

TESTIMONY OF
MICK MULVANEY
U.S. REPRESENTATIVE
SOUTH CAROLINA'S FIFTH CONGRESSIONAL DISTRICT

Before

COMMITTEE ON RULES
U.S. HOUSE OF REPRESENTATIVES

On

AN AMENDMENT TO SUNSET THE PROVISIONS OF
H.R. 3523

April 25, 2012

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U.S. REPRESENTATIVE (SC-05)
BEFORE
HOUSE COMMITTEE ON RULES

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Chairman Dreier, Ranking Member Slaughter, and Members of the Committee,

Thank you for the opportunity to testify on behalf of my amendment that seeks to sunset the provisions of H.R. 3523, the Cyber Intelligence Sharing and Protection Act, five years after enactment. I am offering this amendment because when Congress acts on any legislation, sunset provisions are simply the right thing to do. This is even more true when that legislation has potential civil liberty implications.

Sunset provisions have a long history in our country. Our founding fathers were also strong supporters of them – Thomas Jefferson believed that all legislation should naturally expire. Our modern Congress routinely employs sunset provisions to protect against the very concerns that members on both sides of aisle have about this bill. In recent history, the PATRIOT Act and a number of intelligence surveillance measures have all included sunset provisions.

Sunsets work best when the underlying legislation contains tools for Congress to use in the interim. This legislation appropriately includes provisions for reporting and oversight by the Inspector General. We all acknowledge that any cyber security program needs effective oversight – but this is only one side of the coin. Congress must have and take the opportunity to address any recommendations made by the Inspector General for changes to the program. True, Congress has that opportunity each year when the Inspector General's reports are submitted to the respective Committees. But how often do we act unless we really must? If the PATRIOT Act is any guide, a sunset provision is necessary to spur Congressional action on oversight and change.

I know a great deal of effort has gone into drafting H.R. 3523 in such a way that it strikes a careful balance between individual liberties and the need to protect our nation. This bill achieves that goal, which is why I support it. So why then, am I offering to add a sunset provision?

My amendment means that at least every 5 years, Congress has to look at cyber security again. Congress has an affirmative duty to revisit the issue, and determine if the new information sharing authorities in this bill are working as intended. Congress has to ask if the program should be fine tuned? Expanded? Narrowed? If the balance we have struck in this bill between security and liberty is still the right one?

I sincerely hope that this legislation operates as we intend it to, and adequately protects individual liberties. But, a healthy amount of skepticism isn't something this Majority should run from. A sunset provision protects against unforeseen events. If there are no problems or concerns in the program, this provision is harmless and will allow for an easy reauthorization. If unforeseen events or unintended consequences occur, the sunset forces Congress to make the appropriate changes during reauthorization.

Cyber security threats will never go away, as long as there is a cyber universe. By offering this amendment, I do not mean to imply that this is a temporary problem. However, I also recognize that the cyber universe is ever-evolving, ever-changing. By requiring us to take action, a sunset provision gives us an opportunity addressing our always changing cyber security needs. A sunset makes Congress examine these issues again, and determine if the threats are the same, whether the necessity still genuine, and whether the legislation still needed.

I believe including a sunset provision provides a check on any possible errors, oversights or future unforeseen abuse. A sunset provision is good policy. It is true that effective oversight is a function of effective congressional leadership, but in the words of our 40th President, I want to "trust, but verify." It is for these reasons that I respectfully request your consideration and ask that my amendment be ruled in order.