AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

108TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
108–768

PROGRAM ASSESSMENT AND RESULTS ACT

OCTOBER 8, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government Reform, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3826]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 3826) to require the review of Government programs at least once every 5 years for purposes of evaluating their performance, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Committee Statement and Views	4
Section-by-Section	8
Explanation of Amendments	10
Committee Consideration	10
Rollcall Votes	11
Application of Law to the Legislative Branch	12
Statement of Oversight Findings and Recommendations of the Committee	12
Statement of General Performance Goals and Objectives	12
Constitutional Authority Statement	12
Federal Advisory Committee Act	12
Unfunded Mandate Statement	12
Committee Estimate	12
Budget Authority and Congressional Budget Office Cost Estimate	13
Changes in Existing Law Made by the Bill as Reported	13
Minority Views	17

The amendment is as follows:

Strike all after the enacting clause and insert the following:

39–006

SECTION 1. SHORT TITLE.

This Act may be cited as the "Program Assessment and Results Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) inefficiency and ineffectiveness in Federal programs undermines the confidence of the American people in the Government and reduces the Federal Government's ability to adequately address vital public needs;

(2) insufficient information on program performance seriously disadvantages Federal managers in their efforts to improve program efficiency and effectiveness;

(3) congressional policy making, spending decisions, and program oversight are handicapped by insufficient attention to program performance and results;

(4) programs performing similar or duplicative functions that exist within a single agency or across multiple agencies should be identified and their performance and results shared among all such programs to improve their performance and results;

(5) advocates of good government continue to seek ways to improve accountability, focus on results, and integrate the performance of programs with decisions about budgets;

(6) with the passage of the Government Performance and Results Act of 1993, the Congress directed the executive branch to seek improvements in the effectiveness, efficiency, and accountability of Federal programs by having agencies focus on program results; and

(7) the Government Performance and Results Act of 1993 provided a strong framework for the executive branch to monitor the long-term goals and annual performance of its departments and agencies.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to improve the Government Performance and Results Act of 1993 by implementing a program assessment and evaluation process that attempts to determine the strengths and weaknesses of Federal programs with a particular focus on the results produced by individual programs;

(2) to use the information gathered in the assessment and evaluation process to build on the groundwork laid in the Government Performance and Results Act of 1993 to help the executive branch make informed management decisions and evidence-based funding requests aimed at achieving positive results; and

(3) to provide congressional policy makers the information needed to conduct more effective oversight, to make better-informed authorization decisions, and to make more evidence-based spending decisions that achieve positive results for the American people.

SEC. 4. PROGRAM ASSESSMENT.

(a) REQUIREMENT FOR PROGRAM ASSESSMENTS.—Chapter 11 of title 31, United States Code, as amended by the Government Performance and Results Act of 1993, is amended by adding at the end the following new section:

"§ 1120. Program assessment

"(a) ASSESSMENT.—The Director of the Office of Management and Budget to the maximum extent practicable shall conduct, jointly with agencies of the Federal Government, an assessment of each program at least once every 5 fiscal years.

"(b) ASSESSMENT REQUIREMENTS.—In conducting an assessment of a program under subsection (a), the Director of the Office of Management and Budget and the head of the relevant agency shall—

"(1) coordinate to determine the programs to be assessed; and

"(2) evaluate the purpose, design, strategic plan, management, and results of the program, and such other matters as the Director considers appropriate.

"(c) CRITERIA FOR IDENTIFYING PROGRAMS TO ASSESS.—The Director of the Office of Management and Budget shall develop criteria for identifying programs to be assessed each fiscal year. In developing the criteria, the Director shall take into account the advantages of assessing during the same fiscal year any programs that are performing similar functions, have similar purposes, or share common goals, such as those contained in strategic plans under section 306 of title 5. To the maximum extent possible, the Director shall assess a representative sample of Federal spending each fiscal year.

"(d) CRITERIA FOR MORE FREQUENT ASSESSMENTS.—The Director of the Office of Management and Budget shall make every effort to assess programs more frequently than required under subsection (a) in cases in which programs are determined to be of higher priority, special circumstances exist, improvements have been

made, or the head of the relevant agency and the Director determine that more frequent assessment is warranted.

"(e) PUBLICATION.—At least 90 days before completing the assessments under this section to be conducted during a fiscal year, the Director of the Office of Management and Budget shall—

"(1) make available in electronic form through the Office of Management and Budget website or any successor website, and provide to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

"(A) a list of the programs to be assessed during that fiscal year; and

"(B) the criteria that will be used to assess the programs; and

"(2) provide a mechanism for interested persons to comment on the programs being assessed and the criteria that will be used to assess the programs.

"(f) REPORT.—(1) The results of the assessments conducted during a fiscal year shall be submitted in a report to Congress at the same time that the President submits the next budget under section 1105 of this title after the end of that fiscal year.

"(2) The report shall—

"(A) include the performance goals for each program assessment;

"(B) specify the criteria used for each assessment;

"(C) describe the results of each assessment, including any significant limitation in the assessments;

"(D) describe significant modifications to the Federal Government performance plan required under section 1105(a)(28) of this title made as a result of the assessments; and

"(E) be available in electronic form through the Office of Management and Budget website or any successor website.

"(g) CLASSIFIED INFORMATION.—(1) With respect to program assessments conducted during a fiscal year that contain classified information, the President shall submit on the same date as the report is submitted under subsection (f)—

"(A) a copy of each such assessment (including the classified information), to the appropriate committees of jurisdiction of the House of Representatives and the Senate; and

"(B) consistent with statutory law governing the disclosure of classified information, an appendix containing a list of each such assessment and the committees to which a copy of the assessment was submitted under subparagraph (A), to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

"(2) Upon request from the Committee on Government Reform of the House of Representatives or the Committee on Governmental Affairs of the Senate, the Director of the Office of Management and Budget shall, consistent with statutory law governing the disclosure of classified information, provide to the Committee a copy of—

"(A) any assessment described in subparagraph (A) of paragraph (1) (including any assessment not listed in any appendix submitted under subparagraph (B) of such paragraph); and

"(B) any appendix described in subparagraph (B) of paragraph (1).

"(3) In this subsection, the term 'classified information' refers to matters described in section 552(b)(1)(A) of title 5.

"(h) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities authorized or required by this section shall be considered inherently Governmental functions and shall be performed only by Federal employees.

"(i) TERMINATION.—This section shall not be in effect after September 30, 2013.".

(b) GUIDANCE.—Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of section 1120 of title 31, United States Code, as added by subsection (a), including guidance on a definition of the term "program".

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 1115(g) of title 31, United States Code, is amended by striking "1119" and inserting "1120".

(2) The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by adding at the end the following:

"1120. Program assessment.".

SEC. 5. STRATEGIC PLANNING AMENDMENTS.

(a) CHANGE IN DEADLINE FOR STRATEGIC PLAN.—Subsection (a) of section 306 of title 5, United States Code, is amended by striking "No later than September 30, 1997," and inserting "Not later than September 30 of each year following a year in which an election for President occurs, beginning with September 30, 2005, ".

(b) CHANGE IN PERIOD OF COVERAGE OF STRATEGIC PLAN.—Subsection (b) of section 306 of title 5, United States Code, is amended to read as follows:

"(b) Each strategic plan shall cover the 4-year period beginning on October 1 of the year following a year in which an election for President occurs.".

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

The main purpose of the Program Assessment and Results (PAR) Act is to improve the Government Performance and Results Act (GPRA) of 1993, P.L. 103–62, by implementing a program review and evaluation process that attempts to determine the strengths and weaknesses of Federal programs with a particular focus on the results produced by individual programs. Furthermore, the information gathered in the review and evaluation process established by the PAR Act will build on the groundwork laid by GPRA to help the executive branch make informed management decisions and evidence-based funding requests aimed at achieving positive results. Finally, the program reviews created by the PAR Act will provide congressional policy makers with the information needed to conduct more effective oversight, to make better-informed authorization decisions, and to make more evidence-based spending decisions that achieve positive results for the American people.

The PAR Act amends GPRA to require the Director of the Office of Management and Budget (OMB) to review each Federal program, as defined by OMB, at least once every five fiscal years. The choice of a five-year cycle divides the workload of evaluating all Federal programs into manageable segments for OMB. Attempting to evaluate the performance of all Federal programs in one year was a major impediment to the success of past attempts at performance measurement by previous Administrations. The five year cycle also parallels the time frame used by OMB in its Program Assessment Rating Tool (PART), which OMB has used to evaluate programs, representing 20% of all Federal spending each year beginning with the fiscal year 2003 budget cycle. The PAR Act does not interfere with OMB's timeline for using PART to complete program assessments of each program in the Federal budget, nor does the PAR Act attempt to codify the specific methodology used by PART. Instead, the PAR Act directs OMB to conduct reviews of programs in consultation with the relevant agency that administers the program and to evaluate each program's purpose, design, strategic plan, management, results, and any other matters that OMB considers appropriate.

As OMB develops its criteria for which programs to review each fiscal year, the PAR Act requires OMB to take into account the advantages of reviewing program activities with similar functions or purposes during the same fiscal year. The intent of this language is to ensure that the functions of government that cut across several programs and potentially cut across several agencies are reviewed at the same time. This information can then be used to compare the performance of programs against one another and to seek managerial and budget changes that capitalize on the best practices of the programs that are most successful in achieving the outcomes they were designed to achieve. In addition to considering the crosscutting nature of government functions, the PAR Act also directs OMB to review program activities more frequently than

every five fiscal years in cases in which programs are determined to be of higher priority, special circumstances exist, improvements have been made, or the head of the relevant agency and OMB determine that more frequent review is warranted. Requiring more frequent reviews in these circumstances will ensure that the lessons learned from programs that make improvements may be cultivated more frequently and that programs that continually fail to achieve their goals will be scrutinized more closely.

The results of program reviews conducted under the PAR Act will be reported to Congress with the President's next budget following the end of the fiscal year in which the program reviews were conducted. OMB currently uses this method of reporting in conjunction with the PART. The Committee is pleased with the high level of transparency that OMB has exhibited in reporting the results of the programs that have been evaluated using the PART. In an effort to maintain this level of transparency under the PAR Act, the Act requires that OMB make every effort to ensure the transparency of the report. For any program reviewed, OMB should publish the information necessary for the public to understand what methods were used to evaluate the program, what information was derived from the application of those methods to the program, and what conclusions were drawn from the information derived. There is some concern that the PART has been unable to complete evaluations for 152 of the 407 programs—37.1% of the programs—to which it has been applied over the two-year period in which assessments were conducted. Although the percentage of programs receiving a score of "results not demonstrated" decreased in year two, it remains too high. We encourage OMB and the agency community to work to continue to refine the evaluation criteria to ensure meaningful reporting for all federal programs, including those programs administered cooperatively among state and local stakeholders.

Finally, the bill will move the due date for submitting strategic plans under GPRA to September 30 of each year following a presidential election and would change the duration of the coverage of the plans from 5 years to 4 years. These changes would improve the usefulness and timeliness of strategic plans by giving the management team of the most recently elected President enough time to assemble and set its goals for the President's term.

BACKGROUND AND NEED FOR THE LEGISLATION

The Government Performance and Results Act (GPRA) of 1993, P.L. 103–62, has laid a solid foundation for agencies working with Congress to set strategic goals and begin to utilize performance-based information. Building on GPRA, Congress must take the next step toward reforming the way the government conducts its business.

Prior efforts to make the Federal government more effective—the Hoover Commission, Zero-Based Budgeting, the Planning-Programming-Budgeting System, and Reinventing Government—have come and gone with little lasting effect. Federal managers have learned that if they wait, each new Administration is likely to attempt yet another broad-based reform. From a management standpoint, it is difficult in that type of environment to make long-range plans, and

it's next to impossible to achieve the kind of cultural shift needed to reform the management of the Federal government.

GPRA requires that agencies focus attention on program evaluation as one of six aspects of their strategic plans. Unfortunately, the Government Accountability Office reports (GAO–04–38) that program evaluation is the one area where departments consistently come up short. Not only have agencies failed to comply with this requirement, the valuable information that stands to be gained from these evaluations is not culled, coordinated, or presented in a useful way.

By creating and using the Program Assessment Rating Tool, or PART, the Office of Management and Budget (OMB) has gone a step beyond the strategic plans required by GPRA and implemented a system for evaluating the performance and results of individual Federal programs. The next logical step is to codify the requirement for a coordinated evidence-based review of programs. Clearly, developing a better understanding of how government operates program by program is a good idea. As such, the PAR Act is necessary to ensure that program assessments be required for this and future Administrations.

The PAR Act does not seek to codify the use of the PART specifically. Rather, the Act amends GPRA by establishing a requirement for program reviews. Specifically, the OMB is required under the Act to review each program activity at least once every five years. Requiring OMB to be responsible for overseeing program assessment data will be a great step forward in realizing the reforms envisioned by GPRA and will make the Federal government more efficient and results oriented.

Information gleaned from these program reviews will be useful across the board to all stakeholders. Members of Congress, taxpayers, Federal managers and the Executive Branch need to know if programs are being managed effectively and if they are achieving the desired results. Further, the PAR Act will facilitate data comparisons among different programs and across agencies, to see how different programs with similar goals are achieving results. Members of Congress can use the information to make informed budget decisions and conduct more effective oversight. It will help the taxpayers see what they are getting for their money. Most important, Federal managers will use the information to improve the way they manage programs. The results will be a more effective and efficient government for the good of all Americans.

LEGISLATIVE HISTORY

On February 25, 2004, Representative Todd R. Platts (R-PA), Chairman of the Subcommittee on Government Efficiency and Financial Management of the Committee on Government Reform, along with Representative Tom Davis (R-VA), Chairman of the Committee on Government Reform, introduced H.R. 3826, the "Program Assessment and Results Act" to amend and improve the Government Performance and Results Act (GPRA) of 1993, P.L. 103–62. The bill was subsequently referred to the Committee on Government Reform. The Committee on Government Reform then referred H.R. 3826 to the Subcommittee on Government Efficiency and Financial Management, which has jurisdiction over GPRA and

all matters relating to the overall efficiency and management of government operations.

On May 19, 2004, the Subcommittee on Government Efficiency and Financial Management held a business meeting to mark up H.R. 3826. Subcommittee Chairman Todd Platts (R-PA) offered an amendment in the nature of a substitute, which enhances coordination between OMB and the relevant agency in determining the programs to review, as well as enhances the transparency of the programmatic review report provided to Congress by ensuring that this report specifies (1) the performance goals for each program review, (2) the criteria used to evaluate, (3) the results of the evaluation, and (4) is available in electronic form through the OMB website. The amendment also provided for the termination of the review requirement as of September 30, 2013, essentially after two complete review cycles have been completed. The amendment also made a number of other technical changes to the legislation. The amendment in the nature of a substitute was adopted by voice vote.

The Subcommittee also adopted an amendment offered by Rep. Edolphus Towns (D-NY), which required the head of the Office of Management and Budget to provide notice and an opportunity for public comment in the Federal Register on a detailed description in draft form of each program to be assessed, the draft performance goals for each such program and the draft criteria used to evaluate each program. The amendment also called for the publication in the Federal Register of the final list of programs to be assessed, the final performance goals and final criteria used to evaluate, along with a summary of all public comment. This amendment was adopted by voice vote.

H.R. 3826 was reported to the full Committee on Government Reform, as amended, by voice vote.

On June 3, 2004 the full Committee on Government Reform held a business meeting to mark up H.R. 3826. Chairman Platts of the Subcommittee on Government Efficiency and Financial Management offered an amendment in the nature of a substitute which makes additional changes from the Manager's Amendment approved by the Subcommittee. Recognizing that this law places some additional burden on OMB and the agencies the amendment gives the OMB Director some latitude to exempt certain programs from the review requirement. This amendment also respects the privacy of classified information by excluding it from the reporting requirement.

The amendment also made changes to the amendment adopted by the Subcommittee originally offered by Mr. Towns. Mr. Towns' amendment sought to ensure that stakeholders and others with an interest in the programs being assessed would have an opportunity to comment on the programs and the criteria used to assess them. While the amendment changed the language of the original amendment, it ensures that there is a provision providing for the publication of programs to be assessed and the criteria that will be used in those assessments. The Manager's Amendment, requires that this information be posted on the OMB web site at least 90 days prior to completion of the assessments and requires that the Director of OMB provide a mechanism for interested parties to comment.

The Manager's Amendment was adopted by the committee by voice vote.

Rep. Towns offered an amendment to the amendment in the nature of a substitute to restore the language of his amendment approved by the Subcommittee on Government Efficiency and Financial Management. This amendment was defeated by a rollcall vote of 15 "nays" and 9 "yeas".

During the business meeting Rep. Waxman (D–CA) offered an amendment that required program reviews conducted pursuant to the bill to be performed by the heads of agencies, rather than by OMB. The amendment failed on a voice vote.

Also during the business meeting, two amendments were offered by Rep. Van Hollen (D–MD) and subsequently withdrawn. Rep, Van Hollen offered an amendment that directed the functions and activities required by the bill to be classified as inherently governmental activities and an amendment that required the submission to Congress of any classified information as a result of the bill.

H.R. 3826, as amended, was approved by voice vote and ordered reported favorably to the full House of Representatives for consideration.

SECTION-BY-SECTION

SECTION 1—SHORT TITLE

The Act may be cited as the "Program Assessment and Results Act."

SECTION 2—FINDINGS

This section summarizes the findings of Congress with respect to the following: the lack of program performance information available to Federal managers and Congress for decision-making; the importance of performance information to making good managerial and budget decisions; and the foundation that the Government Performance and Results Act of 1993 (GPRA), P.L. 103–362, has laid for program performance reviews.

SECTION 3—PURPOSE

This section states the purposes of the Act, which are: to amend and improve GPRA by implementing program reviews that determine the strength and weakness of Federal programs; to use the information gathered for the executive branch to make informed management decisions and evidence-based funding requests; and to provide Congress with information necessary to conduct more effective oversight, to make better-informed authorization decisions, and to make more evidence-based spending decisions.

SECTION 4—PROGRAM REVIEW AND EVALUATION

Paragraph (a) establishes a requirement for program reviews by amending chapter 11 of title 31, United States Code, as amended by GPRA.

This amendment to GPRA adds "Section 1120. Program review and evaluation." to the end of chapter 11 of title 31, United States Code. Paragraph (a) of the new section 1120 requires the Director

of the Office of Management and Budget (OMB) to review each program activity at least once every 5 fiscal years.

The bill as passed by the committee includes language stating that the Director of the Office of Management and Budget shall "to the maximum extent practicable" conduct a review of each program every five years. This language was included in the final version of H.R. 3826 to give minimal flexibility to the Director should a special circumstance arise where an assessment of a certain program is deemed unneeded. The clause, "to the maximum extent practicable" is not intended to give the Director wholesale flexibility or the ability to exempt any programs from review without a legitimate reason. Should the Director seek to exempt any program from this review requirement he shall notify the Congress, including the House Committee on Government Reform and Senate Committee on Governmental Affairs, in writing explaining the specific reasons why the review is deemed unneeded.

Paragraph (b) of section 1120 requires the Director in conducting a review of a program activity to coordinate with the relevant agency and evaluate each program activity's purpose, design, strategic plan, management, results, and any other matters that the Director considers appropriate.

Paragraph (c) of section 1120 requires the Director to develop criteria for deciding which program activities to review each fiscal year. It further instructs the Director to take into account the advantages of reviewing program activities with similar functions or purposes during the same fiscal year.

Paragraph (d) of section 1120 requires the Director to make every effort to review program activities more frequently than every 5 fiscal years in cases in which programs are determined to be of higher priority, special circumstances exist, improvements have been made, or the head of the relevant agency and the Director determine that more frequent review is warranted.

Paragraph (e) requires that at least 90 days prior to completing the assessments require under this section that the Director publish on the OMB website or successor website and provide to the House Committee on Government Reform and Senate Committee on Governmental Affairs a list of all programs to be assessed during a fiscal year and the criteria to be used in those assessments. This section further requires that OMB provide a formal mechanism for interested persons to comment on the programs being assessed and the criteria used to assess those programs.

Paragraph (f) of section 1120 requires:

(1) The Director to submit the results of the reviews for a fiscal year to the Congress along with the President's next budget following the end of the fiscal year in which the reviews were conducted;

(2) Specifies the criteria that shall be required for the report.

Paragraph (g) of section 1120:

(1) Establishes provisions for the submission of program assessments containing classified information.

(A) requires that a copy of the assessment (including the classified information) be provided to the appropriate committees of the House of Representatives and the Senate, and

(B) requires that, consistent with statutory law, an appendix containing a list of each assessment referenced in (A) be pro-

vided to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) Establishes that upon request from the Committee on Government Reform of the House or the Committee on Governmental Affairs of the Senate, the Director of OMB shall provide to the requesting committee a copy of any assessment or appendix referenced in subparagraph (A) or (B) respectively.

(3) Establishes that the term ''classified information'' refers to matters in section 552(b)(1)(A) of title 5 U.S.C.

Paragraph (h) establishes that the functions and activities authorized by this section shall be considered inherently governmental functions and performed only by Federal employees.

Paragraph (i) terminates the review requirement in 2013, essentially after two complete review cycles have been completed.

Paragraph (b) of Section 4 provides that the Director shall have 6 months after the date of enactment of this Act to issued guidance to implement the requirements of section 1120.

Paragraph (c) makes conforming amendments to Section 1115(g) of title 31.

SECTION 5—STRATEGIC PLANNING AMENDMENTS

Paragraph (a) amends section 306 of title 5, United States Code, to change the date for submitting strategic plans as required under GPRA to September 30 of each year following a presidential election, beginning with September 30, 2005. This change in date makes the release of strategic plans correspond with the change in leadership from one Administration to the next.

Paragraph (b) amends section 306 of title 5, United States Code, to change the period of coverage for strategic plans from five years to four years, again corresponding with a presidential term.

EXPLANATION OF AMENDMENTS

The provisions of the substitute are explained in this report.

COMMITTEE CONSIDERATION

On June 3, 2004, the Committee met in open session and ordered reported favorably the bill, H.R. 3826, as amended, by rollcall vote, a quorum being present.

ROLLCALL VOTES

H.R. 3826
Amendment to the Amendment in the Nature of a Substitute
Offered By: Mr. Towns
Notice and Comment Requirement

COMMITTEE ON GOVERNMENT REFORM
108TH CONGRESS – **2nd SESSION**
ROLL CALL

Rep.	Yeas	Nays	Present	Dem.	Yeas	Nays	Present
MR. DAVIS (VA) (CHAIRMAN)		X		MR. WAXMAN	X		
MR. SHAYS		X		MR. LANTOS			
MR. BURTON				MR. OWENS			
MS. ROS-LEHTINEN		X		MR. TOWNS	X		
MR. MCHUGH				MR. KANJORSKI			
MR. MICA				MR. SANDERS	X		
MR. SOUDER		X		MRS. MALONEY			
MR. LATOURETTE				MR. CUMMINGS	X		
MR. OSE				MR. KUCINICH			
MR. LEWIS (KY)		X		MR. DAVIS (IL)	X		
MRS. DAVIS (VA)		X		MR. TIERNEY			
MR. PLATTS		X		MR. CLAY	X		
MR. CANNON		X		MS. WATSON	X		
MR. PUTNAM		X		MR. LYNCH			
MR. SCHROCK		X		MR. VAN HOLLEN	X		
MR. DUNCAN				MS. SANCHEZ			
MR. DEAL				MR. RUPPERSBERGER	X		
MRS. MILLER (MI)		X		MS. NORTON			
MR. MURPHY		X		MR. COOPER			
MR. TURNER (OH)		X					
MR. CARTER		X					
MRS. BLACKBURN		X					
MR. TIBERI							
MS. HARRIS		X					

Totals: Yeas 9 Nays 16 Present ____

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill improves the Government Performance and Results Act (GPRA) of 1993, P.L. 103–62, by implementing a program review and evaluation process that attempts to determine the strengths and weaknesses of Federal programs with a particular focus on the results produced by individual programs. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 3826. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3826. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the

Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3826 from the Director of Congressional Budget Office:

H.R. 3826—Program Assessment and Results Act

H.R. 3826 would amend the Government Performance and Results Act of 1993 to require the Office of Management and Budget (OMB) to review, to the maximum extent practicable, each program activity in the federal government at least once every five years. The review would focus on the purpose, design, strategic plan, management, results, and other appropriate measures of each program. Results of these reviews would be submitted to the Congress. The authority to conduct these program reviews would expire on September 30, 2013. Finally, the bill would require agencies to submit comprehensive strategic plans to OMB by September 2005 instead of the following September.

Most of the provisions of H.R. 3826 would codify and expand the current practices of OMB regarding federal program assessments. OMB currently reviews program performance through its Program Assessment Rating Tool (PART) which was developed to assess and improve program performance throughout the federal government. According to OMB, PART will be used to review 20 percent of all federal programs annually over the next five years. To the extent that reviews lead to improved program performance, subsequent legislation could change the cost of program operations.

Based on information from OMB, CBO does not expect that changing the September 2006 due date for agencies' comprehensive strategic plans would require significant additional resources. Enacting the bill would not affect direct spending or revenues. H.R. 3826 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

* * * * * * *

Subtitle II—The Budget Process

* * * * * * *

CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

Sec.
1101. Definitions.

* * * * * * *

1120. Program assessment.

* * * * * * *

§ 1115. Performance plans

(a) * * *

* * * * * * *

(g) For purposes of this section and sections 1116 through ¿1119 *1120*, and sections 9703 and 9704 the term—

(1) * * *

* * * * * * *

§ 1120. Program assessment

(a) ASSESSMENT.—The Director of the Office of Management and Budget to the maximum extent practicable shall conduct, jointly with agencies of the Federal Government, an assessment of each program at least once every 5 fiscal years.

(b) ASSESSMENT REQUIREMENTS.—In conducting an assessment of a program under subsection (a), the Director of the Office of Management and Budget and the head of the relevant agency shall—

(1) coordinate to determine the programs to be assessed; and

(2) evaluate the purpose, design, strategic plan, management, and results of the program, and such other matters as the Director considers appropriate.

(c) CRITERIA FOR IDENTIFYING PROGRAMS TO ASSESS.—The Director of the Office of Management and Budget shall develop criteria for identifying programs to be assessed each fiscal year. In developing the criteria, the Director shall take into account the advantages of assessing during the same fiscal year any programs that are performing similar functions, have similar purposes, or share common goals, such as those contained in strategic plans under section 306 of title 5. To the maximum extent possible, the Director shall assess a representative sample of Federal spending each fiscal year.

(d) CRITERIA FOR MORE FREQUENT ASSESSMENTS.—The Director of the Office of Management and Budget shall make every effort to assess programs more frequently than required under subsection (a) in cases in which programs are determined to be of higher priority, special circumstances exist, improvements have been made, or the

head of the relevant agency and the Director determine that more frequent assessment is warranted.

(e) PUBLICATION.—At least 90 days before completing the assessments under this section to be conducted during a fiscal year, the Director of the Office of Management and Budget shall—

(1) make available in electronic form through the Office of Management and Budget website or any successor website, and provide to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) a list of the programs to be assessed during that fiscal year; and

(B) the criteria that will be used to assess the programs; and

(2) provide a mechanism for interested persons to comment on the programs being assessed and the criteria that will be used to assess the programs.

(f) REPORT.—(1) The results of the assessments conducted during a fiscal year shall be submitted in a report to Congress at the same time that the President submits the next budget under section 1105 of this title after the end of that fiscal year.

(2) The report shall—

(A) include the performance goals for each program assessment;

(B) specify the criteria used for each assessment;

(C) describe the results of each assessment, including any significant limitation in the assessments;

(D) describe significant modifications to the Federal Government performance plan required under section 1105(a)(28) of this title made as a result of the assessments; and

(E) be available in electronic form through the Office of Management and Budget website or any successor website.

(g) CLASSIFIED INFORMATION.—(1) With respect to program assessments conducted during a fiscal year that contain classified information, the President shall submit on the same date as the report is submitted under subsection (f)—

(A) a copy of each such assessment (including the classified information), to the appropriate committees of jurisdiction of the House of Representatives and the Senate; and

(B) consistent with statutory law governing the disclosure of classified information, an appendix containing a list of each such assessment and the committees to which a copy of the assessment was submitted under subparagraph (A), to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) Upon request from the Committee on Government Reform of the House of Representatives or the Committee on Governmental Affairs of the Senate, the Director of the Office of Management and Budget shall, consistent with statutory law governing the disclosure of classified information, provide to the Committee a copy of—

(A) any assessment described in subparagraph (A) of paragraph (1) (including any assessment not listed in any appendix submitted under subparagraph (B) of such paragraph); and

(B) any appendix described in subparagraph (B) of paragraph (1).

(3) In this subsection, the term "classified information" refers to matters described in section 552(b)(1)(A) of title 5.

(h) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities authorized or required by this section shall be considered inherently Governmental functions and shall be performed only by Federal employees.

(i) TERMINATION.—This section shall not be in effect after September 30, 2013.

* * * * * * *

SECTION 306 OF TITLE 5, UNITED STATES CODE

§ 306. Strategic plans

(a) ¿No later than September 30, 1997, *Not later than September 30 of each year following a year in which an election for President occurs, beginning with September 30, 2005,* the head of each agency shall submit to the Director of the Office of Management and Budget and to the Congress a strategic plan for program activities. Such plan shall contain—

(1) * * *

* * * * * * *

¿(b) The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted. The strategic plan shall be updated and revised at least every three years, except that the strategic plan for the Department of Defense shall be updated and revised at least every four years.

(b) Each strategic plan shall cover the 4-year period beginning on October 1 of the year following a year in which an election for President occurs.

* * * * * * *

MINORITY VIEWS

H.R. 3826, the Program Assessment and Results Act (PARA), would require every federal program to be reviewed or evaluated at least once every five years. We support the concept of programmatic reviews. However, as drafted, this bill allows the program review process to be politicized. In addition, the bill fails to ensure adequate public participation.

During full Committee markup, we proposed amendments to PARA addressing these two fundamental flaws. An amendment by Rep. Henry A. Waxman would have required agencies, and not the partisan Office of Management and Budget (OMB), to perform the bill's required program assessments. An amendment by Rep. Ed Towns would have enhanced transparency by requiring a notice and comment process prior to the conducting of assessments. Because these two amendments were rejected, we cannot support PARA as it passed out of full Committee.

THERE IS NO ROOM FOR POLITICS IN THE PROGRAM ASSESSMENT PROCESS

PARA expands on the requirements of the Government Performance and Results Act (GPRA). GPRA requires agencies to set annual goals and measure their performance in achieving those goals. PARA adds a periodic five-year review to provide a detailed analysis at the individual program level.

As drafted, this bill deviates from GPRA in one significant respect. Instead of requiring agencies to set performance goals and evaluate the performance of their programs, PARA requires the White House, through the OMB, to pick the criteria and evaluate performance. The Waxman amendment sought to fix this problem.

We already have seen the problems that occur when OMB reviews programs. Over the last three years, OMB has created and used a process known as the Program Assessment Rating Tool, or PART, to review selected activities at the program level. That process has lead to questionable ratings for a number of programs.

Some programs, such as HOPE VI and Even Start, have received poor ratings despite their success. In addition, OMB created a rating called "Results Not Demonstrated" which it uses when it is unable to properly measure a program. Under the PART, 37.1%, or 152 out of 407 programs rated, received this rating. The "Results Not Demonstrated" rating implies that the program is poorly managed or inadequate for meeting its goals. This is unfair because agencies are often managing programs under different criteria than under PART. Thus, the designation of "Results Not Demonstrated" is mostly due to the unknown effectiveness of a program, as opposed to its ineffectiveness.

Congress should not codify this current practice. Congressional intent in authorizing and funding government activities should be

faithfully carried out. This bill would have the effect of shifting power from Congress to the White House to direct and evaluate agency activities. Congress expresses its priorities through statutes authorizing agency activities. But OMB doesn't implement those statutes. OMB implements the priorities of the White House. In fact, many agencies, and especially those charged with protecting public health, worker safety, and the environment, view OMB as hostile to the agencies' fundamental missions. This bill actually encourages OMB to infringe on Congress' prerogatives.

PUBLIC PARTICIPATION IS KEY TO SUCCESSFUL PROGRAM ASSESSMENTS

PARA fails to provide adequately for public input into how programs should be evaluated. The Towns amendment sought to address this deficiency. The amendment provides a period for public notice and comment on which programs will be reviewed, and what criteria will be used to review them. That's all. It doesn't require OMB or agencies to accept those comments, or modify their plans in any way. It simply creates a forum for public comment. This process is used all the time in many rule-making activities and is an appropriate parallel to the Government Performance and Results Act's requirement for input from stakeholders when developing strategic plans.

This amendment has already been agreed to once at the Subcommittee level. In a departure from customary practice, it was taken out and replaced with the vague and much weaker language in the manager's amendment at the full Committee, which leaves to OMB the determination of what is an "appropriate mechanism for public input." Given this Administration's record on secrecy, this approach seems absurd.

OTHER ISSUES

During full Committee markup, two amendments were offered, and then withdrawn, by Rep. Chris Van Hollen. Mr. Van Hollen's first amendment required that federal employees perform all program assessments and other requirements of PARA. This language tracks GPRA and is important to ensure that this inherently governmental work is not contracted out. The majority has agreed to include this Van Hollen language in the bill as it is brought to the House floor.

Mr. Van Hollen's second amendment amended the provision of PARA that required OMB to produce program assessment reports. That provision of PARA stated that classified information could not be part of those reports. Mr. Van Hollen's amendment required that classified information regarding program assessments be available, but as a classified appendix to the reports. It is imperative that Congress be apprised of the performance of programs that deal with classified information. Although it is necessary to ensure that classified information is not placed in the public domain, it should be available to Congress. The majority also has agreed to include language in the bill ensuring Congress has access to classified information regarding program assessments.

Finally, during Subcommittee consideration of the bill, we were pleased that a number of provisions were added to PARA, which

were not part of the introduced bill. Those provisions include language on transparency, diversification of program assessments to ensure that both domestic and defense/homeland security programs were being assessed each year, enhanced coordination between OMB and agencies, and sunsetting the bill's requirements.

HENRY A. WAXMAN.
EDOLPHUS TOWNS.
CAROLYN B. MALONEY.
DANNY K. DAVIS.
DIANE E. WATSON.
JIM COOPER.
MAJOR R. OWENS.
PAUL E. KANJORSKI.
ELIJAH E. CUMMINGS.
WM. LACY CLAY.
LINDA T. SANCHEZ.
BETTY MCCOLLUM.

fi