill. Combined, this "emergency" procedure would be far too burdensome and perhaps too time-consuming to be effective. Even if this procedure were employed only two or three times in a Congress, the amount of floor time consumed would be substantial, and—if several current services reauthorization bills were ever to be under consideration—much of the other business of the Senate would of necessity go undone. While this resolution is given a privileged status, I believe that under parliamentary

procedure "privilege" only ensures that debate on a given matter will be next in line for consideration, not that the matter is called up automatically. Thus, if there were a filibuster in effect on a measure, the Senate would never be able to consider the current services reauthorization bill. The waiver procedure in section 507 to dispense with the 50 hours of debate on the bill is an inadequate attempt to answer this serious deficiency in the bill, for either a majority vote or objection to unanimous consent could force the Senate to continue for the full 50 hours of debate.

I am pleased to see that the bill now allows reviews to be performed to the extent determined appropriate by each authorizing committee, and makes requirements for report information mandatory only where appropriate. However, authorizing committees, which will be required to perform the reviews, only recommend changes in the review schedule. If a committee's recommendations are not adopted, the schedule of reviews by budget subfunction will be imposed on a committee. I believe that programs should be reviewed when the evaluation is timely, not according to an arbitrarily determined timetable. Circumstances and demands do not always allow congressional decisions to be made on a fixed schedule. S. 2 would place such restrictions on congressional policymaking. A committee charged with oversight is in the best position to make the determination as to the correct time for undertaking a program review, based on workload and staffing requirements and legislative responsibilities. Consequently, it would be preferable to allow the review schedule to be prepared by each authorizing committee.

Unless an alternative can be agreed upon, it should be clear that the rigid review schedule in S. 2, as reported, will require considerable increased staffing. I do not believe, as the majority report states, that the bill as reported resolves the concerns regarding unmanageable workloads for committees. Given the inflexibility of the review schedule, committee staffs will expand to ensure compliance with the review requirements and avoid pro forma reviews.

We should use the structure which is already in place and improve upon it, to achieve the goals advocated by the proponents of S. 2.

The bill as reported would require each authorizing committee to review the listing of programs within its jurisdiction which has been prepared by the General Accounting Office and the Congressional Budget Office. It seems to me that the committee which will perform the review should compile this program inventory. Authorizing committees would have flexibility in identifying programs, and could be as specific as necessary in order to yield complete identification of programs within their jurisdictions. In fact, a program inventory already exists for one Senate committee, which utilized the resources of congressional support services in preparing the inventory. Compilation of the program inventory by an individual authorizing committee will permit that committee to organize its jurisdiction into logical program categories, and enhance the prospects for effective review. A complete program inventory would be a useful tool for the Senate in judging a committee's review performance.

These program schedule and inventory provisions of S. 2, as reported, would remove control over program review from the authorizing committee and transfer it to support arms of the Congress, or

executive agencies. This should not be the case. The Congress needs to continue to develop its own information bases and to utilize and direct its own agents and resources.

Some comments on S. 2 indicate that reliance on executive agency information will be essential in order to keep down costs. Relying so extensively on executive branch input could put Congress in the position of forcing executive agencies to supply information which would justify their programs, rather than provide information to aid in an evaluation. Worse yet, Congress would have few yardsticks against which to measure the accuracy or methodology by which such information was gathered, or whether the material submitted was complete. Based on such information (or lack of information), program reviews could not fulfill the objectives of the bill, as reported.

I remain unconvinced that S. 2 is the proper mechanism for review. At this point, I am inclined to be supportive of the resolution proposed by the Staff Working Group and rejected by this committee. This resolution recognizes existent mechanisms for program review and builds on them. In conjunction with the budget and authorization processes which we have established, increased program review procedures could provide adequate evaluation. The resolution relies on the expertise and jurisdiction of the authorizing committees of the Senate and their members in a way that S. 2, as reported, does not. Additionally, the emphasis of this group's document is on review and evaluation, not on the threat of termination. Because I believe that this proposal does not contain adequate safeguards to prevent inadvertent termination; that S. 2, as reported, wrests controls which are legitimately theirs from the authorizing committees of the Congress; that the bill would establish a new cadre of Senate staff at tremendous costs, and that serious flaws remain in the draftsmanship of the proposal, especially with regard to debate procedures on the Senate floor, I cannot support S. 2 as reported.

I believe we can achieve the objectives of sunset by strengthening and revising existing congressional procedures in order to insure that Federal programs and agencies are effectively providing the services intended by Congress and needed by the American people. I further believe that the primary objectives of sunset are to make government more efficient, reduce the level of bureaucracy wherever possible, and hopefully save some money for the taxpayer. Unfortunately, I am not convinced that any of these objectives will be achieved under S. 2 as reported; however, I am certain that this bill will create a new cadre of congressional employees and probably additional Federal workers at tremendous costs to the taxpayer who could possibly be adversely affected rather than helped.

Effective sunset goals can be achieved by concentrated effort on the part of Members of Congress and some additional work and planning by the staff now in place. It is not necessary to require millions of dollars in new expenditures every time we wish to achieve a desirable and worthwhile goal.

HOWARD W. CANNON.

ADDITIONAL VIEWS OF MR. WILLIAMS

My concern about S. 2 has been registered many times in the course of its consideration before the Committee on Governmental Affairs and the Committee on Rules and Administration. The concerns have focused upon the flaws in S. 2 since I have consistently upheld and supported its objectives. There is no question that the Congress needs an effective mechanism with which to monitor, evaluate and modify past program enactments. Our Nation must have the assurance that the Congress actively, and vigorously oversees such enactments. The best program review technology available must be marshalled in the oversight process.

The primary flaw in previous versions of S. 2 has been its tendency to lump all policies and programs together indiscriminately and to presume that they equally deserve mandatory termination according to a fixed schedule which has little or nothing to do with the purposes or characteristics of the programs. This flaw is still contained in S. 2; however, it has been mitigated by the exemption of civil rights litigation and administrative enforcement programs.

I am pleased that the committee recognized that the 200-year battle for the adoption and implementation of individual rights guaranteed by the Constitution cannot be cavalierly abandoned to a simple procedural device. I commend the committee on its judgment in protecting this area. Unfortunately, total Federal outlays for these programs approximate a mere one tenth of one percent of the fiscal 1979 congressional budget.

Another major flaw is that the mandatory termination schedule was not addressed in the bill reported from committee; much mischief and abuse could result by forcing termination and review of as many as several thousand Government programs in each of five consecutive Congresses. The effect upon the Congress and the legislative process if automatically scheduled terminations create a backlog of several hundred bills could be catastrophic. We could either be forced to jam the calendar with unwieldy current services extension bills which would obviously defeat the objectives of the Congressional Budget Act or abandon program review and oversight leaving us entirely at the mercy of executive branch recommendations.

Unless a more selective method of reviewing past enactments can be found, the Senate will be forced to delegate termination and review functions to the executive branch in order to conduct its primary legislative business.

To this end, I urge the Senate to consider establishing a 2-year test period for the sunset provisions of S. 2. Only by experiencing the demands of those provisions will the Congress be able to imple-

ment those procedures effectively. And only by utilizing the opportunity for the 96th Congress to function with respect to sunset legislation as the 94th Congress tested budget legislation can our ability to deal effectively with the objectives of S. 2 be truly demonstrated.

I also wish to take this opportunity to associate myself with the views expressed by Senator Howard Cannon whose incisive analysis of S. 2 should be read by all Members of this body.

HARRISON A. WILLIAMS, JR.

ADDITIONAL VIEWS OF MR. HATFIELD, MR. GRIFFIN, AND MR. CLARK

S. 2, as reported, will provide a procedure for systematic reauthorization and review of Federal spending programs. On the other hand, Federal "tax expenditures" are not included in this proposal and are not subject to the same formal review procedures. We believe that to the extent possible all Federal programs, not just those funded by direct outlays, should be subject to the reauthorization and review procedure outlined in S. 2.

Under the original sunset bill, tax expenditures, as well as direct spending programs, were subject to sunset review. After an extremely close vote, the overnmental Affairs Committee deleted the tax expenditure title. The Committee on Rules and Administration did not adopt a similar tax expenditure provision due to the threat of procedural problems on the Senate floor. To omit "tax expenditures" from sunset review is to allow a large number of Federal programs with significant budgetary impact to continue indefinitely, with no requirement of any formal congressional review.

In general, tax expenditures are incentives provided through the Internal Revenue Code that encourage certain kinds of activity or forbearance by the taxpayer. Tax expenditures take the form of tax credits, tax deductions, tax exemptions, tax deferrals, or lower rates of taxation. These special provisions decrease the amount of revenue which is collected by the government and, therefore, they are the functional equivalent of direct spending programs.

The revenue loss through tax expenditures comprise the fastest growing portion of the Federal budget. Budget analysts advise us that since 1968 direct spending outlays have increased by 180 percent while tax expenditures grew by 209 percent over the same period. The budget committees estimate that in fiscal year 1979 \$136 billion of revenues will be lost to the Treasury through tax expenditure provisions. Of this amount, approximately 90 percent, or \$122 billion, is authorized for an indefinite period and not subject to periodic reauthorization. Moreover, in recent years Congress has been increasing the use of tax laws to accomplish nontax functions.

Presently, no formal procedure for systematic review of tax expenditures exists. Tax expenditures, however, should face the same scrutiny as entitlement programs. This seems to be particularly important for tax expenditures, since they are not "double checked" by receiving approval from both the authorization and appropriation committees. This kind of review would have the additional benefit of linking within broad issue areas both direct spending programs and tax expenditures. If spending programs and tax expenditures are reviewed together, we will be in a better position to insure that benefits

distributed through the tax system are consistent with the priorities of direct spending programs.

It is argued that the uncertainty sunset would cause businessmen depending on special tax provisions could cripple business investment. Although there would be added uncertainty for all Federal programs under S. 2, in our judgment the periodic review of tax expenditures would not have any significant impact on the level of investment. In recent years, an increasing number of the most important investment-related tax expenditures have been enacted for limited periods. Furthermore, the level of business investment seems to be determined principally by economic indicators, such as the overall strength of the economy and sales projections, not by tax considerations.

In conclusion, if tax expenditures are not included in S. 2, nearly 25 percent of Federal activity will not be subject to a formal procedure of reauthorization and review. In order to exercise full control over the Federal budget and to establish a balanced sunset procedure, Congress must include tax expenditures in S. 2.

MARK O. HATFIELD.
ROBERT P. GRIFFIN.
DICK CLARK.

APPENDIX

[An excerpt from the report of the staff working group on S, 2 and S. 1244 to the Committee on Rules and Administration, April 19, 1978.]

AN EXAMPLE OF SPECIFICITY IN THE PROGRAM INVENTORY

For the program list to be of the most use, it is desirable that it be at a rather detailed level of specificity. A discussion of a particular account and some of the programs carried out under it may be illustrative. The account "Salaries and Expenses" of the U.S. Customs Service funds the vast majority of the activities of the Customs Service. In the Budget Appendix there are set forth six "sub-account" entities:

(1) inspection and control; (2) appraisement and entry processing; (3) tactical interdiction; (4) technical and legal support; (5) investigations; (6) executive management and internal affairs.

While more informative about the work of the Service than the account "Salaries and Expenses, U.S. Customs Service," and therefore a preferable level of detail, the six items would not be wholly satisfactory as items to include in an inventory because: (1) they are process oriented, instead of end-product oriented (that is they reflect not what the agency does, but how it does it); (2) they are subjective groupings, presently related to the Customs organizational structure but subject to change in future budget submissions and (3) they do not convey all the different programs that are carried out. An alternative list might include the following items:

1. Collecting duties on imported merchandise.
2. Preventing the importation of merchandise in excess of an applicable quota.
3. Preventing the importation of contraband substances.
4. Preventing the importation of merchandise that infringes on patents, trademarks, or copyrights.
5. Preventing the importation of merchandise covered by Foreign Assets Control regulations.
6. Administering proficiency examinations to, licensing, and periodically auditing customhouse brokers.
7. Granting permission to vessels arriving from foreign or other U.S. ports to enter a port, and granting vessels permission to leave a port.
8. Maintain control over bonded warehouses containing imported merchandise.
9. Designate ports of entry.
10. Collect tonnage tax on vessels.

11. Register amounts of currency, securities, etc. being imported or exported in amounts in excess of \$5000 and prevent the importation of unregistered amounts.

12. Pay refunds of duties to persons exporting merchandise manufactured with imported merchandise or approved substitutes therefor.

13. Maintain documentary control over unentered merchandise moving from one port to another in a bonded carrier.

14. Prevent the importation of merchandise required to be, and not, marked to indicate the country of origin.

15. Maintain documentary control over the movement of merchandise into and out of Foreign Trade Zones.

Some of the 15 items are major activities of the Service, others are of a comparatively small scale. It is significant to note that each is independent of the other; that is, each could be stopped, transferred, changed, etc. with little effect on other items in the list. Most are supported by one or more of the items in the list of 6. For example the process of "inspection" supports virtually all of the items in the list of 15 except item 6, licensing of customhouse brokers. The list is not intended to be complete, only illustrative of what an "end-product" listing in some specificity would look like. It is desirable that an inventory go to some level of detail approximating the list of 15 items, and that it include every separate program, no matter how small. If omitted, such programs will escape the attention that is intended.

For example, item 7 in the list of 15 is an activity of very small scale. It is also very old; said to date to the War of 1812, and to have been instituted to combat gun-running. Under this program, various fees are collected. For example, a fee of ten cents is collected for the "clearance" of a foreign vessel to proceed to a port on the Great Lakes, Lake Champlain, or the St. Lawrence River, and a fee of \$2.00 for such clearance on the Atlantic, Gulf and Pacific Coasts (46 USC 329,330). This may be a useful, efficient, and properly sized program, but if the inventory of the committee of jurisdiction were to contain only major groupings, it is unlikely that this program would ever become a candidate for review. It is simply not well known to persons other than those engaged in its daily administration. The fundamental purpose of the inventory is to bring such activities to the attention of a wider body of observers.





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