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CUTTING OUT THE WASTE: AN OVERVIEW OF H.R. 5766, THE GOVERNMENT EFFICIENCY ACT; AND H.R. 3282, THE ABOLISHMENT OF OBSOLETE AGENCIES AND FEDERAL SUNSET ACT OF 2005

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

H.R. 5766

TO PROVIDE FOR THE ESTABLISHMENT OF FEDERAL REVIEW COMMISSIONS TO REVIEW AND MAKE RECOMMENDATIONS ON IMPROVING THE OPERATIONS, EFFECTIVENESS, AND EFFICIENCY OF FEDERAL PROGRAMS AND AGENCIES, AND TO REQUIRE A SCHEDLE FOR SUCH REVIEWS OF ALL FEDERAL AGENCIES AND PROGRAMS

AND ON

H.R. 3282

TO PROVIDE FOR THE PERIODIC REVIEW OF THE EFFICIECY AND PUBLIC NEED FOR FEDERAL AGENCIES, TO ESTABLISH A COMMISSION FOR THE PURPOSE OF REVIEWING THE EFFICIENCY AND PUBLIC NEED OF SUCH AGENCIES, AND TO PROVIDE FOR THE ABOLISHMENT OF AGENCIES FOR WHICH A PUBLIC NEED DOES NOT EXIST

JULY 19, 2006

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CUTTING OUT THE WASTE: AN OVERVIEW OF H.R. 5766, THE GOVERNMENT EFFICIENCY ACT; AND H.R. 3282, THE ABOLISHMENT OF OBSOLETE AGENCIES AND FEDERAL SUNSET ACT OF 2005

WEDNESDAY, JULY 19, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Tom Davis, Gutknecht, Porter, Dent, Foxx, Schmidt, Waxman, Lantos, Maloney, Cummings, Kucinich, Watson, Lynch, Ruppersberger, and Higgins.

Staff present: Ellen Brown, legislative director and senior policy counsel; Mason Alinger, deputy legislative director; Rob White, communications director; Teresa Austin, chief clerk; Michael Galindo, deputy clerk; Kristin Amerling, minority general counsel; Michelle Ash, minority chief legislative counsel; Krista Boyd, minority counsel; Mark Stephenson, minority professional staff member; Earley Green, minority chief clerk; and Jean Gosa, minority assistant clerk.

Chairman TOM DAVIS. The committee will come to order. Good morning. I want to thank everybody for coming. The purpose of today's hearing is to discuss two specific legislative proposals that have been introduced to this Congress to improve the operation and effectiveness of programs and agencies in the Federal Government. The first bill H.R. 5766, the Government Efficiency Act, which was introduced by Representative Tiahrt earlier this month, the legislation would authorize the establishment of a bipartisan Federal Review Commission to study whether a specific aspect of Federal Government operations would function more efficiently and effectively if some or all of the relevant Federal programs and agencies were reorganized, consolidated, abolished, expanded or transferred. Legislative proposals drafted by the bipartisan commissions would then be considered in Congress pursuant to expedited procedures.

[The text of H.R. 5766 follows:]

Union Calendar No. 344

109TH CONGRESS
2D SESSION

H. R. 5766

[Report No. 109–594, Part I]

To provide for the establishment of Federal Review Commissions to review and make recommendations on improving the operations, effectiveness, and efficiency of Federal programs and agencies, and to require a schedule for such reviews of all Federal agencies and programs.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2006

Mr. TIAHRT (for himself, Mr. TOM DAVIS of Virginia, Mr. PORTER, Ms. GINNY BROWN-WAITE of Florida, Mr. BLUNT, Mr. ENGLISH of Pennsylvania, Mr. DOOLITTLE, Mr. GINGREY, Mrs. JO ANN DAVIS of Virginia, Mr. CASE, Mr. CARTER, Mr. CONAWAY, Mr. MACK, Mr. NORWOOD, Mr. INGLIS of South Carolina, Mr. RYUN of Kansas, Mr. AKIN, Mr. NEUGEBAUER, Mr. OXLEY, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committees on Rules and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 24, 2006

Additional sponsors: Mr. MCKEON, Mr. CAMP of Michigan, Mr. BOEHNER, Mr. OTTER, Mr. BISHOP of Utah, Mr. BURTON of Indiana, Mr. CARDOZA, Mr. MCCOTTER, Mr. HEFLEY, Mr. RADANOVICH, Mr. BRADY of Texas, Mr. HENSARLING, Mr. REICHERT, Mr. CRENSHAW, Mr. PENCE, Mr. CALVERT, Mr. HERGER, Mr. SESSIONS, Mr. CULBERSON, Ms. HART, Ms. HARRIS, Mr. GARRETT of New Jersey, Mr. WAMP, Mr. WELDON of Florida, Mr. BILBRAY, Mr. GERLACH, Mr. HAYWORTH, Mr. ISTOOK, Mr. STEARNS, Mr. RENZI, Mr. FRANKS of Arizona, Mr. MORAN of Kansas, Mr. HAYES, Miss MCMORRIS, Mr. DAVIS of Kentucky, Mr. CAMPBELL of California, Mr. LATHAM, Mr. BARRETT of South Carolina, Mr. MCHENRY, Mr. ROHRABACHER, Mr. FEENEY, Mr. FORTENBERRY, Mrs. MYRICK, Mr. KING of Iowa, Mr. COLE of Oklahoma, Mr. PRICE of Georgia, Mr. TERRY, Ms. GRANGER, Mrs. CUBIN, Mr. FORTUÑO, Mr.

HASTINGS of Washington, Mr. GREEN of Wisconsin, Mrs. BLACKBURN, Mr. KENNEDY of Minnesota, Mr. PEARCE, Mr. ROYCE, Mr. KUHL of New York, Mr. SAM JOHNSON of Texas, Mr. PUTNAM, Mr. PITTS, Mr. FLAKE, and Mr. SMITH of Texas

JULY 24, 2006

Reported from the Committee on Government Reform with an amendment

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

JULY 24, 2006

Committees on Rules and the Budget discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 12, 2006]

A BILL

To provide for the establishment of Federal Review Commissions to review and make recommendations on improving the operations, effectiveness, and efficiency of Federal programs and agencies, and to require a schedule for such reviews of all Federal agencies and programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Efficiency Act of 2006".

SEC. 2. ESTABLISHMENT OF FEDERAL REVIEW COMMISSIONS.

(a) IN GENERAL.—Part I of title 5, United States Code, is amended by adding at the end the following new chapter:

1 **"CHAPTER 10—FEDERAL REVIEW**
2 **COMMISSIONS**

"Sec.
"1001. Establishment of Federal Review Commissions.
"1002. Expedited Congressional consideration of Federal Review Commission recommendations.
"1003. Schedule for review of all Federal agencies and programs.
"1004. Administrative matters.

3 **"§ 1001. Establishment of Federal Review Commis-**
4 **sions**

5 "(a) IN GENERAL.—A Federal Review Commission
6 may be established in accordance with this section with re-
7 spect to a specific aspect of Federal programs and agencies
8 for purposes of reviewing and making recommendations on
9 how to improve the operations, effectiveness, and efficiency
10 of such Federal programs and agencies in order to deter-
11 mine whether a reorganization, consolidation, abolishment,
12 expansion, or transfer of existing Federal programs and
13 agencies is necessary to carry out any policy set forth in
14 section 901(a) of this title.

15 "(b) METHOD OF ESTABLISHMENT.—A Federal Re-
16 view Commission may be established under subsection (a)
17 only through the issuance of an executive order or the enact-
18 ment of a joint resolution that—

19 "(1) describes the Federal programs and agencies
20 to be reviewed by the Commission; and

1 *"(2) provides that the Commission shall be sub-*
2 *ject to the requirements of, and have the powers and*
3 *authorities under, this section.*
4 *"(c) COMMENCEMENT OF OPERATIONS.—Each Federal*
5 *Review Commission shall commence operations within 1*
6 *month after the establishment of the Commission under sub-*
7 *section (a).*
8 *"(d) DUTIES OF FEDERAL REVIEW COMMISSIONS.—*
9 *"(1) REVIEW OF PROGRAMS AND AGENCIES.—In*
10 *reviewing Federal programs and agencies, a Federal*
11 *Review Commission established under this section*
12 *shall consider—*
13 *"(A) whether the missions and goals of the*
14 *programs and agencies studied by the Commis-*
15 *sion are being carried out as effectively and effi-*
16 *ciently as possible;*
17 *"(B) the extent to which the programs or*
18 *agencies duplicate or conflict with other Federal*
19 *agencies, State or local government, or the pri-*
20 *vate sector;*
21 *"(C) whether a reorganization, consolida-*
22 *tion, abolishment, expansion, or transfer of the*
23 *programs and agencies reviewed by the Federal*
24 *Review Commission would better enable the Fed-*

eral government to accomplish its missions and goals;

"(D) with respect to existing rules promulgated by the agencies to carry out the programs—

"(i) whether the agency has specific legislative authority to promulgate the rules and carry out the programs.

"(ii) whether the rules are being carried out as efficiently as possible; and

"(iii) the extent to which the rules duplicate or conflict with rules promulgated by other Federal agencies; and

"(E) whether the agency or program has operated or was authorized outside of an enumerated power under Article I of the Constitution of the United States or in any manner violates the separation of powers under the Constitution.

"(2) SUBMISSION TO PRESIDENT OF ASSESSMENT AND LEGISLATIVE PROPOSAL.—Not later than 1 year after the establishment of a Federal Review Commission under this section, the Commission shall submit to the President—

"(A) the Commission's assessment of the operations, effectiveness, and efficiency of the Fed-

eral programs and agencies reviewed by the Commission; and

"(B) a legislative proposal, if appropriate, to reorganize, consolidate, abolish, expand, or transfer the Federal programs and agencies reviewed by the Commission.

"(e) TRANSMISSION TO CONGRESS OF ASSESSMENT AND LEGISLATIVE PROPOSAL.—Not later than 30 days after submission to the President of an assessment and legislative proposal (if any) by a Federal Review Commission, the President shall transmit to Congress the assessment and any legislative proposal, along with the President's recommendations regarding the assessment and proposal.

"(f) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—

"(A) IN GENERAL.—Each Federal Review Commission shall be composed of 7 members appointed by the President as follows:

"(i) One in consultation with the Speaker of the House of Representatives.

"(ii) One in consultation with the minority leader of the House of Representatives.

"(iii) One in consultation with the majority leader of the Senate.

1 *"(iv) One in consultation with the mi-*
2 *nority leader of the Senate.*
3 *"(v) Three other members.*
4 *"(B) EX OFFICIO MEMBERS.—The President*
5 *may appoint up to four Members of Congress*
6 *(up to 2 from each House) as nonvoting ex offi-*
7 *cio members of a Federal Review Commission.*
8 *"(2) QUALIFICATIONS.—All members appointed*
9 *by the President to serve on a Federal Review Com-*
10 *mission shall have expertise and experience in the*
11 *particular programmatic area that the Federal Re-*
12 *view Commission is established to review.*
13 *"(3) TERMS.—*
14 *"(A) IN GENERAL.—Each member of a Fed-*
15 *eral Review Commission shall be appointed for*
16 *the life of the Commission.*
17 *"(B) VACANCIES.—Any vacancy on a Fed-*
18 *eral Review Commission shall be filled in the*
19 *same manner as the original appointment.*
20 *"(4) BASIC PAY.—*
21 *"(A) RATES OF PAY.—Members of a Federal*
22 *Review Commission shall serve without pay.*
23 *"(B) TRAVEL EXPENSES.—Each member of*
24 *a Federal Review Commission shall receive trav-*
25 *el expenses, including per diem in lieu of subsist-*

ence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

"(5) QUORUM.—Four members of a Federal Review Commission shall constitute a quorum but a lesser number may hold hearings.

"(6) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate one member of each Federal Review Commission to serve as Chairman and one as Vice Chairman.

"(g) DIRECTOR AND STAFF.—

"(1) DIRECTOR.—Each Federal Review Commission shall have a Director who shall be appointed by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Director shall be paid at a rate not to exceed the rate of basic pay for level II of the Executive Schedule.

"(2) STAFF.—The Director of a Federal Review Commission may appoint and fix the pay of additional personnel as the Director considers appropriate, in accordance with section 3161 of title 5, United States Code.

"(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and any staff of each Federal

1 *Review Commission shall be employees under section*
2 *2105 of title 5, United States Code, for purposes of*
3 *chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that*
4 *title.*

5 *"(4) PROCUREMENT OF TEMPORARY AND INTER-*
6 *MITTENT SERVICES.—The Chairman of each Federal*
7 *Review Commission may procure temporary and*
8 *intermittent services under section 3109(b) of title 5,*
9 *United States Code, at rates for individuals which do*
10 *not exceed the daily equivalent of the annual rate of*
11 *basic pay for Level II of the Executive Schedule.*

12 *"(5) STAFF OF FEDERAL AGENCIES.—Upon re-*
13 *quest of the Chairman of a Federal Review Commis-*
14 *sion, the head of any Federal department or agency*
15 *may detail, on reimbursable basis, any of the per-*
16 *sonnel of that department or agency to the Commis-*
17 *sion to assist it in carrying out its duties.*

18 *"(h) POWERS OF COMMISSION.—*

19 *"(1) HEARINGS AND SESSIONS.—Each Federal*
20 *Review Commission may, for the purpose of carrying*
21 *out its duties, hold hearings, sit and act at times and*
22 *places, take testimony, and receive evidence as the*
23 *Commission considers appropriate.*

24 *"(2) OBTAINING OFFICIAL DATA.—Each Federal*
25 *Review Commission may secure directly from any*

1 *Federal department or agency information necessary*
2 *to enable it to carry out its duties. Upon request of*
3 *the Chairman of a Commission, the head of that de-*
4 *partment or agency shall furnish that information to*
5 *the Commission.*

6 *"(3) POSTAL AND PRINTING SERVICES.—Each*
7 *Federal Review Commission may use the United*
8 *States mail and obtain printing and binding services*
9 *in the same manner and under the same conditions*
10 *as other Federal departments and agencies.*

11 *"(4) ADMINISTRATIVE SUPPORT SERVICES.—*
12 *Upon the request of a Federal Review Commission,*
13 *the Administrator of General Services shall provide to*
14 *the Federal Review Commission, on a reimbursable*
15 *basis, the administrative support services necessary*
16 *for the Federal Review Commission to carry out its*
17 *duties.*

18 *"(i) AUTHORIZATION OF APPROPRIATIONS.—Such*
19 *sums as may be necessary are authorized to be appropriated*
20 *for the purposes of carrying out the duties of each Federal*
21 *Review Commission. Such funds shall remain available*
22 *until expended.*

23 *"(j) TERMINATION.—Each Federal Review Commis-*
24 *sion shall terminate 90 days after the date on which the*

1 *Commission submits the assessment and legislative proposal*
2 *(if any) under subsection (d)*
3 *"(k) DEFINITION.—In this section, the term 'agency'*
4 *has the meaning provided in section 902(1) of this title.*
5 ***"§ 1002. Expedited Congressional consideration of***
6 ***Federal Review Commission recommenda-***
7 ***tions***
8 *"(a) INTRODUCTION OF RESOLUTION.—The majority*
9 *leader of each House or his designee shall introduce a joint*
10 *resolution as defined in subsection (d) not later than the*
11 *fifth day of session of that House after the date of receipt*
12 *of a legislative proposal transmitted from the President to*
13 *Congress under section 1001(e) of this title.*
14 *"(b) CONSIDERATION IN THE HOUSE OF REPRESENTA-*
15 *TIVES.—*
16 *"(1) REFERRAL AND REPORTING.—Any com-*
17 *mittee of the House of Representatives to which a*
18 *joint resolution is referred shall report it to the House*
19 *not later than 30 legislative days after the date of its*
20 *introduction. If a committee fails to report the joint*
21 *resolution within that period, it shall be in order to*
22 *move that the House discharge the committee from*
23 *further consideration of the joint resolution. Such a*
24 *motion shall be in order only at a time designated by*
25 *the Speaker in the legislative schedule within two leg-*

islative days after the day on which the proponent announces his intention to offer the motion. Notice of such intention may not be given on an anticipatory basis. Such a motion shall not be in order after the last committee authorized to consider the joint resolution reports it to the House or after the House has disposed of a motion to discharge a joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except 20 minutes of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

"(2) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution favorably reports it to the House without amendment or has been discharged from its consideration, it shall be in order to move to proceed to consider the joint resolution in the House. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces his intention to offer the motion. Notice of such intention may not be given on an anticipatory basis. Such a motion shall not be in order after the House has dis-

posed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

"(3) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except ten hours of debate equally divided and controlled by the proponent and an opponent and one motion to limit debate on the joint resolution. The joint resolution shall not be subject to amendment. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

"(c) CONSIDERATION IN THE SENATE.—[Language to be provided.]

"(d) DEFINITION.—In this section the term 'joint resolution' means only a joint resolution—

"(1) which does not have a preamble;

"(2) the title of which is as follows: 'Joint resolution relating to the legislative proposal prepared by the Federal Review Commission established on

1 *_____, 20____.', the blank spaces being filled in*
2 *with the appropriate date;*
3 *"(3) the matter after the resolving clause of*
4 *which is as follows: 'That Congress approves the legis-*
5 *lative proposal prepared by a Federal Review Com-*
6 *mission and transmitted to Congress by the President*
7 *on _____, 20____ .', the blank spaces being filled in*
8 *with the appropriate date; and*
9 *"(4) the remaining text of which consists of the*
10 *legislative proposal prepared by the Federal Review*
11 *Commission concerned and transmitted to Congress*
12 *by the President.*
13 *"(e) RULES OF SENATE AND HOUSE OF REPRESENTA-*
14 *TIVES ON FEDERAL REVIEW COMMISSION RECOMMENDA-*
15 *TIONS.—This section is enacted by Congress—*
16 *"(1) as an exercise of the rulemaking power of*
17 *the Senate and the House of Representatives, respec-*
18 *tively, and as such they are deemed a part of the rules*
19 *of each House, respectively, but applicable only with*
20 *respect to the procedure to be followed in that House*
21 *in the case of resolutions with respect to any legisla-*
22 *tive proposal transmitted to Congress (in accordance*
23 *with section 1001) after the date of enactment of this*
24 *section; and they supersede other rules only to the ex-*
25 *tent that they are inconsistent therewith; and*

1 *"(2) with full recognition of the constitutional*
2 *right of either House to change the rules (so far as re-*
3 *lating to the procedure of that House) at any time,*
4 *in the same manner and to the same extent as in the*
5 *case of any other rule of that House.*

6 ***"§ 1003. Schedule for review of all Federal agencies***
7 ***and programs***

8 *"(a) SCHEDULE FOR REVIEW.—Not later than one*
9 *year after the date of the enactment of this chapter, the*
10 *President shall submit to Congress a schedule under which*
11 *Federal Review Commissions shall be established to review*
12 *all Federal agencies and programs in order to accomplish*
13 *the goals of the policy set forth in section 901(a) of this*
14 *title.*

15 *"(b) REVIEW OF AGENCIES PERFORMING RELATED*
16 *FUNCTIONS.—In developing a schedule pursuant to sub-*
17 *section (a), the President shall provide that agencies that*
18 *perform similar or related functions be reviewed at or near*
19 *the same time.*

20 ***"§ 1004. Administrative matters***

21 *"(a) RELOCATION OF FEDERAL EMPLOYEES.—If the*
22 *position of an employee of an agency is eliminated as a*
23 *result of a reorganization, consolidation, abolishment, ex-*
24 *pansion, or transfer of existing Federal programs or agen-*
25 *cies pursuant to this chapter, the affected agency shall make*

1 *a reasonable effort to relocate such employee to a position*
2 *within another agency.*
3 *"(b) DEFICIT REDUCTION.—*
4 *"(1) DEFICIT REDUCTION.—Any reduction in*
5 *amounts of discretionary budget authority or direct*
6 *spending resulting from enactment of legislation pur-*
7 *suant to this chapter shall be dedicated only to deficit*
8 *reduction and shall not be used as an offset for other*
9 *spending increases.*
10 *"(2) ADJUSTMENTS TO COMMITTEE ALLOCA-*
11 *TIONS.—Not later than 5 days after the enactment of*
12 *legislation pursuant to this chapter, the chairmen of*
13 *the Committees on the Budget of the Senate and the*
14 *House of Representatives shall revise levels under sec-*
15 *tion 311(a) of the Congressional Budget Act of 1974*
16 *and adjust the committee allocations under section*
17 *302(a) of the Congressional Budget Act of 1974 to re-*
18 *flect the reduction in discretionary budget authority*
19 *or direct spending, and the appropriate committees*
20 *shall report revised allocations pursuant to section*
21 *302(b) of the Congressional Budget Act of 1974, as*
22 *appropriate.*
23 *"(3) ADJUSTMENTS TO CAPS.—After the enact-*
24 *ment of legislation pursuant to this chapter, the Di-*
25 *rector of the Office of Management and Budget shall*

1 *revise applicable limits under the Balanced Budget*
2 *and Emergency Deficit Control Act, as appropriate.".*
3 *(b) CONFORMING AMENDMENT.—The table of chapters*
4 *for part I of title 5, United States Code, is amended by*
5 *inserting after the item relating to chapter 9 the following:*

"10. Federal Review Commissions ..... 1001".

Union Calendar No. 344

109TH CONGRESS
2D SESSION

H. R. 5766

[Report No. 109–594, Part I]

A BILL

To provide for the establishment of Federal Review Commissions to review and make recommendations on improving the operations, effectiveness, and efficiency of Federal programs and agencies, and to require a schedule for such reviews of all Federal agencies and programs.

JULY 24, 2006

Committees on Rules and the Budget discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Chairman TOM DAVIS. The second bill, H.R. 3282, the Abolishment of Obsolete Agencies and Federal Sunset Act of 2005, introduced by Representative Kevin Brady, this legislation would establish a bipartisan Federal agency sunset commission to review and evaluate the efficiency and public need for every Federal agency on a periodic basis and report its recommendations to Congress. The legislation would require the Federal agency to be abolished within 1 year of the commission's review unless Congress either reauthorized the agency or extended the deadline for abolishment.

[The text of H.R. 3282 follows:]

I

109TH CONGRESS
1ST SESSION

H. R. 3282

To provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2005

Mr. BRADY of Texas (for himself, Mr. BAKER, Mr. GARRETT of New Jersey, Mr. SESSIONS, Mr. MCHENRY, Mr. MCCAUL of Texas, Mr. GILLMOR, Mr. HERGER, Mr. OTTER, Mr. CULBERSON, Mr. PORTER, Mr. BURGESS, Mr. CARTER, Mrs. BLACKBURN, Mr TOM DAVIS of Virginia, Ms. FOXX, Mr BLUNT, Mr. FLAKE, Mr. BASS, Mr. SHAYS, Mr. STEARNS, Mr. ISTOOK, Mr. BURTON of Indiana, Mr. HEFLEY, Mr. PENCE, Mr. SULLIVAN, Mr. GENE GREEN of Texas, Mr. CONAWAY, Mr. EDWARDS, Mr. PITTS, Mr. TERRY, Mr. BOEHNER, Mr. FEENEY, Ms. GINNY BROWN-WAITE of Florida, Mr. THORNBERRY, and Mr. MARSHALL) introduced the following bill; which was referred to the Committee on Government Reform

---

A BILL

To provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 "Abolishment of Obsolete Agencies and Federal Sunset
4 Act of 2005".

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Review and abolishment of Federal agencies.
Sec. 3. Establishment of Commission.
Sec. 4. Review of efficiency and need for Federal agencies.
Sec. 5. Criteria for review.
Sec. 6. Commission oversight.
Sec. 7. Rulemaking authority.
Sec. 8. Relocation of Federal employees.
Sec. 9. Program inventory.
Sec. 10. Definition of agency.
Sec. 11. Offset of amounts appropriated.

7 **SEC. 2. REVIEW AND ABOLISHMENT OF FEDERAL AGEN-**
8 **CIES.**

9 (a) SCHEDULE FOR REVIEW.—Not later than one
10 year after the date of the enactment of this Act, the Fed-
11 eral Agency Sunset Commission established under section
12 3 (in this Act referred to as the "Commission") shall sub-
13 mit to Congress a schedule for review by the Commission,
14 at least once every 12 years (or less, if determined appro-
15 priate by Congress), of the abolishment or reorganization
16 of each agency.

17 (b) REVIEW OF AGENCIES PERFORMING RELATED
18 FUNCTIONS.—In determining the schedule for review of
19 agencies under subsection (a), the Commission shall pro-
20 vide that agencies that perform similar or related func-

1 tions be reviewed concurrently to promote efficiency and
2 consolidation.

3 (c) ABOLISHMENT OF AGENCIES.—

4 (1) IN GENERAL.—Each agency shall—

5 (A) be reviewed according to the schedule
6 created pursuant to this section; and

7 (B) be abolished not later than one year
8 after the date that the Commission completes
9 its review of the agency pursuant to such sched-
10 ule, unless the agency is reauthorized by the
11 Congress.

12 (2) EXTENSION.—The deadline for abolishing
13 an agency may be extended for an additional two
14 years after the date described in paragraph (1)(B)
15 if the Congress enacts legislation extending such
16 deadline by a vote of a super majority of the House
17 of Representatives and the Senate.

18 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

19 (a) ESTABLISHMENT.—There is established a com-
20 mission to be known as the "Federal Agency Sunset Com-
21 mission".

22 (b) COMPOSITION.—The Commission shall be com-
23 posed of 12 members (in this Act referred to as the "mem-
24 bers") who shall be appointed as follows:

1 (1) Six members shall be appointed by the
2 Speaker of the House of Representatives, one of
3 whom may include the Speaker of the House of Rep-
4 resentatives, with minority members appointed with
5 the consent of the minority leader of the House of
6 Representatives.
7 (2) Six members shall be appointed by the ma-
8 jority leader of the Senate, one of whom may include
9 the majority leader of the Senate, with minority
10 members appointed with the consent of the minority
11 leader of the Senate.
12 (c) QUALIFICATIONS OF MEMBERS.—
13 (1) IN GENERAL.—(A) Of the members ap-
14 pointed under subsection (b)(1), four shall be mem-
15 bers of the House of Representatives (not more than
16 two of whom may be of the same political party),
17 and two shall be an individual described in subpara-
18 graph (C).
19 (B) Of the members appointed under subsection
20 (b)(2), four shall be members of the Senate (not
21 more than two of whom may be of the same political
22 party) and two shall be an individual described in
23 subparagraph (C).
24 (C) An individual under this subparagraph is
25 an individual—

1 (i) who is not a member of Congress; and
2 (ii) with expertise in the operation and ad-
3 ministration of Government programs.
4 (2) CONTINUATION OF MEMBERSHIP.—If a
5 member was appointed to the Commission as a
6 Member of Congress and the member ceases to be
7 a Member of Congress, that member shall cease to
8 be a member of the Commission. The validity of any
9 action of the Commission shall not be affected as a
10 result of a member becoming ineligible to serve as
11 a member for the reasons described in this para-
12 graph.
13 (d) INITIAL APPOINTMENTS.—All initial appoint-
14 ments to the Commission shall be made not later than 90
15 days after the date of the enactment of this Act.
16 (e) CHAIRMAN; VICE CHAIRMAN.—
17 (1) INITIAL CHAIRMAN.—An individual shall be
18 designated by the Speaker of the House of Rep-
19 resentatives from among the members initially ap-
20 pointed under subsection (b)(1) to serve as chairman
21 of the Commission for a period of 2 years.
22 (2) INITIAL VICE-CHAIRMAN.—An individual
23 shall be designated by the majority leader of the
24 Senate from among the individuals initially ap-
25 pointed under subsection (b)(2) to serve as vice-

1 chairman of the Commission for a period of two
2 years.
3 (3) ALTERNATE APPOINTMENTS OF CHAIRMEN
4 AND VICE-CHAIRMEN.—Following the termination of
5 the two-year period described in paragraphs (1) and
6 (2), the Speaker and the majority leader shall alter-
7 nate every two years in appointing the chairman and
8 vice-chairman of the Commission.
9 (f) TERMS OF MEMBERS.—
10 (1) MEMBERS OF CONGRESS.—Each member
11 appointed to the Commission who is a member of
12 Congress shall serve for a term of six years, except
13 that, of the members first appointed under para-
14 graphs (1) and (2) of subsection (b), 2 members
15 shall be appointed to serve a term of three years
16 under each such paragraph.
17 (2) OTHER MEMBERS.—Each member of the
18 Commission who is not a member of Congress shall
19 serve for a term of three years.
20 (3) TERM LIMIT.—(A) A member of the Com-
21 mission who is a member of Congress and who
22 serves more than three years of a term may not be
23 appointed to another term as a member.
24 (B) A member of the Commission who is not a
25 member of Congress and who serves as a member of

1 the Commission for more than 56 months may not
2 be appointed to another term as a member.
3 (g) POWERS OF COMMISSION.—
4 (1) HEARINGS AND SESSIONS.—The Commis-
5 sion may, for the purpose of carrying out this Act,
6 hold such hearings, sit and act at such times and
7 places, take such testimony, and receive such evi-
8 dence as the Commission considers appropriate. The
9 Commission may administer oaths to witnesses ap-
10 pearing before it.
11 (2) OBTAINING INFORMATION.—The Commis-
12 sion may secure directly from any department or
13 agency of the United States information necessary
14 to enable it to carry out its duties under this Act.
15 Upon request of the Chairman, the head of that de-
16 partment or agency shall furnish that information to
17 the Commission in a full and timely manner.
18 (3) SUBPOENA POWER.—(A) The Commission
19 may issue a subpoena to require the attendance and
20 testimony of witnesses and the production of evi-
21 dence relating to any matter under investigation by
22 the Commission.
23 (B) If a person refuses to obey an order or sub-
24 poena of the Commission that is issued in connection
25 with a Commission proceeding, the Commission may

1 apply to the United States district court in the judi-
2 cial district in which the proceeding is held for an
3 order requiring the person to comply with the sub-
4 poena or order.

5 (4) IMMUNITY.—The Commission is an agency
6 of the United States for purposes of part V of title
7 18, United States Code (relating to immunity of wit-
8 nesses).

9 (5) CONTRACT AUTHORITY.—The Commission
10 may contract with and compensate government and
11 private agencies or persons for services without re-
12 gard to section 3709 of the Revised Statutes (41
13 U.S.C. 5).

14 (h) COMMISSION PROCEDURES.—

15 (1) MEETINGS.—The Commission shall meet at
16 the call of the Chairman.

17 (2) QUORUM.—Seven members of the Commis-
18 sion shall constitute a quorum but a lesser number
19 may hold hearings.

20 (i) PERSONNEL MATTERS.—

21 (1) COMPENSATION.—Members shall not be
22 paid by reason of their service as members.

23 (2) TRAVEL EXPENSES.—Each member shall
24 receive travel expenses, including per diem in lieu of

1 subsistence, in accordance with sections 5702 and
2 5703 of title 5, United States Code.
3 (3) DIRECTOR.—The Commission shall have a
4 Director who shall be appointed by the Chairman.
5 The Director shall be paid at a rate not to exceed
6 the maximum rate of basic pay payable for GS–15
7 of the General Schedule.
8 (4) STAFF.—The Director may appoint and fix
9 the pay of additional personnel as the Director con-
10 siders appropriate.
11 (5) APPLICABILITY OF CERTAIN CIVIL SERVICE
12 LAWS.—The Director and staff of the Commission
13 shall be appointed subject to the provisions of title
14 5, United States Code, governing appointments in
15 the competitive service, and shall be paid in accord-
16 ance with the provisions of chapter 51 and sub-
17 chapter III of chapter 53 of that title relating to
18 classification and General Schedule pay rates.
19 (j) OTHER ADMINISTRATIVE MATTERS.—
20 (1) POSTAL AND PRINTING SERVICES.—The
21 Commission may use the United States mails and
22 obtain printing and binding services in the same
23 manner and under the same conditions as other de-
24 partments and agencies of the United States.

1 (2) ADMINISTRATIVE SUPPORT SERVICES.—
2 Upon the request of the Commission, the Adminis-
3 trator of General Services shall provide to the Com-
4 mission, on a reimbursable basis, the administrative
5 support services necessary for the Commission to
6 carry out its duties under this Act.
7 (3) EXPERTS AND CONSULTANTS.—The Com-
8 mission may procure temporary and intermittent
9 services under section 3109(b) of title 5, United
10 States Code.
11 (k) SUNSET OF COMMISSION.—The Commission shall
12 terminate on December 31, 2030, unless reauthorized by
13 Congress.

14 **SEC. 4. REVIEW OF EFFICIENCY AND NEED FOR FEDERAL**
15 **AGENCIES.**

16 (a) IN GENERAL.—The Commission shall review the
17 efficiency and public need for each agency in accordance
18 with the criteria described in section 5.
19 (b) RECOMMENDATIONS; REPORT TO CONGRESS.—
20 The Commission shall submit to Congress and the Presi-
21 dent not later than September 1 of each year a report
22 containing—
23 (1) an analysis of the efficiency of operation
24 and public need for each agency to be reviewed in
25 the year in which the report is submitted pursuant

1 to the schedule submitted to Congress under section
2 2;
3 (2) recommendations on whether each such
4 agency should be abolished or reorganized;
5 (3) recommendations on whether the functions
6 of any other agencies should be consolidated, trans-
7 ferred, or reorganized in an agency to be reviewed
8 in the year in which the report is submitted pursu-
9 ant to the schedule submitted to Congress under
10 section 2; and
11 (4) recommendations for administrative and
12 legislative action with respect to each such agency,
13 but not including recommendations for appropriation
14 levels.
15 (c) DRAFT LEGISLATION.—The Commission shall
16 submit to Congress and the President not later than Sep-
17 tember 1 of each year a draft of legislation to carry out
18 the recommendations of the Commission under subsection
19 (b).
20 (d) INFORMATION GATHERING.—The Commission
21 shall—
22 (1) conduct public hearings on the abolishment
23 of each agency reviewed under subsection (b);
24 (2) provide an opportunity for public comment
25 on the abolishment of each such agency;

1 (3) require the agency to provide information to
2 the Commission as appropriate; and
3 (4) consult with the General Accounting Office,
4 the Office of Management and Budget, the Comp-
5 troller General, and the chairman and ranking mi-
6 nority members of the committees of Congress with
7 oversight responsibility for the agency being re-
8 viewed regarding the operation of the agency.
9 (c) USE OF PROGRAM INVENTORY.—The Commis-
10 sion shall use the program inventory prepared under sec-
11 tion 9 in reviewing the efficiency and public need for each
12 agency under subsection (a).

13 **SEC. 5. CRITERIA FOR REVIEW.**

14 The Commission shall evaluate the efficiency and
15 public need for each agency pursuant to section 4 using
16 the following criteria:
17 (1) The effectiveness, and the efficiency of the
18 operation of, the programs carried out by each such
19 agency.
20 (2) Whether the programs carried out by the
21 agency are cost-effective.
22 (3) Whether the agency has acted outside the
23 scope of its original authority, and whether the origi-
24 nal objectives of the agency have been achieved.

1 (4) Whether less restrictive or alternative meth-
2 ods exist to carry out the functions of the agency.
3 (5) The extent to which the jurisdiction of, and
4 the programs administered by, the agency duplicate
5 or conflict with the jurisdiction and programs of
6 other agencies.
7 (6) The potential benefits of consolidating pro-
8 grams administered by the agency with similar or
9 duplicative programs of other agencies, and the po-
10 tential for consolidating such programs.
11 (7) The number and types of beneficiaries or
12 persons served by programs carried out by the agen-
13 cy.
14 (8) The extent to which any trends, develop-
15 ments, and emerging conditions that are likely to af-
16 fect the future nature and extent of the problems or
17 needs that the programs carried out by the agency
18 are intended to address.
19 (9) The extent to which the agency has com-
20 plied with the provisions contained in the Govern-
21 ment Performance and Results Act of 1993 (Public
22 Law 103–62; 107 Stat. 285).
23 (10) The promptness and effectiveness with
24 which the agency seeks public input and input from
25 State and local governments on the efficiency and ef-

1 fectiveness of the performance of the functions of
2 the agency.
3 (11) Whether the agency has worked to enact
4 changes in the law that are intended to benefit the
5 public as a whole rather than the specific business,
6 institution, or individuals that the agency regulates.
7 (12) The extent to which the agency has en-
8 couraged participation by the public as a whole in
9 making its rules and decisions rather than encour-
10 aging participation solely by those it regulates.
11 (13) The extent to which the public participa-
12 tion in rulemaking and decisionmaking of the agency
13 has resulted in rules and decisions compatible with
14 the objectives of the agency.
15 (14) The extent to which the agency complies
16 with section 552 of title 5, United States Code (com-
17 monly known as the "Freedom of Information Act").
18 (15) The extent to which the agency complies
19 with equal employment opportunity requirements re-
20 garding equal employment opportunity.
21 (16) The extent of the regulatory, privacy, and
22 paperwork impacts of the programs carried out by
23 the agency.

1 (17) The extent to which the agency has coordi-
2 nated with State and local governments in per-
3 forming the functions of the agency.
4 (18) The potential effects of abolishing the
5 agency on State and local governments.
6 (19) The extent to which changes are necessary
7 in the authorizing statutes of the agency in order
8 that the functions of the agency can be performed
9 in the most efficient and effective manner.

10 **SEC. 6. COMMISSION OVERSIGHT.**

11 (a) MONITORING OF IMPLEMENTATION OF REC-
12 OMMENDATIONS.—The Commission shall monitor imple-
13 mentation of laws enacting provisions that incorporate rec-
14 ommendations of the Commission with respect to abolish-
15 ment or reorganization of agencies.

16 (b) MONITORING OF OTHER RELEVANT LEGISLA-
17 TION.—

18 (1) IN GENERAL.—The Commission shall review
19 and report to Congress on all legislation introduced
20 in either house of Congress that would establish—
21 (A) a new agency;
22 (B) a new program to be carried out by an
23 existing agency.

1 (2) REPORT TO CONGRESS.—The Commission
2 shall include in each report submitted to Congress
3 under paragraph (1) an analysis of whether—
4 (A) the functions of the proposed agency
5 or program could be carried out by one or more
6 existing agencies;
7 (B) the functions of the proposed agency
8 or program could be carried out in a less re-
9 strictive manner than the manner proposed in
10 the legislation; and
11 (C) the legislation provides for public input
12 regarding the performance of functions by the
13 proposed agency or program.

14 **SEC. 7. RULEMAKING AUTHORITY.**

15 The Commission may promulgate such rules as nec-
16 essary to carry out this Act.

17 **SEC. 8. RELOCATION OF FEDERAL EMPLOYEES.**

18 If the position of an employee of an agency is elimi-
19 nated as a result of the abolishment of an agency in ac-
20 cordance with this Act, there shall be a reasonable effort
21 to relocate such employee to a position within another
22 agency.

23 **SEC. 9. PROGRAM INVENTORY.**

24 (a) PREPARATION.—The Comptroller General and
25 the Director of the Congressional Budget Office, in co-

1 operation with the Director of the Congressional Research
2 Service, shall prepare an inventory of Federal programs
3 (in this Act referred to as the "program inventory") with-
4 in each agency.

5 (b) PURPOSE.—The purpose of the program inven-
6 tory is to advise and assist the Congress and the Commis-
7 sion in carrying out the requirements of this Act. Such
8 inventory shall not in any way bind the committees of the
9 Senate or the House of Representatives with respect to
10 their responsibilities under this Act and shall not infringe
11 on the legislative and oversight responsibilities of such
12 committees. The Comptroller General shall compile and
13 maintain the inventory and the Director of the Congres-
14 sional Budget Office shall provide budgetary information
15 for inclusion in the inventory.

16 (c) INVENTORY CONTENT.—The program inventory
17 shall set forth for each program each of the following mat-
18 ters:

19 (1) The specific provision or provisions of law
20 authorizing the program.

21 (2) The committees of the Senate and the
22 House of Representatives which have legislative or
23 oversight jurisdiction over the program.

24 (3) A brief statement of the purpose or pur-
25 poses to be achieved by the program.

1 (4) The committees which have jurisdiction over
2 legislation providing new budget authority for the
3 program, including the appropriate subcommittees of
4 the Committees on Appropriations of the Senate and
5 the House of Representatives.
6 (5) The agency and, if applicable, the subdivi-
7 sion thereof responsible for administering the pro-
8 gram.
9 (6) The grants-in-aid, if any, provided by such
10 program to State and local governments.
11 (7) The next reauthorization date for the pro-
12 gram.
13 (8) A unique identification number which links
14 the program and functional category structure.
15 (9) The year in which the program was origi-
16 nally established and, where applicable, the year in
17 which the program expires.
18 (10) Where applicable, the year in which new
19 budget authority for the program was last author-
20 ized and the year in which current authorizations of
21 new budget authority expire.
22 (d) BUDGET AUTHORITY.—The report also shall set
23 forth for each program whether the new budget authority
24 provided for such programs is—
25 (1) authorized for a definite period of time;

1 (2) authorized in a specific dollar amount but
2 without limit of time;
3 (3) authorized without limit of time or dollar
4 amounts;
5 (4) not specifically authorized; or
6 (5) permanently provided,
7 as determined by the Director of the Congressional Budg-
8 et Office.
9 (e) CBO INFORMATION.—For each program or group
10 of programs, the program inventory also shall include in-
11 formation prepared by the Director of the Congressional
12 Budget Office indicating each of the following matters:
13 (1) The amounts of new budget authority au-
14 thorized and provided for the program for each of
15 the preceding four fiscal years and, where applicable,
16 the four succeeding fiscal years.
17 (2) The functional and subfunctional category
18 in which the program is presently classified and was
19 classified under the fiscal year 2006 budget.
20 (3) The identification code and title of the ap-
21 propriation account in which budget authority is
22 provided for the program.
23 (f) MUTUAL EXCHANGE OF INFORMATION.—The
24 General Accounting Office, the Congressional Research
25 Service, and the Congressional Budget Office shall permit

1 the mutual exchange of available information in their pos-
2 session which would aid in the compilation of the program
3 inventory.

4 (g) ASSISTANCE BY EXECUTIVE BRANCH.—The Of-
5 fice of Management and Budget, and the Executive agen-
6 cies and the subdivisions thereof shall, to the extent nec-
7 essary and possible, provide the General Accounting Office
8 with assistance requested by the Comptroller General in
9 the compilation of the program inventory.

10 **SEC. 10. DEFINITION OF AGENCY.**

11 As used in this Act, the term "agency" has the mean-
12 ing given that term by section 105 of title 5, United States
13 Code, except that such term includes an advisory com-
14 mittee as that term is defined in section 102(2) of the
15 Federal Advisory Committee Act.

16 **SEC. 11. OFFSET OF AMOUNTS APPROPRIATED.**

17 Amounts appropriated to carry out this Act shall be
18 offset by a reduction in amounts appropriated to carry out
19 programs of other Federal agencies.

○

Chairman TOM DAVIS. This will be the eighth hearing conducted in the committee in recent years to discuss the need for a legislative tool that would authorize limited reorganizations of the executive branch intended to improve the operations and effectiveness of the Federal Government. Three hearings having been held to discuss the need to develop legislation to address overlap and duplication governmentwide; four case study hearings have been held to assess the extent of overlap and duplication in specific areas of Federal operations.

After spending the last 3.5 years exploring various approaches to eliminating the overlapping duplication, we are here today to discuss the merits of two particular proposals aimed at addressing the specific issues and to pose questions to the bill sponsors about the specifics of their proposals. The purpose is to give members in this committee an opportunity to ask their questions and raise their concerns before we reconvene tomorrow morning to conduct a business meeting to consider these two proposals.

I would now like to introduce our witnesses. Our first panel, Representative Todd Tiahrt and Representative Kevin Brady, have long championed the need to reduce waste, fraud and mismanagement in the Federal Government, and I applaud the witnesses.

The second panel of witnesses includes James Horney, senior fellow from the Center on Budget and Policy Priorities; and Charles Loveless, legislative director for the American Federation of State, County, and Municipal Employees.

I want to just welcome all of the witnesses to today's hearing, and I look forward to hearing their testimony. Any other Members who wish to speak.

Mr. Ruppersberger.

[The prepared statement of Chairman Tom Davis follows:]

"Cutting Out the Waste: An Overview of H.R. 5766, the Government Efficiency Act, and H.R. 3282, The Abolishment of Obsolete Agencies and Federal Sunset Act of 2005"
Opening Statement of Chairman Davis
Committee on Government Reform
July 19, 2006 at 10:00 a.m.
2154 Rayburn House Office Building

Good morning and thank you for coming. The purpose of today's hearing is to discuss two specific legislative proposals that have been introduced this Congress to improve the operations and effectiveness of programs and agencies in the federal government.

The first bill we will discuss today will be H.R. 5766, the Government Efficiency Act, which was introduced by Rep. Tiahrt earlier this month. The legislation would authorize the establishment of a bipartisan "Federal Review Commission" to study whether a specific aspect of federal government operations would function more efficiently and effectively if some or all of the relevant federal programs and agencies were reorganized, consolidated, abolished, expanded, or transferred. Legislative proposals drafted by the bipartisan commissions would then be considered in Congress pursuant to expedited procedures.

The second bill we will discuss today will be H.R. 3282, the Abolishment of Obsolete Agencies and Federal Sunset Act of 2005, which was introduced by Rep. Brady last year. The legislation would establish a bipartisan Federal Agency Sunset Commission to review and evaluate the efficiency and public need for every federal agency on a periodic basis and report its recommendations to Congress. The legislation would require a federal agency to be abolished within one year of the Commission's review unless Congress either reauthorized the agency or extended the deadline for abolishment.

This will be the eighth hearing conducted in the Committee in recent years to discuss the need for a legislative tool that would authorize limited reorganizations of the executive branch intended to improve the operations and effectiveness of the federal government. Three hearings have been held to discuss the need to develop legislation to address overlap and duplication government-wide; four "case study" hearings have been held to assess the extent of overlap and duplication in specific areas of federal operations.

After spending the past three and a half years exploring various approaches to eliminating overlap and duplication in the federal government, we are here today to discuss the merits of two particular proposals aimed at addressing the issue and to pose questions to the bill sponsors about the specifics of their proposals. The purpose of today's hearing is to give Members of this Committee an opportunity to ask their questions and raise their concerns before this Committee reconvenes tomorrow morning to conduct a business meeting to consider these two proposals.

I would now like to introduce our witnesses. Our first panel is composed of the two sponsors of the legislative proposals being considered today: Representatives Todd Tiahrt and Kevin Brady. Both Members have long championed the need to reduce waste, fraud and mismanagement in the federal government and I applaud their efforts in this regard. Our second panel of witnesses includes James Horney, Senior Fellow from the Center on Budget and Policy Priorities, and Charles Loveless, Legislative Director for the American Federation of State, County, and Municipal Employees.

I welcome all of the witnesses to today's hearing and I look forward to their testimony.

Mr. RUPPERSBERGER. First, I want to acknowledge Mr. Tiahrt and Mr. Brady. You are focussing on issues of fiscal responsibility and accountability. I might not agree exactly with your bill, but I applaud you for moving ahead.

Mr. Chairman, let me first thank you for having the hearing. I support efforts to seek to evaluate programs on their merits and increase government efficiencies. However, I have concerns about the two bills before us today. The lack of a truly nonpartisan commission leads me to believe that recommendations made by the commission could be politically biased and therefore result in program determinations that are not based on necessity or merit.

Some supporters argue that these sunset commissions would operate like the BRAC commission which has been successful in consolidating our military bases. However, BRAC commissioners, while appointed by the President, must be confirmed by the President—or by the Senate. This is a congressional check that is lacking in these two bills before us.

In addition, I have concerns about who is the most appropriate person or group of people who set policy and evaluate some very highly technical and sensitive Federal programs. While commissioners might have some expertise, they would certainly not be experts in all Federal programs. This is why we have a committee system here in Congress.

Committees allow Members to develop expertise in issues and programs that fall within their committee's jurisdiction. The question becomes, do we want people who may not have any expertise in any particular issue evaluate the usefulness of a certain Federal program? And whose role should it be to do oversight of Homeland Security and intelligence programs in the agencies? And I know Mr. Tiahrt is on the Intelligence Committee. I believe the answer to both is, Congress. I am looking forward to hearing your discussions, but unfortunately, I have to go to an Intelligence hearing. Thank you.

Chairman TOM DAVIS. Any other Members wish to make opening statements?

Mr. Porter.

Mr. PORTER. Thank you, Mr. Chairman, appreciate you having the hearing today.

And to our colleagues that are here sponsoring the bills, as you know, as subcommittee chairman, I have had a number of hearings myself on some duplicate programs, and I don't remember the exact details, but it seems to me there are six or seven different agencies looking at frozen pizzas across the country. One looks at pepperoni. One looks at cheese. One looks at hamburger. And as we had these hearings, these different agencies would defend their right to inspect those pizzas, and it really amazes me that we have so many duplicate programs. And I believe a lot of our Federal agencies are convinced, in fact, that we need duplications. And maybe there are times when that should happen, but after numerous hearings, listening to the arguments for and against, time and time again, there would be examples of programs that are duplicate and should not be removed entirely from our system, but those that are duplicated should be consolidated and certainly will do a better job serving the public.

One of the areas, if I recall, is 70 or 80 programs in our school system that are administered by three or four different agencies that are duplications across the country. So I could go on and on and on and on, and I just appreciate having this opportunity, and I would hope that this Congress would not let the perfect get in the way of legislation. There are those that agree and disagree with some of the process and procedures, but we owe it to the taxpayers of this country to make sure that we run our government as efficiently as possible. So I thank you for this hearing, and look forward to the testimony. Thank you.

[The prepared statement of Hon. Jon C. Porter follows:]

STATEMENT FOR THE RECORD
CONGRESSMAN JON C. PORTER (R-NV-3)
"Cutting Out the Waste: An Overview of H.R. 5766, the Government Efficiency Act, and H.R. 3282, The Abolishment of Obsolete Agencies and Federal Sunset Act of 2005""
July 18, 2006

Mr. Chairman, I would like to thank you for holding this very important hearing today on government efficiency. I would also like to thank the witnesses present for their participation and I look forward to hearing their testimony.

Through the years, Congress has created federal programs to meet pressing needs but has often lacked the 'big picture' perspective. The unfortunate consequence is rampant overlap and duplication in federal programs. In 2003, the National Commission on the Public Service issued a report titled, *Urgent Business for America.* This highly esteemed bi-partisan commission, comprised of numerous formerly high-ranking officials of the Clinton, Reagan and Bush I administrations, as well as prominent members of Congress from both sides of the aisle, recommended that "fundamental reorganization of the Federal Government is urgently needed to improve its capacity for coherent design and efficient implementation of public policy." The Commission found extensive evidence of duplication and overlap throughout the Federal government that has resulted in a waste of limited resources, an inability to accomplish national goals, impediments to effective management and a danger to our national security and defense. This must come to an end.

As Chairman of the Subcommittee on the Federal Workforce and Agency Organization, I have examined ways to streamline and reorganize excessive Federal programs and agencies, through H.R. 3276—the GRIP Act—that I introduced last year. H.R. 3276 specifically looked at creating a Results Commission to recommend to the President any duplicative Federal programs that needed to be reorganized. The principles of H.R. 3276 have been subsumed in H.R. 5766 - GEA. With the current budget climate and clear evidence of rampant duplication and overlap throughout the Federal government, it is more than timely that we consider H.R. 3282—the Sunset Act—and H.R. 5766 , two bills which I have cosponsored and which seek to control waste and ensure that the Executive is running as efficiently as possible.

It is my belief that these legislative efforts represent a thoughtful approach to making recommendations for controlling government waste. Under GEA, careful consideration will be given by a newly created Federal Review Commission, the President and Congress, should any programs be recommended for reorganization, consolidation, abolishment, expansion or transfer to another agency. Under the Sunset Act, Congress is empowered to become actively engaged in reviewing programs for which it authorizes funding on an annual basis. Agencies will no longer get a rubber stamp of approval; their need will be evaluated and the decision to maintain the program or agency will be left up to Congress to make the determination.

The American public deserves to have a legislature that is actively working to ensure that every tax dollar collected is being used for a clear and definite purpose. Redundant programs and inefficient agencies only serve to exasperate the process and are simply wasteful. American taxpayers deserve nothing less than assurances that their hard earned money is spent wisely. It is my belief that most Americans will applaud the efforts we are making today. We are laying a foundation for the future.

Again, Mr. Chairman, thank you for this hearing. I look forward to hearing the testimonies.

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Chairman TOM DAVIS. Thank you.

Our distinguished ranking member has arrived.

Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman.

This hearing is on two legislative proposals that have back door assaults on the laws that protect the health, safety and security of American families. The first bill introduced by Representative Brady, H.R. 3282, would automatically abolish every Federal agency within 12 years. It would—it just would—it is so amazing, it is worth repeating: It would automatically abolish every single Federal agency. The title of the bill is, Abolishment of Obsolete Agencies Act, but it doesn't identify obsolete agencies for abolition. It sets an extermination schedule for every Federal agency. Is the Centers for Medicare and Medicaid Services, which runs the Medicare and Medicaid programs that provide healthcare to millions of seniors, children and the disabled, obsolete? Is the Environmental Protection agency, which protects Americans from air and water pollution, obsolete? Is the Social Security Administration obsolete? Or the Occupational Health and Safety Administration, the Department of Veterans Affairs or the Department of Education? The answer is obvious. These Federal agencies aren't obsolete. They play a vital role in protecting the welfare of all Americans, yet all of them would be eliminated under the Brady bill.

I know there are Republicans who want to eliminate the EPA. The House Speaker, Newt Gingrich, said he wanted Medicare to shrivel on the vine. President Bush proposed cutting Social Security and eliminating important veterans' benefits, but none of these proposals could ever pass Congress. The public support for the programs is simply too strong, and you simply need to look at the Department of Education. I think the Contract for America—or as we call it, the Contract on America—called for the abolition of the Department of Education, and yet now that the Republicans have the majority and control over all the branches of government, I haven't seen any proposals to abolish that department. So the Brady bill is a clever effort to achieve the same results through the back door.

Today we are going to hear a lot of rhetoric about streamlining government and reducing waste, and we are going to be told that passing this bill is part of a Republican effort to make government more efficient. No one in Congress has done more than I have to rout out waste, fraud and abuse. Just last month I released a report identifying 118 Federal contracts with over $750 billion that are rife with waste, fraud, abuse and mismanagement, but not a single Republican has approached me about the study or suggested working together to eliminate this pervasive squandering of taxpayer dollars.

The real agenda here isn't wasteful spending. It is an effort to hold a legislative gun to the head of a number of important government priorities. If that bill passes, Republicans will say to Democrats, either you agree to weaken the environmental protections or privatize medical—Medicare and Social Security or slash veterans' benefits or we will sit back and allow the agencies that run these programs to expire. It is harder when you have a bicameral legislature to get a bill passed, which is what would have to happen to keep these agencies alive. A minority of a minority can often

threaten a filibuster, block action, and that would mean that there would be an automatic expiration of these agencies.

The Tiahrt bill, H.R. 5766, is less extreme, but its objectives are the same. Under this bill, there is no sunset. Instead, unelected commissions are created that can recommend abolishing or changing the function of Federal agencies. Then the recommendations must be voted on by Congress under fast-track procedures. The tiered bill is a massive transfer of power from the legislative body to the executive branch, and like the Brady bill, it puts key health and safety programs in constant jeopardy.

Mr. Chairman, I believe these bills are badly flawed, but I am glad we are having this opportunity to explore their consequences. While the bills are flawed, the two gentlemen who offered them are very fine gentlemen, and I have a high regard for them, so I wouldn't want them to take my comments in any way personally, but I do disagree with them on this legislation. And I am especially grateful that you accommodated our suggestion about the witnesses for the second panel, and I do want to correct—because I think credibility's important—I am not sure that abolishing the Department of Education was a contract, but it might have been one of the priorities for Speaker Gingrich and other——

Chairman TOM DAVIS. It was a subcontract for some people.

Mr. WAXMAN. Subcontract. It was a contract out, a contract on the Department of Education. But, Mr. Chairman, that outlines why we feel as strongly as we do on this issue.

[The prepared statement of Hon. Henry A. Waxman follows:]

Statement of Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
Hearing on "Cutting Out the Waste: An Overview of H.R. 5766, the Government Efficiency Act and H.R. 3282, the Abolishment of Obsolete Agencies and Federal Sunset Act of 2005"

July 19, 2006

Mr. Chairman, this hearing is on two legislative proposals that are backdoor assaults on the laws that protect the health, safety, and security of American families.

The first bill, introduced by Rep. Brady, H.R. 3282, would automatically abolish every federal agency within 12 years.

Let me repeat this: It would automatically abolish every single federal agency.

The title of the bill is the "Abolishment of Obsolete Agencies Act." But it doesn't identify obsolete agencies for abolishment. It sets an extermination schedule for every federal agency.

Is the Centers for Medicare and Medicaid Services, which runs the Medicare and Medicaid programs that provide health care to millions of seniors, children, and the disabled obsolete?

Is the Environmental Protection Agency, which protects Americans from air and water pollution, obsolete?

Is the Social Security Administration obsolete?

Or the Occupational Health and Safety Administration … the Department of Veterans Affairs … or the Department of Education?

The answer is obvious: these federal agencies aren't obsolete. They play a vital role in protecting the welfare of all Americans. Yet all of them would be eliminated under the Brady bill.

I know there are Republicans who want to eliminate EPA. Former House Speaker Newt Gingrich said he wanted Medicare to shrivel on the vine. President Bush proposed gutting Social Security and eliminating important veterans' benefits. But none of these proposals could ever pass Congress. The public support for the programs is simply too strong.

So the Brady bill is a clever effort to achieve the same results through the backdoor.

Today, we are going to hear a lot of rhetoric about streamlining government and reducing waste. And we're going to be told that passing this bill is part of a Republican effort to make government more efficient.

No one in Congress has done more than I have to root out waste, fraud, and abuse. Just last month, I released a report identifying 118 federal contracts worth over $750 billion that are rife with waste, fraud, abuse, and mismanagement. But not a single Republican has approached me about the study or suggested working together to eliminate this pervasive squandering of taxpayer dollars.

The real agenda here isn't wasteful spending. It's an effort to hold a legislative gun to the head of Democrats who care about environmental protection, Medicare, education, veterans, and Social Security. If the Brady bill passes, Republicans will say to Democrats: either you agree to gut environmental protections, privatize Medicare and Social Security, and slash veterans' benefits … or we will sit back and allow the agencies that run these programs to expire.

That's a Hobson's choice – and the sure loser is the American people.

The Tiahrt bill (H.R. 5766) is less extreme, but its objectives are the same. Under this bill, there's no sunset. Instead, unelected commissions are created that can recommend abolishing or changing the functions of federal agencies. Then these recommendations must be voted on by Congress under "fast track" procedures.

The Tiahrt bill is a massive transfer of power from the legislative body to the executive branch. And like the Brady bill, it puts key health and safety programs in constant jeopardy.

Mr. Chairman, I believe these bills are badly flawed. But I am glad that we are having this opportunity today to explore their consequences. And I am especially grateful that you accommodated my suggestions about witnesses for the second panel.

I look forward to today's testimony.

Chairman TOM DAVIS. Mr. Waxman, you have been consistent in that, and we appreciate all your support on both pieces of legislation. I think we could have a spirited debate.

I would say to Todd and Kevin, you have a lot of convincing to do in your opening testimony to bring Mr. Waxman over. We are trying to build this by consensus. I am not sure we will be able to do it on this issue, but I look forward to working with you on the other matters that you brought up.

Do you want to say anything, Tom? We will introduce Mr. Lantos very quickly for an opening statement.

Mr. LANTOS. Thank you very much, Mr. Chairman.

Today this committee is going to hear from some of our colleagues about legislation that would create commissions to abolish or reorganize Federal agencies and programs. And there is no Member of Congress for whom I have higher regard and more personal affection than my friend Kevin Brady. Opening statements will be made about trimming fat from the Federal budget, but the sad truth is that these bills are nothing more than the outsourcing of the work of the Congress, and it will deprive this body of its constitutional role as lawmaker and the check on the executive branch.

Instead of zealous oversight by Congress, the two pieces of legislation before us aim to create an unelected board to decide which agencies or programs within agencies are to be terminated. The system our Founding Fathers created over two centuries ago would give way to something that Kafka would like, a faceless body of unelected and unaccountable hatchet men working under the cloak of darkness.

I recognize, Mr. Chairman, that we in Congress have many obligations and never seem to have enough time to do all the people's work. After all, today is the 200th day of the calendar year, and despite that, under the present management, we have been in session only 62 days. Mr. Chairman, I am a professional economist, and I am sure that you will agree that a schedule that has us out of Washington so much of the time is not very efficient or economical in terms of the use of our resources. But I do not believe that a potentially unconstitutional delegation of our jobs is necessary to fix this inefficiency. I believe it is absurd to assume that a short-lived commission charged with reviewing multiple programs will have either the reach or the expertise of a standing congressional committee and its staff.

After reviewing this legislation, I was disturbed to think about the programs that have had such a profound impact on my constituents and yours could be cut in secret by an unelected and unresponsive board. For example, Head Start education program could be terminated, and not by the Education and Workforce Committee but by an unelected commission without public input and bypassing regular order.

Supporters of these commissions often liken them to the Base Realignment and Closure Commission or the Greenspan Social Security Commission of the 1980's. Unfortunately, there is no resemblance between these important and necessary commissions and this unnecessary and probably unconstitutional usurpation of congressional oversight which we are hearing about today. This pro-

posal may create a sunset commission, but it should really be called a midnight commission because it would work in the dark of night to eliminate programs which some Members of Congress despise but lack the political will to change. This legislation is nothing more than the outsourcing of congressional oversight, and I hope my colleagues will see through this charade and turn the lights out on these proposals.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Tom Lantos follows:]

Statement by Tom Lantos
Government Reform Committee Hearing on
"Cutting Out the Waste: An Overview of H.R. 5766, the Government Efficiency Act and H.R. 3282, the Abolishment of Obsolete Agencies and Federal Sunset Act of 2005"
July 19, 2006

Today this Committee is going to hear from some of our congressional colleagues about legislation that would create commissions to abolish or reorganize federal agencies and programs — and there is no member of Congress for whom I have higher regard and more personal affection than my friend Kevin Brady.

Eloquent statements will be made about trimming fat from the federal budget. But the sad truth is that these bills are nothing more than the outsourcing of the work of Congress, and will deprive this body of its Constitutional role as lawmaker and a check on the Executive branch.

Instead of zealous oversight by Congress, the two pieces of legislation before us aim to create an unelected board to decide which agencies, or programs within agencies, are to be terminated. The system our founding fathers created over two centuries ago would give way to something that Kafka would like: a faceless body of unelected and unaccountable hatchet men working under the cloak of darkness.

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After reviewing this legislation, I was disturbed to think about the programs that have had a profound impact on my constituents and yours could be cut in secret

by an unelected and unresponsive board. For example, the HEAD START education program, could be terminated -- and not by the Education and Workforce Committee, but by an unelected commission without public input and bypassing regular order.

Supporters of these commissions often liken them to the Base Re-Alignment and Closure Commission or the Greenspan Social Security Commission of the 1980's. Unfortunately, there is no resemblance between those important and necessary commissions and this unnecessary and probably unconstitutional usurpation of congressional oversight which we are hearing about today.

This proposal may be create a "Sunset Commission," but it should really be called a "midnight commission" because it will work in the dark of night to eliminate programs which some members of Congress despise, but lack the political will to change. This legislation is nothing more than the outsourcing of Congressional oversight, and I hope my colleagues will see through this charade and turn the lights out on this proposal.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you for your statement. I will just note, Congressman, that the Congress did outsource the 9/11 Commission, which came back with a number of recommendations that were then enacted, and on Katrina, the other side wanted to outsource that. We felt that was congressional. I guess it depends on the issue and where you stand on this. We will have a very spirited debate on this.

Mr. Gutknecht.

Mr. GUTKNECHT. Mr. Chairman, thank you. Where you stand depends largely on where you sit. And let me just say—and I suspect I may be stealing some of their thunder—I believe it was Mark Twain who once observed that the closest thing to eternal life is a government program, and we have tried a number of occasions to try to figure out how we can eliminate some of these unnecessary and duplicative programs, programs that have do have a constituency but, in the broader picture, really serve very little in terms of public purpose. And so I want to congratulate both my colleagues for being here today.

I think these are issues that deserve serious consideration, and I certainly do not agree with my colleague from California that this is going to be done in the dead of night. This is going to be done with plenty of input from lots of people. But by going outside the political arena only slightly, it gives us an opportunity to succeed where heretofore, since 1995, 1996, we really haven't had a whole lot in terms of victories in the way of eliminating some of these programs that have probably outlived their usefulness. So I congratulate my colleagues for bringing this forward, and I thank you, Mr. Chairman, for having this hearing.

Chairman TOM DAVIS. Thank you very much.

Mr. Tiahrt, we will start with you. At least you can convince me and Mr. Gutknecht. We are here.

STATEMENT OF HON. TODD TIAHRT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. TIAHRT. I am looking forward to the opportunity to convince not only Mr. Waxman and Mr. Lantos but other members of—those who are in adversary to this concept. I would like unanimous consent to submit testimony for the record.

Chairman TOM DAVIS. Without objection, so ordered.

Mr. TIAHRT. Mr. Chairman, over the past 12 years, my time in Congress, I have looked at several different methods of trying to gain supplemental help for Congress to do its job of oversight. When I review my schedule on an annual basis, I realize that I have a very full schedule, and I know that it is true for each and every Member of Congress. We have trips to our home districts. We have instances that arise unannounced. We have legislation that carries us well into the night. We have opportunities to run for reelection or get rehired every 2 years, and it keeps our schedule very full. And what is sacrificed with this busy-ness that goes on in our daily schedules is the ability to do proper oversight. There are many examples within the Federal Government of why there is a need for supplemental help in the oversight process. We heard earlier the gentleman from Nevada, Mr. Porter, talk about how many different people inspect pizzas across the United States. We

had for over a century somebody who was assigned to the Federal Government to do nothing but taste tea, and certainly as the chairman has pointed out, we have had, since Katrina, attempts for oversight of FEMA that have yet to be I think as productive as we would like. Certainly, if you look at FEMA and all of the problems that were addressed that came out of that event, we realize that FEMA had no idea where all their supplies were or what procedures were in place or what was needed at the time, and there are materials that they purchased to date that are still unused because of one reason or another. When I think of how the private sector has advanced, FedEx and UPS. If you send a parcel with them, you can go online and check to see the position of that parcel any moment in time and know whether it has been delivered or whether it is en route and where it is en route. FEMA couldn't even find out how many bottles of water they had. If you look at Ocean Spray, they can track a bottle of cranberry juice across the Nation. They know how many are in stores, what stores they are. They know when it is time to refill an order. FEMA hasn't kept track of all the trailer houses they have purchased yet. There is a need for oversight. Congress simply doesn't have the time to do it. So the need is very real.

This is a structure. This bill is a structure to set up the ability for us to have supplemental oversight. It consists of three members appointed by the President, four members that are taken after consultation with the majority—the Speaker of the House, the minority leader in the House, and the majority leader of the Senate and minority leader in the Senate. So there is congressional input on the selection of the committee. In addition to that, there is an opportunity for four ex officio members to attend the hearings, be part of the process, that are Members of Congress. For example, if it had to do with government oversight, the two ex officio members from the House could be Chairman Davis and Ranking Member Waxman who could be part of the process. Again, congressional input in the process.

Chairman TOM DAVIS. Does it pay anything?

Mr. TIAHRT. No. These are not—but you could put in for overtime as we do when we vote late.

This committee would exist for up to a year, depending on the time necessary. They would be awarded staff, but these are voluntary positions. These are nonpaid positions. The staff, of course, would be paid, but extensions would be picked up for those members who are serving on this commission. It would be given the time and the authority to investigate properly any of the agencies or programs that they are looking at. These programs, by the way, are selected by either an Executive order from the President or they can be selected by a resolution from either the House or the Senate. Once that is put into place, the commission is formed. They are selected. They spend a period of time investigating the program, and then they would return to Congress with a recommendation.

This recommendation would then go back through the congressional process of going through a committee for a specific amount of time. It could be amended, or it could not be amended. It will come to the House either with a recommendation or without a rec-

ommendation from the committee. But, again, Congress is involved in this process.

Some of the criticism I heard this morning is outsourcing Congress. This is not outsourcing Congress. This is entwining Congress in the supplemental effort to have oversight of Congress. Another comment I heard was massive transfer of power. This is not a massive transfer of power. Nothing gets off the floor of the House unless it receives a majority vote. Nothing gets out of committee either with or without a recommendation or with or without amendments unless it has a majority vote in the committee. So it very much inserts Congress in this process from the time it is formed until the time it is passed onto both houses and to the President's desk.

So I think what we have—and again, this is a structure. It is something that can be applied for different ideas or different problems that Congress faces over the next period of time. It is a framework. It is an ability for us to assist our job in oversight. It gives us necessary tools, and I would hope that the committee can successfully pass it onto the floor.

[The prepared statement of Hon. Todd Tiahrt follows:]

"Cutting Out the Waste:
Overview of H.R. 5766, the Government Efficiency Act"
House Committee on Government Reform
July 19, 2006

Testimony of Representative Todd Tiahrt

Mr. Chairman, thank you for the opportunity to testify before the committee today.

As I think you would agree, the President's tax cuts are to be commended for getting our economy moving in a positive direction again. However, the other half of the formula for economic success is to cut wasteful and unnecessary spending. It is certainly no secret that the federal budget is filled with examples of duplicative, inefficient, and failed Federal agencies and programs. I am also very concerned with the outdated systems that remain throughout the federal government – preventing modernization, efficiency, and better response to the American people.

I am here today to discuss legislation that I have introduced with Chairman Davis and Rep. Jon Porter. H.R. 5766, the

Government Efficiency Act (GEA) will eliminate much of the inefficiency and waste, fraud and abuse that persists in our federal government despite the desire of many of our colleagues and current and former Administrations.

Spending Concerns

When Republicans gained control of Congress in 1994, we proposed to eliminate wasteful and deficit spending. For several years, we held to that promise by modestly curtailing spending growth and balancing the budget in 1998 for the first time since the 1960s. Since that time, however, federal spending has jumped drastically and we have returned to a time of massive budget deficits.

Some of this increased spending is understandable — especially in the defense budget, considering the one-two punch of being under-funded by the previous administration and the exigencies of 9/11.

But there are billions of taxpayer dollars that go every year to federal programs and agencies that are redundant, wasteful, and

altogether irrelevant. There are meaningful ways that we can confront the deficit, including by rooting out fraud and abuse in our government.

Efficiency Concerns

Even my colleagues who are not as concerned with the growth in spending and size of the federal government concede that the federal government has gotten too unwieldy to be efficient and is not as responsive as it should be to the public, our constituents. The aftermath of Katrina highlighted not only the failures of local and state government, but also the inadequacy of the federal emergency management system. Most of that is due to outdated procedures, inefficient systems and overlap among agencies. Even tasks that are relatively simple in the private sector, such as tracking products, are lagging in the federal government where FEMA was not sure where supplies were or even how many it had.

We have also seen the negative effect inefficiencies and duplications in worker reemployment programs have on workers

who need retraining. We have tried to fix those, but there is much more to be done government wide.

Need for Commission

It has become increasingly clear that Congress' normal procedures cannot address the inefficiency, spending and waste problems that persist within our federal government.

In addition to parochial interests, Member schedules are so consumed by hearings, constituent meetings and other responsibilities, it is difficult to spend adequate time investigating deep enough in the federal bureaucracy to make meaningful cuts and provide thorough oversight.

Time and again, we see congressionally-authorized programs become institutionalized, ultimately becoming a permanent fixture at the expense of taxpayers. This ties up precious federal resources that could be used toward paying down the national debt or higher Congressional priorities.

Congress is making headway, the House Appropriation Committee did eliminate approximately 52 government programs

last year. However, it was just "the tip of the iceberg." Some government watchdog groups have conservatively estimated the federal government wastes $80 to $100 billion annually.

By cutting out unnecessary Federal programs and agencies, we will send a strong message that we are serious about exercising fiscal responsibility and controlling government spending. With this in mind, I have introduced a bipartisan piece of legislation that will accomplish this very purpose.

Since 1994 many of my colleagues – on both sides of the aisle – and I have worked on waste, fraud and abuse commission proposals.

Since the 107th Congress, I have introduced CARFA (Commission on Accountability and Review of Federal Agencies). Rep. Brady has worked hard on his Sunset Act. Chairman Davis has held several hearings on this issue in this Committee. Reps Porter, Brown-Waite, Garrett, Wolf, and others have also spoken out about their ideas for addressing these concerns.

GEA

This year I have worked with Leadership, the Government Reform Committee, Rep. Brady, and Members across the political spectrum on a bill to meet the concerns of waste, fraud, abuse and inefficiency in the federal government. A first step toward a stable financial future for this country and a streamlined, efficient federal government can be found in H.R. 5766, the Government Efficiency Act (GEA).

H.R. 5766 will

> "provide for the establishment of Federal Review Commissions to review and make recommendations on improving the operations, effectiveness, and efficiency of Federal programs and agencies, and to require a schedule for such reviews of all Federal agencies and programs."

GEA provides a framework for a disciplined government-wide review process by Federal Review Commissions.

Congress will have to vote on the Federal Review Commission's recommendations, the Committee(s) of jurisdiction will have time to review the report but there will be a time clock and the

Committee must report its findings in 30 days. The congressional log-rolling that normally bogs down the process will be short-circuited. Commission reports cannot die in committee. GEA further ensures a vote on the floor of the House. While amendments will be allowed, Congress will take commission reports seriously. In this way, real reform can emerge, and the deficit and debt problems can be brought under control.

H.R.5766 offers Congress and the Administration a unique opportunity: rather than simply re-fund and increase funding for every federal program, GEA will eliminate unproductive, duplicative and outdated programs.

Here's how the Federal Review Commissions would work: Either a Congressional Joint Resolution or Executive Order can establish a Federal Review Commission. A bipartisan Commission would consist of 7 members, 3 appointed by the President and 4 in consultation with the majority and minority leadership of the House and Senate. Members would be appointed for the life of the

Commission. The Commission's duties would then include conducting a top to bottom review of all federal programs and agencies. The Commission would seek to identify those programs or agencies that could be considered duplicative in mission, grossly wasteful or inefficient, outdated, irrelevant, or failed. Within a year of its establishment, the Commission would be required to submit to the President and Congress a plan with recommendations of the agencies and programs that should be realigned or eliminated and propose legislation to implement this plan. GEA would require congressional consideration of the review's findings under expedited legislative rules. In short, Congress would be voting "up or down" to continue or stop wasteful spending.

Under the framework of GEA, more than one Federal Review Commission could be established. GEA does not specify what areas the Federal Review Commission must target – everything is on the table. The Joint Resolution or Executive Order authorizing a Federal Review Commission would outline the scope of the Commission review.

Need for GEA

GEA's main focus is to make our government smarter and more efficient, and also to ensure that taxpayer dollars are not used to support programs such as the "Federal Tea-taster," who until 1995 headed the "Board of Tea Experts" which was created by the Imported Tea Act of 1897. Until this program's elimination just 10 short years ago, the federal government was spending $120,000 in salary and operating expenses per year to taste tea. Obviously this is only one example of the type of programs that Federal Review Commissions would target, but we know that our federal government is replete with programs such as this that make a mockery out of the hard-earned tax dollars that Congress provides.

Other examples of government waste that Federal Review Commissions could target include surplus lands owned by the Department of Energy, which if sold would save taxpayers $12 million over five years. We could save $1 million dollars every year by simply eliminating overlapping responsibilities and

reducing administrative positions at the Consumer Product Safety Commission. The examples of inefficient and wasteful government practices that could be targeted are far too numerous to cite in this short amount of time. However, it is clear to me that the need for GEA is very real.

The strict time limits governing the Commission, which would expire shortly after submitting its findings, would ensure that its costs are kept to a minimum. I believe that the savings that would occur as a result of the Commission's findings will more than justify the minimal expenses that the study might incur. In addition, it is worth noting that GEA requires that ALL funds saved by the implementation of this plan can ONLY be used for paying down the federal deficit.

Conclusion

H.R.5766 offers Congress and the Administration a test: Can we address a real and present problem by adopting a method that has been successful in the past?

An independent commission with no natural constituency would be able to objectively review the federal government. The commission could not only determine whether it makes sense for multiple agencies to provide the same service; it can recommend which agency is most efficient in providing the service. While I wish I could say Congress can provide this same oversight, reality indicates otherwise.

GEA is a realistic plan that will make genuine reform possible. I encourage this Committee to support to this viable solution to government waste and inefficiency.

If the GEA commission comes to fruition, it will give Congress arms-length distance to do the right thing and vote down ridiculous, redundant and outdated programs. Over fifty of our colleagues in the House have agreed to co-sponsor this legislation and our numbers are growing stronger. We hope to see the GEA

Chairman TOM DAVIS. Thank you very much, Mr. Tiahrt.

Mr. Brady.

STATEMENT OF HON. KEVIN BRADY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BRADY. Thank you, Mr. Chairman, Mr. Cummings, Mr. Gutknecht, for the opportunity to testify today.

I think this is the third opportunity I have had to testify before this committee over the past 10 years.

I spent a considerable amount of time visiting with Members about the sunset commission, educating about how it works in the 24 States that use it, and we are always looking for opportunities to improve it, and I, too, would like to have consent to submit my written testimony.

Chairman TOM DAVIS. Without objection.

Mr. BRADY. So I can be a little more brief. If there is an area where both parties can agree on, it ought to be that we can make this government run more efficiently. The programs ought not duplicate themselves. Our taxpayers ought to get the best bang for the buck, and it is not a Republican issue or a Democrat issue but a bipartisan issue to try to get the most out of our precious tax dollars.

The sunset commission is a bipartisan approach that seeks to do that year after year to trim this government, to streamline it, to make it work better for the taxpayers. This is not a crash diet. It is, take off pounds sensibly month after month, year after year, until we make this government run; make it just as healthy and just as fit and just as efficient as we in a bipartisan way can do it. Sunset commission is proven. It is thoughtful, and here is how it works. Sunset commission is comprised of 12 members appointed by the majority, the Speaker and the majority leader of the Senate and equally divided with the consent of the minority. These 12 members must be equally bipartisan, not with the recommendation of the minority; the consent, the agreement of the minority. And that is because when Congressman Jim Turner and I, and Congressman Lloyd Doggett and I, and a number of us worked on sunset issues in the State legislature and in looking at the 24 States that already do it, creating a truly bipartisan commission made up not just of outside members, but in this case, 8 of the 12 will be legislators themselves, Congressmen themselves, we know that is the best way long term. We want the sunset commission to work, regardless of who is in charge around here, regardless of who is in the White House.

The commission sets a schedule with the consent of Congress, puts a sunset date on every Federal agency that we deem. Our belief is that there ought not be any sacred cows. No agency runs as efficiently as it ought to. We want a model to justify its operations, its programs and how it serves the people. There ought not be sacred cows. And that is in truth how it has worked on the State level as well as very effectively. For the period that the agency is up for sunset review, the commission examines it. It looks at key issues: How efficient is it? What is the public need today, not the need 80 or 100 years ago? What type of public service are we providing? What type of customer service are we providing? What type

of public input do they regularly bring to their operations? Let's examine and measure how effective they are in responding to the Freedom of Information Act; how effective they are in providing equal opportunities to its workers; what type of programs they have that they duplicate for themselves; all of these, again, looking to a means to streamline, to identify duplication to make things run better.

I keep saying this is a proven method because it has worked in 24 States for more than three decades. States like California, like Texas, and it is sort of hard to describe as extreme or radical a program that has worked for more than three decades in governments, Republican and Democrat State governments across this country, and it has proven its value.

Texas, what I saw firsthand, Texas runs a good sunset commission. Over the years, it has abolished 52 State agencies, saved a little less than $1 billion and is strongly bipartisan. In fact, before this committee, Mr. Chairman, we have had both Democrat and Republican leaders of that sunset commission come here to testify as to its value. And at the Federal level, where on average every Federal program duplicates five others, we are simply at the time with this deficit and with this war, with the need to reduce the tax burden on American families, we just may need to make sure that we are running as efficiently as possible.

And so I will conclude with this: Some people say we ought not make agencies justify their existence, but the truth of the matter is that every Member of Congress on this dais is sunset every 2 years. The President is sunset every 4; the Senate every 6. As we speak, there are hundreds of State agencies across the country justifying their existence, and each day in America, thousands of small businesses go out of existence because they did not serve those that they sought to serve and have a need for it. I believe this will be the first time that, in a bipartisan way, we can say to ourselves, let's put up or shut up; produce or leave; let's put money toward the programs that truly serve the taxpayers and then not a dime to the programs that don't. The sunset commission is proven.

I would urge support, Mr. Chairman. Thank you.

[The prepared statement of Hon. Kevin Brady follows:]

Testimony of Congressman Kevin Brady
before the House Committee on Government Reform

"Cutting Out the Waste: An Overview of H.R. 5766, the Government Efficiency Act, and H.R. 3282, The Abolishment of Obsolete Agencies and Federal Sunset Act of 2005."

Chairman Davis and Ranking Member Waxman, thank you for the opportunity to come before the Committee to discuss government efficiency, specifically the benefits of Sunset and my legislation, H.R. 3282.

This is such a critical issue. The sun, the moon and the stars have aligned in a way that if we take advantage, we really can make some systemic changes. I have become convinced that if Congress were a manufacturing plant, we would manufacture spending. That is what we are good at doing. That is what we are designed to do. However, If we want to manufacture savings and efficiency, we have to retool the plant. You can't build minivans and just wish they would turn into sports cars. It simply doesn't happen. We need a proven, thoughtful, truly bipartisan approach to efficiency.

The problem is that once we create a federal program, it never goes away. As President Ronald Reagan once observed, "The closest thing to eternal life we'll ever see on Earth is a government program." He's right. Once they are created, not only do they not go away, but Congress clones them. On average, every federal program duplicates five others. We have 342 different economic development programs, over 500 different urban aid programs, 90 homelessness assistance programs and 50 different programs over 8 different agencies for helping with early development. At a time of war, with large deficits, we simply cannot afford this inefficiency.

Before we add another program, why not go back and eliminate the duplication? To do this, we need a proven way to approach the task. One where there are no sacred cows and where it is done in a way that every agency is held accountable to taxpayers and to Congress. The approach adopted in my legislation is creating a Federal Sunset Commission. Sunset is a thoughtful approach that has been used in 24 states over more than three decades with varying degrees of success.

In my home state of Texas, since the inception of Sunset in 1978, we have eliminated 52 state agencies, consolidated another 12 agencies and saved nearly $784 million. We have saved the taxpayers $36 for every $1 that we have invested in Sunset. Texas has done a pretty good job. I believe that by using the same thoughtful bipartisan approach we can produce tremendous results for taxpayers, while improving our delivery of important services.

After reviewing the examples of other states and our own experience in Texas, I found that Sunset has three key benefits. One, obviously, is cost cutting and

savings. In H.R. 3282, we create a 12 member bipartisan Federal Agency Sunset Commission. Half of the members are appointed by the House and half by the Senate. Half are recommended by the majority and half by the minority. Of the 12 members, four of them are also required to be public members.

Then, we set an expiration date on every federal agency where it goes out of existence unless it can prove its value to Congress and the taxpayer. Not its value 80 years ago when it was created or even 40 years ago, but agencies have to answer the question, "Do they deserve our precious tax dollars today?" What I have observed is that by putting an expiration date on each agency and performing at least two rounds of Sunset, the first round begins to hold agencies accountable. By asking questions like, "How are you spending the money? Are you following legislative intent? How well do you enforce the laws that we pass?," and by giving taxpayers a chance to comment on just how responsive federal agencies are to the customers they are supposed to serve, what I have seen is that the first round of Sunset tends to pick the low hanging fruit of cost savings and streamlining.

States that have gone to at least a second round of Sunset create the more important result of accountability on a permanent basis. Agencies adhere more closely to legislative intent, which I see as the second benefit. If agencies know they have to come back to Congress on a regular basis, and not in some empty accountability like reauthorization, but a real accountability like Sunset, you see them staying much closer to the legislative intent of Congress.

From my stand point as a legislator, the third benefit is the increased responsiveness of agencies that are scheduled to be reviewed under Sunset. When I was in the Texas Legislature, for the two years before any agency was scheduled to be Sunset, you would be surprised how quickly phone calls were returned, how well your letters on behalf of your constituents were answered and how the principle of customer service was introduced into government bureaucracies. Government agencies are there to serve taxpayers, not the other way around. In the years immediately before an agency's Sunset date, they began showing it. I want that to be a permanent part of every federal agency and for taxpayers to have the opportunity to weigh-in on whether an agency deserves to continue or not.

This Congress, my legislation has bipartisan support with over 100 cosponsors. Last Congress, the day the House took up budget reform it passed with 272 votes. I am confident that this legislation can move forward.

Mr. Chairman, I will close with this thought. If an agency cannot justify its existence to the taxpayers it serves, then it ought not exist. Sunset is a tool. We have to commit to it to be successful. We have to pick it up and wheel it the right way to make it work. Each agency must justify its existence. What we are really saying for the first time to the federal government is put up or shut up, produce or

leave. We will invest our precious tax dollars in the programs that work and not a dime for those that do not.

I think we are at that point in time. We are at war. We are running heavy deficits and we simply cannot afford the wasteful spending that has gone on for so long.

I am really looking forward to moving on this issue. I have been reviewing the various other proposals on government accountability and efficiency before this Congress, including Mr. Tiahrt's. I am absolutely confident that we can put together a real tool with real teeth. The past is now.

Chairman TOM DAVIS. Thank you.

Kevin, let me just start out by asking you, Mr. Waxman's assertion that, in 12 years, all these programs get abolished. Can you explain that?

Mr. BRADY. Yes, well, in truth, it doesn't work that way at all. What you want to do is set up a thoughtful schedule where you can look at each agency and not just by itself, which Congress tends to do, but grouping agencies by function so that you can group agencies across a broader field. That is what really that schedule drives at. The reason for a sunset date isn't so Congress will act. The truth of the matter is, we have had a lot of different studies both by Members and by agencies, but what do we do with those studies that help identify efficiencies? Rarely do we pick them off the shelf. The sunset date forces Congress in a sense to make sure we are looking at these key issues; that is all.

Chairman TOM DAVIS. To both of you, I mean, these ideas—to give Mr. Waxman's arguments some credence—I mean, these are really born out of frustration of Congress's inability and the administration's to work regular order to try to cull out ineffective programs; isn't that correct? So we look at extraordinary circumstances that maybe will work because we haven't been able to do the job.

Mr. TIAHRT. Well, the ship of state is a very large vessel. It is like an aircraft carrier. Members of Congress are like people in rowboats. And to get it to change direction means an awful lot of rowboats. This is a way for us to sort of increase the size of our vessel and get a little more help in trying to change the government to be a little more efficient.

If you look at our track record over the last generation, Congress has done very poorly at oversight, and it is just a simple fact that we don't have the time to do the oversight we need to do. These are supplemental tools that will help us with that, and I think it has risen out of a sense of frustration because many efforts have gone forward. We have had the Grace Commission; we have had other commissions that haven't had the ability to get things done. Both these proposals have some ability to get things done by imposing some form of milestone to accomplish that task. So I think there—a good step in the right direction. I think they will be used by both sides regardless of who is in power to help this government save money and use it where it has a higher priority.

Mr. BRADY. To mix metaphors, Mr. Chairman, I am convinced that, if Congress were a manufacturing plant, we would manufacture spending; that is what we are designed to do. If we want to manufacture savings and efficiency, we have to retool the plant a bit, and I keep stressing this. We have to do it in a bipartisan way, long term, over the years. We just can't be building mini vans and then hope that we can build a more energy-efficient car. You actually have to take steps, and in the design of Congress, we tend to look, as you know on this committee, we tend to look at the trees because that is our jurisdiction. Sunset gives an opportunity to look at the forest as well.

Chairman TOM DAVIS. Now, to be candid, only 39 percent of Federal spending is in the area that would be looked at. Is that correct? You have another 61 percent, at least under today's budget,

interest on the debt and entitlement programs that we don't look at here. Is that——

Mr. BRADY. Yes. And one thing about the sunset commission is that, again, I would encourage to hold all agencies under sunset review because you also look at how those services deliver. Are we delivering them to the people when they need them on time, efficiently, and that is key.

Chairman TOM DAVIS. Just to try to get a scope. We are not after entitlements here. That is another problem and issue that is going to have to be faced.

Mr. BRADY. Exactly. This is not the services. This is how well we provide these services.

Chairman TOM DAVIS. Mr. Tiahrt.

Mr. TIAHRT. The Government Efficiency Act that I am proposing here does have the ability to look at some areas of government that are mandatory that are not doing well. For example, in the State of Kansas today, one out of four Medicaid payments goes to the wrong address. It is in some fashion incorrect. Many aren't getting to the people that need to be paid. So that is something I believe we should be looking at. Why is the State of Kansas or other States so inefficient in distributing Medicaid funding? It should be, if we have somebody who qualifies, they should receive payment, and it is not happening today in my State, and so I think that would be one area where we could move forward in an area that quite often is protected by parochial interest, but this would allow us to be more efficient even in areas that are considered mandatory.

Chairman TOM DAVIS. Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Chairman, I will read my statement, and then ask questions if I have time. I want to thank you for holding this important hearing on these two legislative proposals. The Government Efficiency Act and the Abolishment of Obsolete Agencies and Federal Sunset Act, and I am going to ask Mr. Tiahrt and Mr. Brady to comment on one of my comments. They have been touted by the office as a way to oversee the work of the executive branch. I thought that was our job. Supporters of these so-called sunset bills present this as a good government issue. Pointing to jurisdictional overlaps in the Federal Government, they claim that commissions could be used to inform Members of Congress of the inefficiencies that exist.

As a member of this committee, I have consistently supported efforts to make sure government runs as effectively and efficiently as possible, but I am not in the dark when it comes to the true intent behind the sunset legislation. Under both proposals, no Federal program or agency is exempt from investigation. That means programs that have consistently been the targets of overzealous reforms, programs such as TANF, Social Security, Medicare and Medicaid, are incredibly vulnerable. I think that there is no coincidence in the fact that the same Members who support sunset legislation are the ones who have consistently worked to gut or completely obliterate these programs through reorganization, underfunding and privatization efforts. The reality is clear, sunset legislation is just another way for a group of determined lawmakers to black out our Nation's great social programs. Efforts to do so through traditional legislative means have sometimes failed. So we

are now seeing an attempt to bypass the democratic process by ramming these bills through Congress.

For the record, I am not opposed to setting up independent commissions that advise the work of the Congress, but the commissions that are being proposed here would not be independent and not really advisory. To the contrary, under H.R. 5766, commission members would be appointed by the President, and under H.R. 3282, they would be appointed by the majority party. If either bill passes in this session, the commission obviously would lean heavily Republican, likely creating a built-in partisanship and bias.

Even more troubling though, however, is the power that these commissions would have to fundamentally change Federal agencies and programs. Under H.R. 5766, commission proposals would be fast-tracked to the floor, bypassing the traditional legislative process. We do enough of that now. And under H.R. 3282, agencies would be abolished 1 year after being reviewed unless they were specifically reauthorized by Congress. These bills go far beyond an advisory capacity, cutting into the constitutionally mandated responsibilities of Congress. My 674,000 constituents gave me a certain level of power, and I don't want to lose one single bit of it. The work of Congress falls into three basic categories: making laws, conducting oversight and levying taxes. As an oversight committee, the Government Reform Committee is charged with identifying and addressing the areas where government is not running as effectively and efficiently as it should. For the most part, I think we have done a good job so far of putting partisan politics aside and evaluating Federal agencies and programs in a fair way. We may not always agree in our assessments, but dissent is a natural part of the democratic process. There are no compelling reasons for why we would hand over our oversight responsibility to a handful of partisan lawmakers or a Presidentially appointed commission. I hope that my colleagues who I know are well intentioned and who are supporting these bills would rethink their positions and listen to what the American people and their representatives are saying. Let's cut the waste, but let's not pretend that we are doing so by allowing allegedly independent sunset commissions to eliminate the vital programs which serve the neediest Americans.

And let me—and only just one question. Mr. Brady, you said something that I found very interesting when we talked about how effectively the State folks were working with sunsets; 36 States implemented sunset measures, for instance, in the 1970's and 1980's, but by 2002, almost half of those abandoned the concept and no longer have active laws. How would your bills differ from the failed sunset initiatives we have seen across the country?

Mr. BRADY. Mr. Chairman, if I may?

Chairman TOM DAVIS. Go ahead.

Mr. BRADY. A couple of things. For one thing, I think you have gotten some bad information. The sunset commission is not an independent commission. It is made up of 12 members, 8 of whom are lawmakers or Congressmen or women themselves. It is not merely appointed by the majority. It is appointed by the majority with the consent of the minority. It is an exactly equally bipartisan commission for a reason, because the States that have committed to be more efficient and to streamline have discovered the only way

to do it is to walk hand in hand in a bipartisan way and to do it over the years.

It is true; 36 States have used sunset; 24 still do today. In examining those, what I discovered was, some say governments simply weren't committed to trying to streamline their government effectively over the years. They did it one time and said, this is too hard or we don't like this. It is too hard to work. And so they abandoned them. This is a budget tool that doesn't happen by itself. We actually have to decide to do more than talk the talk about efficiency. Everyone around here, as you know—you have seen them—they like to talk about efficiency and waste and fraud and abuse, but the truth of the matter is, we do a miserable job in a bipartisan way trying to make this government run more efficiently. We have 350 different economic development programs. I confess, I don't know what they all are or how effective they all are. We have almost 500 different urban aid programs. I bet we can probably help inner cities better if we tried to look at how efficiently they are doing. For early development, which is a key I know for you, helping children get up to the right level before they start their school years, we have in early development 50 programs spread out over eight different agencies. I am not convinced we can't deliver those services better to those kids, and the only way we could in my view and the way this commission was designed was that if Republicans and Democrats have to work together over a long period of time regardless of who is in charge around here and regardless of who is in the White House, if we want this to be an effective budget tool, we are going to have to commit to it ourselves, and we always talk about, some day we are going to do it, but why not do it now?

Chairman TOM DAVIS. OK. Thank you very much.

Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman.

And again, I want to congratulate both of you because I have sort of been involved in this battle before. When I was in the State legislature, I took it upon myself to eliminate a number of State programs, and I found out how difficult that really, really is. And I just want to remind our colleagues of something: When this country was founded, the President of the United States, the government was so small, the Supreme Court only met about 2 weeks a year. The President of the United States was given the responsibility of also being the superintendent of the schools here in Washington, DC.

The government and the country have grown enormously in the last 200 and some years. As a result, it isn't just that we don't have time; it is just that the government has become so big that there is no way we can give adequate oversight to every single agency. And we have seen, as in the IBM ad that they ran for a number of months, where they had King Arthur and he was sitting around with some of his advisors, and they had hired this consultant, and the consultant throws a big bag into the center of the table, and King Arthur says, are you saying we should throw money at the problem? And the consultant says, precisely. And if you look at what we do, and I think Mr. Brady said it——

Chairman TOM DAVIS. I think that consultant is still alive in Washington.

Mr. GUTKNECHT. In fact, he has multiplied. There is a number of them out here. And that is basically the advice we get, whether we are dealing with the scourge of drugs or whether we are dealing with poverty programs or whether we are dealing with VA benefits or FEMA, all that, and so I know that this concept will have its critics, but I hope people will at least take a little bit of time and step back and say, look, the government has grown enormously in the last 200 years, and the idea that Congress has the time or the focus to really look at all of these programs objectively I think is hopelessly optimistic. And we have been throwing money at problems for a very long time, and some of those problems have actually gotten worse. And so I just congratulate you, and I don't particularly have a question. I mean, I understand what you are trying to do. I support what you are trying to do. I understand there will be lots and lots of critics, but I hope you will persist because I think, in the end, once the American people understand this debate, and understand this argument, I have to believe that the overwhelming number of Americans, even recipients of these programs, can perhaps be our best source of information in terms of the enormous inefficiencies that you see in the delivery of the services that many Americans do desperately need. So my hats are off to you, and I will help in any way I can to advance the cause.

Mr. TIAHRT. Mr. Chairman.

Chairman TOM DAVIS. Yes, Mr. Tiahrt.

Mr. TIAHRT. I want to thank the gentleman from Minnesota, Mr. Gutknecht, for his comments, but I would also want to address some of the things Mr. Cummings brought up if I could take some time. There is one area that I want to bring up, but I think it is being overlooked in the Government Efficiency Act, and that is the congressional involvement in the process. All the critics seem to think we are avoiding our responsibility or usurping our responsibility to oversight. But in this process, from the very beginning, the selection of the issue or oversight program comes from either Congress or the President. Congress has the opportunity through a resolution of either the House or the Senate to have something presented to this framework, this efficiency commission. There is also a congressional involvement in the appointment process, three appointed by the President, two with consultation of the House, ranking—or minority/majority, two from the Senate majority/minority. There is also the opportunity for ex officio congressional members to be a part of the commission. Four positions, two from the House, two from the Senate, and again, as I said earlier, if it was oversight, it could be Chairman Davis and Ranking Member Waxman. There is also—after the study is done by the commission, it then goes back to the Congress through the committee process. There is an amendment process; there is a recommendation process. Then it goes to floor vote of both the House and the Senate. There is deep involvement by elected Members of Congress in this process of oversight that is laid out by the Government Efficiency Act. And I just want to make that point for the critics.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

We will move to Mr. Lynch.

Mr. LYNCH. Thank you Mr. Chairman. I want to thank the members for coming before us with this initiative. I understand some of what you are trying to do, and I agree with some of it, but there are some serious questions here that I have. This looks a lot like the old Grace Commission, the Grace Commission was established by President Reagan basically to improve government efficiency, and it is funny how that worked out because the Grace Commission itself instead became a model of inefficiency, waste and corporate corruption. The commission had 2,000 staff members and cost the taxpayers about $75 million, and you know, it was laughable actually. The commission recommended cutting military retirement benefits, similar to what the President has proposed, eliminating wage fairness protections and also a lot of regulatory protections for the environment. And as it turned out, the chairman of the commission, Peter Grace was later indicted, and his company WR Grace was found guilty of violating the very regulations that he was trying to dismantle. And so that is clear in my mind, and I am very concerned about this.

It appears at least—the way these bills would work—and there are several versions, and I am going to talk about that in a minute—we would have to basically reconstitute government on a continual basis. We would have to revisit every single decision we have made and pull it up before Congress and both the House and the Senate and then give the President another chance to veto every prior decision of every prior Congress, and that just seems to me to create a tremendous burden on us, and I think it will really slow down the efficiency of government rather than enhance it. And I have enormous respect for both of the gentlemen that are here today testifying. I really do. I know you, and I know your work, and I appreciate what you are trying to do. But I am very concerned about—the President has suggested cutting veterans' benefits and eliminating COPS grants, and much of the work that we used to do in Congress we now dole out in community development block grants to the cities and States, and we ask them to do it. Now after we have given them the responsibility for doing the work we used to do, now we are suggesting cutting the money that we normally used to give them. And so it is just—I just think that it is a good idea to, you know, to get rid of waste, fraud and abuse. I don't think these bills necessarily have focused on that.

I do notice that, on a couple of earlier instances, both of the gentlemen, Mr. Brady and Mr. Tiahrt, before us have suggested similar bills but with some exemptions for certain programs that were deemed to be too important to subject to this process. And I am just wondering, for instance, Representative Brady, in addition to the bill before us today, H.R. 3282, you also introduced H.R. 3277, except in that case, it exempts certain regulations from abolishment regarding environmental health, basic health and safety, civil rights protections and those regulations that enforce those activities. Am I to assume that because the current bill before us doesn't have any exemptions that you no longer support those type of exemptions?

Mr. BRADY. No, I do. I think those are very important. Those came about because of discussions we have had with members over the years, and should this committee choose to mark the sunset

commission up, we will ask Mr. Porter to offer an amendment, who has worked with us as well, to insert those because the goal of the sunset commission is not to boss regulations on environment, education, civil rights, all that, that is not it. It is a way for you and me to, over time, over the years, very thoughtfully, Republican and Democrat, try to make this run more efficiently. And one of the reasons, again, Congressman Jim Turner and I, who served together in the Texas Legislature; Lloyd Doggett, who created our sunset commission; the wide range of philosophies that believe in accountability. Here is my other key point. We live in a time where we don't really trust each other up here, and so everything is seen as a partisan bill.

Mr. LYNCH. That doesn't apply to me. And I don't think it applies to you either. But——

Mr. BRADY. But it is a fair question. We have tried painfully to create a commission that will work regardless of who is in charge here, regardless who is running the House, Senate or the White House, so it will work over time because, in looking at the States that have used this, some not very well, some very well, it is that bipartisan approach that works.

Mr. LYNCH. Fair enough. If I could just, just reclaiming my time. Also Representative Tiahrt, you also, at one point, you introduced a bill, H.R. 2470, similar to the one we are considering today. However, H.R. 2470 expressly exempted entitlements, certain entitlements, and focused on nondefense discretionary spending. Now, I understand that Medicaid, Medicare and Social Security would have been exempted in the earlier version as well as, I guess, Defense. Now, given the fact, you know, the other subcommittee that I serve on here proudly is investigating Halliburton, we have about $9 billion missing over in Iraq, No. 1, do you still think that, you know, in light of all the waste, fraud and abuse that is going on in the Middle East and the huge numbers we are talking, should we still exempt the military? And do you think that Medicare, Medicaid and Social Security should be similarly protected?

Mr. TIAHRT. Thank you for the question, Mr. Lynch. And CARFA was designed—the first one you referred to was the Commission on Accountability and Review of Federal agencies, CARFA. It did set aside Defense because it was a BRAC-like process, a Base Realignment Commission process, that was being done in the Department of Defense. I set it aside. I didn't think we had time to look at other mandatory spending. But in talking with others about what is going on, certainly we need to look at what is going on with Halliburton and other contractors in Iraq and see if there is justification for how the money was spent or if it was—what happened to the money. I think that is a valid thing to look at. What made me open my eyes to other entitlements was the State of Kansas where I am from. I represent the Fourth District of Kansas, and I found out that in Medicaid payments, one out of every four Medicaid payments done by the State of Kansas is incorrect. It either goes to the wrong address, it has the wrong amount, or it doesn't get there at all. And I talked to Ways and Means about this. Ways and Means doesn't have time to do it. Somebody has to be able to go look at these issues that pop up where there is a problem, where people are not properly being served, and this is an issue that

could have been generated by me through a resolution on the House, and I think you would have supported me on trying to straighten out this process because people of need are not being served properly. So this is just a framework to address defense, mandatory spending and discretionary spending that says, if an issue pops up that we believe needs to be looked at with some leverage and with some additional tools, here is a framework to do it, and that is what the Government Efficiency Act is about. It involves Congress along the process. We can even initiate the issues like I would like to do with the State of Kansas, and I think you would join with me, and that is why I am trying to set up this framework for us to reach out and make this more efficient.

Mr. LYNCH. Well, I appreciate that, and I appreciate the spirit in which it is offered, but looking at this, you know, it seems to me that—and I will conclude my remarks—it just seems to set up a conveyor belt that every single regulation that we visit and settle on is going to be continually sent back to us, and we are going to have to revisit all of these on a continual basis. I think it is going to cause a tremendous amount of work here, and it is actually going to hurt the efficiency of government if we are reviewing programs that we are all in agreement that work. I would rather just focus on those problem areas, as you suggested. So it is not a question of what you would like to do. It is really a question of how best to do that. Thank you. I yield back.

Chairman TOM DAVIS. Thank you. Ms. Schmidt.

Mrs. SCHMIDT. Thank you, Mr. Chairman, and thank you Congressman Brady and Congressman Tiahrt for this legislation. When I was in the State legislature, we had situations where we really had duplicative agencies, and it was very difficult to get one of them removed because the bureaucracies that were created with those agencies didn't quite frankly want to lose their job, and I wish we had a provision that would automatically review the necessity of all of those agencies on a timely basis so that we could have better utilized the money that we were spending from our citizens in Ohio. It appears to me that this is what you are really looking at doing in this legislation; am I correct in assuming that?

Mr. TIAHRT. I think Kevin probably would want to address it. Periodically, the Government Efficiency Act was designed to set the framework that we could look at anything. There are three ways that an issue or a program or an agency could be looked at. One would be an Executive order from the President. The other one would be a resolution that was generated in the Senate. Another one, resolution generated in the House. Those things all would have to have congressional approval before anything was done, but it is a way for us or each Member to have the opportunity to bring forward some agency program or issue that needs to look—be looked at with more detail and more leverage.

Mr. BRADY. Congresswoman, tell me again the question on the regular——

Ms. SCHMIDT. The question was, on a regular basis, would this set up a mechanism that these agencies, these programs would be reviewed in sunset—there would be a sunset provision to see the necessity for these programs and the agencies that provide the framework for the program?

Mr. BRADY. Your examining on a regular basis is really key to identifying efficiencies. If agencies know that they are going to be examined on a regular basis, if Congress knows that they will be examining on a regular basis, and you continue to do it so that you never allow them to drift out, that we are always looking at better ways to deliver our government services, in the States that have really had success, that has been a key part of it. Those who stop—some States have stopped after one round of sunset, and then the efficiencies just sort of grow back. They trim the tree; they get it down a little healthier, and it goes away. The States that have continued to do this have the best results. And I will tell you, Congresswoman, I believe in sunset so much that agencies ought to justify their existence just like you do every 2 years that I sunset the sunset commission so if this thing doesn't work, we will send it back in 2.

Mrs. SCHMIDT. And the followup, sir. There is—what would the cost for this commission, and would we just be creating another unnecessary bureaucracy but albeit with a sunset just in case it didn't work to be eliminated?

Mr. BRADY. Thank you. The sunset commission, because it is made up of 12 members, equally divided Republican/Democrat, 8 of them Members of Congress, so that we have impetus within our ranks to continue this savings and efficiency. I don't have an estimate for the cost. At the State level, they are not huge commissions at all. And I know that, in Texas, we have this fairly sophisticated—does a good job I think, but for every dollar that they have spent in the commission, they have saved about $36 for taxpayers. So their return on investment is pretty solid. But even dollars aside, I actually think the best benefit of it, it has forced Republicans and Democrats throughout decades to work together on how we can make things run better; that to me has been even the greater benefit.

Chairman TOM DAVIS. Thank you.

Ms. Watson.

Mr. WATSON. Yes, I would like to read my statement because it contains the concerns that I have and questions, too. And I am very concerned.

And thank you, Mr. Chairman, for holding this hearing and for the two witnesses who have come forward with their own proposals. But I am very concerned about ensuring our constituents that our government indeed is free of waste, fraud and abuse. And I don't think it really gets to it because I see that we spend $8 billion per month in Iraq, and there is $9 billion, as has been mentioned, is missing, and we haven't had the kind of in-depth oversight hearings that we should. The Federal Government has a very important role to play in meeting the public's needs, and I want to make sure that our resources are serving those goals.

I am troubled by the sunset commission bills because I fear they will end up stripping away the programs we need to adequately serve the public. Since I myself was a State Senator, I have always been concerned about important public health issues, such as cardiovascular health, diabetes, obesity, and how these health issues lead to community health disparities.

Our State and local governments, and our nonprofit allies, are all doing good work to meet these needs, but they need help. There is too much work for them to be going and doing it alone. That is why we need Federal programs to help them out and put national resources into these national health issues.

Programs that could help meet these needs have been put on the chopping block. For example, the Rural and Community Access to Emergency Devices Program is a program to make grants available to areas that cannot otherwise afford the technology that can bring life or death for people experiencing sudden cardiac arrest. Rural areas and low-income communities need to close this gap in their public health resources.

The demand is great, but the resources are now insufficient: Between 2002 and 2004, less than half of the grant dollars requested by the States for this program were awarded.

The White House tried to eliminate this program entirely in the last budget, and Congress has been able to save this program from the chopping block. But if these sunset commission bills pass, Congress will have its hands tied.

So, Mr. Chairman, these bills do not represent what I feel the authors' intention might be; and I feel they would have significant impact on the poor and disadvantaged communities, who already suffer intense disparities. Neither of these bills has any exception—and if I am wrong, please correct me—and no program or agency is off limits from scrutiny; and I feel, from a national perspective, this is unacceptable. So I urge my colleagues to take a deep look.

I don't think these bills are ready to go forward, and I would like the two authors to come together with their bills and make it real clear what the exceptions and the exemptions are, what would be protected. I think we ought to look at the military programs as well, because I feel that is where a lot of the waste and probably fraud and abuse might rest, and I think just the social programs and environmental programs could come under the knife.

[The prepared statement of Hon. Diane E. Watson follows:]

Opening Statement
Congresswoman Diane E. Watson
Committee on Government Reform
Hearing: "Cutting Out the Waste: An Overview of H.R. 5766, the Government Efficiency Act and H.R. 3282, the Abolishment of Obsolete Agencies and Federal Sunshine Act of 2005"

Thank you Mr. Chairman for holding today's important hearing. I am very concerned about ensuring our constituents that our government is free of waste, fraud, and abuse. The federal government has a very important role to play in meeting the public's needs and I want to make sure that our resources are serving those goals. I am troubled by these sunset commission bills because I fear that they will end up stripping away the programs we need to adequately serve the public.

Since I was a California State Senator, I have always been concerned about important public health issues, such as cardiovascular health, diabetes, and obesity, and how

these health issues lead to community health disparities. Our state and local governments, and our nonprofit allies, all are doing good work to meet these needs. But they need help. There is too much work for them to be doing it alone. That's why we need federal programs to help them out, and put national resources into these national health issues.

Programs that could help meet these needs have been put on the chopping block, however. For example, the Rural and Community Access to Emergency Devices Program is a program to make grants available to areas that cannot otherwise afford the technology that can mean life or death for people experiencing sudden cardiac arrest. Rural areas and low-income communities need to close this gap in their public health resources. The demand is great, but the resources are now insufficient: Between 2002 and 2004, less

than half of the grant dollars requested by states for this program were awarded.

The White House tried to eliminate this program entirely in the last budget. Congress has been able to save this program from the chopping block. But if these sunset commission bills pass, Congress will have its hands tied.

Mr. Chairman, these bills do not represent good government. It would have significant impact on poor and disadvantaged communities, who already suffer intense disparities. Neither of these bills has any exception and no program or agency is off limits from scrutiny and this is unacceptable. I urge my colleagues to oppose these pieces of legislation and come up with a solution that would not hinder the American public and cost the federal government money.

Ms. WATSON. So my question to the two of you, do your bills currently have exemptions and exceptions for health safety, civil rights and environmental protections.

Mr. BRADY. Let me tackle that. Because I agree with you. Those are important regulations. Those are important to be protected. In one of our previous bills we intend to add that language that has come from discussions with Members of both parties.

Let me make one point very clear. The sunset bill in my view should not decide which agencies are exempted. Congress should decide that. The first order of business for the bipartisan sunset commission is to submit back to you and me, Ms. Watson, the schedule of the agencies when they come under review. If we feel some agency shouldn't or the timing is wrong or there is some motive we don't like, then we ought to move to exempt them and change that schedule.

Now I will tell you my view. I don't think we should exempt any agency. I think they should be held equally accountable. Because whether they are the Pentagon or Health and Human Services or whomever, I think we ought to be examining, as Republicans and Democrats, how well they do their job. And I don't believe looking at the State level, as you have in California with your sunset commission, what you are really looking to do is identify efficiencies, do it in a bipartisan way and deliver those services better.

And the Department of Education has been raised by Mr. Waxman, a great issue or agency to raise. At the State level, no major agencies have been abolished, but they've always examined how well they delivered their services. This is an opportunity whether it's the Pentagon, whatever agency it is, for us as lawmakers to look across a broader range of services, their public service, their programs, to find ways where we can do—where we can deliver those services better.

So the answer is, yes we are going to add those provisions. I think we will give you comfort.

Second, I think Congress will, in the separate legislation, approve the schedule so that you and I and Stephen and whoever else wants to have a say in what agencies are reviewing and what time table will have that final say.

Ms. WATSON. If we still have time, I'd like Mr. Tiahrt to respond.

Mr. TIAHRT. Ms. Watson, thank you for the question.

I think it is important to note that the Government Efficiency Act is not a policy driven act. It would not abolish any of our policies set forward like civil rights or health care.

Health care, though it would allow us, if we choose or if the President thinks it needs to be looked at for efficiency reasons, we could look at how Medicare is being delivered in Kansas. Now it doesn't eliminate Medicare by any means, but it could give them a more efficient way to present or to pay for and to provide health care to people who are poor in Kansas.

Something that I would like to do but I cannot get the help from the Ways and Means Committee, I don't have time myself to go back to the State and go through all of the system and try to get a more efficient delivery method, but if I could get a regulation through the House as an example and a commission was set up with congressional input, I would like to be one of the ex-officio

members so I could see how health care is being delivered to those who are living—who qualified for Medicaid in the State of Kansas; and I would like to help improve that process.

This would give me a means to do that in leverage, also. I could use the commission to help me find efficient ways of making sure that health care is properly delivered in Kansas. Right now, today, only three out of four attempts of getting a payment made properly in Kansas occurs. One out of four is incorrect or doesn't reach the proper person.

So I think we need some help. I think, if we admit it, we do need some help with oversight. This is a way of allowing Congress' input in this process to leverage on or process in oversight.

You also mentioned defense. Defense should be included. It is included in the Government Efficiency Act.

Chairman TOM DAVIS. I think what we need to do is move to the next panel. If you have one more question, I'll let you go ahead.

Ms. WATSON. My question is, is there a possibility that we can merge these two bills and, Mr. Chairman, bring a singular bill back that addresses the concerns that we have stated today and then go through it? Is that possible?

Chairman TOM DAVIS. I think we are on a time line where this comes next week.

Mr. Tiahrt, go ahead.

Mr. TIAHRT. We tried to merge the two bills for a long time. Stephen and I worked together for a long time to do it. I think it was a collective decision that we were supposed to merge them together. We wanted to merge them together. It was a collective decision not to. It was based on timing, and at some point I hope that we do have the ability to merge them because I think that the Government Efficiency Act provides the framework to carry out a sunset commission if it's chosen, and I think it should be. So we do try to merge them and thanks for the idea. It was a good idea.

Chairman TOM DAVIS. It is a long process here as we go through here and get to rules and the floor and who knows. But I appreciate your comments. Thank you.

We will take a 2-minute recess before we move to our next distinguished panel.

[Recess.]

Chairman TOM DAVIS. We have our next panel: James Horney, senior fellow, Center on Budget and Policy Priorities; and Charles Loveless, the legislative director, American Federation of State, County and Municipal Employees. Thank you both for being here. I look forward to your testimony.

Raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. As with our previous speakers, the entire testimony is in the record. If you can keep it to 5 minutes, the green light will go on, then the orange after 4, right after 5. We are having a vote sometime. Let's get through testimony, and we might get through questions.

Thank you.

Mr. Horney, we will start with you.

Mr. HORNEY. In addition to my written statement, I would like to submit for the record a paper that I have written that goes into some more detail about.

Chairman TOM DAVIS. That would be great. Without objection, be so ordered.

[The information referred to follows:]

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SUNSET COMMISSION PROPOSALS WOULD NOT PROVIDE "GOOD GOVERNMENT"

By James Horney

KEY FINDINGS

- The President and Congressional Republican leaders are advocating "sunset commission" proposals. Such proposals would facilitate the elimination of federal agencies and programs that have considerable public support and that would likely survive any attempt to abolish them through the regular legislative process.
- The leading sunset bills pending in Congress have a distinct partisan slant. A bare majority of commission members — appointed by Republican leaders — could recommend elimination of important programs. Under special procedures included in the sunset commission proposals, agencies and programs could then be eliminated without a single vote in favor of elimination by a member of the minority party.
- The commission's mission would be ideologically skewed, because it would be barred from proposing the elimination of "tax expenditures," which are the $800 billion spent each year on special interests and others through the tax code.

The House Government Reform Committee is scheduled on July 20 to mark up two bills that would establish "sunset commissions." These sunset commission proposals could be considered by the full House as early as the week of July 24.

The two bills before the Government Reform Committee are H.R. 5766, introduced by Representative Todd Tiahrt (R-KS), and H.R. 3282, introduced by Rep. Kevin Brady (R-TX). Somewhat different sunset commission proposals have been proposed by the Bush Administration (in addition to H.R. 3282, Rep. Brady also introduced H.R. 3277, which is a version of the Administration's proposal) and by Rep. Tiahrt, who, in addition to H.R. 5766, introduced H.R. 2470. In the Senate, a sunset commission proposal was included in the far-reaching budget process legislation (S. 3521) put forward by Budget Committee Chairman Judd Gregg (R-NH) and reported by the Budget Committee on June 20. (It is not clear when the Senate might consider that legislation.)

These sunset commission proposals have been promoted by their sponsors as "good government" reforms to increase efficiency and reduce waste. Examination of these proposals shows, however, that they have a darker side. Under the sunset commission proposals being considered by the House Government Reform Committee, as well as under the other leading proposals that have been introduced, extensive program terminations and reductions could be achieved via the use of extraordinary procedures. Far-reaching changes could be developed by a sunset commission and put into effect on a purely partisan basis, without any support at any stage of the process from a single member of the minority party and with minority-party members of Congress prohibited even from offering amendments at any stage of

Congressional consideration. In some versions of the sunset commission proposal, including H.R. 3282, agencies could be abolished even if Congress declines to pass the legislation containing the commission's changes.

Proponents of these proposals may argue that a sunset commission would identify wasteful, duplicative, or outdated programs that could be eliminated or realigned and could to help build broad bipartisan consensus in support of legislation to make such changes. If the proposal were designed in a manner to foster such a result, few would quarrel with it. That, however, is not the probable result of the leading sunset commission proposals.

- The commissions established under any of the leading sunset commission proposals would likely have a distinct partisan (and ideological) slant. Under H.R. 5766, the President would appoint seven members to any sunset commission he establishes.[1] The President would be required to consult with top Congressional leaders on the appointment of four of the members of the commission (he would be required to consult with the Speaker of the House on one appointment, the Minority Leader of the House on another, etc.). Assuming that the President would take the consultation seriously and only appoint members that the Congressional leaders approve of, there would almost certainly be a 5-2 partisan majority on the commission. Under H.R. 3282, the Speaker of the House and the Majority Leader of the Senate would each appoint six members of the commission.[2] Four of the commission members appointed would be members of the House, with no more than two from the same party and the minority members appointed with the consent of the House Minority Leader. Four of the commission members appointed would be members of the Senate, with no more than two from the same party and the minority members appointed with the consent of the Senate Minority Leader. This would likely result in an 8-4 partisan majority on the commission.

  The partisan majorities on the commissions are highly significant, because under these proposals, *only a simple majority of the commission* would be needed for the commission to pass its recommendations. Thus, the commission's recommendations could be developed and approved on a strictly partisan basis.

- The problems caused by the partisan way in which of the commission could conduct its business would then be exacerbated by another critical feature of all the leading proposals — the sunset commission proposals all include a mechanism to allow agencies and programs to be eliminated, regardless of whether legislation to accomplish that could be enacted through the regular legislative process. H.R. 5766 would provide for fast-track consideration of the legislation proposed by any sunset commission "to reorganize, consolidate, abolish, expand, or transfer the Federal programs and agencies reviewed by the Commission."[3] If the committee with jurisdiction over the proposed changes does not report the legislation within 30 days or reports the proposal

[1] H.R. 5766 grants permanent authority for establishment of sunset commissions — with no limits on the number of commissions or when they can be established — either by executive order or legislation that would specify which programs that particular commission would review.
[2] Under H.R. 3282, there would only be one commission, but that commission would remain in place until the end of 2030 (with new members appointed as their terms expire), reviewing every federal agency at least once every 12 years and submitting annual reports and recommendations to the Congress.
[3] It would seem that changes in any federal program — entitlement programs such as Medicare, as well as programs funded through annual appropriations — would be within the scope of a sunset commission appointed pursuant to H.R. 5766, subject to the executive order or legislation establishing the commission.

favorably without any amendments, the bill would then be considered by the full House under rules that would limit debate to 10 hours and prohibit consideration of *any* amendment on the House floor. If the Chairman of the committee of jurisdiction declines to schedule a markup of the commission proposal, there would not even be any opportunity for consideration of amendments in committee. Under these special procedures, the normal Congressional steps that can be used to try to develop consensus — committee mark-ups and the offering and consideration of amendments on the floor of the House — would be dispensed with.[4] As a result, a series of far-reaching recommendations entailing sharp program eliminations and cuts could be developed in the commission on a purely partisan basis and brought to a vote on the House floor, with the minority party barred even from offering amendments.[5]

- H.R. 3282 would use the regular legislative procedures for consideration of the commission's legislative proposals, but would require that every federal agency be *automatically abolished* one year after the sunset commission completed its review of the agency, unless new legislation to reauthorize the agency was enacted within this one-year window. (The President's proposal includes a similar provision, in addition to fast-track consideration of the commission's proposals.) That would enable Members of Congress who sought to kill various programs or agencies to try to achieve that result by blocking legislation to reauthorize the program within the one-year period.[6] Alternatively, the President could kill agencies simply by vetoing legislation to reauthorize them and having his veto sustained by one-third of either the House or the Senate. In this manner, agencies could be killed even if they enjoyed broad public support, and legislation to eliminate the program or agency could not possibly pass.

The sunset commission proposals thus go far beyond merely establishing a commission to study federal programs and make recommendations to Congress. These proposals would establish new procedures that could be used on a narrow partisan basis to ram through terminations or dramatic reductions in funding for a range of programs that could not otherwise pass on their own.

Nor would the commission be likely to add much knowledge about shortcomings in the operations of federal programs and how programs might be improved. The Office of Management and Budget, the Congressional Budget Office, and the Government Accountability Office all produce substantial amounts of information on these matters. The proposed commission would likely add little to the extensive information that these institutions already produce.

Below, this analysis examines and explains these issues in more detail.

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[4] If the committee of jurisdiction reports the commission's proposed legislation unfavorably, without recommendation, or with an amendment, the commission legislation would then be considered under the regular rules of the House. The majority members of the committee could that outcome without any votes from minority members of the committee.
[5] Although it presumably assumes fast-track procedures would be used in the Senate for consideration of the commission proposals, H.R. 5766 says only "language to be provided" under its "Consideration in the Senate" section
[6] It is not clear what the sunset of an agency means in Rep. Brady's bill. When essentially the same plan was considered by the House in 2004, one of the cosponsors of the plan (then-Representative Jim Turner, Democrat of Texas) maintained that "...the laws administered by these agencies do not sunset....We specifically have language here to ensure that the laws that administer various programs, and that are important to a lot of constituencies, do not disappear when the agency disappears." (*Congressional Record*, June 24, 2004, page H4975.) It is not clear what language in the legislation Representative Turner was referring to. Despite that reassurance to members who were considering whether to vote for that amendment, there was no language in it that made it clear that programs administered by an agency that is abolished would not themselves be abolished and there is no such language in H.R. 3282.

Sunset Commission Proposals Are Unlikely to Produce Promised Results

Proponents of sunset commission proposals argue that a commission will help to eliminate wasteful or duplicative federal programs and expenditures. The adoption of any of the leading sunset commission proposals would, however, likely produce results quite different from what the rhetoric surrounding these proposals would suggest.

A Sunset Commission is Unlikely to Result in Useful New Information

One argument for a sunset commission is that it would produce a significant amount of new, objective information that would help the President and Congress eliminate or reorganize wasteful or inefficient federal agencies and programs. It is unlikely that such a commission would have this result, however, since an enormous amount of information about federal programs already is available to the President and Congress. (Nor is there any reason to believe that the production of additional useful information is dependent on the existence of a sunset commission.)

The Office of Management and Budget, the Congressional Budget Office, and the Government Accountability Office all produce reams of information about the operations of federal programs and changes in those programs that might reduce costs. OMB, for instance, oversees the Program Assessment Rating Tool (PART) program, which it says is designed to assess "how well a program is performing, so the public can see how effectively tax dollars are being spent."[7] According to OMB, the performance of *all* federal programs will have been assessed under PART by the end of 2006. Furthermore, according to OMB, the PART assessments already provide exactly the kind of information that the sunset commission proposals envision: "Sometimes, a program assessment finds that a program is duplicative of other, better run programs or even that the program has already fulfilled its original purpose. In cases such as these, one of the follow-up actions might be to work with the Congress to end, or terminate, the program."[8] Questions have been raised about whether the information provided by the PART process appropriately and objectively determines whether a program is effective and efficient, but there is no reason to believe that a sunset commission would improve the quality of such information, especially since the commission likely would rest heavily on the work that OMB's PART process produces.

The Congressional Budget Office periodically publishes a *Budget Options* report, which includes numerous possible changes (more than 200 in the most recent volume) in federal programs or taxes that could be used to reduce the deficit.[9] CBO does not make recommendations to the Congress, but the *Budget Options* volume contains arguments for and against reducing or eliminating various programs, including claims that a program is inefficient or is not accomplishing its stated goal.

Finally, the GAO publishes hundreds of reports every year assessing the performance of government programs and recommending changes that could make the programs more efficient. In

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[7] OMB's ExpectMore.gov website explanation of the PART program, http://www.whitehouse.gov/omb/expectmore/about.html

[8] Ibid.

[9] Congressional Budget Office, *Budget Options*, February 2005, http://www.cbo.gov/ftpdocs/60xx/doc6075/02-15-BudgetOptions.pdf

particular, GAO's Performance and Accountability series of reports focuses on program areas "at high risk due to either their greater vulnerabilities to waste, fraud, abuse, and mismanagement or major challenges associated with their economy, efficiency, or effectiveness."[10]

A Sunset Commission is Unlikely to Produce Bipartisan Compromise Recommendations

In certain circumstances, a commission may be a useful mechanism to help the President and legislators of both parties reach agreement on steps that need to be taken to achieve some shared goal. For example, the "Greenspan Commission" helped forge the compromise Social Security legislation that was enacted in 1983, with the support of President Reagan, House Speaker Thomas P. O'Neill, and other Democratic and Republican members of Congress. That legislation extended the solvency of Social Security for a number of decades. The Greenspan commission was successful, however, because there was widespread agreement that extending the solvency of Social Security was crucial, that it would take a mix of policy changes (including both tax increases and benefit reductions) to accomplish that goal, and that the only way to pass the necessary legislation was with broad, bipartisan support. The commission was not viewed by either side as an attempt to ram through a partisan agenda that could not be enacted through the regular legislative process. The appointees to the commission reflected the desire of the President and Congressional leaders of both parties to develop a truly bipartisan approach to the problem. The fact that no legislation could have been enacted without broad bipartisan support encouraged the commission to produce a recommendation that represented a thoroughly bipartisan compromise.

Unfortunately, the conditions that exist today do not seem conducive to a commission like the Greenspan Commission. For instance, while we once again face the prospect that Social Security will become insolvent without changes in policy (although insolvency is not as imminent as in 1983), there is not yet general agreement among lawmakers that it will require a mix of policy changes on both the tax and benefit sides to solve the problem and that there must be broad, bipartisan support to enact such legislation. In 2001, for instance, President Bush named seven Republican and seven Democratic members to a Social Security commission, but limited the appointments to people who supported his proposal to divert a portion of Social Security taxes to establish personal savings accounts and who were willing to rule out closing even a modest fraction of the Social Security shortfall through measures to increase Social Security tax revenues. As a result, the commission did not produce a recommendation that could achieve the widespread, truly bipartisan support needed to achieve the necessary reforms in Social Security.

Similarly, although the appointees to President Bush's tax reform commission had somewhat more diverse views than his Social Security commissioners, they were required to agree to produce a reform plan that would produce a level and distribution of revenues consistent with what will occur under the current tax system if the President's 2001 and 2003 tax cuts are made permanent, a condition that made widespread bipartisan support for the panel's recommendations virtually impossible.

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[10] For links to some of these reports, see GAO's website: http://www.gao.gov/pas/2005/

Why BRAC is Different

Proponents of sunset commission legislation sometimes argue that the experience with the Base Realignment and Closure (BRAC) process shows it is necessary to establish special procedures to ensure that beneficial proposals recommended by an expert commission are implemented. This argument ignores the special circumstances surrounding decisions to realign or close military facilities that the BRAC process was designed to overcome.

Under BRAC, a commission appointed by the President, subject to consultation with Congressional leaders and confirmation by the Senate, reviews Department of Defense recommendations for realignment and closure of military facilities.* After extensive hearings and a review of the Defense Department recommendations by the GAO, the commission submits its recommendation for facilities to be realigned or closed. If the President approves those recommendations, they go into effect if Congress does not enact legislation disapproving the recommendations in their entirety within 45 days.

Some observers credit the BRAC process with facilitating necessary and desirable reductions in the number and size of military facilities that would have proved impossible to achieve in the absence of the BRAC process. If so, however, that does not mean a similar process would be appropriate to achieve the realignment or elimination of federal programs. BRAC was established to deal with a unique situation created by the dual benefits that military facilities provide — the benefits from the defense capabilities they provide (which accrue to all Americans and to other people around the world) and the economic benefits they provide to the communities in which they are located. There was widespread agreement starting in the 1980s that the United States had many more military bases and other facilities than were needed to provide for the national defense. Lawmakers who supported reductions in the number of bases, however, could not support legislation that would close bases in their own districts or states. The BRAC process provided a means to get around the peculiar geographical problem related to base closings.

Proponents of a sunset commission may argue that the problem we face with lawmakers who support reducing federal spending in general, but oppose legislation eliminating various specific programs, is the same problem that BRAC dealt with. That is not the case. There is a very large difference between allowing a commission to determine which particular military bases in which geographic locations (all of which serve the purpose of providing for the national defense) will be closed and deciding which programs (which serve numerous, different purposes) will be eliminated or cut. Moreover, decisions regarding terminations or reductions in programs generally do *not* involve decisions that single out some geographic locations while sparing others. The geographical decisions about which bases to close are ones that experts on a commission can probably make more appropriately than members of Congress who must try to protect their home districts or states. In contrast, decisions about which programs are truly important and necessary to the nation are exactly the sort of decisions that elected officials in a democracy are supposed to make, through a process that allows for full and open debate.

* The BRAC process was initially established in 1988, and (with some subsequent changes in the process) has also been used in 1991, 1993, 1995, and 2005. The desire to maintain an ongoing BRAC process, the technical nature of the decisions being made by the commission, and the requirement for Senate confirmation of commission members seems to have led to a more bipartisan approach to BRAC than would likely be the case with the sunset commissions that would be established under the proposals discussed here.

The proposed sunset commissions suffer from a similar problem. They would be charged with recommending terminations or reductions in federal programs, but this charge would *not* include the examination of any of the nearly $800 billion a year of measures in the tax code that the Joint Committee on Taxation and OMB have termed "tax expenditures" (and Alan Greenspan has

referred to as "tax entitlements") because they involve spending through the tax code. This skewing of the commission's mission, along with the current partisan political climate, make it unlikely that the commission would produce recommendations that can attract widespread bipartisan support. (Indeed, the fact that all of the sunset commission proposals contain some mechanism to enable programs to be eliminated or reduced *without* such actions being approved through the regular legislative process itself suggests that the proposals' authors do not anticipate that the commission's recommendations would engender broad, bipartisan support.)

And the fact that, as noted, either all or a sizable majority of the commission's members would be appointed by the party in power only aggravates this problem.

- Under H.R. 5766 and the Administration's proposal, the President would appoint all seven members of the commission. (He would be required to consult about one appointment each with the Speaker of the House, the Majority Leader of the Senate, the Minority Leader of the House, and the Minority Leader of the Senate.) This would lead to a 5-2 partisan majority on the commission.

- Under H.R. 3282, the Speaker of the House would appoint six members of the commission and the Majority Leader of the Senate would appoint the other six members, although two of the six members in each case would have to be members of the minority party appointed with the consent of the Minority Leader of the relevant body. If one party controls both Houses of Congress, this would lead to a 8-4 partisan majority.

- Under Chairman Gregg's plan, the President, the Speaker of the House, the Minority Leader of the House, the Majority Leader of the Senate, and the Minority Leader of the Senate would each appoint three members of the commission, with the result that 9 members would be appointed by Republican leaders and 6 by Democratic leaders.

The rules regarding the appointment process and the composition of the commission are of particular importance because, as also noted above, the proposals require only a simple majority vote for the commission to approve the recommendations it sends to Congress and the President. Bipartisan support on the commission would be unnecessary.

Proposals Include New Procedures to Achieve Program Cuts That Could Not Be Enacted Under Normal Legislative Procedures

The leading sunset commission proposals also would alter normal budget procedures to make it easier to achieve the elimination of a wide array of programs with the support of only a bare, partisan majority.

- H.R. 5766, the President's plan, and Chairman Gregg's plan all provide "fast-track" procedures for consideration of sunset commission proposals. The President and Chairman Gregg would require an up-or-down vote on the commission's proposals with limited time for debate — and with the *no amendments allowed.* H.R. 5766 would require the House to vote up or down on a commission proposal with no amendment allowed unless the committee with jurisdiction over the particular proposal rejects it or amends it (if the Chairman declines to schedule a markup of the

commission legislation, the fast-track procedures limiting debate and prohibiting amendments take effect). The normal legislative steps that tend to encourage consensus — committee markups, consideration of amendments on the House and Senate floors, and the need to assemble a filibuster-proof coalition in the Senate — would be eliminated and replaced with a process that facilitates the passage of legislation by a bare majority, with little or no support from the minority party and with the minority party prohibited from offering amendments at any stage. (By contrast, if recommendations to eliminate or sharply cut programs had to be considered under the regular legislative process, a recommendation that lacked bipartisan support would almost certainly falter.)

Under H.R. 3282, the commission's proposals would be considered under the regular legislative procedures, *but every federal agency would be automatically abolished one year after the sunset commission completed its review of the agency*[11] (the bill requires that each agency be reviewed once every 12 years), unless legislation is enacted during the one-year interval to reauthorize the agency. Proponents of eliminating a particular agency could try to achieve that result under Rep. Brady's bill simply by blocking reauthorization of the agency during the one-year period. Furthermore, if the President wanted to eliminate the agency, he could do so by vetoing the legislation reauthorizing it. If just over one-third of the members of either the House or the Senate voted to uphold his veto, the agency would be killed — even if it enjoyed wide support in both the House and Senate and legislation to eliminate it could not have come close to securing Congressional approval.

The President's proposal contains a similar provision. In addition to proposing fast-track consideration of legislation recommended by the commission (without any amendments allowed), it provides that agencies *and programs* be automatically abolished within two years after the commission's proposals regarding these agencies or programs are submitted to Congress, unless legislation is enacted in that two-year period reauthorizing the agencies and their programs. Under the President's proposal, if Congress fails to act to reauthorize an agency or program, the agency or program is automatically abolished, even if the commission did *not* recommend termination of the agency or program and called for no or only minor changes in how the agency or program operates.

Conclusion

The name "sunset commission" suggests a plan that will shed light on the operations of the federal government and allow a democratic consideration of ways to improve how the government serves the citizens of the United States. But the sunset commission proposals before Congress instead would set up a process that would allow those seeking to eliminate or reduce a wide array of significant programs to achieve that goal *without* having to go through the regular legislative process, which provides an opportunity to amend such plans. These sunset-commission proposals would allow the use of highly unusual procedures that would enable a bare partisan majority to seek to ram through radical changes in the federal government, with members of the minority party effectively shut out of the process. That hardly qualifies as a "good government" reform.

[11] It is not clear what the sunset of an agency means in Rep. Brady's bill. See footnote 5.

STATEMENTS OF JAMES R. HORNEY, SENIOR FELLOW, CENTER ON BUDGET AND POLICY PRIORITIES; AND CHARLES M. LOVELESS, DIRECTOR OF LEGISLATION, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES [AFSCME]

STATEMENT OF JAMES R. HORNEY

Mr. HORNEY. Thank you very much for having me, allowing me to testify today.

I want to start off by saying that I agree completely with Mr. Brady's main point, which is there are improvements in the government operation, greater efficiencies that be can be achieved that should be able to—and I think would—gain broad support from the public and broad bipartisan support in the Congress.

In fact, I think he's correct, that the only way you are really going to deal with these reorganization issues and Government Efficiency Acts is through long-term, bipartisan cooperation in the Congress. Unfortunately, I don't think the commission procedures that are in this two bills that are before you today are likely to lead to that result. Let me explain why.

The combination of the composition of the commission, the rules governing how the commission can report out recommendations and then the special procedures that allow either the elimination of the program or changes in the program or agency without legislation going through the regular legislative process is more likely to lead to partisan kinds of efforts that in the long run are not going to be successful.

First of all, the commissions established would have strong partisan majority case of 57–66. It would be 5–2 partisan, depending on who is the President at the time.

In the case of Mr. Brady's bill, he's absolutely correct, that the way the bill was introduced there would be eight Members of Congress and they would be four Democrat, four Republicans. But the way I read the bill as it was introduced, there is no requirement that the other four members who are not Members of Congress be from different parties; and it would allow the Speaker and the Majority Leader of the Senate, I believe, to appoint members that are all from the same party. It's possible that there would be an understanding now that is not how it worked, but since this is an ongoing process that would not necessarily keep.

So I believe in fact you would be likely to end up, if not now, at some point with an eight to four partisan majority split in that commission that would be established under H.R. 3282.

Second, the commissions that would be established can report recommendations with a simple majority vote. There is no requirement for having super majority, which means there is no requirement to get any support from the minority party members of the commission, no incentive for the members of the commission to search for a broad consensus on the commission.

I also need to point out here I think that in fact the legislation, both bills as drafted, really do not limit what the commission can recommend except in the case of H.R. 3282 which says specifically they can't recommend levels of appropriations. But in fact I believe, both bills, the commissions would be within the light set forward

in the legislation to report—recommend changes in entitlement programs and how they operate programs such as Medicare, farm programs and so on.

That may be not the intention of Mr. Brady, although Mr. Tiahrt said he thinks they should look at entitlement programs, but I think in both cases they could do that.

Then, under H.R. 5766, the legislation comes up and it could be considered under procedures that would be fast-tracked, allow very limited debate, no more than 10 hours on the House floor and no amendments on the House floor. As written, if the committee of jurisdiction over the particular proposal were to reject the proposal or report it with an amendment, then it is considered under regular rules of the House. But if it doesn't take either of those two steps, then the bill goes directly to the House floor for only 10-hour debates, no amendments. If the chairman of the committee of jurisdiction over the proposal declines to have a committee mark-up on the proposal, there wouldn't be any chance to have amendments in committee. This does not seem like a process, it seems, designed to encourage broad bipartisan support.

H.R. 3282 does include those fast-track procedures, but it does call for automatic sunset programs. The problem there, of course, is that a minority in Congress could block the reauthorization. In fact, if they have the support of the President, it would take just over one-third of either of the House or the Senate to prevent that legislation from going through.

Given the makeup of the committees, the way the commission would operate and the procedures that happen, I think it's more likely these procedures would encourage a partisan approach. I think that the leaders who would appoint the members of the commission and the members of the commission themselves would be under tremendous pressure from the most partisan members of their party to use this process to try to get things through that those members, both parties members, have been unable to achieve by convincing Congress that this is something that should be done through the regular process.

It's in stark contrast to the Greenspan Commission, people who have talked about as an example of a commission that worked that had an eight to seven split and no fast-track procedures, and it did encourage—brought bipartisan support. They had brought support across the commission and in Congress.

One last thing I would like to just note is it's not clear to me from H.R. 3282 what happens if an agency is abolished. Unlike the President's proposal, which says that agencies in the programs within the agency are abolished, it simply says programs, but it doesn't say what does that mean. What does it mean if the tests for Medicare-Medicaid services are abolished and no provisions are made in legislature for Medicare to be operated by another agency?

A similar proposal was offered on the House floor in 2004. One of the cosponsors, then Congressman Jim Turner of Texas, offered assurances to Members that no programs would be abolished; and he said there was specific language. But I can't identify any language in either that amendment or H.R. 3282 that makes that clear.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Horney follows:]

STATEMENT BEFORE THE HOUSE COMMITTEE ON GOVERNMENT REFORM ON H.R. 5766 AND H.R. 3282

July 19, 2006

By

James R. Horney
Senior Fellow
Center on Budget and Policy Priorities

Mr. Chairman, Mr. Waxman, and Members of the Committee, I appreciate the opportunity to appear here today to discuss H.R. 5766 and H.R. 3282, legislation that would authorize the established of so-called "sunset commissions."

With the permission of the committee, and in the interest of keeping my testimony brief, I would like to submit for the record a paper I have written (entitled "Sunset Commission Proposals Would Not Provide "Good Government") that goes into some detail about my concerns with the legislation you are considering today.

I do not believe anyone would argue that there are not changes that could be made in the organization of the federal government and the programs it operates that could improve the efficiency with which services and benefits are provided to the public (potentially providing both budget savings and better services and benefits). I certainly understand the interest of the sponsors of H.R. 5766 and H.R. 3282 in trying to find ways to identify and enact such changes, but I do not believe that either of these two bills would have the desired result.

I believe that the only way that real improvements in organization and efficiency will be achieved is through careful consideration of the enormous amount of information available about the operations of federal programs and a real effort to come up with recommended changes that can garner widespread, bipartisan support among the public and in Congress.

I fear that the sunset commission procedures proposed by H.R. 5766 and H.R. 3282 instead are likely to lead to recommendations that reflect more narrowly partisan and ideological considerations and that could not gain the widespread support necessary to be enacted under the regular procedures that offer opportunities for more full and open debate of legislative proposals.

I think this undesirable outcome is likely because of the combination of the rules for the appointment of members of the commission, the rules governing commission agreement on recommendations, and procedures that allow for terminations of or changes in agencies or programs without enactment of legislation through the normal process.

First, under H.R. 5766 and H.R. 3282, the commissions would have significant partisan majorities. H.R. 5766 calls for the President to appoint seven members to any commission that is established. Four of the members would be appointed in consultation with Congressional leaders (the Speaker of the House would be consulted on the appointment of one member, the Minority Leader of the House would be consulted on the appointment of another, etc.). Assuming that the President takes

the consultation seriously and appoints only members approved by the Congressional leaders, the commission would have a 5-2 partisan majority. Under H.R. 3282, the Speaker of the House and the Majority Leader of the Senate would each appoint six members to the commission, but two of the six would have be appointed with consent of the Minority Leader of the relevant house. If the House and Senate are controlled by the same party, there would be an 8-4 partisan split on the commission. (Obviously, if the houses are controlled by different parties, the commission would be split 6-6).

The partisan majorities on the commissions under these proposals are crucial because both H.R. 5766 and H.R. 3282 provide that the commissions can report and make recommendations with a bare majority vote of the commission. Thus, the commission can send recommendation to Congress that would eliminate or dramatically change a wide array of programs without the support of any minority-party member of the commission — there would be no need for bipartisanship on the commission. I should also add that, while the sunset proposals appear to be aimed at eliminating or reorganizing agencies or programs, there is nothing in the legislation that would prohibit the commission from including in their proposals legislative language that would change the way programs — including entitlement programs such as Medicare or farm programs — operate.

In the case of H.R. 5766, the legislation proposed by the commission could be considered under restrictive fast-track procedures in the House (the bill says that language governing Senate consideration of commission proposals is "to be provided"). Under the procedures set forth in H.R. 5766, if the committee with jurisdiction over the particular commission recommendation being considered rejects the proposal or adopts an amendment to it, the commission legislation would be considered under the regular rules of the House. But if the committee of jurisdiction does not report the legislation, or reports it favorably without any amendment, then the commission proposal would be considered by the full House with only 10 hours for debate on the bill and no opportunity for minority-party members (or any other member) to offer any amendments to it. If the chairman of the committee of jurisdiction declines to schedule a markup of the commission legislation, there would not even be an opportunity to offer amendments in committee. Thus, a commission recommendation adopted without any support from minority-party members of the commission could be passed by the House without any support from minority-party members of the House and without even any chance for minority-party members to offer amendments. This does not sound like a process that is likely to encourage bipartisan cooperation.

H.R. 3282 does not provide for fast-track consideration of commission recommendations. Instead, it provides that an agency is automatically to be abolished one year after it is reviewed by the commission(regardless of whether the commission recommends elimination of the agency) unless legislation is enacted that reauthorizes the agency. That means that an agency could be abolished even if it has the support of a clear majority of members of the House and Senate. If members of either the House or Senate want to eliminate an agency reviewed by the commission, all they have to do is block enactment of legislation that would reauthorize the agency. If the President supports them, then just over one-third of the members of either the House or the Senate could ensure that such legislation is not enacted by blocking the override of a Presidential veto of that legislation. Or those members and the President could extract a high price from supporters of the agency — such as substantial changes in programs administered by the agency — in return for allowing reauthorization legislation to be enacted.

Together, the partisan makeup of the commissions, the fact that the commissions can make a recommendation without any support from minority-party members, and the procedures that would allow agencies and programs to be eliminated without any support from minority-party members of Congress make it very likely that the commissions would operate in a very partisan manner. Without the need to attract any minority-party support, the leaders appointing members of the commission and the majority-party members of the commission would likely find it very difficult to withstand pressures from the most partisan members of their own party to try to use the commission to achieve changes in agencies and programs that those partisans have sought but been unable to achieve because such changes have not commanded widespread, bipartisan support.

This likely result stands in stark contrast to the commission that many people hold up as a model of how a commission can help Congress and the President achieve results that are highly desirable but politically difficult — the 1983 Social Security commission headed by Alan Greenspan. That commission had an 8-7 partisan split and no fast-track procedures were provided for consideration of the commission's proposal. The members of the commission knew that only a proposal with broad bipartisan support of the members of the commission had any chance of generating the support of the President and both parties in Congress that was needed to enact the commission's proposal. The commission made a recommendation that had broad support on the commission, gained the support of President Reagan, House Speaker Tip O'Neill, and other Congressional leaders, and passed Congress with broad, bipartisan support (after being extensively debated and the subject of many amendments).

In contrast, the sunset commission proposals in H.R. 5766 and H.R. 3282 are unlikely to foster a broad, bipartisan consensus on reorganizing the federal government. They are much more likely to result in minority-party members of Congress being excluded from the policy-making process to a greater extent than they already are under the regular legislative process.

In addition to these broad concerns about the sunset commission legislation, I would like to note one particular issue raised by H.R. 3282. As explained above, that bill provides that an "agency" is automatically to be abolished one year after it is reviewed by the commission unless legislation is enacted to reauthorize the agency. It is not clear to me what happens to the programs administered by an agency that is abolished. When a similar proposal was offered as an amendment in the House in 2004, one of the cosponsors of that amendment (former Democratic Representative Jim Turner of Texas) stated that "...the laws administered by these agencies do not sunset....We specifically have language here to ensure that the laws that administer various programs, and that are important to a lot of constituencies, do not disappear when the agency disappears." (Congressional Record, June 24, 2004, page H4975.) I have not been able to identify any language in that amendment, or in H.R. 3282, that specifically provides that programs administered by an agency that is abolished would not themselves be abolished and that leaves me very uncertain about what would happen to those programs.

Again, thank you for the opportunity to testify here today.

Chairman TOM DAVIS. Mr. Loveless, thank you.

STATEMENT OF CHARLES M. LOVELESS

Mr. LOVELESS. Thank you, Mr. Chairman, Mr. Gutknecht. It's a pleasure again to see you again.

I am testifying this morning not only on behalf of my unit but on behalf of the 14 million men and women who come from the AFL/CIO, and I want to make it very clear that we are fundamentally opposed to both of these bills. We are strong advocates of improving government accountability to the public. If we have time later, we can talk about some of our ideas in that regard, but we do not think that either of these bills is going in that direction. In fact, in the name of improving government efficiency, we think these bills are going to trample basic democratic processes and principles.

At its essence, sunset commissions—that sunset commission process is designed to further enhance the power of the executive branch, we think, over the legislative branch and to further exclude the public from decisionmaking. And this is because of the way that the commissions are composed under both of these bills, how they are to conduct their business and how the legislative process will unfold once a commission issues its recommendations.

Under the bill that's been introduced by Mr. Tiahrt, commissions would be established through appointments which are made by the President. Certainly the views of the executive branch are going to dominate commission recommendations, and the fast-track procedures that have been set forth for congressional consideration under his bill give precious little time for Congress to evaluate the recommendations of the commission.

We also think that executive authority significantly strengthens under the bill that is introduced by Mr. Brady. Because of the President's veto authority, agencies could be abolished even when you have a solid majority of both Houses of Congress who have acted to reauthorize an agency; and because a failure to reauthorize an important agency would really be a catastrophic outcome, we think that the leverage of the President is going to be really major and massive in that process.

There has been a recent disturbing trend noted by a number of observers of Congress that Congress has failed recently to live up to its oversight responsibilities, and these bills we think are going to codify a secondary role for Congress if the over—it is reached. We think it resolved for itself.

I have never quoted this man, but I am going to do it today. Former Speaker Gingrich I think said it well. He was at a—participated in a program I think during the last week, and he said clearly that Congress has failed effectively to respond to crises at home and abroad. He said—and I am quoting him—it is important to have an informed, independent legislative branch coming to grips with this reality and not sitting around waiting for Presidential leadership.

We do not need a new rigid, automatic process as imposed by these bills for Congress to meet its basic constitutional responsibilities. We have the budget, the appropriations and the authorization

processes whereby Congress can make any changes that it deems appropriate in programs and agencies.

The key point that I want to make this morning is that, in our view, these bills inevitably are going to be used to hurt programs that benefit working families. To get an insight into this, just look at the President's most recent budget submission where he targeted a number of education, social service, law enforcement and other programs and agencies that we think that benefit working families; and, of course, tax cuts that in recent years have overwhelmingly benefited the high-speed people in our country have been totally taken off the table.

But a substantial harm we think could also be caused by recommendations to change programs and agencies, including programs that eliminate worker productions, weaken enforcement, undermine the missions of programs and agencies through consolidation.

One example is a commission calling for the abolishing of the OSHA, our safety and health administration, but it could weaken its enforcement capacity and, therefore, it would be incapable of enforcing the regulations that have been set out for its responsibility to enforce.

I agree with Jim we have no doubt that the commissions established by either bill are going to be used to advance an agenda to severely cut back on Medicare, Medicaid and Social Security. We definitely think entitlements are covered in one way or another under these two bills.

Let me just conclude, Mr. Chairman, by saying that we believe that both bills are essentially undemocratic. They do not serve the public interest, and we think they should be rejected by this committee.

Thank you.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Loveless follows:]

Testimony of Charles M. Loveless, Director of Legislation
American Federation of State, County and Municipal Employees (AFSCME)
Before the Committee on Government Reform on the Government Efficiency Act of 2006 and the Federal Agency Performance Review and Sunset Act of 2005
July 19, 2006

Good morning, Mr. Chairman and members of the Committee. My name is Charles M. Loveless and I am the Director of Legislation for the American Federation of State, County and Municipal Employees (AFSCME), a union representing 1.4 million employees who work for federal, state and local governments, health care institutions and non-profit agencies.

We strongly oppose H.R. 5766, the Government Efficiency Act and H.R. 3282, the Federal Agency Performance Review and Sunset Act. In the name of improving efficiency, these bills would trample democratic processes and principles. In our view, the sunset commission process is designed to enhance the power of the executive branch over the Congress and to exclude the public from participating in policy-making. Depending upon the bill, this is seen in the composition of the commissions, the way they conduct their business and how the legislative process unfolds once a commission issues its recommendations.

A Shift of Power Away from the Legislative Branch

These bills represent a sweeping shift in authority away from the legislative branch which would represent yet a further usurpation of power by the presidency. Excessive power is ceded to the executive branch to decide what our government does and how it will do it. And this shift of power means that it will be much more difficult for the public to have its voice heard in the policy-making process.

Under the bill introduced by Rep. Tiahrt, commissions would be established through appointments made by the President. Clearly, the view of the executive branch will dominate commission recommendations. The fast track procedures for congressional consideration give insufficient time for the Congress to thoroughly consider recommendations. The limit on the ability of members of Congress to offer amendments during floor debates also diminishes the role of Congress in shaping policies.

Executive authority is also strengthened under the bill introduced by Rep. Brady. Because of the President's veto authority, agencies could be abolished even where a majority in both houses of Congress has acted to reauthorize an agency. And because a failure to reauthorize would cause such an extreme outcome, the President would have enormous leverage in shaping the reauthorizing legislation.

For far too long, the legislative branch of our government has failed to adequately exercise its oversight authority over the executive branch. These bills would codify the secondary role in lawmaking that the Congress has recently reserved for itself. If I may, I would like to echo and repeat a comment that former House Speaker Newt Gingrich recently made in reference to how Congress has failed to respond to crises at home and abroad. The former Speaker said that, "it's important to have an informed, independent legislative branch coming to grips with this reality and not sitting around waiting for presidential leadership."

We want to emphasize that Congress has the authority, through the budget and appropriations and authorization processes, to make any changes in agencies and programs that it deems appropriate. It only requires leadership and a consensus-building process that puts the public interest first.

Excluding the Public

We would also like to highlight the absence of any requirements in the Tiahrt bill that commissions hold public hearings or seek public input into their deliberations. Moreover, the fast track procedures leave too little time for the public to become engaged in debates over commission recommendations. Excluding the public from policy-making violates hallmark democratic principles of transparency, openness and accountability.

The Experience in the States

Many states have abolished their own sunset commissions after concluding that the reform experiment was a failure. According to the most recent analysis by the Congressional Research Service, all 50 states have considered sunset programs. Thirteen chose not to establish a sunset program; another thirteen that adopted them later repealed, suspended or allowed them to become inactive; several others substantially modified their sunset programs; and only 18 states continued their programs.

Sunset Commissions Are Not Modeled After BRAC

While proponents argue that sunset commissions are modeled after the Defense Base Closure and Realignment Commission (BRAC), there are important differences. BRAC had a discrete purpose centered on reorganizing or closing excess military bases. Under these bills, a sunset commission could have a much broader scope of responsibility, such as looking at all poverty programs or all health programs. BRAC commissioners were confirmed by the Senate, making them accountable to the Congress and the public. Importantly, BRAC proceedings were open to the public and the Congress.

This Legislation will Hurt Working Families

A number of programs and agencies will no doubt be targeted for elimination. A review of the President's latest budget gives us insights into which education, social service, law enforcement and other programs and agencies that could be abolished. But substantial harm could also be caused by recommendations to change programs and agencies, including changes that eliminate worker protections, weaken enforcement or undermine the mission of programs and agencies through consolidation, block-granting or privatization. For example:

- A commission might not call for abolishing the Occupational Safety and Health Administration, but it could weaken its enforcement mechanisms or establish a moratorium on writing new standards for hazards.

- A commission might not call for the elimination of programs that help pay for the construction of roads and other infrastructure. But there are 60 statutes that have Davis-

Bacon requirements that could be weakened or eliminated. Similarly, collective bargaining rights for transit workers are the result of provisions included in various federal laws that provide funding to state and local governments. These collective bargaining rights could also be eliminated.

- Civil rights protections for beneficiaries and workers are embedded in various laws that authorize programs, including Headstart and the Individuals with Disabilities Education Improvement Act (IDEA).

- A number of federal statutes prohibit employers from retaliating against whistleblowers who report violations of federal laws, such as the Sarbanes-Oxley Act and various environmental laws. We believe these also are at risk.

- The administration has pushed a plan to privatize 850,000 federal employee jobs. The House has rejected its plan because it is too biased in favor of contractors. A sunset commission could give new impetus and legitimacy to the President's plan. In fact, it is not hard to imagine a commission made up of favored contractors who develop a blueprint for dividing up government operations among themselves - an extreme version of political patronage that gives not a second thought to how the public interest is best served.

We are also alarmed that commissions established by either bill could be used to advance proposals to severely cut Medicare and Medicaid and privatize Social Security. These bills are a backdoor attempt to force unpopular and controversial changes in these crucial programs on which tens of millions of Americans rely.

In conclusion, we believe both H.R. 5766 and H.R. 3282 are fundamentally undemocratic and do not serve the public interest. Their passage would shut out the public from participating in important decisions about our government and codify a secondary role for Congress in policy making. In the end, it is the average family and the vulnerable who will suffer the consequences.

In closing, Mr. Chairman, I want to thank you for giving me the opportunity to testify today. I would be pleased to answer any questions you may have.

Chairman TOM DAVIS. Let me start, Mr. Horney, with you.

If we were to make the procedural changes that you suggested, which I think are very constructive, by the way, we still wouldn't be convinced that this is probably the way to go.

Mr. HORNEY. My gut reaction, it is better for the Congress to do its own work.

But I have to say there have been times when a properly constructed commission has helped. I think the 1983 Greenspan Social Security Commission is a good example, where you had a problem that everybody agreed had been solved. It was political and difficult. You had brought support. You had the President, you had the Speaker of the House, you had Republican and Democrat leaders who all got on board and said, let's do it, put a commission together to help us come up with something and generate public support and support in Congress.

So my first instinct would be I don't think it is time to do that here. I think that Congress can address these issues. It has done some, not enough.

It was interesting Mr. Tiahrt mentioned the tea tasting that has been eliminated. Congress has responded when it was identified——

Chairman TOM DAVIS. We bagged it.

Mr. HORNEY. Exactly. So when an egregious example was identified, Congress got rid of it. So my preference would be to do it through the regular process. If you need a commission I think with some changes, significant changes be both on the commission and not having the fast-track procedures, it could be useful.

Chairman TOM DAVIS. I mean, I think, Mr. Loveless, you put it well. You are skeptical of the whole agenda at this point.

Mr. LOVELESS. I think so. And I just—you know, we heard a lot about the experience of States—varying States are used to these commissions, but in fact it's been a very mixed record at the State level. A number of States have eliminated their commissions in this area. Even in the State of Texas, it's been a subject of some controversy.

But the fundamental difference between the States and the Congress is you are in year round. You are paid on a yearly basis. We are in all the time now. It seems like the Congress never goes home. You can't even take a vacation any more—let's be blunt about the whole thing—except for an August recess.

Most State legislatures are in for a very small amount of time, and they operate every other year, what have you. So we can even argue the need for these commissions at the State level. I think it is a very different situation when you talk about the Federal Government and the role of Congress.

Chairman TOM DAVIS. Let me ask you, it seems to me, as you take a look at trying to get spending under control, I think that is something everything should agree on. We can argue whether you have enough revenue and does it reduce economy. Everybody understands we want to operate and try to get spending under control and all have different priorities.

But it seems to me when government needs to lose weight, the tendency is to chop off fingers and toes. When in fact the fat, if you

will, is layered just throughout the way government does business and the way we procure goods. It is the way we react to things.

If we would settle more on some of the business process—the GAO has a lot of reports just showing programs that are not getting—you know, people that are getting mispaid, the systems that aren't working, that there is probably more money in that and are knocking out a few programs that you could reach a consensus on or consolidating programs.

Mr. LOVELESS. I don't disagree with that. I mean—and there are a number of what I think are very positive, constructive suggestions that are out there. I know that Congressman Tanner has recently introduced a resolution that would require committees of jurisdiction to hold hearings, at the minimum, when the Inspector General or the GAO issues a report critical to the way programs are being administered by agencies. That seems to me to be a very sensible thing.

We have another proposal—maybe I think this is too extreme—by Congressman Cardoza that would require reconfirmation of agency heads when agencies fail basic audits 2 years in a row.

There are a number of things that can be done, but what I object to is this automatic mechanical process that is fast-tracked that I do not believe is going to give you, the authorizing committees who should know the most about the programs under their jurisdiction, the kind of time that they need to make the kinds of assessments that need to be made.

Mr. HORNEY. If I could, one thing you noted, GAO, I think that in fact illustrates one important difference between the Federal Government and State governments. I think in some instances States may think that the commissions are useful because they need to get together people who can look at this and come up with ideas. They don't have the Office of Management and Budget that is running the part assessment program. They don't have the Government Accountability Office which, as you said, has enormous numbers of suggestions. They don't have a Congressional Budget Office that every other year publishes a budget options book with a lot of options. So there is a lot of information that is currently available about things that can be done to improve the operation.

Chairman TOM DAVIS. A lot of this is also congressionally driven. When you get right down do it, jurisdiction drives this place and you get programs under different agencies duplicating everything else and you are asking for help.

Look, I think you have given this a lot of thought. You give us some room on this. I am not sure we are going to get it worked out tomorrow. I think over the long term, as we get real on this, your comments are appropriate and I think give us a lot of food for thought when we get down to if this thing is going to happen or we get into conference. I appreciate you being here. I want you at the table should this come about. I think you represent a point of view and a constituent that needs to be there as well. I thank you for being here.

Mr. Gutknecht.

Mr. GUTKNECHT. I want to thank the witnesses and for the record to note that two Republicans were here to listen to your testimony. I think that should be noted.

And I want to thank you for your testimony. I think there are philosophical differences we might not be able to bridge, but I do agree that we have fallen down on congressional oversight. But I do hope you understand there are limits to how much we can do, and there are all kinds of problems out there, and we don't pay enough attention to GAO and some of the agencies.

Mr. Chairman, I do want to make this statement publicly. Having just come back from Iraq, I think there is one area that is absolutely crying out for congressional oversight hearings and that is that these contractors that we have hired for reconstruction and other efforts in Iraq—we have spent hundreds of millions, if not billions, of dollars, taxpayer dollars; and the results I saw were not what I expected to see. And it seems to me we have an obligation to the American taxpayers and to the Iraqi people to have some oversight hearings in terms of the contractors.

Incidentally, just for the record, I was told by some of the people on the ground over there that, actually, Halliburton has been one of the good actors. They've actually done most of what they said they were going to do. It may have been at inflated costs, but some of the other contractors have taken a lot of money and we see almost no results. If there is one area where Congress should take very swift action and that is to have some oversight hearings on the contractors that have received enormous amounts.

Chairman TOM DAVIS. We have done four, and we are going to do more this year; and we can do 30, and it probably wouldn't be enough.

Mr. GUTKNECHT. I am much more interested in that particular issue. But I am not sure we will bridge this philosophical divide.

Some of us believe—here's what I believe. If you see what is happening in the private sector today, every single company that I deal with in my district every day is trying to become more and more efficient. Why? Because the marketplace demands it, the pressure of the marketplace. They have competition.

In fact, a classic story there is a little company in Redwing, MN. It makes boots. And the president of Redwing tells me—he said, every day I spend part of my day trying to figure out how to put more value in every boot we make here in Redwing, would be minimum at less cost. He said, do you know why I do that? I said, no, I don't. He said, because if I don't, my competitor will.

The difference between us and the private sector is we have no competition, and there isn't that tension and that pressure every day. I think these two bills are an attempt to bring some of those outside tensions or pressures to force the Congress to do what it should be doing every day.

So I thank you for your testimony. We have a slightly different philosophical viewpoint of this, but we would welcome any of your help in trying to make us more accountable to the taxpayers who pay the bills.

Chairman TOM DAVIS. Thank you.

Mr. Horney, I'll read what you have put in the record in addition, which—you didn't have to give this. But I appreciate both of you being here and look forward to hearing from you again.

[Whereupon, at 11:35 a.m., the committee was adjourned.]

[The prepared statement of Hon. Elijah E. Cummings follows:]

U.S. House of Representatives
109th Congress

Opening Statement

Representative Elijah E. Cummings, D-Maryland

Full Committee Hearing:
"Cutting Out the Waste: An Overview of H.R. 5766, the Government Efficiency Act and H.R. 3282, the Abolishment of Obsolete Agencies and Federal Sunset Act of 2005"
Committee on Government Reform

July 19, 2006

Mr. Chairman,

Thank you for holding this important hearing on two legislative proposals that would establish commissions to examine our federal agencies and programs.

"The Government Efficiency Act" (H.R. 3282) and the "Abolishment of Obsolete Agencies and Federal Sunset Act of 2005" (H.R. 5766) have been touted by their authors as a way to oversee the work of the executive branch.

I thought that was our job.

Supporters of these so-called "sunset bills" present this as a "good government" issue. Pointing to jurisdictional overlaps in the federal government, they claim that commissions could be used to inform Members of Congress of the inefficiencies that exist.

As a member of this committee I have consistently supported efforts to make sure government runs as effectively and efficiently as possible. But I am *not* in the dark when it comes to the true intent behind "sunset" legislation.

Under both proposals, no federal program or agency is exempt from investigation. That leaves programs that have consistently been the targets of overzealous reforms—programs such as TANF, Social Security, Medicare, and Medicaid—incredibly vulnerable.

I think there is no coincidence in the fact that the same Members who support sunset legislation are the ones who have consistently worked to gut or completely obliterate these programs through reorganization, under-funding, and privatization efforts.

The reality is clear: Sunset legislation is just another way for a group of determined lawmakers to blackout our nation's great social programs.

Efforts to do so through traditional legislative means have sometimes failed, so we are now seeing an attempt to bypass the Democratic process by ramming these bills through Congress.

For the record, I am not opposed to setting up independent commissions to advise the work of Congress. But the commissions that are being proposed here would be not be independent, nor merely advisory.

To the contrary, under H.R. 5766, commission members would be appointed by the President, and under H.R. 3282, they would be appointed by the Majority Party. If either bill passes in this session, the commissions obviously would lean heavily Republican, likely creating built-in partisanship and bias.

Even more troubling, however, is the power that these commissions would have to fundamentally change federal agencies and programs. Under H.R. 5766, commission proposals would be fast-tracked to the floor, bypassing the traditional legislative process. And under H.R. 3282, agencies would be abolished one year after being reviewed, unless they were specifically reauthorized by Congress.

These bills go far beyond an advisory capacity, cutting into the constitutionally-mandated responsibilities of Congress.

The work of Congress falls into three basic categories: making laws, conducting oversight and levying taxes.

As an oversight committee, the Government Reform Committee is charged with identifying and addressing the areas where government is not running as effectively and efficiently as it should. For the most part, I think we have done a good job so far of putting partisan politics aside, and evaluating federal agencies and programs in a fair way.

We may not always agree in our assessments, but dissent is a natural part of the democratic process. There is no compelling reason for why we would hand over our oversight responsibility to a handful of partisan lawmakers, or a Presidentially-appointed commission.

I hope that my colleagues who are supporting these bills will rethink their positions, and listen to what the American people—and their Representatives—are saying.

Let's cut the waste, but let's not pretend that we are doing so by allowing allegedly independent sunset commissions to eliminate the vital programs which serve the neediest Americans.

I look forward to the testimonies of today's witnesses and yield back the balance of my time.

QUESTIONS

The following witnesses are expected to testify:

Panel 1

The Honorable Todd Tiahrt, sponsor of H.R. 5766

The Honorable Kevin Brady, sponsor of H.R. 3282

- Mr. Tiahrt and Mr. Brady, last month 278 unions and public interest groups sent a letter to Congress opposing the establishment of sunset commissions. Do you think the public is behind you on this effort?

- Mr. Tiahrt and Mr. Brady, neither of your bills provide exemptions for programs that have traditionally been the target of reforms, programs like Social Security, TANF, Medicare and Medicaid. I'm concerned about how they would fare. Is it your understanding that these programs would be subject to review, and, if so, how can we ensure that this will not turn into a politically-motivated attempt to gut or eliminate them?

- Mr. Tiahrt and Mr. Brady, 36 states implemented sunset measures in the 1970s and 1980s but by 2002, almost half of those abandoned the concept and no longer have active laws. How would your bills differ from the failed sunset initiatives we have seen across the country?

- Mr. Tiahrt, your bill would "fast track" commission proposals through Congress, giving us less time than usual to review them. I'm concerned that this would limit our authority to conduct our own oversight investigations. Why do you think it's necessary to limit the amount of time we have to review these proposals?

- Mr. Tiahrt, your bill would allow the President to appoint seven commission members, with Congressional input for only four of them. Why would you give the executive branch so much sway in the oversight of executive agencies and programs?

- Mr. Brady, your bill would require Congress to reauthorize programs and agencies within a year after the commission reviews them. I'm concerned about adding another mandatory item to the floor schedule. As you know, we already have a difficult time passing appropriations bills every year. How do you think your bill would affect the schedule?

- Mr. Brady, under your bill, federal agencies and programs would be automatically eliminated if they were reviewed by a commission but not reauthorized by Congress. I'm concerned that this would force the hand of Congress, taking away our ability to set the agenda. What is your reaction to that?

- Mr. Brady, I'm concerned about the constitutionality of your bill. The commissions you are attempting to set up seem like they would overstep the oversight authority of Congress. How could we protect our oversight authority under this bill?

Panel 2

Chuck Loveless, Legislative Director, American Federation of State, County and Municipal Employees (AFSCME)

James Horney, Senior Fellow, Center on Budget and Policy Priorities

- Mr. Loveless, AFSCME joined 278 unions and public interest groups in opposing this proposed legislation. Can you give me an idea of how sunset commissions would potentially affect employees?

- Mr. Loveless, from a grassroots perspective, are people on the ground aware of these commissions, and if so, what is their take on them?

- Mr. Horney, we already provide Congressional oversight through committees like this Committee on Government Reform. From your perspective, should establishing these commissions be a priority or would they be duplicating the work of Congress?

- Mr. Horney, setting up commissions comes at no small cost to taxpayers. Do you have an idea of how much these commissions would cost, and do you think they are a worthwhile expense?

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