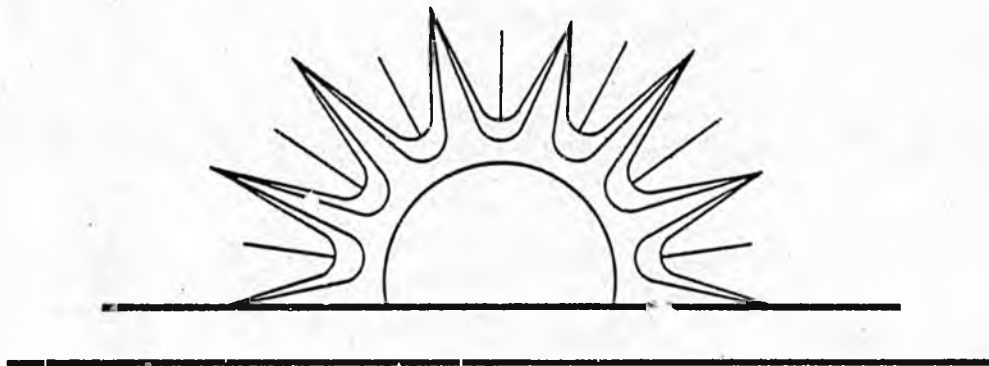


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SUNSET

LEGISLATION

**THE STATUS OF SUNSET  
IN THE STATES:  
A COMMON CAUSE REPORT**



**MARCH 1982**



**COMMON CAUSE**

## THE STATUS OF SUNSET IN THE STATES: A COMMON CAUSE REPORT

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THE STATUS OF SUNSET IN THE STATES

SUMMARY

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Sunset legislation -- which requires the periodic review of state agencies under the threat of automatic termination unless affirmatively recreated by law -- has triggered state governments' interest in legislative oversight and enhanced their ability to conduct it.

Since the enactment of the first Sunset law in Colorado in 1976, 35 states have passed Sunset laws. One-third of these states have taken action to expand their Sunset laws to apply to additional agencies and programs. As recently as December, 1981 Pennsylvania passed a Sunset law for the first time. Only one state, North Carolina, has formally abandoned the automatic termination provision which distinguishes Sunset from other forms of legislative oversight.

Most state Sunset laws embrace the principles suggested by Common Cause in 1976; however, current Sunset laws differ in the type and number of agencies they cover and in their approach to organizing and implementing Sunset reviews. (The Common Cause Sunset Principles are listed on page 2.)

The following conclusions are based on the results of a questionnaire completed by all 35 states with Sunset laws, on in-depth case studies of the Florida and Texas Sunset laws, and on research of individual state Sunset statutes and reports prepared by the Sunset evaluation staff. Our review has determined that Sunset is largely achieving its goal of helping to make government work better. However, problems with Sunset laws do exist and will require skillful handling by those involved with the implementation of Sunset laws in the states.

THE BENEFITS OF SUNSET

1. Improvements in Government Performance - The results of the Common Cause survey indicate that two-thirds of the respondents from states with Sunset laws believe that increased agency efficiency and public accountability have been principle benefits of Sunset. Improvements have taken the form of major across-the-board reforms and specific recommendations applied to individual agencies.

2. Financial Savings - The purpose of Sunset is not to slash state budgets, but rather to improve agency perform-

ance and to free citizens from excessive regulation. Saving money and conducting Sunset are not mutually exclusive, however. In at least one-sixth of the states conducting Sunset reviews, legislators have been able to document savings.

3. Increased Legislative Experience In Conducting Oversight - Over half of the states with Sunset laws stated in the Common Cause questionnaire that increased legislative experience and interest in legislative oversight have been important benefits of Sunset. A positive outcome of this experience is the emergence of state government officials who are competent and often innovative leaders in the emerging area of oversight.

#### PROBLEMS WITH SUNSET

1. False Expectations About What Sunset Can Do - States continue to look for an instant reduction in the size of state government. The number of agency terminations is the wrong yardstick of success for Sunset. Further, state legislatures expect to see instant dollar savings from Sunset. Since most states began Sunset reviews with the examination of regulatory agencies, massive savings were never possible. However, a number of states are beginning to achieve significant savings, particularly when they have begun reviews of large regulatory agencies or service delivery agencies or programs.

2. The Time-Consuming and Costly Nature of Oversight - The leading complaint about Sunset is that Sunset reviews are too time consuming. However, states are tackling the problems of managing the Sunset workload and costs creatively. They are reducing the number of agencies reviewed in each cycle, lengthening the review cycle itself, creating priority review, and streamlining auditing and reporting requirements.

3. Low Public Participation and the Disproportionate Influence of Regulated Professions - Seventy percent of the states surveyed reported that the average turnout for a public hearing has been 25 persons or fewer. That licensees attend public hearings is commendable, but industry involvement often extends beyond public testimony to include intense lobbying of state legislators. One-third of the survey respondents indicated that they only hear from licensed professionals about Sunset issues.

4. Inadequate Measurement Information on Agency Performance and Agency Value. Many states are struggling with

appropriate evaluation criteria for examining an agency's performance in achieving its goals. Almost half of the states indicated that the lack of measurement information on agency performance and agency value has been a major problem. This issue is especially critical when examining non-regulatory agencies which are unlikely candidates for termination and which have a large impact on the state budget.

#### RECOMMENDATIONS

The following recommendations are discussed in detail on page 35. The recommendations were developed with the knowledge that states are at various stages of Sunset implementation. States which are looking ahead to an expanded role for Sunset frequently have an interest in the dual goals of establishing a manageable workload and in broadening the scope of their review schedules to include non-regulatory agencies (e.g., service delivery agencies and programs).

1. States involved in expanding the scope of their Sunset reviews beyond regulatory agencies should develop a timely, systematic procedure for establishing a manageable schedule of agency terminations.
2. States involved in broadening the scope of their Sunset laws should consider lengthening the termination schedules they have adopted to 8 or 10 years.
3. States may want to modify the evaluation criteria in their Sunset laws if they are adding non-regulatory agencies or programs to their review schedules.
4. To create a more manageable workload for Sunset reviews, states might consider establishing priorities for conducting their program evaluation process.
5. States should attempt to achieve a close integration of Sunset with the budget process.
6. Sunset findings should be presented in an organized, digestible format.
7. Public participation in the Sunset process should be encouraged.
8. Executive branch participation in the Sunset process should be increased.

## I. INTRODUCTION

The consequences of the New Federalism will be spreading rapidly. If the states feel they will have to assume the burdens that are now Federal, we are bound to see renewed interest in the techniques of monitoring program delivery at all levels of government.

-- Hon. Gillis W. Long (D-La.)  
Congressional Record, Feb. 8, 1982

Whether or not dramatic reorganization of government responsibilities occurs, Sunset legislation -- the periodic review of state agencies under the threat of automatic termination unless affirmatively recreated by law -- is already firmly established as an important oversight technique for state program activities. Common Cause has found from its survey of the 35 states with Sunset laws, that many state legislatures have not only used Sunset effectively but have also sought an expanded role for this oversight procedure. Sunset Legislation has clearly triggered state governments' interest in and enhanced their ability to conduct legislative oversight.

Helping to make government work better is a major goal of Common Cause. We have advocated Sunset legislation at both the state and federal level since 1976. Common Cause undertook this study to take a serious look at the Sunset concept now that implementation of Sunset laws is in progress in many of our state governments.

### The Concept of Sunset

Thirty-five states have enacted Sunset laws and a number of other states have selective projects or review procedures that embrace many of the important concepts of Sunset review. The Colorado legislature passed the first state Sunset law in 1976. In the same year, in testimony before a U.S. Senate subcommittee, Common Cause Founding Chairman John Gardner suggested ten principles essential to any workable Sunset law and meaningful Sunset oversight process:

#### COMMON CAUSE SUNSET PRINCIPLES

*First: The programs or agencies covered under the law should automatically terminate on a date certain, unless affirmatively recreated by law.*

*Second: Termination should be periodic (e.g., every six or eight years) in order to institutionalize the process of reevaluation.*

*Third: Like all significant innovations, introduction of the Sunset mechanism will be a learning process, and should be phased in gradually, beginning with those programs to which it seems most applicable.*

*Fourth: Programs and agencies in the same policy area should be reviewed simultaneously in order to encourage consolidation and responsible pruning.*

*Fifth: Consideration by the relevant committees must be preceded by competent and thorough preliminary studies.*

*Sixth: Existing bodies (e.g., the executive agencies, evaluation units) should undertake the preliminary evaluation work, but their evaluation capacities must be strengthened.*

*Seventh: Substantial committee reorganization, including adoption of a system of rotation of committee members, is a prerequisite to effective Sunset oversight.\**

*Eighth: In order to facilitate review, the Sunset proposal should establish general criteria to guide the review and evaluation process.*

*Ninth: Safeguards must be built into the Sunset mechanism to guard against arbitrary termination and to provide for outstanding agency obligations and displaced personnel.*

*Tenth: Public participation in the form of public access to information and public hearings is an essential part of the Sunset process.*

\* This principle is of primary concern at the federal level.

All state Sunset laws have evaluation criteria and all but a few include public participation provisions in the Sunset process. Most Sunset laws incorporate many of the other Common Cause original principles; however, there are two key differences in the design of current Sunset statutes.

First, the scope of the existing Sunset laws varies. Ten state laws cover regulatory agencies only, fifteen state laws cover regulatory plus other selected agencies, and ten state laws provide for comprehensive review of all agencies created by the legislature. The number of agencies reviewed in a given year also varies, of course.

Second, state Sunset laws differ in their approach to organizing and implementing Sunset reviews. Preliminary evaluations and legislative review are handled by standing committees, joint legislative committees, or, in a few cases, by independent Sunset commissions. Similarly, staff and budget allocations vary widely. The timetable for conducting this evaluation work is different from state to state, reflecting the various legislative session calendars.

#### Objectives of Sunset

Sunset legislation is designed to improve agency efficiency and accountability. The automatic termination provision is an action-forcing mechanism to require state legislators to conduct serious program evaluation. Sunset forces program evaluation onto the legislative agenda, and as a management tool, Sunset review complements current

state efforts to cope with increased management responsibilities.

Sunset is not the answer to the financial problems which beset all government today. Those who suggest that it is have oversold the concept. Better government performance, not spectacular dollar savings, is the major objective of Sunset. A strict cost-benefit approach contrasting dollars spent on evaluations and budget dollars saved is an inadequate measure of the success or failure of Sunset because savings to taxpayers in the cost of goods or services are often indirect. For example, when anti-competitive practices by regulatory agencies are prohibited, specific dollar savings may or may not be immediately apparent. Also, improved government performance cannot be calculated easily in dollar terms.

Sunset establishes a systematic method for conducting oversight of selected agencies or programs and facilitates the implementation of much-needed oversight activity. Sunset review has not been a traditional part of state government's agenda, in part because legislators would rather make new laws than make existing laws work. Sunset has helped to change the tradition in state legislatures of ignoring oversight.

#### Methodology

This report takes a close look at Sunset implementation around the country. Common Cause sent a questionnaire to

the state government officials responsible for conducting Sunset reviews in the states with Sunset laws. The questionnaire requested basic information about the laws. The questionnaires were sent out in April 1981. All thirty-five states with Sunset laws returned their questionnaires to Common Cause.

A computer program was developed to interpret the questionnaire data and to obtain statistical correlations of the responses. A synopsis of the findings is found in Section II. A list of respondents, questionnaire results, and a narrative description of the questionnaire findings are in Appendix A.

Case studies were conducted on Sunset implementation in Florida and Texas, two states which have had positive experiences with Sunset. The studies were developed through interviews with the principal participants in the Sunset process and through an examination of the published information on the subject. The case studies throw light on review procedures in general, and on specific agency reviews (e.g., the review of Texas State Board of Pharmacy). A copy of the Florida and Texas Sunset laws is included (Appendices B and C).

Utilizing the questionnaire results, the case studies, and other research on Sunset implementation in the states, an analysis and a series of eight recommendations for conducting Sunset review in the states were developed. The

analysis is found in Section III of the report. Recommendations follow in Section IV of the report.

Finally, Appendix D provides a state-by-state summary of Sunset laws and recent implementation experience. Appendix E is a bibliography of recent Sunset publications.

## II. FINDINGS

The findings developed from the questionnaire responses to the Common Cause survey are described in detail in Appendix A on page 39. The following is a synopsis of the questionnaire responses, focusing on (1) the extent of the Sunset effort in the different states; (2) the Sunset review process; (3) legislators' responses to Sunset; (4) the results of Sunset; and (5) the problems with Sunset.

### (1) The Extent of the Sunset Effort

- ° The scope of state Sunset laws varies: ten states review regulatory agencies only, 15 review regulatory and other selected agencies, and another 10 undertake comprehensive reviews of all agencies.
- ° The median number of agencies reviewed each year by the states is ten. The number is larger for states with comprehensive scope (17).
- ° An average of 13 states furnished budget information for each of the years 1978-1980. The average budget allocations were between \$153,000 and \$164,000.
- ° Of the 21 states which indicated they have full-time staff working on Sunset reviews, the average staff size was seven.
- ° Seventeen states were able to estimate costs per average Sunset review. Excluding one extremely high and one extremely low figure, the average review cost was nearly \$12,000.

- ° Seventeen states also listed staff hours per review, resulting in a median number of hours per review of 500 hours.

(2) The Sunset Review Process

- ° In half of the states, the Committee with jurisdiction for Sunset reviews is a joint legislative committee. For the majority of other states, the standing committees have this responsibility. Other states use a legislative oversight committee or agency or a Sunset commission.
- ° Performance evaluation reports are prepared by the legislative auditor general in 13 states and by committee staff in nine states. In other states, the reports are prepared by a Sunset commission, legislative service bureau or other unit of government.
- ° The leading professional category involved in preparing performance evaluations was policy analysts.
- ° Agencies undergoing Sunset review are often themselves involved in the Sunset process; for example, in seven states the agency plays a major role in preparing performance evaluation reports.
- ° Governors are involved in the Sunset process in 13 states, most commonly by submitting recommendations on agencies under review.
- ° In all but three states, public hearings have been held for all agencies reviewed under Sunset.

- ° In the majority of states, the average turnout for a public hearing has been 25 or fewer persons.
- ° Three-quarters of the states having Sunset provisions require a performance evaluation for all agencies under review.
- ° Twenty two states reported clear lead times regarding their timetables for review. On the average, review planning began 18 months in advance of the agency termination date.
- ° Legislative committees use the interim between sessions for some aspect of the review process in seven of every eight states.

(3) Legislative Voting on Sunset

- ° About six of every ten states stated that the recommendations of Sunset evaluators are accepted by the legislature 76-100 percent of the time.
- ° The major reason for legislators voting against recommendations of Sunset evaluators was professional association pressure.\*
- ° Legislators have taken action to broaden the scope of the original Sunset law in one-third of the states, principally to include certain non-regulatory agencies.
- ° Legislation to repeal Sunset laws has been introduced

\* These answers reflect the interpretation of Sunset questionnaire respondents as to how the legislators have responded to Sunset. (In a few cases, questionnaire respondents are legislators.)

in seven states. Repeal of the automatic termination provisions did occur in North Carolina in 1981.

- ° Twenty three of 35 states cited increased agency efficiency and public accountability as a principal benefit of Sunset.\*
- ° One-half of the states complained that Sunset reviews were too time consuming.\*

(4) The Results of Sunset

- ° Since 1976, nearly 1,500 agencies have been reviewed under the Sunset process, starting with 15 agencies in 1976, and increasing to 500 agencies in 1981. Almost one in every five agencies reviewed has been terminated; one in every three modified, and less than half recreated with little or no change. If we disregard an extreme case of a state in which very large numbers of agencies were reviewed and recreated without change, the number of terminations is the same, but the proportion of agencies modified jumps to almost half, and the number of agencies recreated without change drops to a little over one-third.
- ° Of the across-the-board reforms resulting from Sunset, almost half the states indicated a requirement for public membership on boards and commissions. Almost as many states indicated a requirement for improved administrative practices and disciplinary procedures.

\* See note on page 9.

### III. ANALYSIS

#### "Sunrise, Sunset"

Is this the little bill I carried?  
Just wanted a license for a friend.  
I don't recall the regulations,  
Don't they ever end?

Sunrise, Sunset,  
Sunrise, Sunset,  
Swiftly come the Boards,  
Each one grander than the other,  
Free competition they will smother.

-Martha Ezzard is a Republican senator from  
Englewood, Colorado and an out-of-the-closet poet.\*

#### The Benefits of Sunset

Sunset has had its growing pains, but it is largely achieving its goal -- making government work better. Since 1976, only one of 35 states has formally abandoned the automatic termination provision which distinguishes Sunset from other forms of legislative oversight. One-third of the states with Sunset laws have taken action to expand their Sunset laws to apply to additional agencies or programs. And as recently as December 22, 1981, Pennsylvania passed a state Sunset law for the first time.

The Advisory Commission on Intergovernmental Relations (ACIR), a leading authority on state governments, has noted the value of Sunset and has urged states to apply Sunset to a "full range of state programs."

The benefits of Sunset fall into three categories:

°first, Sunset has resulted in significant improvements in government performance in many states;

\* Appeared in The Colorado Statesman on February 21, 1981. Reprinted with permission.

- °second, financial savings can be realized through Sunset -- particularly when states move to a more comprehensive review of state agencies; and
- °third, state legislators are gaining experience in conducting legislative oversight.

(1). Improvements in Government Performance

The results of a questionnaire survey conducted by Common Cause indicate that two-thirds of the respondents from states with Sunset laws believe that increased agency efficiency and public accountability have been principle benefits of Sunset. Improvements have taken the form of major across-the-board reforms and specific recommendations applied to individual agencies.

Of the across-the-board reforms, almost half of the respondents indicated a requirement for public membership on boards and commissions. About forty percent of the states also listed the improvement of administrative practices and disciplinary procedures.

In Texas, for example, following the first review cycle in 1979, a series of eleven major reforms were enacted across-the-board. The Texas Sunset Advisory Commission has determined that "slightly more than seventy percent of the eleven recommendations had been incorporated in applicable cases overall." These reforms include revising restrictive rules to allow advertising and competitive bidding practices which are not deceptive or misleading (See Appendix C for a detailed report on Texas Sunset implementation).

Improvement of disciplinary procedures occurred in Florida. In 1979, The Miami Herald uncovered evidence that irresponsible medical professionals were not being disciplined by the state Medical Practice Board. A subsequent Sunset review confirmed the existence of serious problems and legislators went on to tighten disciplinary procedures to be used by the Board.

Voluntary improvements by agencies anticipating review have also been positive achievements of Sunset. One-third of the states indicated that they have observed agencies "cleaning shop" prior to Sunset reviews. The threat of termination apparently has a sobering effect on government agencies, many of which have never been subject to any form of serious review prior to Sunset.

The Advisory Commission on Intergovernmental Relations notes that states, like the federal government, are "in the regulatory business, so it is essential that they too examine the impact of their regulatory activities and take steps to assure that those activities make a maximum contribution to the economy as well as to equity." Sunset serves to accomplish this end. Most states initiated their Sunset process with review of regulatory agencies -- from horse-shoers in Illinois to the Public Utility Commission (PUC) in Mississippi.

In most state Sunset laws, the framework for evaluating regulatory agencies first addresses the need for regulation and second, the performance of the agency itself.

The Council of State Governments, in its publication "Sunset Expectation and Experience" (June 1981) provides a description of the basic criteria for agency evaluation which address the need for regulation:

The first has to do with the need for regulatory bodies or the need for regulation of the profession, industry or activity. Criteria in this category might include:

- ° whether the absence of regulation would harm the public;
- ° whether a less restrictive form of regulation would offer adequate protection;
- ° whether the benefits of regulation outweigh burdens imposed;
- ° whether certain aspects of the regulatory scheme might be eliminated.

Assessing the effectiveness of an agency's performance is not a simple task. Our survey indicates that almost half the states find the lack of adequate measurement information on agency performance and the value of an agency to be a significant problem. It is the latter issue which is addressed when an agency or program which is certain not to be terminated (e.g., a public utility commission) is reviewed.

The evaluation criteria which have been established to measure the performance of regulatory agencies often serve as a framework for determining the extent to which an agency is meeting its goals, the extent to which it is encouraging public participation, and how it is allocating its resources.

A specific example of the objectives of an evaluation of the performance of a non-regulatory agency is described in the March 1981 Program Evaluation Report of the Tennessee

Department of General Services. Objectives of the Tennessee evaluation were:

1. To ascertain the authority and responsibility mandated to the department by the legislature;
2. To determine the extent to which the department has centralized services and the degree to which state costs have consequently been reduced and/or services improved;
3. To determine the extent to which departmental policies and procedures promote economy and efficiency in the provision of services; and
4. To develop possible alternatives for departmental or legislative action which might result in more efficient or effective operation of the department.

Of the 35 states with Sunset laws, one in five agencies -- largely regulatory -- has been terminated. In a number of states, agencies were determined to be inactive at the time of Sunset review. This development reached surprising proportions in 1980 in Mississippi, where the legislature scheduled sixteen agencies for review and found that only one of the sixteen agencies was functioning at the time of review.

Termination does not mean the irresponsible axing of vulnerable social programs in states which have chosen to review whole or parts of these programs. Where termination is unthinkable, the question becomes one of performance:

should this agency be administering this program in this way? Sunset evaluators, in these cases, look at competence factors, duplication of effort and the resources of an agency. In some cases, regulatory and other agencies are provided with additional resources if it is discovered that they have been forced to operate at inadequate funding levels.

(2). Financial Savings Through Sunset

Sunset is not a tool to slash state budgets -- that is not its primary objective. Improvement of government performance and efficiency and freedom from excessive regulation are Sunset's major goals. Saving money and implementing Sunset are not mutually exclusive, however. In at least one-sixth of the states conducting Sunset reviews, legislators have been able to document sizable savings. Other states are expanding their Sunset laws beyond minor regulatory agencies with the anticipation that savings can be achieved through Sunset.

There has been an obvious misconception about the potential for budget cutting from Sunset that dates from the time of passage of Sunset laws in the mid 1970's. Taking the advice of Common Cause and legislative oversight experts, most states choose to begin Sunset reviews by looking at regulatory agencies. The major reasons for initially focusing attention on regulatory agencies is that they are generally small enough to provide a manageable training ground for conducting legislative oversight. Three

additional reasons are: 1) regulatory agencies are the source of much citizen dissatisfaction; 2) regulatory agencies receive minimal review in the normal budget process; and 3) regulatory agencies frequently function in a vacuum, escaping surveillance of the governor or management staff.

The majority of these agencies are semi-independent. In some cases, their entire budgets come from licensing fees. Even abolishing the agencies would not yield immediate, visible savings in the state budget. This does not mean, however, that there are no savings to be realized; rather, the savings are frequently indirect.

Sunset legislation is not designed to discredit regulation which is fulfilling a legitimate public policy purpose. Sunset is designed to weed out regulation which is outdated or which benefits a narrow interest rather than the public interest.

Savings can be realized when programs which fall under the legislative appropriations process are reviewed. Of the six states reporting sizable documented savings through Sunset (Alabama, Indiana, Maine, Maryland, Tennessee, and Washington), only one of these states reviews regulatory agencies exclusively.

A final point regarding savings and Sunset concerns perspective. Many states have conducted only one or two cycles of Sunset.

(3). Legislators are Gaining Experience in Conducting Oversight

More than half of the respondents in states with Sunset laws stated in the Common Cause questionnaire that one of the important benefits of Sunset is that legislators have gained experience and interest in conducting legislative oversight. This experience consistently focuses on three subjects: first, creating a manageable workload; second, streamlining review and reporting procedures; and third, linking oversight to the normal legislative process. A positive outcome of this experience is the emergence of state government officials who are competent and often innovative leaders in the emerging area of oversight.

On the first point, creating a manageable workload for legislators and Sunset staff was largely careful guesswork on the part of Sunset's founding fathers. "Don't bite off more than you can chew" was the maxim. A few states totally disregarded this warning in their eagerness to get a "quick fix" on state government problems. For example, Alabama's first experience with Sunset caused observers to label the law a "High Noon" law. The legislature had to vote "yes" or "no" on whether to continue approximately 100 agencies and all other "units of government" over a four year period. Confusion over the appropriate time to review the unspecified agencies caused the Alabama House to vote on over 200

agencies in only three hours in 1977, only to repeat the process again in 1978.

In most cases, however, the scheduling of agencies for review is far more responsible. Our survey indicates that the 35 states with Sunset laws review a median of ten agencies per year. The average figure for states which have comprehensive review of all or most of state agencies of government is 17 agencies per year.

A number of states have devised a method for handling large numbers of reviews. Tennessee, for example, has an ambitious Sunset law; it schedules from 14 to 25 agencies per year for review. Legislators in Tennessee passed a comprehensive Sunset law covering both regulatory and non-regulatory agencies of state government. W. Jeff Reynolds, Chief of Program Evaluation, in an article on the Tennessee Sunset law,\* explained that Tennessee began program evaluation in 1973 and added Sunset evaluation to an agency experienced and interested in the goals of Sunset.

The key to Tennessee's success with Sunset is linked, in part, to the use of a "limited program audit," a strategy

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\*W. Jeff Reynolds, Evaluating the Performance of State Agencies: Sunset Review in Tennessee," Governmental Finance, December 1980).

which is highly selective in allocating time for evaluating agencies (e.g., evaluation of the Department of Mental Health and Mental Retardation was allocated 6,000 hours while review of four agriculture-related boards was allocated less than 50 hours).

Tennessee Program Evaluation staff use a preliminary survey to determine the best areas for review based on the following factors:

1. The size of the agency (staff expenditures, revenues, clients);
2. Prior legislative interest;
3. Prior audit work in the agency; and
4. Potential benefits from the review.

Texas is able successfully to conduct a larger than average number of reviews because they have a well financed and highly professional Sunset commission. Allocation of sufficient resources -- so often overlooked by states -- can often make the difference between Sunset's success and failure in terms of achieving the goal of improved government performance.

In addition to establishing priority review, some states are taking action to lengthen the review cycle if they find that review is taking too much time. In Colorado -- a state which faced repeal of Sunset legislation last year but voted against repeal -- legislators chose to

extend their Sunset cycle to ten years. (Texas, which has the longest review cycle -- twelve years -- gives Sunset very high marks.)

A number of states have developed methods for streamlining review and reporting procedures. The Montana Legislative Audit Committee reviewed 14 agencies in 1979 and 22 agencies in 1981. They found that extensive background material was informative, but not essential to Sunset review reporting. They were able to devise an effective abbreviated cost-analysis approach to reduce some of the costly and laborious research and analysis. Finally, the Committee developed a standardized "alternative methods of regulation" report and a simplified decision-making chart.

In 1981, Colorado legislators interested in cutting costs and streamlining the Sunset process voted to abandon the long drawn-out performance audits done by the state auditor's office, and to utilize only performance audits which have been successfully conducted by the State Department of Regulatory Agencies. The review cycle was also extended from six to ten years. (In 1981, a repeal bill was also introduced, but legislators voted -- by a two-to-one margin -- to improve rather than repeal the state Sunset law in Colorado.)

States may also want to consider the use of outside contractors to develop a more efficient review procedure.

Almost one-quarter of the states are using contractors to supplement the permanent staff resources.

With regard to preparation of performance evaluation reports for the legislature, John W. Turcotte, Director of Mississippi's highly regarded Legislative Audit Committee, has offered some useful suggestions:\*

1. Using meaningful side captions and subheadings to permit quick scan of reports without reading each line; (For example, instead of a subheading "Authority Problems," use "Program Managers Lack Authority to Spend Funds Where Needed.")
2. Providing a color-contrasting summary cross-referenced to the report body;
3. Using the active rather than the passive voice;
4. Employing self-explanatory tables, maps, charts and other graphic aids in lieu of narrative;
5. Avoiding acronyms and technical jargon altogether or at least providing a glossary of terms;
6. Providing a free-standing press release carefully prepared since many legislators will be more likely to read a news account of a report than the report itself; (Also, accurate press coverage tends to promote interest in the report among policy makers and the public.)

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\*Presented to National Conference of State Legislatures.  
Legislative Program Evaluation Section, July 23, 1979.

7. Enclosing suggested legislation, cost or savings estimates, revised rules or regulations, reorganization proposals, new process flow-charts, and other "turnkey" enclosures to minimize "how, where, when, and how much" questions; and
8. Timing release of the report for maximum effect, usually immediately prior to the session.

Like Tennessee's Sunset evaluation staff, Mr. Turcotte emphasized the importance of staff follow-up once reports reach legislators' crowded desks to ensure that legislators pay attention to the key issues.

In summary, states have taken action to improve their review procedures in a variety of ways. At a minimum, states have refined their evaluation criteria to meet their needs.

Common Cause has encouraged states to integrate oversight into the normal legislative process. Developing a joint committee with exclusive control for oversight will not help give a large number of legislators experience in conducting oversight. It is preferable to spread the work among standing committees. (Or, at the very least, to rotate members off a joint committee periodically, as is done in the Budget Committee of the House of Representatives.

It also seems more likely, if standing committees handle Sunset reviews, that wider participation in the appropriations process will be achieved. Legislators, at a

minimum, will have to consider the level of appropriations for programs that are reviewed under Sunset.

Our survey indicates that states are almost evenly divided between the use of joint committees and standing committees. Florida, in 1981, abandoned the use of a joint legislative committee for conducting Sunset reviews. Standing committees -- traditionally high-powered and effective in Florida's legislature -- now have complete responsibility for Sunset.

Many legislators have traditionally resisted undertaking legislative oversight, because there has not been much political mileage to be gained by reviewing old laws -- creating new ones provides many more rewards.

Where Sunset has had some of its best success, legislative leaders have worked diligently to make it what it is. George Sheldon, Chairman of the House Governmental Operations Committee, nurtured Sunset in Florida. Before the process even began, he met with the state's newspaper editorial boards to explain the importance of Sunset.

Questionnaire survey results, case studies and research of state Sunset implementation reveal that Sunset is far more than a fad and hardly a static concept. In many states, legislatures have taken action to expand and, in fact, improve their Sunset laws. Sunset is moving forward, but, as we acknowledge, not without some problems. The next section is devoted to analysis of these problems.

Problems with Sunset

It is not difficult to find legislators who are quick to denigrate Sunset. "Takes too much time" ... "costs too much and doesn't show savings" ... "we didn't really kill anything" are popular comments. These comments generally reflect a mixture of legitimate procedural problems with Sunset and unrealistic expectations of what Sunset would do.

Legislators are beginning to understand the communications problem which has led to confusion of Sunset's goals. Maryland's Speaker of the House, Benjamin J. Cardin, commented recently to the Baltimore Sun:

Sunset was oversold. [The Legislature] was looking for an easy solution. Sunset was something we could understand, and there were expectations that were too high.

But it became a valuable tool. I look at it more as an oversight function than a tax-savings function. From that standpoint, the results are getting better each year. I think it's worked.

Faced with potential repeal of Maryland's Sunset law, Delegate Cardin and other key Maryland legislators supported changes to lengthen the review cycle as a way of creating a more manageable workload.

(1). False Expectations of Sunset

Criticisms of Sunset will continue to surface unless there is a recognition of what sunset can do -- make government perform better -- and what it will not do. Some of the false expectations of Sunset are listed as follows:

(a) Instant reduction in the size of state government. The body count mentality is the wrong yardstick of Sunset success and has been from the start. The goal of improving government performance has been distorted by the preoccupation with termination. Simply put, the concept of automatic termination is intended as an "action-forcing" mechanism to initiate review of an agency on a certain date. If it is determined that a regulatory agency's function is not necessary for the public interest or activities of government agencies are duplicated elsewhere, termination may be appropriate. (To date, our survey has indicated that this has been the case with one in five agencies reviewed.)

(b) Instant dollar savings from Sunset. Regulatory agencies seldom have a large direct impact on the state budget, so savings to taxpayers are difficult to document. The value of reviewing regulatory agencies has been in a more responsive, consumer-oriented state government. Savings to consumers are, for example, manifested in reduced tour bus rates for Florida residents as a result of trucking de-regulation.

The encouraging news is that our survey reveals that states are beginning to achieve significant savings, particularly when they have begun reviews of agencies of government which are governed by the state budget. Further, these savings should grow relative to the cost of conducting reviews as this cost is reduced as the review process is refined.

(2). Facing Sunset's Problems

Beyond the issue of false expectations lie problems which are difficult, but not insurmountable. These problems fall into four areas: (1) legislative oversight is a time-consuming and costly endeavor; (2) limited public participation in the Sunset process; (3) the disproportionate influence of professional associations which lobby for continuance of regulations which benefit them; and (4) many states lack adequate measurement information on agency performance and agency value.

(a) Conducting legislative oversight takes time, adding to an already heavy workload. Our questionnaire survey indicates that the leading complaint regarding Sunset is that Sunset reviews are too time-consuming. In some cases, the scheduling of very large numbers of agencies has directly contributed to the problem. For example, in Arkansas, where the legislature considered 136 agencies in 1979 and 89 agencies in 1981, complaints about the time-consuming nature of Sunset contributed to the near repeal of the Sunset statute.

It is clear, however, that states are creatively tackling the problems of management of the Sunset workload and the expense of conducting reviews. Solutions such as reducing the number of agencies scheduled for review, lengthening the review cycle, creating priority review, streamlining audit and reporting requirements, and adding additional staff are being implemented in many states.

(b) Public participation in the Sunset process has been limited. When asked about the extent of public participation in the Sunset process as measured by attendance at public hearings, seventy percent of the states reported that the average turnout for a public hearing has been 25 persons or fewer. This statistic is not surprising, because legislators have bemoaned -- and legitimately so -- the lack of public participation in the Sunset process since the inception of Sunset laws.

In 1981, in Texas, legislators voted to add two public members to the Texas Sunset Advisory Commission in order to enhance public participation. A number of states have solicited testimony from individuals who have registered complaints about a particular board under Sunset review. This effort ensures that it is not only the regulated professionals -- who speak on their own behalf -- that are being heard from.

Other, more obvious techniques of generating public interest in Sunset proceedings are: widespread and timely notice of public hearings, convenient time and location of hearings, and press coverage of the issues involved in the reviews of particular boards or agencies.

(c) The disproportionate influence of regulated professionals on the Sunset process is related to and potentially a result of poor participation by the general public.

One-third of survey respondents indicated that they hear only from licensed professionals about Sunset issues.

That licensees attend public hearings is commendable, but industry involvement often extends beyond public testimony. The Texas Medical Association, for example, reportedly spent lavishly in a campaign against changes to the Texas State Board of Medical Examiners.

In an even more dramatic situation, the issue of professional lobbying pressure on the Sunset process is credited, in part, with causing the demise of the North Carolina Sunset law. Review of the North Carolina State Bar and the North Carolina Board of Medical Examiners was scheduled in the 1981 session. Both the lawyers and physicians expressed great dissatisfaction with the North Carolina Sunset Commission's recommendations regarding the boards which oversee these professions. Ultimately, North Carolina's legislators yielded to the intense pressure brought by the state's lawyers and doctors. They stripped the Commission of its staff and repealed the automatic termination provision of Sunset, leaving a mandate requiring committees within the legislature to review certain boards previously listed on the Sunset schedule. As one Commission member described the 1981 action, "You take away the staff before the reports are in and you might as well watch our work go down the drain."

North Carolina legislators also complained that the Commission was too expensive and took too much time.

However, in Colorado and Maryland -- states which also felt lobbying pressure and had time and money problems -- the ultimate decision was to improve rather than repeal their Sunset laws.

In Texas, where many licensees are involved in political action committees, Common Cause has been able to examine the correlation between the amount of campaign contributions to legislators and the rate of implementation of reforms recommended by Sunset review bodies.

In 1979, Common Cause/Texas examined the amount of campaign contributions to legislators by professionals affected by Sunset reviews that year. The research revealed that "the two lowest rates of Sunset implementation [defined as Commission recommendations adopted] correspond to the largest amounts of campaign contributions." In this case, the contributions were from the Texas State Bar and the Texas Real Estate Association.

Texas is an example of a state in which the threat of close scrutiny under Sunset review procedures has galvanized certain licensed professionals to go to great lengths to ensure that regulation which benefits their industry is retained.

It is clear that political in-fighting regarding the future of agencies reviewed under Sunset is more intense in some states than others. Arizona Governor Bruce Babbitt told The Arizona Republic (April 27, 1980); "For every

agency that's 'sunsetting,' you'll find five that are radically revised in a knockdown drag-out fight."

Strong leadership by legislators responsible for carrying legislative proposals for agencies under review is an essential countermeasure for preventing inappropriate politics in Sunset. It becomes critical that the rationale underlying Sunset recommendations is clearly articulated to legislators so that they will know both sides of the story -- not just information provided to them by regulated industry lobbyists.

Governors have taken an important role in maintaining the integrity of the Sunset process. Threatening to veto ill-conceived legislative proposals regarding agencies or boards under Sunset review can be a powerful tool. Further, if thoughtful proposals for action on boards or agencies come from the governor's office, there is a yardstick to distinguish the real issues from the political ones.

(d) Many states lack adequate measurement information on agency performance and agency value. Implementation of program evaluation procedures -- conducting research and preparing a final report of findings -- is generally viewed as the responsibility of professional staff. Our survey indicates that in almost half of the states the legislative auditor general conducts program evaluation. Another one-third of the states use committee staff.

Preceded by objective and independent research, participation by legislators increases the impact of performance

evaluations (e.g., the public hearings process conducted by legislators is often a key element of review). Moreover, the role of the agency in conducting self-evaluation, as required in the Texas Sunset Act, can also further effective program evaluation.

But professional staff, legislators and agency personnel need criteria by which to conduct their reviews. The criteria developed to assess the need for regulation is closely articulated in laws like the Florida Regulatory Sunset Act.

Many states, however, are still struggling with the development of appropriate criteria for examining an agency's performance in achieving its goals. Almost half of the respondent states make clear that the lack of measurement information on agency performance and agency value is a major problem.

This issue is especially critical when examining non-regulatory agencies (e.g., service delivery agencies or programs) which have a large impact on governmental spending. Of necessity, these criteria must be general enough to be consistently applicable, yet specific enough to provide meaningful direction.

In conclusion, improving Sunset implementation requires a careful assessment of the problems. Some states have taken important first steps in this regard. Creating a manageable workload and streamlining review and reporting procedures are impressive efforts at making the process work

better. States will have to apply the same creativity in order to keep the pressures of politics at a minimum. Sunset is a form of legislative oversight which is designed to help legislators make state government more accountable. It is important that the goal continues to be that Sunset should make government accountable to all citizens and not just to a few who are able to make their voices heard.

#### IV. CONCLUSIONS/RECOMMENDATIONS

Measured by the appropriate standard -- improvement of government performance -- Sunset is a valuable tool for performing legislative oversight. It is clear that states are at various stages of refining their Sunset implementation procedures. A number of states have had four or five years of experience with Sunset, while in Pennsylvania, a Sunset law was passed for the first time in December 1981.

Not all states have had a positive experience with Sunset. But other states look ahead to an expanded role for the oversight procedure. These states frequently have as dual goals the establishment of a manageable workload and broadening of the scope of their review schedule to include non-regulatory agencies (e.g., service delivery agencies or programs).

In order to help states achieve these goals and to assist with problems which have been shared by many states, Common Cause has developed eight recommendations. The first four recommendations address the issues of creating a manageable workload and an effective and accountable procedure for selecting and reviewing a larger number of agencies or programs. The first recommendation outlines a procedure for creating a schedule of agency terminations. The other points concern the length of the termination cycle, the development of appropriate evaluation criteria and the application of a priority review procedure -- providing

an option for conducting either an extensive or a limited program evaluation.

The last four recommendations are general suggestions for improving the implementation of Sunset in such areas as integrating Sunset work with the budget process, preparing reports of program evaluation findings, and increasing public participation and executive branch involvement in Sunset.

Common Cause Recommendations:

1. States involved in expanding the scope of their Sunset reviews beyond regulatory agencies should develop a timely, systematic procedure for establishing a manageable schedule of agency terminations.

Comment: The following scheduling procedure for agencies to be subject to Sunset review is proposed:

- ° Legislative leaders or the Governor provide an inventory of agencies or programs no later than the first day of the legislative session of the year preceding the proposed year of termination.
- ° Substantive legislative committees, with assistance from program evaluation staff, provide recommendations of agencies or programs for review based on the following criteria:
  - (1) Length of time the agency or program has been in existence;
  - (2) The size of the agency or program (based on revenues, staff expenditures, clients, etc.);
  - (3) Level of prior legislative or public interest in the agency or program;
  - (4) Resources of the Sunset review body to conduct a review of the agency or program at this time.
- ° Recommendations favorably reported are sent to the Rules Committee of respective houses within 15 days.

- Recommendations adopted by enactment of a statute no later than the end of the year preceding the year of proposed termination.

2. States involved in broadening the scope of their Sunset laws should consider lengthening termination schedules to 8 or 10 years.

Comment: To establish a realistic workload, states should determine an appropriate termination schedule, recognizing the amount of time needed to conduct meaningful program evaluation. More frequent evaluation can be done as needed on a priority basis.

3. States may want to modify the evaluation criteria in their Sunset laws if they are adding non-regulatory agencies or programs (e.g., service delivery programs) to their review schedules.

Comment: Many states adopted evaluation criteria patterned after the Florida law on the need for regulation and on the Colorado law regarding the performance of an agency in fulfilling its mandate. Evaluating agencies or programs that are not regulatory in nature requires a stronger emphasis on performance, because termination of these programs may be unlikely. A good starting point for assessing performance is offered by the U.S. Comptroller General as follows:

Economy and Efficiency - determines (a) whether the entity is managing and utilizing its resources (such as personnel, property, space) economically and efficiently, (b) the causes of inefficiencies or uneconomical practices, and (c) whether the entity has complied with laws and regulations concerning matters of economy and efficiency.

Program Results - determines (a) whether the desired results or benefits established by the legislature or other authorizing body are being achieved and (b) whether the agency has considered alternatives that might yield desired results at a lower cost.

4. To create a more manageable workload for Sunset reviews, states might consider establishing priorities for conducting their program evaluation procedures.

Comment: A system of priority review would give legislators and Sunset evaluation professionals the option of conducting either an elaborate or a limited program evaluation on agencies or programs. This procedure would enable states to devote more time to reviewing large and complex agencies and less time to agencies that are narrowly focused and that have little impact on government spending.

5. States should seek a close integration of Sunset with the budget process.

Comment: The budget process is a natural tool for legislative oversight. Sunset findings on agencies and programs can be of considerable help in determining requests for legislative appropriations. Sunset findings can add an important perspective in the decisionmaking process.

6. Sunset review findings should be presented in an organized, digestible format.

Comment: Reports should contain an executive summary and a clear explication of the findings and recommendations in the report. Information should be geared to easy interpretation by legislators, agency staff, and the general public. A useful model for preparing reports is the style adopted by the U.S. General Accounting Office. (States may find it helpful to include a copy of a press release with a copy of the report.)

7. Public participation in the Sunset process should be encouraged.

Comment: States should provide timely and widespread notice of public hearings; solicit testimony from individuals who have previously submitted complaints about the agency or program under review; and issue press releases on the findings resulting from review of agencies and programs.

8. Executive branch participation in the Sunset process should be increased.

Comment: Governors can play a critical role in ensuring the integrity of the Sunset process. This can be accomplished by submitting testimony on a proposed action regarding an agency or program; preparing final recommendations on agencies under review; and exercising veto power, where appropriate, concerning Sunset legislative proposals.

APPENDIX A. QUESTIONNAIRE RESULTS  
QUESTIONNAIRE RESPONDENTS  
NARRATIVE OF QUESTIONNAIRE RESPONSES

# State Sunset Questionnaire

This questionnaire will be used in the development of a study on Sunset activity in the states. By examining how Sunset laws are working, Common Cause hopes to provide not only a compilation of facts regarding Sunset, but also specific recommendations for improving Sunset implementation. We would appreciate it if you would fill out and return this questionnaire by August 15.

State Sunset Contact:

Date: \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Title \_\_\_\_\_

Office Tel. \_\_\_\_\_

Statutory citation of your Sunset law \_\_\_\_\_ Year of Enactment \_\_\_\_\_

Substantive amendments to the law since its enactment (citation and year) in 60% of states

## A. Sunset Evaluation Process

I. Is a performance evaluation required for all agencies under review in the Sunset process?

76.5% yes      23.5% no

If no, for approximately what percent of agencies is a performance evaluation conducted?  
(3 states answered no)

<u>37.5%</u>	0 - 10%	<u>0</u>	51 - 75%
<u>12.5%</u>	11 - 25%	<u>25%</u>	76 - 100%
<u>25%</u>	26 - 50%		

II. Who prepares performance evaluation reports for Sunset reviews? (check all that apply)

- 29% committee staff
- 21 legislative service bureau
- 41 legislative auditor general
- 3 Sunset commission
- 21 agency under review
- 9 executive branch evaluation agency
- 18 other, please specify \_\_\_\_\_

III. What is included in a typical Sunset report prepared on an agency under review?

- 94% performance evaluation findings (e.g., review of management practices, achievement of agency goals, and impact of programs on the public)
- 79 a summary of the major findings of the performance evaluation
- 47 agency response to the performance evaluation findings
- 85 recommendations for changes in enabling legislation
- 29 other, please specify \_\_\_\_\_

IV. What method(s) of data collection is used most frequently?

- 71% written questionnaires submitted to an agency
- 97 personal interviews with agency representatives or staff
- 82 examination of agency records
- 56 written questionnaires to licensees and regulated industries
- 53 written questionnaires or in-person interviews with clients of the agency
- 35 other, please specify \_\_\_\_\_

V. Does the agency under review participate in preliminary planning for a Sunset review?

29% yes 71% no

if yes, in what way? (10 states answered "yes")

- 30% meets with legislature to establish a workplan
- 20 prepares a preliminary report
- 50 other, please specify \_\_\_\_\_

VI. How many months in advance of an agency termination date does a legislative committee generally meet to establish a timetable or plan for review?

18 months ave. (22 states)

VII. How many months in advance of an agency termination date is the final report due?

9 months ave. (22 states)

VIII. Which agencies or committees of the legislature administer Sunset reviews? (check all that apply)

- 41% standing committee
- 50 joint legislative committee
- 12 Sunset commission
- 24 other \_\_\_\_\_

**B. Staffing**

I. What type of professionals participate in the preparation of performance evaluations? (Please check appropriate categories)

- 50% lawyers 62 policy analysts
- 59 accountants 41 other, please specify \_\_\_\_\_
- 32 economists \_\_\_\_\_

II. Are outside contractors used in any way to assist in the Sunset process?

23.5% yes 76.5% no

if yes, in what way? \_\_\_\_\_

III. Do you have full-time staff members who devote their time largely to Sunset review activities?

65% yes 35% no

if yes, how many? 4.1 ave. all states

6 ave. 21 states indicating they have full time staff.

**C. Costs and Benefits**

I. Please list the annual budget allocation for Sunset reviews.

- 1982 \$ 240,600 ave. (8 states) 1978 \$ 161,600 ave. (9 states)
- 1981 \$ 187,200 ave. (13 states) 1977 \$ 215,000 (1 state)
- 1980 \$ 163,600 ave. (16 states) 1976 \$ \_\_\_\_\_
- 1979 \$ 153,200 ave. (13 states)

II. Can you estimate the staff time and financial costs associated with completing an average Sunset review?

staff time 760 hours (17 states) number of full-time staff 2.7 ave.

average costs \$ 11,600 (15 states)

III. Can you estimate the total savings to date resulting from the Sunset review process?

- 20% yes \$ \_\_\_\_\_ If an estimate is available, please give a breakdown of the savings:
- 80 no \$ 1,800,000 in state expenditures (ave. of 6 states)
- \$ \_\_\_\_\_ in costs to consumers for goods and services
- \$ \_\_\_\_\_ other, please specify \_\_\_\_\_

D. Legislative Review

I. Approximately what percent of the recommendations of Sunset evaluators have been accepted by the legislature?

<u>0%</u>	0-10%	<u>10%</u>	51-75%	(ave. acceptance rate=69%)
<u>10</u>	11-25%	<u>61</u>	76-100%	
<u>19</u>	26-50%			

1977-1981

II. Please list the number of agencies reviewed, recreated as is, modified, or terminated under your Sunset law.

1981	<u>502</u> reviewed × 17%	<u>43</u> recreated as is	<u>40%</u> modified	<u>85</u>	<u>17%</u> terminated
1980	<u>303</u> reviewed	<u>43</u> recreated as is	<u>39</u> modified	<u>55</u>	<u>18</u> terminated
1979	<u>402</u> reviewed	<u>54</u> recreated as is	<u>30</u> modified	<u>64</u>	<u>16</u> terminated
1978	<u>186</u> reviewed	<u>33</u> recreated as is	<u>44</u> modified	<u>43</u>	<u>23</u> terminated
1977	<u>74</u> reviewed	<u>32</u> recreated as is	<u>43</u> modified	<u>19</u>	<u>25</u> terminated

Comments 1467 + 209 scheduled in 1982 = 1676 266 + 17 termin 1982 = 283  
 The percentages given above are based upon the total number of agencies reviewed for which the actions taken after review are known. These numbers are 383 for 1981, 217 for 1980, 323 for 1979, 162 for 1978, and 44 for 1977

III. Do legislative committees use the interim between sessions for some aspect of the Sunset review process?

86% yes 14% no

if yes, what type of work do they do? (30 states use interim)

57% hold preliminary planning sessions

67% collect data for evaluation reports

83% hold public hearings

37% other, please specify \_\_\_\_\_

E. Public Participation

I. For what percent of the agencies reviewed have public hearings been conducted?

<u>3%</u>	0-10%	<u>0%</u>	51-75%	<u>91%</u>	100%
<u>0</u>	11-25%	<u>6</u>	76-99%	(ave. % holding public hearings=96%)	
<u>0</u>	26-50%				

II. Besides legislators and the personnel of agencies under review, who attends public hearings? (please rank 1-5 based on largest to smallest turnout)

1.6 representatives of regulated industries (ave. rank)

2.1 licensees

3.7 consumer groups

2.9 press

4.7 other, please specify \_\_\_\_\_

III. The average turnout for a public hearing has been (ave. turnout=23)

<u>70%</u>	0-25	<u>6%</u>	51-100
<u>24%</u>	26-50	<u>0</u>	100+

F. Governor

I. Does your Governor play a role in the Sunset process?

38% yes 62% no

if yes, what role does he play? (13 states, not including N.C., answered "yes")

23% appoints members to a Sunset commission

- 23% provides staff that conducts performance evaluations
  - 39 submits recommendations on agencies under review
  - 31 uses an executive agency to monitor and coordinate the program analyses submitted to the legislature
  - 41 other, please specify \_\_\_\_\_
- 

II. How many agencies have been terminated pursuant to gubernatorial veto?

1 in each of 3 states

G. General

I. What is the scope of coverage of your Sunset law?

- 29% regulatory agencies only
- 43 regulatory and other selected agencies
- 29 comprehensive review of all agencies created by the legislature or by executive order

II. If your Sunset law covers more than regulatory agencies, but not all agencies of your state government, please explain how the programs or agencies were selected for review. Some possible criteria are listed below. (19 states indicated criteria)

- 5% extent to which substantial time has passed since the programs or agencies have been in effect
  - 10 extent to which programs or agencies appear to require significant change
  - 10 government resources to undertake review of particular programs or agencies
  - 74 other, please specify \_\_\_\_\_
- 
- 

III. Has the legislature taken any action to broaden the scope of your Sunset law?

32% yes 68% no

if yes, please specify (11 states answered "yes")

- 55% law broadened to include certain non-regulatory agencies
  - 0 law broadened to include all agencies
  - 18 law broadened to include review of proposals for new agencies
  - 36 other, please specify \_\_\_\_\_
- 

IV. Have any bills to repeal your Sunset law been introduced?

20% yes 80% no

if yes, please specify bill number and year introduced

1-1980, 5-1981, 1-unspecified

---

V. What do you think legislators feel are the principal benefits of Sunset in your state? (please check no more than two benefits)

- 32% voluntary changes in agency procedures
  - 6 savings to taxpayers because of agency terminations or modifications
  - 68 increased agency efficiency and public accountability (e.g., improved consumer complaint procedures)
  - 56 increased legislative experience with and interest in oversight work
  - 12 other, please specify \_\_\_\_\_
- 

15 no clear benefits

VI. What do you think are legislators' principal complaints about Sunset? (please check no more than two complaints)

- 29% the cost of reviews is too high compared to benefits
- 50 Sunset reviews are too time-consuming

- ~~18~~ automatic termination is not necessary for effective legislative oversight
- ~~29~~ Sunset covers only small, low-budget agencies, therefore makes few significant changes
- ~~35~~ the only public response concerning Sunset is from licensed professionals who have organized to lobby for continuing regulation which benefits them
- 21 other, please specify \_\_\_\_\_

6 no significant complaints

VII. What do you think are the principal reasons legislators have voted against the recommendations of the Sunset review body? (please check no more than two reasons)

- ~~3~~ reports were inadequately documented or confusing
- 63 professional association pressure to preserve an agency was too strong to counter
- 17 other constituent pressure to preserve or terminate an agency was too strong to counter
- 27 legislators did not agree with the recommendations
- 13 other, please specify \_\_\_\_\_

VIII. What across-the-board recommendations, if any, have been established because of Sunset?

- 29 allowing advertising and competitive bidding
- 45 requiring public membership on boards and commissions
- 19 requiring specific provisions concerning conflicts of interest
- 19 requiring public information be made available on board activities
- 29 adopting fair standards of entry for out-of-state applicants
- 12 improving administrative practices
- 39 improving disciplinary procedures
- 29 other, please specify \_\_\_\_\_

0 not applicable

IX. Which of the following problems, if any, do you feel create significant difficulties in conducting Sunset reviews (please check no more than two problems)

- 9 inadequate funding
- 52 insufficient staff time
- 12 lack of staff expertise in technical areas
- 0 lack of agency cooperation in providing data
- 3 lack of honesty in agency reporting
- 46 lack of adequate measurement information on agency performance and agency value
- 24 other, please specify \_\_\_\_\_

15 no significant problems

H. Please use the space below (and on the reverse side) for any comments you have on implementation of your Sunset law).

Questionnaire Respondents

The information used in the report is based on answers to Common Cause's "State Sunset Questionnaire" by the following respondents:

State	Respondent	Position	Questionnaire Completed on:
Alabama	Ronald L. Jones	Div. of Oper. Audits	9/30/81
Alaska	Merle R. Jenson	Div. of Leg. Audit	7/27/81
Arizona	Gerald A. Silva	Perf. Audit Manager	8/19/81
Arkansas	Fred Van Driesum	Research Dept.	7/31/81
Colorado	Rosalie Schiff and Bob Smith	Ex.Dir., CC/CO Auditor's Office	8/13/81
Connecticut	Michael Nauer	Dir., Leg. Prog. Review & Invest.	8/13/81
Delaware	Harris B. McDowell	Chair, Del. Sunset Comm.	N/A
Florida	George Sheldon	Representative	8/18/81
Georgia	Charles D. Lunsford	Dir., Perf. Audits	9/8/81
Hawaii	Wilbert Sakamoto	Asst. Leg. Auditor	8/24/81
Illinois	Gregory K. Busch	Exec. Dir, Sunset Comm.	7/29/81
Indiana	Steve Grimes	Dir., O'MA	N/A
Kansas	Ronald J. Green	Div. Atty., Leg Div. of Post Audit	8/13/81
Louisiana	E. Anne Dunn and Jerry J. Guillot	Gov. Affairs Div. Research Serv.	9/8/81
Maine	Barbara Gottschalk	Program Analyst	8/4/81
Maryland	Warren Deschenaux	Sunset Coord.,	8/13/81
Mississippi	Samuel H. Dawkins	PEER Committee	N/A
Montana	Scott A. Seacat	Princ. Audit Manager	7/27/81
Nebraska	Dale B. Johnson	Leg. Fiscal Analyst	8/10/81
Nevada	Dan Miles	Deputy Fiscal Analyst	9/9/81
New Hampshire	Jim Kent	Staff Dir., Sunset Comm.	8/4/81
New Mexico	Jessica Schar	Research Analyst	8/3/81

(Questionnaire respondents continued)

State	Respondent	Position	Questionnaire Completed on:
North Carolina	Jack Fleer	Former Sunset Commissioner	9/29/81
Oklahoma	Jerry W. Canida	Leg. Fiscal Analyst	8/31/81
Oregon	Allan Green	Dir., Leg. Research	7/29/81
Rhode Island	Roger N. Begin	Representative	9/17/81
South Carolina	Les Boles	Principal Auditor	8/25/81
South Dakota	Terry C. Anderson	Chief Research Analyst	7/27/81
Tennessee	W. Jeff Reynolds	Chief of Prog. Evaluation	8/10/81
Texas	Karl Spock	Senior Analyst	9/21/81
Utah	Mark Paterson	Research Analyst	9/10/81
Vermont	S. Michael Slater	Leg. Draftsman	7/27/81
Washington	Fred Tilker	Princ. Mgmt. Auditor	8/17/81
West Virginia	Theford L. Shanklin	Dir., Leg. Post Audit Div.	8/13/81
Wyoming	C. James Orr	Asst. Dir.	8/4/81

## NARRATIVE OF QUESTIONNAIRE RESPONSES

The following is a narrative summary of the responses to the questionnaire. Much of what is said is directly available from the summary copy of the survey (in this Appendix). The narrative does, however, expand on certain items, by talking about medians and ranges of responses and discussing some of the relationships between questionnaire responses. Finally, it is organized somewhat differently than the questionnaire. The narrative begins by discussing responses that measure or otherwise deal with the extent of the Sunset effort in the different states. It then turns to elements concerning the Sunset review process; then to legislators' responses to Sunset; the results of Sunset; and finally, to problems with Sunset.

### I. Extent of the Sunset Effort

We considered a number of the questions to be indicators of the degree of effort going into Sunset in the different states. These were the scope of Sunset law coverage (G.I,II), the number of agencies reviewed per year (D.II), the annual budget for Sunset reviews (C.I), the number of staff devoting their time largely to Sunset reviews (B.III), and the resources devoted to an average Sunset review (C.II).

#### A. Scope

Ten of the states review regulatory agencies only; 15 review regulatory and other selected agencies, and another

10 undertake comprehensive reviews of all agencies. (See Table 1 below). In about half of the states reviewing "selected agencies," there were no clear, objective criteria indicated for choosing agencies for review. It appears that the legislatures have considerable discretion in making these choices.

Table I.

SCOPE OF COVERAGE  
OF STATE SUNSET LAWS

REGULATORY AGENCIES ONLY	REGULATORY + SELECTED OTHER AGENCIES	COMPREHENSIVE REVIEW
Florida	Alabama	Arizona
Georgia	Alaska	Arkansas
Hawaii	Colorado	Indiana
Illinois	Connecticut	Louisiana
Maryland	Delaware	Maine
Montana	Kansas	New Hampshire
New Mexico	Mississippi	Rhode Island
South Carolina	Nebraska	Tennessee
Utah	Nevada	Texas
Vermont	North Carolina*	Washington
	Oklahoma	
	Oregon	
	Pennsylvania**	
	South Dakota	
	West Virginia	
	Wyoming	

\*Sunset mechanism repealed in 1981

\*\*Law enacted in December 1981

B. Number of Agencies Reviewed per Year

Virtually all of the states furnished information on the numbers of agencies reviewed. Half of these considered ten or fewer agencies per year.\* The median for all states was ten agencies per year. Thirty-five percent of the states reviewed between 11 and 20 agencies per year, and fifteen percent reviewed over 30 agencies per year. We might expect that the broader the scope of a state's Sunset law, the more agencies it would review per year, but this is only partly true. States with comprehensive scope have a higher median (17 reviews per year) than the remaining states, but three of ten "comprehensive scope" states review ten or fewer agencies per year. In addition, states that review regulatory agencies only have a higher median (12 per year) than states that review regulatory plus selected other agencies (median of nine per year). Clearly, whatever the scope of a state's Sunset law, the annual workload can be made lighter or heavier by varying the length of the review cycle.

C. Budget and Staff Allocations

Average annual budget allocations for Sunset reviews were between \$153,000 and \$164,000 for the years 1978, 1979,

\*For states that evaluated agencies on a biennial basis, the average number reviewed per year was calculated by dividing the total number reviewed by the number of calendar years that had passed from the first year of review to the last year reviews were made.

and 1980. This figure rose to \$187,000 in 1981.\* Many states were not able to respond to this question because Sunset reviews were carried out within existing organizations and not budgeted for separately. An average of 13 states furnished budget information for each of the years 1978-1981.\*\* Budgets varied over a wide range. For example, in 1981 the median budget was \$133,000 with six states having budgets in the range of \$30,000-\$90,000, and five states having budgets over \$200,000. There is some tendency, in general, for Sunset budgets to increase as the scope of Sunset law coverage becomes broader, though there are high and low budget states in each of the three categories of coverage.

Almost two-thirds of the states indicated that they have staff members who devote their time largely to Sunset review activities. For these, the average staff size was seven. The states indicating no such staff generally could not furnish separate Sunset budgets or had rela-

\*The average Sunset Budget rose to \$241,000 in 1982, but this was more of a statistical aberration than an indication of significant budget increases. Only eight states furnished 1982 information, and these were generally states with high 1981 budgets. The average 1981 budget of states giving 1982 information was \$234,000, just a bit under the 1982 average.

\*\*The reporting of budgets was dominated by states with comprehensive review scope over this period. Seventy percent of states with comprehensive scope reported annual budgets, while about 40 percent of states that review regulatory plus other selected agencies reported. Thus it appears that the budget averages based on only those states reporting, would be higher than the actual averages across all Sunset states.

tively low budgets. For all 35 states the average number of staff was approximately four. Only 14 percent of the states had more than eight full-time staff members.

D. Cost and Time Per Review

About half of the states furnished information on costs per average Sunset review. The median value was \$10,000 per review, with about two-thirds of the reporting states falling in the range of \$6,000-\$18,000 per review. The average review cost was nearly \$12,000.\* Differences in average review costs reflect, in part, differences in the degree of effort going into Sunset reviews of similar agencies. Another important factor however, seems to be differences in the nature of the agencies reviewed. Our data show that as the scope of Sunset law coverage increases, the cost per average review tends to increase. It seems reasonable that as states consider other than regulatory agencies, the average complexity of the agencies, and hence the resources required to review them properly, would increase. We should note, however, that there is a wide range of cost per review figures among states with the same scope of coverage, especially among states reviewing regulatory and other selected agencies.

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\*This average was calculated excluding one extremely high and one extremely low figure.

About half of the states also furnished information on staff hours per review. Most, though not all of the states supplying review cost information, were in this group. The median number of hours per review was about 500 hours, with 60 percent of the states falling in the range of 250-850 hours per review. Three states averaged less than 100 hours per review, and four states spent more than 1,000 hours per review (Arizona, Indiana, Kansas, and West Virginia). As with review cost, there is a general increase in hours per review with increasing scope of the Sunset law, but also wide ranges of values among states with the same scope of coverage.

The average number of staff working on an agency review was close to three staff members, for all states responding to this question. The average and median cost per hour of staff time was \$18, for 13 states furnishing both review cost and staff hours. About 60 percent of these states fell in the range of \$12-\$23 per hour of staff time. The average staff pay would, of course, be below these figures because of direct non-staff costs (e.g., for supplies and publication) and overhead.

## II. The Sunset Review Process

A good many of the items in the questionnaire dealt with the Sunset review process. Many of these explored the participants in the process: which committees have jurisdiction over Sunset reviews (A.VIII), who prepares performance evaluation reports (A.II), what kinds of

professionals participate (B.I), role of the agency being reviewed (A.II,III,IV,V), the governor's role (F.I.,II), public participation (E.I,II,III,A.IV), and the use of contractors (B.II). Other aspects of the review process addressed were: the performance evaluation requirement (A.I.), methods of data collection (A.IV), evaluation report contents (A.III), the lead time for review planning and delivery of reports (A.VI,VII), and the use of the interim period for Sunset reviews (D.III).

A. Committees Which have Jurisdiction Over Sunset Reviews

Half of the states indicated that the entity responsible for overseeing Sunset reviews was a joint legislative committee, 41 percent of the states indicated it was a standing committee. Other responses were: a special legislative oversight committee or agency (15 percent), and a Sunset commission (12 percent). The total percent is greater than 100 because some states have more than one administering agency. (See Table II on page 54).

B. Preparation of Performance Evaluation Reports

The preparation of performance evaluation reports for Sunset review involves primarily agencies of the legislature: the legislative auditor general (41 percent), committee staff (29 percent), the legislative service bureau (21 percent), and other legislative evaluation agencies (12 percent). On the executive side, 21 percent of the states

Table II.

WHICH AGENCIES OR COMMITTEES OF THE LEGISLATURE HAVE JURISDICTION FOR SUNSET REVIEWS?

Joint Leg. Comm.	Standing Comm.	Sunset Comm.	Other
Alabama	Alaska	Illinois	Connecticut
Arizona	Colorado	No. Carolina*	Nebraska
Arkansas	Florida	Rhode Island	Nevada
Delaware	Hawaii	So. Carolina	Utah
Georgia	Kansas	Texas	
Indiana	Louisiana		
Kansas	Maryland		
Louisiana	Mississippi		
Maine	Montana		
Mississippi	Nevada		
New Mexico	New Hamp.		
Oklahoma	So. Carolina		
Oregon	Vermont		
So. Dakota	Washington		
Tennessee			
Washington			
West Virginia			
Wyoming			

\* prior to 1981

indicated participation by the agency under review, and nine percent an executive branch evaluation agency. (See Table III on page 55).

C. Professional Staff

The major kinds of professionals involved in preparing performance evaluations were policy analysts (62 percent),

Table III.

WHO PREPARES PERFORMANCE EVALUATION REPORTS  
FOR SUNSET REVIEWS?

Leg. Auditor General	Committee Staff	Leg. Ser. Bureau	Agency Under Review	Exec. Branch	Sunset Comm.	Other
Ala.	Conn.	Ind.	Alaska	Alaska	Ill.	Colo.
Alaska	Fla.	La.	Fla.	Colo.	Tex.	Miss.
Ariz.	La.	Md.	Ill.	Ill.		Nev.
Ar.	Maine	Oreg.	Maine	N.C.*		S.C.
Colo.*	Nebr.	S. Dak.	N. Mex.			Wash.
Ga.	N.H.	Wyo.	Okla.			
Hawaii	Okla.		Tex.			
Kans.	Vt.					
Mont.	Wash.					
R.I.						
Tenn.						
Utah						
W. Va.						

\*until July 1981

accountants (59 percent), lawyers (50 percent), economists (32 percent), and (listed under "other") staff with masters in business and public administration (15 percent).

Outside contractors are used to assist in the Sunset process in almost one-quarter of the states. Where used, consultants have generally been assigned highly specialized tasks, such as developing an evaluation framework or making a telephone survey.

D. Agency Involvement

An agency undergoing Sunset review may be involved in the process in a number of ways. In 21 percent of the

states, the agency plays a major role in preparing the performance evaluation report. In almost half of the states, an agency response to the performance evaluation findings is included in the report. In all but one of the states there are personal interviews with agency representatives or staff while evaluation reports are in preparation; and in 71 percent of the states, written questionnaires are submitted to the agency. Agencies participate in preliminary planning for a Sunset review in almost a third of the states; the usual form participation has taken in these states is meeting with the legislature to establish a work plan (indicated by 30 percent of these states) and preparing a preliminary report (20 percent).

E. Governor

Governors play a role in the Sunset process in 38 percent of the states. In these states, common forms of participation are: submitting recommendations on agencies under review (39 percent), using an executive agency to monitor and coordinate the program analyses submitted to the legislature (31 percent), appointing members to a Sunset commission (23 percent), providing staff that conducts performance evaluations (23 percent), and having the power to veto Sunset legislation (23 percent). Governors have vetoed decisions to terminate agencies in only three states (and just once in each of these states).

F. Public Hearings

Public hearings have been conducted for all agencies reviewed under Sunset by 91 percent (all but three) of the states. Two of the remaining states have held public hearings for 76-99 percent of agency reviews.

In 70 percent of the states, the average turnout for a public hearing has been 25 or fewer people; and in six percent (Rhode Island and Texas), it has been between 51 and 100 people. The group with the largest turnout at public hearings--besides legislators and the personnel of agencies under review--is representatives of regulated industries. Next in order are licensees, the press, and consumer groups. In addition to attendance at public hearings, the public also participates in the preparation of performance evaluations via written questionnaires to licensees and regulated industries (in 56 percent of the states) and questionnaires or in-person interviews with clients of the agency (53 percent).

G. Performance Evaluation

About three-quarters of the states require a performance evaluation for all agencies under review in the Sunset process. About one in six states require it for one-half or fewer of the agencies reviewed.

Most of the methods of data collection for the performance evaluations have already been mentioned in the discussion of participants in the Sunset review process. To summarize, in order of frequency of use by the states, the

methods are: personal interviews with agency representatives or staff (97 percent), examination of agency records (82 percent), written questionnaires to licensees and regulated industries (56 percent), written questionnaires or in-person interviews with clients of the agency (53 percent) and information about Sunset in other states (included under "other" by about one-fourth of the states).

The contents of a typical Sunset report, in order of frequency of response by the states were: performance evaluation findings (94. percent), recommendations for changes in enabling legislation (85 percent), a summary of the major findings of the performance evaluation (79 percent), and agency response to the performance evaluation findings (almost half of the states).

#### H. Time Schedule for Review

The questions on lead times, prior to a scheduled agency termination, for review planning and submission of the final evaluation report, seemed to cause some confusion. A number of states indicated that the final report was due before or at the same time as planning for the review. We therefore used information from only those 22 states which indicated both lead times in the expected sequence. We found that, on the average, review planning began 18 months in advance of the agency termination date. The average (and median) time from review planning to due date of the final report was nine months.

I. Use of Interim Between Legislative Sessions

Legislative committees used the interim between sessions for some aspect of the Sunset review process in seven of every eight states. The kinds of work carried out, in order of the frequency they were noted, were: holding public hearings (83 percent), collecting data for evaluation reports (67 percent), holding preliminary planning sessions (57 percent), and preparing legislative recommendations (17 percent).

III. Legislators' Responses to Sunset

The questionnaire elements that reflect legislators' responses to Sunset were: percent of Sunset evaluation recommendations accepted by the legislature (D.I.), legislators' reasons for voting against Sunset review recommendations (G.VII), actions to broaden the scope of the Sunset law (G.III), the introduction of bills to repeal the law (G.IV), legislators' feelings about the principal benefits of Sunset (G.V), and legislators' principal complaints about Sunset (G.VI).

A. Recommendations to the Legislature

About six of every ten states indicated that the recommendations of Sunset evaluators are accepted by the legislature 76-100 percent of the time. In about three of ten states the acceptance percentage was 50 percent or lower. We estimate an average acceptance rate of 69 .

percent.\* We looked at a variety of Sunset review characteristics (e.g., scope of law, cost per agency review, reviews per year) to see if some might be good indicators of the recommendation acceptance rate. We found that the acceptance rate tended to be higher for those agencies using written questionnaires submitted to an agency as a method of data collection. Further, the acceptance rate in states with Sunset laws of comprehensive scope was higher than in states with laws of lesser scope.

#### B. Legislators' Rejection of Recommendations

The major reason cited, by far, for legislators voting against the recommendations of the Sunset committee was professional association pressure (indicated by five out of every eight states). About one in six states cited "other constituent pressure" as a reason. The only other significant reason noted was simply disagreement with the recommendations (one in four states).

#### C. Broadening the Scope of the Sunset Law

Legislators have taken action to broaden the scope of the original Sunset law in one-third of the states. In a little over one-half of the states taking such action, the law was broadened to include certain non-regulatory agencies; in 18 percent, the law was broadened to include review of proposals for new agencies. Other ways in which

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\*This was calculated by using the midpoint of each range as the average acceptance rate for that range: e.g., 87.5% was assumed to be the average acceptance rate for the range 76%-100%.

the law was broadened to include more agencies--though each was mentioned by just one state--include: requiring Sunset review of each agency created by executive order as of a certain date, permitting review bodies to look at the programs of other agencies which bear some relation to the programs of the agencies under review. In no case has the Sunset law been broadened to include all agencies. There were also two states in which the scope of the subject matter of the Sunset review was broadened: requiring that the economic impact of Sunset be assessed, and requiring review of how past recommendations have been implemented by the affected agencies.

D. Repealing Sunset

Bills to repeal the Sunset law have been introduced in seven of the states; one in 1980 and five in 1981 and one unspecified. North Carolina repealed its Sunset law, but left a requirement for review (without threat of termination) of agencies listed on the Sunset schedule.

E. Sunset's Benefits

Two-thirds of the states cited increased agency efficiency and public accountability as a principal benefit, more than half (56 percent) noted increased legislative experience with and interest in oversight work, and one-third indicated voluntary changes in agency procedures. A few respondents answered, "I'm not sure what legislators feel, better ask them."

F. Complaints About Sunset

One-half of the states thought that Sunset reviews are too time consuming; just over one-third indicated that the only public response concerning Sunset is from licensed professionals who lobby for continuing regulation which benefits them; a little under one-third noted that sunset covers only small, low-budget agencies and therefore makes few significant changes; the same proportion also complained that the cost of reviews is too high compared to benefits; finally, almost one-fifth of the states thought that automatic termination is not necessary for effective legislative oversight. A few respondents were also hesitant about speaking for legislators with regard to the latter's principal complaints about Sunset.

IV. The Results of Sunset

The results of the Sunset process in the states are reflected in a number of questionnaire items: the volume of agencies reviewed and the numbers and proportions of those recreated without change, modified, and terminated (D.II); the dollar savings resulting from the Sunset review process (C.III),; and the across-the-board recommendations that have been established because of Sunset (G.VIII).

A. Volume of Agencies Reviewed

Since its first use in the states in 1976, about 1,500 agencies have been reviewed under the Sunset process. There has been a clear upward trend in the number of agencies

reviewed, from 1976, when 15 agencies were evaluated, to 1981, when 500 agencies were reviewed (see Table IV on page 64). More than 200 agencies have been terminated and over 400 modified. Almost one in five agencies (18 percent) been terminated, over one in three agencies (38 percent) have been modified, and somewhat less than half of the agencies (44 percent) have been recreated without change.\*

These proportions are somewhat misleading, however, because of the exceedingly large number of agencies reviewed and recreated without change by one state (Arkansas) in 1979 and in 1981. These numbers so dominate the results that a relatively inaccurate picture is given of all the other agencies. If we exclude these numbers, the proportion of agencies terminated becomes 21 percent, close to what it was before, but the proportion of agencies modified rises to 44 percent, and that of agencies recreated without change falls to 35 percent. Thus the percentage of agencies modified and recreated without change essentially switches, depending on whether the numbers for one state in 1979 and in 1981 are

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\*The base number for these proportions is the number of agencies reviewed for which the dispositions after Sunset review (i.e., termination, modification, no change) are known.

Table IV.

NUMBER OF AGENCIES REVIEWED IN THE STATES FROM 1977 TO 1981

State	1976	1977	1978	1979	1980	1981
Alabama		46	41	28	30	
Alaska			13	21	4	3
Arizona				14		16
Arkansas				136		89
Colorado	15		12		13	
Connecticut				21	12	
Delaware						11
Florida			12	25	25	
Georgia			10		17	
Hawaii					8	8
Illinois						8
Indiana				33	32	55
Kansas				6	6	7
Louisiana						12
Maine					12	3
Maryland					13	16
Mississippi					15	1
Montana				14		22
Nebraska		6	5	7	5	5
Nevada					3	
New Hampshire						115
New Mexico			17	10	25	
North Carolina				17	4	20
Oklahoma		21	15	18	15	20
Oregon				10		13
Rhode Island						
South Carolina				7	6	7
South Dakota		1	6			
Tennessee			26	15	14	14
Texas			25		28	
Utah				10		29
Vermont				5	6	
Washington			4	5		22
West Virginia					3	6
Wyoming				7		
Total	15	74	186	409	296	502

used or not. The latter proportions more accurately reflect what has been going on in the bulk of the states.

If we look at the proportions of each action taken for each year, from 1977-1981--and exclude the very large numbers noted above--there is surprisingly little difference in proportions between years, except for 1980. In the other four years, terminations fall in the range of 16-25 percent, modifications vary from 43-50 percent and agencies unchanged fall in a range of 28.32 percent. For 1980, the proportion of unchanged agencies exceeded that of modified ones by 47 to 38 percent.\*

We found that two elements seem to increase the proportion of terminations: having a legislative service bureau prepare performance evaluations, and investing more staff time in each agency review. In contrast, two items positively correlate with the percentage of agency recreations: the introduction of bills to repeal the Sunset law and the legislators' complaint that the cost of reviews is too high compared to benefits.

#### B. Savings From Sunset

Only 20 percent of the states indicated that they could estimate the total savings from the Sunset review process.

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\*To some extent, the line between recreating an agency and modifying it is arbitrary. Some states indicated that many agencies they counted in the recreated column had undergone at least minor modifications.

Of these six states (see Table V on page 67), four indicated total savings of over a million dollars. One state noted savings of about one-half million dollars, one indicated savings close to one-quarter million dollars. (A seventh state reported "minimal" savings.) Annual savings for the first six states ranged from \$100,000 to over \$800,000. The four states noting the largest savings all had a Sunset law of comprehensive scope, while those with relatively small savings were either limited to reviewing regulatory agencies only (two cases) or regulatory and other selected agencies (one case). This suggests, tentatively, that the broader the scope of the Sunset law, the likelier that big savings can be found.

C. Sunset Reforms

What across-the-board recommendations have been established because of Sunset? All the choices under this question were indicated by a substantial number of states. The most frequent response, by almost half of the states (45 percent), was requiring public membership on boards and commissions. This was closely followed by improving administrative practices (42 percent), and improving disciplinary procedures (39 percent). The remaining responses were: allowing advertising and competitive bidding (29 percent), adopting fair standards of entry for out-of-state applicants (29 percent), requiring specific provisions

Table V.

REPORTED SAVINGS RESULTING FROM SUNSET

State	Sunset Enacted	Estimated Total Savings	Source
Alabama	1976	\$ 500,000	State expenditures
Indiana	1978	1,500,000	State expenditures
Maine	1977	2,600,000	State expenditures
Maryland	1978	220,000	State expenditures
Tennessee	1977	4,500,000	State expenditures
Washington	1977	1,400,000	State expenditures

concerning conflicts of interest (19 percent), and requiring that public information be made available on board activities (19 percent).

Certain responses to this question tended to cluster together;\* i.e., if a state indicated one of the responses in a cluster, it was likely to have indicated the other answer or answers in that group as well. Two major groups were found. One might be labeled "enhancing competition", and consisted of the responses: allowing advertising and competitive bidding, requiring specific provisions concerning conflicts of interest, and adopting fair standards of entry for out-of-state applicants. The other group might be labeled "improving internal procedures", and

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\*As determined by the statistical technique of factor analysis.

consisted of improving administrative practices and improving disciplinary procedures. The remaining two answers to this question were: requiring public membership on boards and commissions, and requiring that public information be made available on board activities. These might be put in a group labeled "enhancing public participation and oversight", although such a grouping was not found to be statistically significant.

Responses involving "enhancing competition" negatively correlated with attendance at public hearings by licensees. Clearly, the more pressure exerted by licensees, the less we would expect changes that enhanced competition.

Responses related to "improving internal procedures" were positively correlated with: data collection by written questionnaire to licensees and regulated industries; participation in the preparation of performance evaluations by lawyers, economists and policy analysts; a full-time staff devoted largely to Sunset review; and attendance at public hearings by the press. They were negatively correlated with attendance at public hearings by representatives of regulated industries.

Both responses related to "enhancing public participation and oversight" were positively correlated with the amount budgeted for Sunset reviews.

#### V. Sunset Problems

There were two major responses to the questionnaire item on significant difficulties in conducting Sunset

reviews, both being indicated by about one half of the states: inadequate staff time (52 percent) and lack of measurement information on agency performance and agency value (46 percent). Only 15 percent of the states indicated no significant problems.

APPENDIX B: CASE STUDY I: FLORIDA

Case Study I: Florida

Florida has conducted Sunset reviews since 1978. The Sunset review process has been more difficult than most legislators realized when they passed the Sunset law in Florida. But the rewards have been significant. As George Sheldon, former chairman of the House Committee on Regulatory Reform put it: "Sunset can force the legislature ... to do some self-reflection, can force agencies into doing some evaluation themselves."

According to the state's current statute (the original law was substantially amended in 1981), approximately 113 statutes are scheduled for termination between 1982 and 1991 in a ten-year cycle. Under the original law the termination cycle was six years.

Reviews in 1978, 1979 and 1980 dealt mainly with regulatory legislation, while the 1981 review was limited to scrutiny of advisory commissions.

This case study will review the Florida Sunset law and analyze the Sunset review of trucking regulation in the sunshine state. Information for the study was developed largely from House and Senate documents pertaining to Sunset implementation and interviews with key participants in the Sunset process.

I. Review Procedures

Florida's legislative session typically runs from April to June. A significant amount of work on Sunset is done

during the interim session; for example, legislators hold preliminary planning sessions, collect data for evaluation reports, hold public hearings and prepare recommendations.

By law, substantive committees in the House of Representatives and the Senate begin ~~Sunsets~~ review fifteen months prior to the October 1 repeal date and make a recommendation on or before February 1 to continue, modify or repeal the program or function. In reality, the timing is much more fluid.

The House has a standing Committee on Regulatory Reform, but certain reviews are conducted by other standing committees -- banking by the Commerce Committee and insurance by the Codes of Insurance Committee. In the Senate, review is done by standing committees.

Review of statutes is by functional area. In the first two years, professional boards were covered; in 1980 regulated industries like trucking, electricity, telephone and banking were scheduled. In 1981-88 advisory commissions were reviewed under a procedure termed Sundown, a concept patterned in large part after the Federal Advisory Committee Act.

In 1978 and 1979, the House and Senate split responsibility for conducting primary research; however, beginning in 1980 each house took on independent review responsibility.

### The Cost of Sunset

In March 1981, Jack Overstreet, Staff Director for the Florida Senate Committee on Governmental Operations prepared a memorandum in which he estimated total legislative cost of Sunset from 1978 through 1980 at \$610,140.

The figure represented a salary cost to the Senate of approximately \$354,286. The staff cost to the House was estimated as \$211,914. (The remaining \$13,940 expenditures were for publishing costs for the Senate.)

### What Has been Accomplished Through Sunset?

No regulatory statutes have been re-enacted without some changes. Between 1978 and 1980, a total of 62 statutes were reviewed. Of this number, thirteen were abolished, twelve were changed in a minor way, and 37 were changed in more substantive ways.

In the first cycle, the statutes terminated included those regulating shorthand reporters, yacht and shipbrokers, sanitarians and watchmakers. In the second cycle, boards governing forestry, electronic repair and psychologists were terminated.

Sunset resulted in the de-regulation of intrastate trucking and bus transportation in the third cycle. (The process by which trucking de-regulation was accomplished will be examined in subsequent pages.)

Impressive improvements to the regulatory process were put into effect through Sunset. The Legislature, in 1979,

was able to accomplish a major reorganization of the Department of Professional and Occupational Regulation (DPOR).

The bill mandating reorganization of DPOR strengthened the Department's authority to oversee rulemaking, complaint and disciplinary procedures, to name just a few of the reforms.

Similarly, changes to existing legislation have proven to be tangible benefits of Sunset. Some specific across-the-board improvements are as follows:

- °The number of public members on most boards has been increased from one to two.
- °Examination and licensing functions for professions have been standardized and centralized.
- °Prohibitions against advertising were stricken; prices of products such as eyeglasses have decreased substantially.
- °Licensure by endorsement or reciprocity for professionals licensed in states with standards equal to or higher than those in Florida are now provided for.

Through Sunset, the legislature has mandated that the Public Service Commission consider energy conservation and the efficient use of resources as part of the performance standard when determining rate structures for electric utilities and individual requests for rate increases. Previously, the Commission had authority to set rates only on the basis of quality and quantity of service rendered.

#### Press Involvement with Sunset

The Florida press has focused on Sunset proceedings, but not without some careful up-front lobbying by key

legislators. Representative George Sheldon said that prior to developing the Sunset process, he went around to editorial boards of newspapers to explain the Sunset concept.

Similarly, in preparing for upcoming review of statutes relating to the Insurance Code, legislative Sunset review staff talked with editorial boards around the state about the significance of examining insurance procedures. In November 1981 alone, at least six articles or editorials appeared in newspapers statewide regarding Sunset review of Florida's insurance code.

Early in the Sunset process, the Miami Herald launched its own campaign by publishing a series of articles ~~documenting the failure of the Medical Practices Board to discipline errant professionals?~~ The press expose sparked the legislature's interest in correcting deficiencies in the state's regulation of medical doctors.

#### Problems with Sunset

Managing the Sunset workload, making criteria for agency review more focused and keeping special influence pressure from licensed professionals in check are problems with the Sunset process in Florida. A discussion of these problems follows.

##### (1) Managing the Sunset Workload

~~Legislators and Sunset staff learned very quickly that meaningful Sunset review takes considerable time, often to the disadvantage of other legislative tasks.~~ The 1979 Senate Committee on Governmental Operations Report noted:

"the amount of time required to conduct a thorough review of a regulatory agency sharply reduces the time which is available for the committee staff to devote to other areas of responsibility..."

Moreover, in 1979, because Sunset did not reach the House and Senate floors until late in the session, neither house had the opportunity to give detailed consideration to legislative proposals from the other chamber.

Legislative leaders appeared to address workload problems by planning for additional time and conducting Sunset work in 1980. But proposed special sessions for Sunset responsibilities were never called by Governor Robert Graham, and legislators had to readjust their schedules. For example, the House Committee on Regulatory Reform did not report out its trucking de-regulation bill until mid-session.

The successful effort to amend the Sunset law to extend the Sunset ~~cycle from six to ten years~~ helped to address the ~~problem of creating a more manageable workload.~~ The 1981 amendment also set certain broad guidelines for how a certain regulatory scheme should be reviewed. This will help substantive committees determine the scope and focus of the review they should conduct on scheduled agencies.

(2) Evaluation Criteria

Florida's Sunset law--the second state Sunset law to be enacted--has served as a model for subsequent Sunset legislation. One reason is the evaluation criteria set

forth in the law. In The Manual of Instruction for the Implementation of the Regulatory Reform Act of 1976, prepared by the Senate Governmental Operations Committee, the goals of review are stated as follows:

The review of each regulatory law should focus on two basic questions:

- a. Is the regulation needed?
- b. Is the regulation effective?

These broad questions are developed in six specific evaluation criteria listed in the statute. (See page 87).

### (3) Special Interest Influence

The legislature has faced considerable pressure from regulated industries subject to Sunset review--the most extreme example being found during trucking de-regulation (discussed in detail on page 79). Lobbyists for the Florida Trucking Association, Associated Industries of Florida and a host of large and small trucking companies launched a vigorous battle for continued regulation.

After the 1978 cycle, legislative leaders hired two ombudspersons to serve as advocates for the public interest in legislative committee meetings--a countermeasure to the problem that ~~witnesses were almost uniformly members of regulated professions?~~ When the ombudspersons resigned after the 1979 cycle, however, replacements were not hired.

In 1980, trucking de-regulation was accomplished despite strong opposition from the industry. Most of the individuals we interviewed felt that it is the legislative

leaders who deserve credit for taking a tough stand to protect the public's interest in the Sunset process.

#### TRUCKING DE-REGULATION

In 1980, the statutes granting the Florida Public Service Commission the power to regulate motor carriers (Chapter 323, F.S., 1979) were terminated under the Sunset law. The review process leading to this action was one of the most intensive ever conducted by the House and Senate. Moreover, de-regulation was accomplished despite the vigorous efforts of pro-regulation lobbying groups such as the Florida Trucking Association.

#### Background

Florida's regulatory authority over intrastate motor carriers was established in 1929. The provision, which deals mainly with entry and rate controls, required classification of intrastate motor carriers. According to a 1980 House of Representatives report on motor carrier regulation, twenty percent of the trucks in Florida came under the PSC's regulation.

The regulatory procedure was largely self-sustaining, financed by fees, fines and taxes on motor carriers. The House report notes that by 1979, these revenues were \$3.4 million a year. For example, an application for a new certificate to enter the motor carrier business required a \$500 filing fee.

In entry requests, the burden of proof for showing a need for the proposed service rested with the applicant, who

was required to obtain a Certificate of Public Convenience and Necessity. In addition, fitness and ability to serve had to be proved.

With regard to rate regulation, the Florida Public Service Commission had approved collective rate-setting agreements arrived at by the motor carrier industry. This procedure was implemented by the establishment of rate bureaus, organized by motor carriers, which filed proposed tariffs with the PSC.

House Committee on Regulatory Reform Review Procedures

In 1979, Florida House Speaker J. Hyatt Brown assigned Sunset review responsibilities for the statute governing motor carrier regulation to the House Committee on Regulatory Reform, chaired by Representative George Sheldon.

Committee staff used a number of sources of information for their review.

°A study by Florida State University on the issues of motor carrier regulation

°A performance audit on the Public Service Commission's carrier regulation program prepared by the Auditor General

°A literature search on materials on the issue

°A questionnaire to the Public Service Commission regarding motor carrier regulation

°Testimony from hearings held as part of the Sunset process

In addition, Committee members met with trucking regulation experts in Washington D.C.

### Senate Commerce Committee Review Procedures

The Senate Commerce Committee was responsible for examining the motor carrier regulation question for the Senate. Like the House committee, it relied on the Performance Audit prepared by the Auditor General. In order to prepare its final report, the Committee conducted interviews with personnel of the Public Service Commission and researched relevant case law on the subject.

### Findings and Recommendations

The House committee conclusions focused on four areas as follows: entry regulation, rate regulation, cost of regulation and need for regulation. With regard to entry regulation, the committee essentially determined that application procedures were excessively burdensome and that operating restrictions were anti-competitive. Further, the Committee felt that collective ratemaking could result in greater remunerative rates. The Committee also determined that trucking regulation carried a high price tag.

Questioning the need for regulation is a principle step in the Sunset evaluation process. Quoting the House report on motor carrier regulation:

In applying the criteria of Sunset review, the Committee concluded that proponents of the traditional form of entry and rate regulation of Florida motor carriers had not carried their burden of proof as to the need for such regulation. They found that the absence of regulation would not significantly harm or endanger the public and doubted whether all facets of the regulatory process were designed for, and had as their primary effect, the protection of the public.

Legislative Action

The Senate was the first to pass a bill which would terminate entry and rate regulations for motor carrier transportation under the Public Service Commissions's jurisdiction (SB 138). Subsequently, the House also reported a strong anti-regulation bill (HB 1635).

Ultimately, both houses of the Legislature determined that allowing the Motor Carrier statute to terminate was a mutual objective. So the statute regulating motor carrier transportation was allowed to terminate on July 1, 1980. Safety regulation was later addressed in two bills which,

**TIMETABLE FOR SUNSET REVIEW OF  
MOTOR CARRIER REGULATION IN FLORIDA**

June 1979 to Aug. 1979	Florida House of Representatives Committee on Governmental Operations commissioned background study by the Department of Public Administration, Florida State University, to outline basic issues.  House Government Operations Committee and Senate Commerce Committee acquired Florida Auditor General's Performance Audit of Public Service Commission's carrier regulation program (audit completed in November 1978).  House and Senate Committees solicited reports, studies and statements from federal government agencies, trucking industry associations and the private sector experts on regulation.
Sept. 1979 to April 1980 Jan. 1980	House and Senate Committees held public hearings.  Senate Commerce Committee issued a staff report on motor carrier statute.
April 1980	Senate passed SB 188, requiring regulation on a post-approval basis.
May 1980	House passed CS for HB 1635, requiring complete de-regulation of all rates on January 1, 1981.
June 1980	Conference committee appointed by Senate, but House failed to appoint a conference committee.
July 1, 1980	<i>Chapter 323, Florida Statutes Motor Carriers and Freight Forwarders allowed to terminate by action of Sunset legislation.</i>
July 1980	Legislation regarding safety regulations signed by Governor Graham.

among other provisions, transferred enforcement functions from the Public Service Commission to Florida's Department of Transportation.

Lobbying Pressure

"Hey Daisy Chain, don't let Smokey get off our backs."

"A big 10-4, good buddy. Over and out."

Tallahassee Democrat (February 20, 1980)

Smokey -- a.k.a., the law -- was viewed favorably by the trucking industry. In fact, when legislation was introduced during the Sunset process which would affect regulation of the industry, trucking lobbyists came out in full force.

Thomas Webb, managing director for the Florida Trucking Association, stated, "the Association's position was one of opposition to total de-regulation." Webb listed as concerns that the trucking industry had about de-regulation the question of unfair competition, service and rates for small communities and broadened entry into the trucking business by new firms.

William Smalley, who heads his own trucking business, testified against efforts to de-regulate because he felt that initially legislators sought to shift regulation rather than to de-regulate. He explained that there was an attitude that it would be acceptable to semi-regulate existing trucking business and to open entry to anybody and everybody. He was pleased with total de-regulation: "It puts the cost where it ought to be."

### Effects of Trucking De-Regulation

As Andrew Vermilye, research assistant with the Florida House Committee on Governmental Operations put it, "even those of us who pushed quite hard for de-regulation, are pleasantly surprised by the smooth transition."

The Office of Policy and Analysis of the Interstate Commerce Commission, in July 1981, conducted a survey on the effects of de-regulation. Carriers and shippers were interviewed and pertinent information was obtained. The report concludes that the "long term results are still uncertain, but the industry has already seen new entry, aggressive cost cutting and operational restructuring by management, as well as extensive rate innovation and numerous rate reductions."

The Florida Chamber of Commerce conducted a survey approximately nine months after trucking de-regulation went into effect. The results of the survey indicate that ten percent or fewer of the trucking and surface transportation industry and community members questioned felt that trucking de-regulation has had a negative effect. Other survey respondents indicated that trucking de-regulation has had no effect (38-48%) or a positive effect (44-52%).

INTERVIEWS

Butzin, Peter, Executive Director, Common Cause/Florida

Deffenbaugh, Brian, Legislative Analyst, Senate Commerce  
Committee

Sheldon, George, Chair, House Committee on Govern-  
mental Operations

Smalley, Bill, President, Smalley Trucking Lines

Vermilye, Andy, Research Assistant, Florida House Committee  
on Governmental Operations

Webb, Thomas, Director, Florida Trucking Association

CHAPTER 81-318

Committee Substitute for Senate Bill No. 239

An act relating to legislative review of programs and functions; amending s. 11.61, Florida Statutes; amending s. 11.6105, Florida Statutes, 1980 Supplement; providing legislative intent; repealing various provisions of law relating to the regulation of professions, occupations, businesses, industries, or other endeavors; providing for review of such provisions prior to repeal; providing for periodic review of programs which are continued, reestablished, or created; prescribing criteria to be used in such review; deleting provision for a joint committee of the legislature; providing for the abolition of units of government and reversion of funds; providing for refund of fees; preserving certain causes of action; providing for effect on pending prosecutions, investigations, or disciplinary actions; repealing chapters 78-168, 77-237, and 77-457, Laws of Florida, relating to the Regulatory Reform Act of 1976; repealing various provisions of the Laws of Florida, which repeal various laws relating to the regulation of professions, occupations, businesses, industries, or other endeavors and which require such laws to be reviewed pursuant to the Regulatory Reform Act of 1976; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 11.61, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 11.61, F.S., for present text.)

11.61 Legislative review of regulatory functions.--

(1) This act may be cited as the "Regulatory Sunset Act."

(2) It is the intent of the Legislature:

(a) That no profession, occupation, business, industry, or other endeavor shall be subject to regulation by the state unless such regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose.

(b) That the state shall not regulate a profession, occupation, industry, business, or other endeavor in a manner which will unreasonably and adversely affect the competitive market.

(c) That the Legislature conduct a periodic and systematic review of the need for, and the benefits derived from, a program or function which licenses or otherwise regulates a profession, occupation, business, industry, or other endeavor and, pursuant to such review, terminate, modify, or reestablish a program or function.

(d) That, if a chapter or section of the Florida Statutes scheduled for repeal by this act is subsequently amended or transferred, such subsequent amendment or transfer, unless otherwise expressly provided in the act amending or transferring such chapter or section, shall not affect the scheduled repeal by this act of the provisions of such chapter or section and said chapter or section as amended or transferred shall be repealed on the date specified in this act.

(3) Each appropriate substantive committee shall begin review of a program or function 15 months prior to the date set for repeal of the section or chapter and shall make a recommendation, on or before February 1 prior to such repeal date, for continuation, modification, or repeal of the program or function established by such section or chapter.

(4) Each section and chapter of the Florida Statutes scheduled for repeal by this act shall be reviewed pursuant to this act prior to the date scheduled for repeal of the section or chapter. Any act which, as a result of such review, continues or reestablishes a program or function established by a section or chapter of the Florida Statutes repealed by this act shall schedule the section or chapter of the Florida Statutes establishing such program or function for a subsequent repeal and review pursuant to this act within 10 years after the effective date of the act which continues or reestablishes such program or function.

(5) Any act which creates a program or function which in part regulates the entry into any profession, occupation, business, industry, or other endeavor and which is enacted after the effective date of this act shall schedule the act establishing such program or function for a subsequent repeal and review pursuant to this act within 10 years after the effective date of the act which creates such program or function.

(6) In determining whether to reestablish a program or function, the Legislature shall consider the following criteria:

(a) Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?

(b) Is there a reasonable relationship between the exercise of the police power of the state and the protection of the public health, safety, or welfare?

(c) Is there a less restrictive method of regulation available which would adequately protect the public?

(d) Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

(e) Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

(f) Are any facets of the regulatory process designed for the purpose of, and have as their primary effect, the benefit of the regulated entity?

(7) Within 30 days after the date of repeal, by this act, of any section or chapter of the Florida Statutes, the unit of government or the subunit thereof and the personnel positions which are responsible for carrying out only the functions and programs created by such section or chapter shall be abolished, and all unexpended balances of appropriations, allocations, or other funds for such program or function shall revert to the fund from which they were appropriated or, if that fund is abolished, to the General Revenue Fund. A unit or subunit of government may not perform any regulatory activities after the date of repeal of such section or chapter of the Florida Statutes.

(8) Any fees collected pursuant to a program or function subsequently abolished shall be refunded on a pro rata basis by the unit or subunit of government that was abolished, or by the Comptroller pursuant to s. 215.26, Florida Statutes, upon request of the person that paid the fee, if such request is made within 1 year after the abolition of the program or function.

(9) This act shall not affect the right to institute or prosecute any cause of action by or against a unit or subunit of government abolished pursuant to this act if the cause of action accrued prior to the date the unit or subunit was abolished. Any cause of action pending on the date the unit or subunit is abolished, or instituted thereafter, shall be prosecuted or defended in the name of the state by the Department of Legal Affairs.

(10) Any repeal or amendment of any regulatory statute or rule pursuant to this act shall not affect any prosecution, investigation, or disciplinary action for any act committed before such repeal or amendment.

APPENDIX C: CASE STUDY II: TEXAS

APPENDIX C: CASE STUDY II: TEXAS

CASE STUDY II: TEXAS

An unusual advantage of Sunset is that it enjoys support from both liberals and conservatives because of its pro-consumer and anti-big government features.

Fort Worth Star Telegraph, May 17, 1981

The concept of Sunset in Texas was first proposed by the Texas Constitutional Convention of 1974, an event which predates the passage of any state Sunset law. The 1974 Constitution failed, but in 1977 the Texas legislature passed the Texas Sunset Act.

Since then, Texas has conducted two rounds of Sunset reviews. Sunset has been a positive experience for Texas. The Sunset Advisory Commission and the House Government Organization Committee have each developed a series of across-the-board reforms for improving the accountability and efficiency of agencies. A high percent of final Sunset legislation incorporates these provisions. Several agencies that were inactive at the time of the Sunset review were abolished through Sunset.

Sunset in Texas is ambitious; the law provides for periodic termination, in a twelve-year cycle, of all of the 177 agencies and advisory committees. Agencies are reviewed at biennial intervals from 1979 to 1989.

The following study will take an in-depth look at the implementation of the Texas Sunset Act prior to and during the 1979 and 1981 sessions and follow the review process for the state Board of Pharmacy (1980-1981). Sunset commission reports, public testimony, newspaper reports, and interviews

were used in the preparation of the report. (A list of individuals interviewed is on page 102).

#### Review Procedures

The Sunset Advisory Commission is composed of four representatives and one public member,\* who are appointed by the Speaker of the House, and four members of the Senate and one public member, who are appointed by the lieutenant governor. The Commission has the responsibility of reviewing agencies and preparing recommendations to abolish, continue or reorganize state agencies or advisory committees under review. The Commission is also required to draft legislation regarding its recommendations.

The timetable for conducting Sunset reviews in Texas is carefully structured, with review beginning more than 22 months before the termination date (with an additional one year for winding up). The Sunset Commission published the statutorily mandated steps for its review for the 1980-81 biennium as follows:

1. Self-evaluation Reports - Self-evaluation reports of agencies terminating in 1981 were due by October 30, 1979 (report submission is staggered from August through October).

2. Performance Evaluation Reports - The staff of the Sunset Advisory Commission was scheduled to complete

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\*The Texas Sunset Act was amended in 1981 to provide for the appointment of two public members to the Sunset Commission.

performance evaluation reports for the 1981 agencies by June 1, 1980.

4. Report of the Sunset Advisory Commission - The final report and draft legislation of the Sunset Advisory Commission was to be delivered to the legislature and the governor by December 15, 1980.

5. Legislative Consideration of the Report - The Sixty-seventh Legislature was scheduled to consider the report of the Sunset Advisory Commission during the 1981 regular session.

6. Agency Termination - Those agencies that were reviewed and not re-established were abolished on September 1, 1981. Agencies terminated on this date have one year to wind up their operations.

Because Texas has biennial sessions, all decisions concerning agencies under review are determined in one session. As with most Sunset laws, the Texas Sunset Act requires that not more than one agency be covered in each Sunset bill introduced.

The House Government Organization Committee was established to consider Sunset legislation. The Senate, by contrast, utilizes existing standing committees to carry out its Sunset work.

The number of agencies reviewed in a given cycle ranges from 25 to 37. To date, 53 agencies have been reviewed; of these, 14 have been terminated and 39 have been modified.

The staff and commission members have specific evaluation criteria to use in conducting Sunset reviews. Individual criteria focus on such questions as the purpose for the agency, efficiency with which the agency or advisory committee operates, or the extent to which the agency has complied with the Open Records Act.

#### Staffing

Vince Brown, of the National Conference of State Legislatures, in a 1980 speech, noted that the Texas "Joint Advisory Commission is viewed as very professional as far as addressing the issues and questions." The size of the professional staff working on Sunset is large compared to many states. As of September 1981, 19 full-time staff members were available to work on Sunset reviews. From two to four staff members spend an estimated total of 540 person hours on each review. The staff is multidisciplinary in its training--lawyers, accountants, economists, and other professionals in related fields are represented.

#### Budget Allocations

The level of funding for Sunset has averaged about \$600,000 per year, according to Karl Spock, Senior Analyst for the Sunset Advisory Commission. The average cost per review is \$8,700. This figure includes expenses for public members of the Sunset Advisory Commission; however, expenses for legislators who are members of the Commission do not fall under the Commission's budget.

What has Been Accomplished Through Sunset?

Dan R. Price, who wrote numerous articles on Sunset in Texas while serving on the staff of the State Bar of Texas stated: "using the correct yardstick--whether or not agencies are better after the Sunset process--Sunset in Texas has been a complete success."

There are three major outcomes of Sunset which reveal that the process has led to better management in Texas: first, uniform reform criteria have been applied to most agencies; second, inactive agencies and unnecessary duplication of activities have been eliminated; and third, legislators and agencies have gained valuable experience in conducting or experiencing legislative oversight.

Common Cause/Texas gives the Sunset process high marks: "in general, the Legislature is to be commended for the uniform way in which [it] applied Sunset principles."

A notable achievement of Sunset in Texas lies in the reform criteria established by the Sunset Advisory Commission. The Commission essentially developed two basic types of recommendations: (1) a series of "across-the-board approaches" to be applied to licensing or regulatory agencies in general; and (2) specific proposals for each agency.

According to the Commission's 1979 publication, "Summary of Organization and Process", "The majority of the agencies under initial review were occupational licensing agencies with similar processes and purposes. As a result

of such similarity, the Sunset Advisory Commission was able to identify a series of concerns which applied generally to these agencies..."

The Commission's 11 approaches were as follows:

1. Require the legislative review of agency expenditures through the appropriations process.
2. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
3. Require public membership on boards and commissions.
4. Require specific provisions relating to conflicts of interest.
5. Provide for notification and information to the public concerning board activities.
6. Provide an analysis, on request, to individuals failing the examination.
7. Provide for licensing by endorsement rather than reciprocity.
8. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
9. Require staggered renewals of licenses.
10. Require standard time frames for licensees who are delinquent in renewal of licenses.
11. Require files to be maintained on complaints.

The Sunset Commission has determined that when the percentages of final legislation using the Sunset Commission's approaches were averaged together following the first Sunset cycle, "slightly more than 70 percent of the 11 recommendations had been incorporated in applicable cases overall."

The Government Organization Committee in the House also developed a separate set of legislative guidelines. The Commission notes that "while covering the same broad areas of concern, many of the House committee's specific provisions modified or went beyond Commission language." The House Government Organization Committee, created by Speaker of the House Billy Clayton and chaired by Representative Charles Evans, has generated most of the legislative support for the Sunset criteria that had been developed by the Sunset Commission.

In addition to improving the efficiency and accountability of the operations of agencies that were continued, implementation of the Texas Sunset Act led to termination of a number of inactive agencies and agencies which were still functioning but conducting unnecessary or redundant activities.

Finally, legislators have gained practical experience in conducting legislative oversight through the Sunset process. Both rounds of Sunset reviews have forced legislators to consider the purposes for and effectiveness of Texas agencies--some more than 100 years old.

#### Problems with Sunset

Dan Price suggested, after assessing the first round of Sunset reviews, that "a more collaborative effort on behalf of the agencies and the legislature and its staff can and needs to be promoted." He stressed further that agencies had to learn to plan ahead for Sunset reviews.

Many of the procedures for conducting Sunset reviews did improve with the second round of Sunset reviews. For example, agencies had a clearer sense of what was expected of them in their self-evaluations.

One problem that appears to be getting worse rather than better at the state government level and therefore in the Sunset process as well is the disproportionate influence of special interest groups. In 1979, Common Cause/Texas examined the amount of campaign contributions to legislators by professionals affected by Sunset reviews in that year. Their research revealed that "the two lowest rates of Sunset implementation (Commission recommendations adopted) corresponded to the largest amounts of campaign contributions."

Texas lawyers and realtors -- who were the professionals earning this dubious distinction -- were successful in preventing serious changes to the State Bar and the Real Estate Commission. This type of activity points out the intensity with which licensed professionals in Texas fight in order to retain regulations which they feel will benefit their industry.

Carol Barger, the recently-appointed public member to the Sunset Commission, expressed the hope that her presence will help to counter some of the special interest influence on the Sunset process. She explained that she is pressing for as "open and accessible" a process as possible. Ms.

Barger also serves as director of the Texas Consumer's Union.

SUNSET REVIEW OF THE STATE BOARD OF PHARMACY

Sunset Agency staff member Allen Beinke summed up the attitude of most of those interviewed regarding the Sunset review of the State Board of Pharmacy: "The Pharmacy Act was out of date and confusing; everybody agreed that it needed to be re-written."

Examining the review of the Board of Pharmacy gives a view of the Texas Sunset process at its best. The process worked as it should both procedurally and substantively -- the Pharmacy Board developed a conscientious self-evaluation, the Sunset Commission conducted a thorough review, and public interest groups gave meaningful testimony. An equitable and accountable new Pharmacy Act became law.

Background

The Texas State Board of Pharmacy was created in 1907. The act which created the Board also established regulations concerning pharmacists; the act requires individuals to register with the board in order to compound or dispense drugs. (Other federal and state government agencies such as the Food and Drug Administration and the Texas Department of Health have jurisdiction over some aspects of pharmaceutical practices.)

At the time of the Sunset review of the Board of Pharmacy (1979), the Sunset commission reported that the

Pharmacy Board was made up of six pharmacists appointed to six-year terms by the governor. A board staff of 18 regulates some 11,717 pharmacists, 4,078 pharmacies, and 58 drug manufacturers. Self-sustaining from its revenues, the board, in 1979, collected \$776,057 and spent \$627,140.

#### Sunset Commission Review Procedures

The Commission conducted a survey of the fifty states in order to determine the pattern of regulation of pharmacists. Commission staff was successful in obtaining data through a number of other sources:

- ° Questionnaires sent to licensed pharmacists and pharmacies;
- ° Interviews with pharmaceutical association representatives and drug enforcement professionals; and
- ° Consultation with the Senate Human Resources Committee which has an organized forum on health professionals.

The Pharmacy Board self-evaluation report proved to be definitive in its assessment of requisite reforms. The Sunset Commission's legislative proposal and the Pharmacy Board's proposal -- drafted in consultation with the pharmaceutical association -- were very similar.

Public hearings also played a critical role in the development of a new Pharmacy Act. Not only registered pharmacists testified, but also spokespersons from Planned Parenthood, Common Cause and the Gray Panthers.

#### Findings and Recommendations of the Sunset Commission

Total de-regulation of pharmacy practices was neither a practical nor a desired outcome of Sunset review. All fifty

states: regulate pharmaceutical practices, handling such matters as testing, licensing, and enforcement.

What the Commission did propose, however, was a change in the permit system from one type of facility permit to four classes of pharmacy facility licenses. Beyond that, the Sunset Commission proposed a number of structural and procedural changes. Some of the major changes include:

- ° Placing agency funds in the State Treasury and including the agency in the appropriations process;
- ° Providing for the appointment of at least two public members to the Board;
- ° Removing the requirement that all board members be engaged in retail pharmacy practice so that any licensee practicing pharmacy will be eligible;
- ° Providing for greater enforcement authority; and
- ° Removing the Board's concurrent authority to license drug manufacturers thereby providing the Department of Health with the sole licensing authority.

#### Legislative Action

House and Senate votes on a new Pharmacy Act came about at approximately the same time; the House bill was subsequently sent to the Senate. Representative Tim Von Dohlen, a conservative Democrat, carried the House bill to which he had attached a generic drug bill. The generic bill had considerable public support, but had been unsuccessful in the legislature for several years. Russ Tidwell, of Sunset Commissioner Senator Lloyd Doggett's staff, said, "it was largely due to the Sunset process that we were able to pass a generic drug law."

The new Pharmacy Act (HB 1628) passed by the legislature on May 20, 1981, incorporated almost all of the recommendations listed by the Sunset Commission.

#### Lobbying Pressure

For the most part, the review of the Board of Pharmacy was an effort based on compromise and good intentions rather than confrontation. (A subsequent review of the Board of Medical Examiners quickly dispelled any notion that special interest groups might be entering an era of acceptance rather than resistance to change which would make them more accountable.)

Pharmacy practitioners and consumer and public interest groups were all eager to reform the Pharmacy Act. As Wayne Biesel of the Texas Pharmaceutical Association expressed it, "the profession had changed drastically over the years." He termed Sunset "a very positive thing" because it provided the vehicle for much-needed review of a board created some 75 years ago.

#### Summary

The Texas Legislature was able to pass a new Pharmacy Act through Sunset because the key players in the process took their work seriously. The Board of Pharmacy itself stood open to change. Fred Brinkley, Pharmacy Board Director, commented, "we saw Sunset as an opportunity, not a negative thing."

INTERVIEWS

Barger, Carol, Public Member, Texas Sunset Advisory Commission and Director, Texas Consumers' Union

Beinke, Allen, Analyst, Texas Sunset Advisory Commission

Beisel, Wayne, Director of Public Relations, Texas Pharmaceutical Association

Brinkley, Fred, Director, Texas State Board of Pharmacy

Price, Dan R., Attorney at Law, Austin, Texas

Tidwell, Russ, staff member working on Sunset for Senator Lloyd Doggett (D-Austin), a Sunset Commissioner

Wells, William, Director, Texas Sunset Advisory Commission

(d) The Legislative Budget Board shall coordinate the collection of information in this report.

**Recommendations of interagency planning councils**

Sec. 3. (a) In preparing the report, the governor shall request and consider information from each interagency planning council regarding the efficiency of state agencies within the functional area represented by that interagency planning council and recommendations regarding the need for reorganization of state agencies within the functional area.

(b) Before submitting the report to the legislature, the governor shall present to each interagency planning council for review and comment the part of the proposed report dealing with the state agencies in the functional area represented by that interagency planning council, and the comments of each interagency planning council shall accompany the report when it is submitted to the legislature.

**Preparation of legislation**

Sec. 4. The staff of the Texas Legislative Council shall draft any legislation required to put the governor's recommendations into effect. Acts 1977, 65th Leg., p. 939, ch. 350, eff. Aug. 29, 1977.

**Title of Act:**

An Act relating to biennial reports by the governor on the organization and efficiency of state agencies, and declaring an emergency. Act 1977, 65th Leg., p. 939, ch. 350.

**Cross References**

Interagency planning councils, see art. 4419(32a).

Legislative Budget Board, see art. 5429c.  
Legislative Council, see art. 5429b.

**Library References**

States 6-43.  
C.J.S. States § 60.

**Art. 5429k. Sunset Act**

**Short title**

Section 1.01. This Act may be cited as the Texas Sunset Act.

**Definitions**

Sec. 1.02. In this Act:

(1) "State agency" means:

(A) an agency that is expressly made subject to this Act; or

(B) a department, commission, board, or other agency (except a university system or an institution of higher education as defined in Section 61.003, Texas Education Code, as amended) that:

(i) is created by statute after January 1, 1977;

(ii) is part of any branch of state government; and

(iii) has authority that is not limited to a geographical portion of the state.

(2) "Advisory committee" means a committee, council, commission, or other entity created by or pursuant to state law whose primary function is to advise a state agency.

(3) "Commission" means the Sunset Advisory Commission.

**Sunset Advisory Commission**

Sec. 1.03. (a) The Sunset Advisory Commission is created.

(b) The commission is composed of four members of the senate and one public member appointed by the lieutenant governor and four members of the house and one public member appointed by the speaker of the house. Each appointing authority may designate himself as one of the

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legislative appointees. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is regulated by a state agency that is to be reviewed by the commission during the term for which the person would serve; or

(2) is employed by, participates in the management of, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by a state agency that is to be reviewed by the commission during the term for which the person would serve.

(c) It is a ground for removal of a public member from the commission if the member does not have at the time of appointment or maintain during the service on the commission the qualifications required by Subsection (b) of this section for appointment to the commission. The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a public member from the commission existed.

(d) Legislative members appointed by the lieutenant governor and the speaker of the house serve four-year terms, with terms staggered so that the terms of one-half of the legislative members appointed by the lieutenant governor and of one-half of the legislative members appointed by the speaker expire every two years. If the lieutenant governor or the speaker serves on the commission he continues to serve until resignation from the commission or until he ceases to hold the office. Public members appointed by the lieutenant governor or speaker serve two-year terms.

(e) Once a person has served six years on the commission, he is not eligible for appointment to another term or part of a term. A member who has served more than half of a full term may not be appointed to an immediately succeeding term. These restrictions do not apply to the lieutenant governor or the speaker of the house.

(f) Each appointing authority shall make his appointments to the commission before July 1 of each odd-numbered year.

(g) A legislative member of the commission vacates his position on the commission when he ceases to be a member of the house from which he was appointed.

(h) A vacancy on the commission shall be filled for the unexpired part of the term in the same manner as the original appointment.

(i) The commission shall have, as presiding officers, a chairman and a vice-chairman. The chairmanship and vice-chairmanship must alternate every two years between the two membership groups appointed by the lieutenant governor and the speaker of the house. The chairman and vice-chairman may not be from the same membership group. The lieutenant governor shall designate a presiding officer from his appointed membership group and the speaker of the house shall designate the other presiding officer from his appointed membership group.

(j) A quorum shall consist of at least six members of the commission. No final action or recommendation may be made unless approved by a record vote of a majority of the full membership of the commission.

(k) Each member of the commission is entitled to reimbursement for the expenses he actually and necessarily incurs in performing the duties of the commission. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective house. Each public member is entitled to reimbursement from funds appropriated to the commission.

Staff

Sec. 1.04. (a) The commission shall employ an executive director to act as the executive head of the commission.

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(b) The executive director shall employ persons necessary to carry out the provisions of this Act through funds made available by the legislature.

(c) The chairman and vice-chairman of the commission each may employ staff to work for them on matters related to the activities of the commission.

**Report on advisory committees**

Sec. 1.05. Before October 30 of each calendar year, each state agency shall file an annual report with the Secretary of State to register all of its advisory committees and report the following information regarding the agency's advisory committees:

- (1) the official names of the advisory committees;
- (2) the statutory authority, if any, for the advisory committees;
- (3) the advisory committees' objectives and functions;
- (4) the period of time necessary for the advisory committees to carry out their objectives;
- (5) a reference to the reports that the advisory committees have presented to the agency;
- (6) the names and occupations of the current members of the advisory committees; and
- (7) other available information that will assist the staff and the commission to determine the need for continuing the advisory committees.

**Agency report to commission**

Sec. 1.06. Before October 30 of the odd-numbered year before the year a state agency is abolished according to this Act, the agency shall report to the commission:

- (1) information regarding the application to the agency of the criteria in Section 1.10 of this Act;
- (2) information specified in Section 1.05 of this Act regarding each of the agency's advisory committees; and
- (3) any other information that the agency considers appropriate or that is requested by the commission.

**Commission duties**

Sec. 1.07. Before September 1 of the even-numbered year before the year a state agency and its advisory committees are abolished according to this Act, the commission shall:

- (1) review and take action necessary to verify the reports submitted by the agency under Section 1.06 of this Act;
- (2) consult the Legislative Budget Board, the Governor's Budget and Planning Office, the state auditor, and the comptroller of public accounts, or their successors, on the application to the agency of the criteria provided in Section 1.10 of this Act;
- (3) conduct a performance evaluation of the agency based on the criteria provided in Section 1.10 of this Act and prepare a written report, which is a public record; and
- (4) review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session.

**Public hearings**

Sec. 1.08. Between September 1 and December 1 of the calendar year before the year a state agency and its advisory committees are abolished according to this Act, the commission shall conduct public hearings on but not limited to the application to the agency of the criteria provided in Section 1.10 of this Act, except that the commission may hold the public

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hearings before September 1 if the evaluation required by Section 1.07(3) of this Act has been completed and made available to the public.

**Commission report**

Sec. 1.09. At each regular session, the commission shall present to the legislature and the governor a report on agencies and advisory committees scheduled to be abolished. In the report the commission shall include its specific findings with regard to each of the criteria set forth in Section 1.10 of this Act, its recommendations based on the matters set forth in Section 1.11 of this Act, and other information considered necessary by the commission for a complete evaluation of the agency.

**Criteria for review**

Sec. 1.10. The staff and the commission shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

- (1) the efficiency with which the agency or advisory committee operates;
- (2) an identification of the objectives intended for the agency or advisory committee and the problem or need which the agency or advisory committee was intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for these activities;
- (3) an assessment of less restrictive or other alternative methods of performing any regulation that the agency performs which could adequately protect the public;
- (4) the extent to which the advisory committee is needed and is used;
- (5) the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;
- (6) whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates;
- (7) the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency;
- (8) the extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates, and the extent to which the public participation has resulted in rules compatible with the objectives of the agency;
- (9) the extent to which the agency has complied with applicable requirements of an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals;
- (10) the extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section;
- (11) the extent to which the agency issues and enforces rules relating to potential conflict of interests of its employees;
- (12) the extent to which the agency complies with the "Open Records Act," Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252—17a, Vernon's Texas Civil Statutes), and with the "Open Meetings Act," Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252—17, Vernon's Texas Civil Statutes); and
- (13) the impact in terms of federal intervention or loss of federal funds if the agency is abolished.

**Recommendations**

Sec. 1.11. In its report on a state agency, the commission shall:

(1) make recommendations on the abolition, continuation, or reorganization of each affected state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees;

(2) make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when such programs duplicate functions performed in agencies under review;

(3) recommend appropriation levels for each state agency and advisory committee for which abolition or reorganization is recommended under Subdivisions (1) and (2) of this section; and

(4) include drafts of legislation necessary to carry out the commission's recommendations under Subdivisions (1) and (2) of this section.

**Rules**

Sec. 1.12. The commission shall adopt rules necessary to carry out this Act.

**Abolition of advisory committees**

Sec. 1.13. Except as otherwise expressly provided by law, every advisory committee whose primary function is to advise a particular state agency is abolished on the date set for abolition of the agency unless the advisory committee is expressly continued by law.

**Agencies created in future**

Sec. 1.14. Every state agency created by law enacted after January 1, 1977, is subject to this Act and to this section except as otherwise expressly provided by the law creating the agency. A state agency created by law enacted in a fiscal biennium is abolished at the end of the sixth succeeding fiscal biennium unless continued by law.

**Continuation by law**

Sec. 1.15. (a) During the regular session immediately preceding the abolition of a state agency or an advisory committee that is subject to this Act, the legislature by law may continue the agency or advisory committee for a period not to exceed 12 years.

(b) Nothing in this Act shall be construed to prohibit the legislature from terminating a state agency or advisory committee subject to this Act at a date earlier than that provided in this Act. Nothing in this Act shall be construed to prohibit the legislature from considering any other legislation relative to a state agency or advisory committee subject to this Act.

**Legislative consideration**

Sec. 1.16. (a) No more than one state agency and its functions and advisory committees may be considered for continuation, transfer, or modification in a bill, except that when consolidation of agencies or advisory committees or their functions is proposed, only the agencies or advisory committees involved in the consolidation may be considered in a legislative bill.

(b) In a bill to continue a state agency, to transfer its functions, or to consolidate it with another agency, the affected agency or agencies shall be mentioned in the title of the bill.

**After termination**

Sec. 1.17. (a) On abolishment in the odd-numbered year, each state agency may continue in existence until September 1 of the next succeed-

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ing year for the purpose of concluding its business. Unless otherwise provided by law abolishment does not reduce or otherwise limit the powers or authority of each respective state agency during such concluding year. Upon the expiration of the one-year period after abolishment each respective state agency is terminated and shall cease all activities.

(b) Any unobligated and unexpended appropriations of a state agency or advisory committee lapse on September 1 of the even-numbered year after abolishment of the agency or advisory committee.

(c) All money in a dedicated fund of an abolished state agency or advisory committee on September 1 of the even-numbered year after abolishment of the agency or advisory committee is transferred to the General Revenue Fund, except as provided in Subsection (f) of this section and as otherwise provided by law. The part of the law dedicating the money to a specific fund of an abolished agency becomes void on September 1 of the even-numbered year after abolishment of the agency.

(d) If an abolished state agency or advisory committee is funded in the General Appropriations Act for both years of the biennium, the abolished agency or advisory committee may not spend or obligate any of the money appropriated to it for the second year of the biennium, unless otherwise provided by law or rider in the appropriations bill.

(e) Property and records in the custody of a state agency or advisory committee on September 1 of the even-numbered year after abolishment of the agency or advisory committee are transferred to the State Board of Control, except that where an appropriate state agency is designated by the governor pursuant to Subsection (f) of this section, the property and records are transferred to the state agency so designated.

(f) The legislature recognizes the state's continuing obligation to pay bonded indebtedness incurred by any agency abolished by the terms of this Act, and it is not the intention of this Act to impair or impede the payment of bonded indebtedness in accordance with its terms. If an abolished state agency has remaining outstanding bonded indebtedness, the bonds remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds, notwithstanding the abolishment of the agency that issued the bonds. The governor shall designate an appropriate state agency, which shall continue to carry out all covenants contained in the bonds and the proceedings authorizing them, including the issuance of bonds to complete the construction of projects, and shall provide payment from the sources of payment of the bonds in accordance with the terms of the bonds, whether from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full. All funds established by laws or proceedings authorizing the bonds shall remain with the State Treasurer or previously designated trustees, if so provided in the proceedings; if not so provided, the funds shall be transferred to the designated state agency.

Subpoena power

Sec. 1.18. The commission may issue process to witnesses at any place in the state and compel their attendance and the production of books, records, papers, and other objects that may be necessary or proper for the purposes of the committee proceedings. The commission may issue attachments when necessary to obtain compliance with subpoenas or other process, which may be addressed to and served by any peace officer in this state. The chairman of the commission shall issue, in the

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name of the commission, the subpoenas that a majority of the commission may direct. In the event the chairman is absent, the designee of the chairman is authorized to issue subpoenas or any other process in the same manner as the chairman. Witnesses attending proceedings of the commission under process are entitled to the same mileage and per diem as allowed witnesses before a grand jury in this state. The testimony taken under subpoena must be reduced to writing and must be given under oath subject to the penalties of perjury.

Assistance of and access to state agencies

Sec. 1.19. (a) The commission may request the assistance of state agencies and officers, and they shall assist the commission when requested to do so.

(b) In carrying out their functions under this Act, the commission or its designated staff member may inspect the records, documents, and files of any state agency.

Relocation of employees

Sec. 1.20. When an employee is displaced because of the abolishment, reorganization, or continuation of a state agency or its advisory committees, the agency and the Texas Employment Commission shall make a reasonable effort to relocate the displaced employee.

Saving clause

Sec. 1.21. Except as otherwise expressly provided, abolition of a state agency does not affect rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the effective date of the abolition.

Acts 1977, 65th Leg., p. 1826, ch. 735, art. 1, eff. Aug. 29, 1977. Sec. 1.17, subsecs. (c), (e) and (f) amended by Acts 1977, 65th Leg., 1st C.S., p. 56, ch. 3, § 1, eff. July 22, 1977; Secs. 1.03, 1.04, 1.07 to 1.09, 1.11 amended by Acts 1981, 67th Leg., p. 2617, ch. 702, § 1, eff. Sept. 1, 1981.

Section 2 of Acts 1981, 67th Leg., p. 2620, ch. 702, provides:

"(a) A person holding office as a member of the Sunset Advisory Commission on the effective date of this Act continues to hold the office for the term for which the member was appointed.

"(b) The lieutenant governor and the speaker shall each appoint a public member before October 1, 1981, to serve until regular appointments are made in 1983.

"(c) The lieutenant governor shall appoint the chairman and the speaker of the house shall appoint the vice-chairman before October 1, 1981."

Cross References

Legislative Budget Board, see art. 5429c.

State Funds Reform Act of 1981, exemption deposit of funds for state agencies subject to review under this article, see art. 4393c, § 3(b)(5).

Law Review Commentaries

Annual survey of Texas law: Administrative law. John L. Hill and David C. Kent, 34 Southwestern L.J. (Tex.) 471 (1980).

Sunset and State Bar. 41 Texas Bar J. 807 (1978).

Sunset legislation in the United States. Dan R. Price, 30 Baylor L.Rev. 401 (1978).

Sunset legislation in the United States. Dan R. Price (State Bar of Texas 1977).

Library References

States 44, 45.

C.J.S. States 11 79, 80, 82, 186.

1. In general

The Texas Guaranteed Student Loan Corporation was not intended by the legislature to be a state agency; it is, however, subject to the Texas Open Records Act (art. 6252-17a) and this article. Op. Atty. Gen. 1981, No. MW-295.

APPENDIX D: STATE-BY-STATE SUMMARIES

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## ALABAMA

Statute: Ala. Code Ann. tit. 41 §41-20-1 et seq.  
Year of enactment: 1976 (amended in 1979 and 1981)  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 4 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Legislative Auditor General

### Background

The Alabama Sunset law established an eleven-member select joint committee charged with implementing the procedures of Sunset review. The legislative committee is required to hold public hearings and file a report with data in support of its recommendations with respect to each agency. The Sunset committee has the authority to review any specified or unspecified agency (a schedule of specified agencies is established through 1986). A 1979 amendment (No. 79-542) authorized the joint committee to recommend modification of agencies, in addition to termination or continuance. A 1981 amendment (No. 81-51) created certain new procedures and abolished a requirement that newly created agencies should terminate in four years.

In the initial round of reviews, there were different opinions in the House and Senate over when the Legislature should vote on agencies not specified in the law. The Attorney General ruled that unspecified agencies had to be reviewed in 1978. At that time, over 200 unspecified agencies were reviewed.

### Review Process

Legislative review of specified agencies is to begin in the year prior to the scheduled regular session in which agencies are terminated. The committee is required to submit its report and accompanying legislation to the offices of the speaker and the president for distribution to the Governor and legislators on or before the first day of the legislative session.

### Latest Sunset Review

In 1981, 17 agencies were reviewed. The Legislature recreated six agencies without modification, modified eight agencies and terminated three. All of the recommendations of the Joint Sunset Committee were accepted, with one exception. This involved recreation of the Board of Social Work Examiners. The Sunset Committee had recommended termination.

For further information, contact: Ronald L. Jones, Dir. of Operational Audits, Dept. of Examiners of Public Accts., Montgomery, Alabama 36130. (205 832-6625).

ALASKA

Statute: Alaska Stat. Ann. §08.03.010 et seq; §44.66 et seq.  
Year of enactment: 1977  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 4 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Legislative Auditor General and agency under review

Background

The Alaska Sunset law established a termination schedule of regulatory agencies, boards, and commissions. In addition, other programs and agencies are selected for review by the Legislative Budget and Audit Committee, a permanent, interim committee of the Legislature. Performance audits are prepared on all agencies under review.

Review Process

A committee of reference in each house is required to hold one or more public hearings to receive testimony from the public, the commissioner of the reviewed agency and its board members. A final report is due no later than the 60th day of the legislative session.

Latest Sunset Review

Three agencies were reviewed in 1981. All were recreated, but there were procedural or legislative changes dealing with general organization or specific duties.

For further information, contact: Merle R. Jenson, Division of Legislative Audit, Pouch W, Juneau, Alaska 99801. (907) 465-3831.

ARIZONA

Statute: Ariz. Rev. Stat. §41-2351 et seq.  
Year of enactment: 1978 (amended in 1980 and 1981)  
Scope of the law: comprehensive review  
Length of cycle: 10 years  
Committee with jurisdiction: Joint Legislative Oversight Commission  
Performance evaluation reports prepared by: Legislative Auditor General

Background

The Legislative Review of Agencies statute provided a termination schedule from 1980 to 1997. The Joint Legislative Oversight Commission, consisting of twelve members, assigns agencies to the respective committees of reference according to their subject matter. A 1980 amendment (Chap. 232) placed the responsibility for drafting implementing legislation with the committee of reference. A 1981 amendment (Chap. 225) extended the review cycle from six to ten years.

Review Process

The Joint Legislative Oversight Committee is required to initiate the Sunset review not less than 17 months prior to the termination date for each agency. A preliminary Sunset report is to be submitted to the Governor, to each member of the Sunset Committee, to the committee of reference and to the affected agency by October of the year prior to the scheduled termination date of the agency.

Latest Sunset Review

Fourteen agencies were scheduled for termination in 1980; of these three were terminated and four were extended pending further review. Seven agencies were recreated. One of the agencies which was terminated was re-established by the Governor.

For further information, contact: Gerald A. Silva,  
Legislative Services Wing, Suite 200, State Capitol,  
Phoenix, Arizona 85007. (602) 255-4385.

## ARKANSAS

Statute: Ark. Stat. Ann. §5-1201-1212  
Year of enactment: 1977  
Scope of the law: comprehensive review  
Length of cycle: one sun-year cycle  
Committee with jurisdiction: joint legislative committee.  
Performance evaluation reports prepared by: Legislative Auditor General

### Background

In February of 1977, Arkansas became the fifth state to enact a Sunset law (Act 100 of 1977). The law established a termination schedule of all state agencies from 1979 to 1983. The law provided for only one termination cycle and did not limit the period of time for which an agency may be recreated. Act 392 of 1977 established a Joint Performance Review Committee to be responsible for monitoring the operation of the Sunset law and for other evaluation functions. Act 12 of 1977 relieved the Division of Legislative Audit of the responsibility for preparing performance audits of all agencies under review. Instead, only those audits specifically requested by the joint interim committees are conducted.

In 1981, a bill to repeal the Arkansas law was introduced (H.B. 260). However, the bill failed to pass due to a technical clerical error.

### Review Process

The Division of Legislative Audit is required to prepare performance audits three months prior to termination based on criteria established in the law. Audits are completed for less than ten percent of all agencies. The appropriate joint interim committees are required to report by September 1st of the year preceding termination.

### Latest Sunset Review

In 1981, 89 agencies were reviewed; 81 were recreated without change, and eight were terminated.

For further information, contact: Fred Van Driesum, Research Department, 315 State Capitol, Little Rock, Arkansas 72201. (501) 371-1937.

## COLORADO

Statute: SB 317 of 1981  
Year of enactment: (1976, amended in 1977, 1978, and 1981)  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 10 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Department of Regulatory Agencies

### Background

In 1976, Colorado enacted the nation's first Sunset law (H.B. 1088 of 1976). In 1977, the law was modified slightly (S.B. 6 of 1977) so that all licenses would expire at the end of the wind-up period if an agency is terminated. Another modification required performance audits to be completed by the State Auditor six months, instead of three months, prior to termination. The law was further modified in 1978 (S.B. 34 of 1978) to require that the performance audits be completed one year prior to termination.

In 1981, legislation was introduced to repeal the Sunset law (S.B. 275 of 1981); however, the bill was rejected by a 20-11 Senate vote. S.B. 317 of 1981 was subsequently adopted, providing major changes to the law. The period for which an agency scheduled for termination may be continued was extended from six to ten years. The Department of Regulatory Agencies is to conduct analysis and evaluation of performance of each agency scheduled for termination. After July 1, 1984, the Department of Administration will perform the analysis.

### Review Process

Performance evaluations are conducted on all agencies subject to Sunset review. A report of findings is required one year prior to an agency's termination date. Preliminary planning sessions and public hearings are held during the interim. Public hearings are held on all agencies under review.

### Latest Sunset Review

The Colorado Legislature reviewed 13 agencies in 1980, including the Public Utilities Commission and the Division of Insurance as well as 11 smaller agencies--largely business, professional and trades licensing boards. Of the 13 agencies, three were terminated, two boards were consolidated, and four were continued for only one year, pending additional study. The four remaining agencies were all modified.

For further information, contact: Robert E. Smith, Deputy State Auditor, 1365 Logan, Suite 300, Denver, Colorado 80203. (303) 866-2051.

## CONNECTICUT

Statute: Conn. Gen. Stat. Ann. §2C-1 et seq.  
Year of enactment: 1977  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 5 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Legislative  
Program Review and Investigations Committee staff

### Background

The Sunset law provides for the termination of about 100 regulatory agencies and licensing boards from 1980 to 1984. The Legislative Program Review and Investigations Committee is required to prepare performance audits of those agencies up for review.

### Review Process

The Legislative Program Review and Investigations Committee works throughout the year on Sunset. Data collection and public hearings are conducted in the interim. Review generally begins 18 months prior to an agency's termination date. A report of findings is due six months prior to the termination date.

### Latest Sunset Review

In 1980, the Legislature reviewed 12 agencies -- three licensing boards, five advisory boards, three policy-setting entities and one state program for the regulation of bedding, upholstery, furniture and second hand hats. The committee recommended terminating four entities but the Legislature decided to terminate three; the Sanitarian Board, the Subsurface Sewage Disposal System Examiners Board, and the Regulation of Bedding, Upholstered Furniture and Second Hand Hats. The Legislature upheld the Committee's decisions to consolidate the Alcohol and Drug Councils and change one entity from mandatory to optional status. The Veterans Home and Hospital Commission was continued with major procedural changes and the Commission on Hospitals and Health care was continued with substantial changes in its composition, procedures and authority. The Commission on Medicolegal Investigations was continued intact and the remaining entities were continued with minor modifications.

For further information, contact: Michael L. Nauer, Director, L.P.R.I. Committee, 18 Trinity St., Hartford, Connecticut 06115. (203) 566-8480.

DELAWARE

Statute: Del. Code Ann. tit. 29, §10201 et seq.  
Year of enactment: 1980  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 4 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Sunset  
Committee

Background

The Delaware Sunset Act established a ten-member joint committee. Personnel of the Legislative Council and the Office of Comptroller General serve as staff of the committee. The committee is required to review approximately 36 agencies from 1981 to 1984.

Review Process

Six months before an agency is scheduled for July termination, the committee is required to conduct performance evaluations and prepare preliminary reports. Between February 1 and March 7, the committee is to hold public hearings. A final report is due on April 15.

Latest Sunset Review

In 1981, the Sunset committee reviewed 11 agencies. Final legislative action resulted in the termination of three agencies. In addition, the General Assembly consolidated a number of boards and transferred functions of certain boards to new boards.

For further information, contact: Harris B. McDowell, III, Chairman, Delaware Sunset Committee, Legislative Hall, Dover, Delaware 19901. (302) 571-3724.

## FLORIDA

Statute: Fla. Stat. Ann. §11.61 et seq.  
Year of enactment: 1976 (amended in 1977 and 1981)  
Scope of the law: regulatory agencies  
Length of cycle: 10 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: committee staff and agency

### Background

Florida's original Sunset law (Chapter 76-168 of 1978) provided for the termination of 94 regulatory laws from 1978 to 1982. No law was to be recreated for more than six years. A 1977 amendment (Chapter 77-457 of 1977) modified the Sunset schedule and required legislative committee review to begin two years, instead of one year, prior to termination.

In 1981, a number of major changes were made to the law (S.B. 239). The provision for implementation by a joint legislative committee was dropped; standing committees were required to begin reviews 15 months, instead of two years, prior to termination; the review cycle was extended from six to ten years; the wind-up period was reduced from one year to 30 days for government entities responsible for carrying out terminated functions or programs; and other procedural matters were modified.

### Review Process

In the House, reviews are conducted by the standing Regulatory Reform Committee, although certain reviews are conducted by substantive committees. In the Senate, reviews are done by substantive committees. Legislative committees use the interim for holding planning sessions, collecting data, holding public hearings and preparing action recommendations.

### Latest Sunset Review

In the 1980 Sunset review cycle, 25 agencies were reviewed, including the statute governing motor carriers and freight forwarders. Both the House and Senate conducted extensive reviews of the provisions of this statute. The Legislature ultimately allowed the statute to be repealed and effectively de-regulated intrastate trucking and bus transportation. Of the other 24 statutes reviewed in 1980, five were terminated, ten were modified, and nine were recreated as is.

For further information, contact John Hankinson, Committee on Regulatory Reform, Room 220, House Office Building, State Capitol, Tallahassee, Florida 32304. (904) 488-0996.

## Georgia

Statute: Ga. Code Ann. §84-101b et seq.  
Year of enactment: 1977  
Scope of the law: regulatory agencies  
Length of cycle: 6 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Legislative Auditor General

### Background

In 1977, Georgia became the sixth state to enact a Sunset law (Act 613 of 1977). The law provided for the termination of 44 regulatory agencies and their statutes from 1978 to 1982 (nine in 1978; 17 in 1980; and 18 in 1982). The State Auditor (who is elected by the Legislature) is required to prepare a performance audit on each agency. The appropriate standing committees are required to hold public hearings and report their recommendations to the Legislature. If terminated, the agencies continue in existence for one year to wind up their affairs, but the statutes relative to the agencies are terminated.

### Review Process

According to the Sunset statute, a performance audit must be completed nine months prior to an agency termination date. Planning sessions and public hearings are held during the interim. Agencies are not generally involved in preliminary planning.

### Latest Sunset Review

In 1981, the Legislature voted on the 17 scheduled agencies and four other agencies carried over from the 1978 schedule. Of the 21 agencies, 13 were recreated without major change, three were consolidated, and five were terminated. Of the five terminations, one was vetoed by the Governor and one was overruled in Court.

For further information, contact: Charles D. Lunsford, Director, Performance Audits, Georgia State Auditor's Office, 115 State Capitol, Atlanta, Georgia 30334. (404) 491-3690.

## HAWAII

Statute: Hawaii Rev. Stat. §26-H  
Year of enactment: 1977 (amended in 1979 and 1981)  
Scope of the law: regulatory agencies  
Length of cycle: 10 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Legislative Auditor General

### Background

The original law (S.B.460) called for the termination of the statutes of 39 boards and commissions. A 1979 amendment (Act 121) assigned Sunset evaluations to the Legislative Auditor. This provision replaced a previous one which required agencies under review to provide an impact statement evaluating the agency's compliance with policies stated in the law.

In 1981, additional changes were made to the law (Act 87). The 1981 legislation has the effect of postponing all Sunset reports for one year so that the Legislature has an opportunity to prepare an evaluation of the Department of Regulatory Agencies. Other procedural matters were addressed in the bill.

### Review Process

The Legislature reviewed each board or commission in the year the board or commission was scheduled to be terminated. Performance evaluations and public hearings are conducted for all boards and commissions under review.

### Latest Sunset Review

A total of eight boards or commissions were reviewed in 1981. None of these bodies were terminated. Seven boards were modified. Only one board, relating to Hearing Aid Dealers and Fitters, was recreated without change.

For further information, contact: Wilbert Sakamoto, Assistant Legislative Auditor, 465 South King Street, Honolulu, Hawaii 96813. (808) 548-2450.

ILLINOIS

Statute: Ill. Ann. Stat. ch. 127, §1091 et seq.  
Year of enactment: 1979  
Scope of the law: regulatory agencies  
Length of cycle: 10 years  
Committee with jurisdiction: Select Joint Committee on  
Regulatory Agency Reform  
Performance evaluation reports prepared by: Sunset Com-  
mittee, agency under review, and executive branch

Background

The Illinois Regulatory Agency Sunset Act calls for the termination of 35 regulatory boards and commissions from 1981 to 1989 and establishes a 13-member Select joint committee on Regulatory Agency Reform. The Committee consists of six legislators, five public members, the Director of the Bureau of the Budget, and the Chairman of the Economic and Fiscal Commission. Five full-time staff members are assigned to the Committee.

Review Process

In practice, the Sunset Committee begins review 27 months prior to repeal of an agency. This review includes public hearings for all agencies subject to review under Sunset. Reports of Committee recommendations are generally completed seven and one-half months in advance of termination of an agency. The Governor is required to provide recommendations on agencies under review.

Latest Sunset Review

The Sunset Committee studied seven licensing laws scheduled to be repealed in 1981; termination was recommended for five, modification for one and recreation for one. Of the five statutes recommended for repeal by the Committee, two were actually allowed to terminate -- the Sanitarian Registration Act and the Act for the regulation of the business of horseshoeing. Three others were extended with modifications for another ten years. The statute governing water well and pump installation contractors was continued without change.

For further information, contact: Gregory K. Busch,  
Executive Director, Illinois Sunset Committee, 524 South  
Second Street, Springfield, Illinois 62706. (217)  
785-8649.

INDIANA

Statute: Ind. Code Ann. Chap. §4-26-3-1 et seq.  
Year of enactment: 1978  
Scope of the law: comprehensive review  
Length of cycle: not specified  
Committee with jurisdiction: Legislative Council  
Performance evaluation reports prepared by: Legislative Service Bureau

Background

Two Sunset laws were passed in Indiana in 1977. One law (H.B. 2181) terminated about 20 advisory commissions in December 1978 and created a joint committee to set up a Sunset schedule for other state agencies.

A second law (H.B. 1763) terminated agencies created by executive order when a Governor leaves office, terminated agencies created by concurrent resolution when a General Assembly winds up every two years, and terminated all new agencies after ten years unless otherwise stated in the enacting legislation.

In 1978, Indiana enacted a comprehensive Sunset law (S. Enr. Act No. 43 of 1978) providing for the termination of over 350 agencies from 1980 to 1987. The Legislative Council is required to prepare reviews of each agency. The Governor is also to submit recommendations. The appropriate standing committees are required to hold public hearings and report their recommendations to the Legislature. Through an executive order, the Governor may provide a terminated agency with one year to wind up its affairs.

Review Process

The Legislative Council establishes a plan for review 30 months in advance of an agency termination date. A final report is due 18 months prior to agency termination. The interim is used to hold public hearings and to prepare legislative recommendations in draft legislation.

Latest Sunset Review

1981 reviews are in progress; however in 1980 thirty-two agencies were reviewed. All boards were re-created, but their staffs in some cases were structurally modified.

For further information, contact: Steve Grimes, Director OFMA, 302 State House, Indianapolis, Indiana 46204. (317) 269-3746.

## KANSAS

Statute: Kan. Stat. Ann. §74-7201 et seq.  
Year of enactment: 1978 (revised and re-enacted by 1981)  
Senate Bill No. 107)  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 8 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Legislative Auditor General

### Background

The 1978 Kansas Sunset law (H.B. 2976) provided for the termination of 35 agencies, mostly regulatory, from 1979 to 1984. In 1981, the statute was amended (SB 107). Under the new law, performance evaluations are no longer mandatory for all agencies subject to termination under Sunset, as required by the original law. Instead, the Legislative Post Audit Committee has the responsibility to decide whether or not an audit will be conducted. The deadline for completing performance audits was repealed. The 1981 amendment also extended the review cycle from six to eight years and broadened the scope of the law beyond regulatory agencies to cover all major executive agencies, except the Department of Education, the Board of Regents and the Board of Agriculture.

### Review Process

The Legislative Post Audit Committee receives and discusses audit reports in October, November, and December, prior to the legislative session in January. Public hearings are held on all agencies being reviewed in the Sunset review process.

### Latest Sunset Review

Final legislative action for 1981 resulted in recreation of seven boards slated for termination. The joint legislative committee recommended consolidating the Board of Barber Examiners and the Kansas Board of Cosmetology, but the Legislature continued the two boards separately.

For further information, contact: Ronald J. Green, Legislative Division of Post Audit, Mills Building, Suite 301, Topeka, Kansas 66612. (913) 296-3792.

## LOUISIANA

Statute: La. Rev. Stat. Ann. §49:190 et seq.  
Year of enactment: 1976 (amended in 1978 and 1979)  
Scope of the law: comprehensive review  
Length of cycle: 9 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: committee staff

### Background

Although Louisiana conducted Sunset reviews in 1978, significant reviews did not occur until 1981 -- after 1979 Sunset law revisions that were designed to focus on evaluation of specific programs, rather than perfunctory reviews of entire departments.

The Sunset law was significantly amended in 1979 (Acts 1979, No.512). The revisions extended the reviewing cycle from four to nine years. Other changes required notification of termination to the designated agency, followed within 20 days by a request for a zero-based budget review. Agencies are required to submit their reports to the standing committee within 60 days thereafter, and the Legislature is required to review the agency one year prior to termination.

### Review Process

Legislative committees generally hold preliminary planning sessions, collect data for evaluation reports and hold public hearings in the interim between legislative sessions. Public hearings are held on all agencies. Agencies do not participate in the preliminary review, other than by submission of their zero-based budget reviews.

### Latest Sunset Review

In 1981, 12 agencies were reviewed (derived by counting a separate board within a department as an agency). The Legislature recreated all 12 agencies, without significant changes.

For further information, contact: E. Anne Dunn, Coordinator, Governmental Affairs Div., House Leg. Services or Joseph Kyle, Coordinator, Fiscal Affairs Division, P.O. Drawer 44486, Baton Rouge, La. 70804-4486. (504) 342-2399.

## MAINE

Statute: 3 Maine Rev. Stat. Ann. ch.23 §501 et seq.  
Year of enactment: 1977 (amended in 1978, 1979, and 1981)  
Scope of the law: comprehensive review  
Length of cycle: 10 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Committee staff

### Background

In 1977 Maine became the 23rd state to enact a Sunset law. The law provided for the termination of over 60 agencies from 1980 to 1988, and set up a zero-based budgeting review schedule for executive departments. Chap. 683 of 1977 amended the law by adding over 20 additional boards and commissions to the termination schedule. The additional amendments in 1979 and 1981 did not make significant procedural changes.

### Review Process

For each department and agency which has submitted a justification report, the Joint Standing Committee on Audit and Program Review evaluates the analysis in the report, conducts its own analysis, and submits to the Legislature its analyses together with its recommendations and any required implementing legislation. Public hearings are held on all agencies under review.

### Latest Sunset Review

In 1980 the Legislature reviewed 12 agencies. Seven were recreated without change, while five were re-established and modified. This action followed the Joint Committee's recommendations. In 1981 three agencies were reviewed, and all three were re-established and modified. The Joint Committee's recommendation of termination for one of these agencies was not adopted (Penabsco Bay and River Pilotage Commission).

The bulk of the Joint Committee's review efforts focused on departments which do not terminate automatically -- including 55 programs in 1980 and 75 programs in 1981.

For further information, contact: Barbara Gottschalk, Program Analyst, Legislative Finance Office, State House, Station 5, Augusta, Maine 04011. (207) 289-2491.

## MARYLAND

Statute: Md. Ann. Code art. 41, §484 et seq.  
Year of enactment: 1978 (amended in 1980)  
Scope of the law: regulatory agencies  
Length of cycle: 6 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Legislative Service Bureau

### Background

In 1978 Maryland became the 27th state to enact Sunset legislation (Chap. 808 of 1978). The Regulatory Programs Evaluation Act, as amended in 1980 (Chap. 481), provides for the evaluation and termination of over 60 regulatory agencies between 1980 and 1984.

### Review Process

Under the amended act, one year before a board is scheduled for its July 1 termination, a designated legislative evaluation committee is required to prepare an evaluation plan after consultation with the board, the Dept. of Budget and Fiscal Planning and the Dept. of Fiscal Services. Before November 1, the Dept. of Fiscal Services is to prepare an evaluation report based on the plan, and submit it to the General Assembly. Before December 15, the legislative evaluation committee must hold a public hearing regarding the evaluation report. By the 20th day of the General Assembly session in the evaluation year, the committee must submit to the Assembly recommendations with appropriate legislation to re-establish, reconstitute with changes, repeal, or allow to terminate the boards under evaluation.

### Latest Sunset Review

The General Assembly reviewed 14 boards or agencies in 1981, of which four were recreated, seven were re-established and modified, two were consolidated, and one was terminated. Legislation to repeal the Maryland Sunset law was introduced in 1981; however, the repeal bill was unsuccessful.

For further information, contact: Warren G. Deschenaux, Sunset Coordinator, Dept. of Fiscal Services, 90 State Circle, Annapolis, Md. 21401. (301) 841-3736.

## MISSISSIPPI

Statute: Miss. Code Ann. §5-9-1 et seq.

Year of enactment: 1979

Scope of the law: regulatory and selected other agencies

Length of cycle: 8 years

Committee with jurisdiction: standing committee

Performance evaluation reports prepared by: Committee on Performance Evaluation and Expenditure Review, and/or agency under review

### Background

In 1978, the Legislature passed a Sunset bill (S.B. 2310). The statute gives responsibility for conducting Sunset reviews and holding public hearings to standing committees of the Legislature. The committees may request that the joint legislative committee on Performance evaluation and Expenditure Review (PEER) gather information on agencies or prepare program evaluations.

### Review Process

Performance evaluations are conducted on request by reviewing committees, and such requests are usually made. A reviewing committee is required to submit its report and recommendations to the Legislature and Governor by Nov. 15, before the ensuing regular legislative session. Preliminary planning sessions and public hearings are held during the interim. Public hearings are held on most agencies under review.

### Latest Sunset Review

In 1981 only one agency survived for Sunset review out of 16 scheduled to terminate that year. This resulted from a series of mergers, executive orders and discoveries of inactive agencies. The one remaining agency was reviewed and re-established with modifications.

For further information, contact: Samuel H. Dawkins, Associate Analyst, PEER Committee P.O. Box 1204, Jackson, Mississippi 39205 (601) 354-6555.

MONTANA

Statute: Mont. Rev. Codes Ann. §2-8-101 et seq.  
Year of enactment: 1977  
Scope of the law: regulatory agencies  
Length of cycle: 6 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Legislative Auditor

Background

The legislative audit committee is responsible for conducting a review of each agency scheduled for termination. Reviews include a performance audit of the agency and an examination of criteria stated in the law. Prior to the termination of an agency, the appropriate standing committee in each house or a joint committee of both houses is required to hold a public hearing. Upon completion of its review, the legislative audit committee must submit a report of its recommendations for continuation, modification or termination of the agency and submit a proposed bill for the upcoming legislative session.

Review Process

Sunset reviews must be completed at least six months prior to the July 1 agency termination date. There is a one year wind-up period for agencies terminated under Sunset.

Latest Sunset Review

The Legislature reviewed 22 agencies in 1981, three being recreated without change, 16 re-established with modifications and three terminated.

For further information, contact: Scott A. Seacat, Principal Audit Manager, Room 135, State Capitol, Helena, Montana 59620. (406) 449-3122.

NEBRASKA

Statute: Neb. Rev. Stat. Ann. § 81-192 et seq.  
Year of enactment: 1977 (amended in 1979 and 1980)  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 6 years  
Committee with jurisdiction: Performance Review and Audit Committee  
Performance evaluation reports prepared by: committee staff

Background

Nebraska has conducted Sunset reviews every year since 1977. Under the Sunset law, as amended in 1979 (LB 195) and 1980 (LB 886), performance reviews are to be conducted by the Performance Review and Audit Committee for each agency scheduled for termination.

Review Process

Performance reviews are to be completed by October 1 in the year prior to the termination date. Within 45 days of completion of the performance review, the Committee is required to hold a public hearing to receive testimony from the public and the agency involved regarding the performance review report. The Committee is then required to report to the Legislature regarding its recommendations to reenact, reenact with changes, or allow to terminate the agencies under consideration, and to submit proposed implementing legislation.

Latest Sunset Review

In 1980, five agencies were reviewed. Of these agencies, one was re-established with modifications and one was terminated. With respect to the remaining three agencies, and with respect to five agencies reviewed in 1981, Committee recommendations are pending before the Legislature, for action in the 1982 session.

For further information, contact: Dale B. Johnson, Legislative Fiscal Analyst, P.O. Box 94727, State Capitol Bldg., Lincoln, Nebraska 68509. (402) 471-2263.

NEVADA

Statute: Nev. Rev. Stat. Ann. Ch. 232B.  
Year of enactment: 1979 (amended in 1981)  
Scope of the law: regulatory and selected other agencies  
Length of cycle: (pilot project)  
Committee with jurisdiction: legislative commission  
Performance evaluation reports prepared by: Legislative  
Counsel Bureau

Background

The 1979 law, as amended, set up a one-cycle pilot project, with a July 1, 1981 termination date for three agencies. Responsibility to conduct reviews of these agencies was placed in the legislative commission, which appointed a Sunset review subcommittee for this purpose. The commission was required to begin its reviews on July 1 of the second year preceding the scheduled date of termination. In this connection it was authorized to require performance evaluation reports from the Legislative Counsel Bureau. The commission was directed to conduct public hearings before submitting its recommendations to standing committees of the Legislature. Under 1981 amendments (SB 171) the review criteria to be applied by the commission were expanded somewhat, but no other significant procedural changes were made.

Review Process

The Sunset review was completed during the interim between legislative sessions. This included the holding of preliminary planning sessions, collection of data for evaluation reports and the holding of public hearings. Public hearings were held on all three agencies under review.

Latest Sunset Review

The three designated agencies were reviewed in 1980. The 1981 Legislature recreated all three agencies, with substantial procedural changes as recommended by the Sunset review subcommittee. However, the subcommittee's recommendation to add a public member to the Real Estate Commission was not adopted. The 1981 Legislature did not designate any additional agencies for termination and review. Accordingly, no further review will occur until additional designations are made at some future legislative session.

For further information, contact: Dan Miles, Room 341,  
Legislative Building, Carson City, Nevada 89710. (702)  
885-5640.

NEW HAMPSHIRE

Statute: N.H. Rev. Stat. Ann. §17-G  
Year of enactment: 1977 (amended in 1979)  
Scope of the law: comprehensive review  
Length of cycle: 6 years (with some exceptions)  
Committee with jurisdiction: Sunset Committee  
Performance evaluation reports prepared by: committee staff

Background

The New Hampshire Sunset Act, enacted in 1977 and amended in 1979 (Chap. 307), was implemented for the first time in the 1981 legislative session. The Sunset Committee (a joint legislative committee) established a schedule terminating all state agencies and programs by 1985. Approximately one-third of the state agencies are considered every two years.

Review Process

By the third legislative day of each regular legislative session, the Sunset Committee is required to submit to the relevant committees of the House and Senate a report for each program appropriation unit scheduled for review during that year. On receipt of this report, the appropriate standing committee of the House is required to hold public hearings. Not later than 14 days thereafter, the standing committee must report its recommendations to the House. After the House action is completed, similar action is to be taken in the Senate.

Latest Sunset Review

In 1981, 115 agencies were reviewed, of which 50 were recreated as is, 50 were re-established with modifications and 15 were terminated.

For further information, contact: Jim Kent, Sunset Committee. Room 114, State House, Concord, New Hampshire 03301 (603) 271-2281.

NEW MEXICO

Statute: N.M. Stat. Ann. §12-9-9 et seq.  
Year of enactment: 1977 (amended in 1981)  
Scope of the law: regulatory agencies  
Length of cycle: for periods set by Legislature  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: agency

Background

In 1977 New Mexico became the ninth state to enact a Sunset law. Under the act, as amended (Laws 1981, chap. 241) a termination schedule is set through 1989. Prior to termination of any agency, the legislative finance committee is required to hold a public hearing and make a recommendation to the next session of the Legislature for the termination or continuance of the agency.

Review Process

Performance evaluations are conducted for all agencies subject to Sunset review. Reports and recommendations must be submitted one year in advance of agency termination dates. Public hearings are held on all agencies under review.

Latest Sunset Review

In 1980 all 16 agencies scheduled to Sunset on July 1 were reviewed and all were renewed in one form or another. The 1980 review covered substantive agencies such as the Department of Insurance.

For further information, contact: Jessica Schar, Room 231, Executive-Legislative Building, Santa Fe, New Mexico 87503. (505) 827-5661.

### North Carolina

Statute: Session Laws 1981, chap. 932(art.1.2), repealed original Sunset law (N.C. Gen. Stat. Ann. §143-34.10 et seq.)

Year of enactment: Original Sunset law-1977

Scope of the law: regulatory and selected other agencies

Length of cycle: no provision

Committee with jurisdiction: Committee on Agency Review

Performance evaluation reports prepared by: Legislative Services Office

### Background

The original Sunset law (Chap. 712) provided for the termination of 105 statutes relating to licensing boards and regulatory functions from 1979 to 1983. A 10-member independent commission, the Governmental Evaluation Commission, was established to conduct the reviews and to make recommendations to the appropriate standing committees of the Legislature. The act provided automatic termination dates.

The Sunset law was repealed in 1981. The new law creates a new and limited Sunset system on a temporary basis, expiring June 30, 1983, to be operated by a Committee on Agency Review composed of five Representatives and 25 Senators. The Committee is directed to review and evaluate programs and functions authorized under a long list of laws, by departments, and to develop legislative recommendations concerning such programs and functions.

### Review Process

The listed departments and the Legislative Services Office were each directed by Jan. 1, 1982 to submit to the Committee their recommendations for retention or termination of the listed programs. The Committee was then required to prepare tentative recommendations, to make them available to the departments by July 1, 1982, and to hold public hearings thereon. Upon completion of hearings the Committee was required to submit a report to the General Assembly, together with any recommended legislation. This act does not include automatic termination provisions.

### Latest Sunset Review

Under the old Sunset law, now repealed, 20 programs were reviewed in 1981, of which one was recreated as is, and 19 were re-established with modifications.

For further information, contact: Milton Heath, Assistant Director, Institute of Government, University of North Carolina, Chapel Hill, North Carolina.

## OKLAHOMA

Statute: Okla. Stat. Ann. tit. 74, §3901 et seq.  
Year of enactment: 1977  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 6 years, except that the cycle for agencies created by executive order is 4 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: agency

### Background

In 1977 Oklahoma became the 7th state to enact a Sunset law (S.B. 138). Appropriate standing committees from each house, meeting jointly during the legislative session, or interim committees of the Legislative Council (called review committees) are charged with reviewing and evaluating statutory entities assigned to these committees, to determine if terminated entities should be recreated. The agencies under review are required to provide the review committee with information specified in the law, including a zero-based operating budget review. All committee hearings are required to be open to the public.

### Review Process

Review of an agency is to begin before July 1 of the calendar year prior to its termination date, and must conclude with a recommendation prior to the following legislative session.

### Latest Sunset Review

In 1980, the Legislature reviewed 15 agencies, of which seven were recreated as is, and eight were re-established with modifications. In 1981, 20 agencies were reviewed, but as of late January, 1982, legislative action on these agencies had not yet been completed.

For further information, contact: Douglas J. Enevoldsen, Coordinator of House Sunset Review, House Fiscal Division, Oklahoma House of Representatives, State Capitol Building, Oklahoma City, Okla. 73105, (405) 521-2201.

OREGON

Statute: Ore. Rev. Stat. §102.605 et seq.  
Year of enactment: 1977 (amended in 1979)  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 8 years  
Committee with jurisdiction: joint legislative committee  
(interim committee)  
Performance evaluation reports prepared by: Legislative  
Service Bureau

Background

Oregon enacted its Sunset law in 1977. Under this law review of listed agencies is conducted by an appropriate legislative interim committee, designated by the President of the Senate and Speaker of the House. Agencies being reviewed are required to provide specified information on their activities to the interim committees, which are required to hold public hearings before submitting their recommendations to the Legislature.

Review Process

Legislative interim committees must submit their recommendations to the Legislature no later than 18 months before the repeal date of the agency.

Latest Sunset Review

In 1981, 13 agencies were reviewed. The Legislature continued nine boards and commissions with modifications. In addition, the debt consolidation agency law was continued without change, but with a termination date of Feb. 1, 1983. Licensing of guides was terminated. The Credit Agencies Board was terminated, but a new law required registration with the Department of Commerce. The State Board of Plumber Examiners was terminated, but its duties and functions were transferred to a newly created board, with changes in the law relating to plumber licensing and standards.

For further information, contact: Allan Green,  
Director, Legislative Research, S-420 State Capitol, Salem,  
Oregon 97310. (503) 378-8871.

PENNSYLVANIA

Statute: Act 142  
Year of enactment: 1981  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 6 years  
Committee with jurisdiction: Legislative Leadership  
Committee  
Performance evaluation reports prepared by: Legislative  
Budget and Finance Committee

Background

Pennsylvania is the most recent state to pass a Sunset law. The law establishes a termination schedule for about 76 agencies from 1983 to 1987. The agencies are largely regulatory in nature. A joint legislative committee is responsible for directing and coordinating the implementation of the Sunset review procedure and assigning the responsibility for the review and evaluation to appropriate House and Senate standing committees. The law also requires a termination schedule for newly created agencies.

Review Process

The designated standing committees receive performance evaluations from the Legislative Budget and Finance Committee. They are required to hold public hearings for each agency under review. Standing committees are required to submit their final report and recommendations on each reviewed agency to the General Assembly on or before the first session day of September of the year of termination.

Latest Sunset Review

No review conducted to date.

For further information, contact: Kenneth W. Fody, 281  
Main Capitol, Harrisburg, Pennsylvania 17120 (717) 787-6787.

### Rhode Island

Statute: R.I. Gen. Laws Ann. §22-14-1 et seq.  
Year of enactment: 1977 (amended in 1978, 1979, and 1981)  
Scope of the law: comprehensive review  
Length of cycle: 5 years  
Committee with jurisdiction: Legislative Oversight Commission  
Performance evaluation reports prepared by: Legislative Auditor General

### Background

In 1977, the General Assembly provided the Legislative Oversight Commission with responsibility for reviewing and making recommendations on 30 boards and commissions in the Executive Department. In 1978 (Chapter 387) the Sunset statute was amended, providing for the termination of additional boards and commissions. In 1979 (Chap. 349) the General Assembly further amended the law by enlarging the membership of the commission to 14, authorizing the appointment of designees and providing payment to public members. To allow resources to be more easily focused on high-priority agencies, a 1981 Amendment (Chap. 391) repealed the schedule of terminations. Only those agencies where potential benefits are significant need be reviewed.

### Review Process

Preliminary planning for a Sunset review is carried out nine months before the scheduled termination, with the final report due six months before that date. Public hearings are held on all agencies reviewed. The interim between sessions is used to hold preliminary planning sessions and to collect data for evaluation reports.

### Latest Sunset Review

Of the 36 agencies scheduled for review in 1981, three were terminated. Fifteen agencies were continued. The remaining 18 agencies were rescheduled for review in 1982 because of insufficient time.

For further information contact: Mr. Thomas Marcello, Research Analyst, Office of the Auditor General, 87 Park St., Providence, Rhode Island 02895. (401) 277-2435.

## SOUTH CAROLINA

Statute: S.C. Code Ann. §1-20-10 et seq.

Year of enactment: 1978

Scope of the law: regulatory agencies

Length of cycle: 6 years

Committee with jurisdiction: Reorganization Commission and standing committees

Performance evaluation reports prepared by: Legislative Audit Council

### Background

The South Carolina Sunset law provides for the termination of 41 regulatory agencies from 1980 to 1985. The law established a 19-member State Reorganization Commission. The Legislative Audit Council, Reorganization Commission and appropriate standing committee chairmen are responsible for developing procedures for agency review. Performance evaluations are required for all agencies scheduled for termination.

### Review Process

A review and evaluation of an agency scheduled for termination is required from the Legislative Audit Council 12 months before the agency termination date. Upon receipt of the review and evaluation, the Reorganization Commission is required to hold public hearings.

### Latest Sunset Review

All of the six agencies reviewed in 1980-1981 were modified. In general, the modifications have taken the form of adding public members to boards or improving administrative practices.

For further information, contact: Les Boles, Principal Auditor, 620 Bankers Trust Tower, Columbia, South Carolina 29210. (803) 758-5322.

SOUTH DAKOTA

Statute: S.D. Codified Laws, Chap. 1-26B  
Year of enactment: 1977 (amended in 1978)  
Scope of the law: pilot project  
Length of cycle: one review  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Legislative Service Bureau

Background

The Sunset law provided for the termination on July 1, 1978 of eight state agencies. The agencies were to provide information in a format established in the law. Since the bill was conceived as a pilot project it required only a one-time review. A special joint interim legislative committee was appointed to oversee this process and to report its recommendations to the Legislature. S.B. 48 of 1978 scheduled five licensing boards for review with termination in 1979.

Review Process

The legislative committee has generally met 15 months in advance of an agency termination date. The committee is required to hold public hearings. A final report is required six months prior to termination.

Latest Sunset Review

Under the 1978 statute, the Sunset committee was given five regulatory boards to review -- The Board of Barber Examiners, the Board of Examiners in Basic Sciences, the Board of Massage, the Board of Psychologists, and the Board of Sanitarian Registration. Two of these boards were re-established and three were terminated (but one was later reinstated). There have been no subsequent statutory enactments and accordingly no further reviews.

For further information, contact: Terry C. Anderson, Legislative Research Council, State Capitol, Pierre, South Dakota 57501. (605) 773-3251.

## TENNESSEE

Statute: Tenn. Code Ann. §4-29-101 et seq.  
Year of enactment: 1977 (amended in 1979 and 1980)  
Scope of the law: comprehensive review  
Length of cycle: 6 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Legislative Auditor General

### Background

The 1977 Sunset statute established a joint evaluation committee composed of appropriate House and Senate subcommittees. The Division of State Audit under the comptroller is required to conduct limited program review audits on all agencies scheduled for termination. In 1979, the Tennessee law was amended to allow more than one entity to be named on a bill (Chap. 8, 1979, TCA 4-29-114). In 1980, the law was amended again to change the time period required for public notice of hearings from 30 days to quarterly and 10-day notices (Chap. 722, 1980, TCA 4-29-104).

### Review Process

A plan and timetable for review are generally set by Sunset staff. There are no specific reporting dates for completing the limited program review audits. Public hearings -- required for all agencies scheduled for termination -- are held in the interim between legislative sessions.

### Latest Sunset Review

Of the 14 agencies reviewed in 1980, five agencies were continued, six were continued with either administrative or legislative modifications, two were terminated, and one was rescheduled for consideration in 1982.

For further information, contact: W. Jeff Reynolds,  
Division of State Audit, Suite 1500, J.K. Polk Bldg.,  
Nashville, Tennessee 37219. (615) 741-3697.

TEXAS

Statute: Tex. Rev. Civ. Stat. Ann. art. 5429k  
Year of enactment: 1977 (amended in 1981)  
Scope of the law: comprehensive review  
Length of cycle: 12 years  
Committee with jurisdiction: Sunset Advisory Commission  
Performance evaluation reports prepared by: Sunset  
Commission and agency under review

Background

The Texas Sunset law provides for the termination of all agencies except the courts and institutions of higher education. The Sunset Advisory Commission, composed of four members of the House, four members of the Senate, and two public members, is responsible for conducting reviews with the aid of staff from the Legislative Budget Board. Agencies scheduled for termination are required to prepare self-evaluations, utilizing statutory criteria.

Review Process

The Sunset Commission begins agency reviews approximately 20-24 months prior to termination. Agencies are required to prepare self-evaluation reports. Staff evaluation reports are then transmitted to the Sunset Commission. Public hearings are also required prior to legislative consideration of agencies scheduled for termination.

Latest Sunset Review

The Sunset Advisory Commission in 1981 reviewed 28 agencies. Twenty two of these agencies were continued with modifications, one was continued with functions transferred, three were abolished with functions transferred, and two were abolished.

For further information, contact: Karl Spock, Sunset Advisory Commission, P.O. Box 13066, Capitol Station, Austin, Texas 78711. (512) 475-1718.

UTAH

Statute: Utah Code Ann. §63-55-1 et seq.  
Year of enactment: 1977 (amended in 1979 and 1981)  
Scope of the law: regulatory agencies  
Length of cycle: 6 years  
Committee with jurisdiction: legislative study committee  
Performance evaluation reports prepared by: Legislative Auditor General

Background

Under the Utah Sunset law, as amended, regulatory boards, divisions, offices and agencies listed therein (primarily occupational licensing agencies) are scheduled for termination on various specified dates, unless the Legislature reauthorizes their continued existence for another six years. The appropriate legislative study committees are required to begin reviews of the applicable laws one year before scheduled termination dates and to report their recommendations by January 1.

Review Process

Performance evaluations are conducted for all agencies subject to Sunset review. Preliminary planning sessions and public hearings are held during the interim. Public hearings are held for all agencies under review.

Latest Sunset Review

Thirty agencies were reviewed in 1981. Of these, seven agencies were recreated as is, 15 were continued with modifications, and eight were terminated.

For further information, contact: Mark Paterson, Research Analyst, Office of Legislative Research, 436 State Capitol, Salt Lake City, Utah 84114. (801) 533-5481.

VERMONT

Statute: Vt. Stat. Ann. tit. 26, §3101 et seq.  
Year of enactment: 1977  
Scope of the law: regulatory agencies  
Length of cycle: 6 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Legislative Council

Background

The Sunset law provides for the termination of 29 regulatory laws from 1961 to 1985. There is no requirement for public hearings.

Review Process

Under the Vermont Sunset law the Legislative Council is required to prepare preliminary reviews on the specified laws and agencies, at least 21 months before scheduled repeal. Written reports on each profession and occupation are to be filed with the Legislature at least two months before the first day of the next regular or adjourned legislative session, and must be transmitted to appropriate standing committees. Findings and recommendations must be sent to the House and Senate for final legislative action. Legislative action must be completed at least a year prior to an agency's termination date.

Latest Sunset Review

Five agencies were reviewed under the Sunset law in 1979, of which four were continued with modifications, and one was terminated. Six agencies were reviewed in 1980, and the recommendations on these agencies are awaiting legislative action in the current session, which expires in May, 1982.

For further information, contact: S. Michael Slater, Legislative Council, State House, Montpelier, Vermont 05602. (802) 828-2231.

WASHINGTON

Statute: Wash. Rev. Code Ann. Chap. 43.131  
Year of enactment: 1977 (amended in 1979)  
Scope of the law: comprehensive review  
Length of cycle: 6 years  
Committee with jurisdiction: standing committee  
Performance evaluation reports prepared by: Legislative Budget Committee

Background

The 1977 Sunset statute provided for the termination of four programs in 1978 and five small commissions in 1979. A select joint committee was designated to recommend an expanded Sunset schedule of additional agencies, statutes, or programs for review. A minor amendment in 1979 changed the dates for completing program and fiscal reviews (Chap. 22).

Review Process

The Legislative Budget Committee is required to prepare a preliminary performance audit for each agency under review, on or before June 30th of the year prior to the termination date. The Governor's Office of Financial Management may prepare its own review or comment on the preliminary Legislative Budget Committee report. The Legislative Budget Committee then prepares a final combined report which is submitted to the appropriate standing committee which then holds public hearings and prepares recommendations for the Legislature.

Latest Sunset Review

The Washington Legislature in 1981 reviewed 22 agencies, of which three were recreated as is, six were continued with modifications, and 13 were terminated.

For further information contact: Mr. Fred Tilker, Principal Management Auditor, 506 East 16th St., Mail Stop KD-11, Olympia, Washington 98504. (206) 753-5796.

WEST VIRGINIA

Statute: W. Va. Code Ann. §4-10-1 et seq.  
Year of enactment: 1979  
Scope of the law: regulatory and selected other agencies  
Length of cycle: 6 years  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Legislative Auditor General

Background

Under the West Virginia Sunset Law, the responsibility for Sunset is placed in a 15-member joint committee on government operations, composed of five members of the Senate, five members of the House, and five public members. The joint committee is required to conduct a performance and fiscal audit of every entity or program scheduled for termination. Its report, together with recommendations, is to be submitted to the Legislature within 10 days after the Legislature convenes in regular session in the year of the scheduled termination date.

Review Process

Performance evaluations are conducted for all agencies subject to Sunset review. Preliminary planning sessions and public hearings are held during the interim between legislative sessions. Public hearings are held on all agencies under review.

Latest Sunset Review

Six agencies were reviewed in 1981. The Legislature recreated two agencies as is and terminated four. The functions of two of the terminated agencies were transferred to other state agencies.

For further information, contact: Thedford L. Shanklin, Room 146 Main Unit, Capitol Bldg., Charleston, West Virginia 25305. (304) 348-2154.

## WYOMING

Statute: Wyo. Stat. Ann., Ch.10, §28-10-101 et seq.  
Year of enactment: 1979 (amended 1981)  
Scope of the law: regulatory and selected other agencies  
Length of cycle: subject to legislative discretion  
Committee with jurisdiction: joint legislative committee  
Performance evaluation reports prepared by: Legislative Serv. Bureau

### Background

Under the Wyoming Sunset law, as amended, a joint legislative committee of 11 members, representing both the House and Senate, is responsible for supervising a management audit of each agency scheduled for termination.

The original Sunset law provided that existing agencies might be continued for a period not to exceed six years. However, the 1981 amendment (Chap. 126, 1981 S.L.) deleted the six-year limitation, leaving the renewal period to legislative discretion.

### Review Process

Audits must be completed at least six months prior to the date established for termination. Upon completion of the audit report and prior to the termination or re-establishment of any agency, the committee is required to hold at least one public hearing to review each report. If the committee recommends that an agency should be extended, it must introduce a bill during the next ensuing legislative session extending the life of the agency.

### Latest Sunset Review

Seven agencies were reviewed in 1980, with final legislative action taken in 1981. Three of these agencies were terminated (one of these did not have a full-time staff and was subsequently absorbed by another agency); two agencies were continued with minor changes; one was continued with extensive statutory changes; and one was continued, with recommendations for a follow-up study.

For further information, contact: James Orr, Assistant Director, Legislative Service Bureau, Capitol Bldg., Cheyenne, Wyoming 82002. (307) 777-7881.

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BOARDS & COMMISSIONS

TENTATIVE SUNSET LIST\*

HOUSE LABOR AND COMMERCE COMMITTEE

Jan. 24, 85

Department of Labor

None

Department of Commerce and Economic Development

1. Board of Veterinarians
2. Board of Dispensing Opticians
3. Alaska Public Utilities Commission

Additionally, the Legislature approved the continuation of the Board of Barbers and Hairdressers and the Board of Pharmacy last year, but the Governor vetoed their continuation, so they are sunsetted and currently in their last year of existence.

Further, Executive Order #60 has been referred to the House Labor and Commerce Committee, which would transfer the responsibilities of the Athletic Commission from the Governor's Office to the Department of Labor and Commerce.

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\*Information obtained by phone from Jerry Wilkerson, Legislative Budget and Audit; but subject to future referral to the House Labor and Commerce Committee by the Speaker's Office.

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

### M E M O R A N D U M

DATE: January 16, 1985

TO: Members of the Legislature

FROM: Gerald L. Wilkerson, CPA *GLW*  
Legislative Auditor  
Division of Legislative Audit

SUBJECT: Report on Sunset Process in Alaska

Enclosed are copies of the following reports, which are being sent to you at the direction of the Legislative Budget and Audit Committee:

"A Special Report on the Sunset Process in Alaska, September 1977 - May 1984."

"The Status of Sunset in the States: A Common Cause Report, March 1982."

Enclosures

A SPECIAL REPORT ON THE  
SUNSET PROCESS IN ALASKA

September, 1977 - May, 1984

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

May 18, 1984

Members of the  
Legislative Budget and Audit Committee:

In accordance with a special request of the Legislative Budget and Audit Committee and Title 24 of the Alaska Statutes, the attached report is submitted for your review.

### A SPECIAL REPORT ON THE SUNSET PROCESS IN ALASKA

September 1977 - May, 1984



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

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## PURPOSE OF THE REPORT

In accordance with a special request of the Legislative Budget and Audit Committee and Title 24 of the Alaska Statutes, this special report has been prepared to document the Sunset experience in Alaska and to gather information about Sunset results in other states.

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## THE SUNSET EXPERIENCE

In 1977 the Alaska Legislature created Alaska's Sunset law which was patterned after the Colorado Sunset legislation. The design of Alaska's Sunset law provides legislative scrutiny of all programs and activities of the State. While most other states' Sunset laws only addressed boards and commissions, Alaska's law is comprehensive. It includes in addition to boards and commissions, all State programs.

The process in Alaska provides for the programs, boards, and commissions selected by the legislature to be reviewed by the legislature at least every four years, unless established for a shorter period of time. The Division of Legislative Audit provides a performance review of all agencies selected by the legislature for Sunset.

Since inception of the Alaska Sunset process in 1977, the legislature has reviewed 47 agencies. The Legislative Auditor has recommended termination of 12 boards or commissions. The Legislature has terminated two of the these boards and merged two others (see Appendix A).

Alaska is a young state and therefore has fewer old boards and commissions for which there is not a demonstrated public need. Nationwide, 35 states have adopted Sunset legislation in which approximately 1676 Sunset reviews have taken place. Of these, 283 (17%) boards, commissions, or agencies were terminated.<sup>1</sup>

### Benefits From Sunset Reviews - Nationwide

Although some have viewed termination of State entities as the measure of success of Sunset, the main benefits, according to a nationwide survey made by Common Cause The Status of Sunset In The States, have been to make government more efficient and more responsive and accountable to the public. Of the 1676 entities reviewed, 17% were terminated because no public purpose was being served. In 83% of the reviews conducted nationwide, modifications were needed in order to improve efficiency. In addition, 68% of the states surveyed believed the principle benefits were increased public accountability and efficiency. Furthermore, 56% believed increased legislative experience and interest in the oversight work was a major accomplishment in the Sunset implementation.

### Alaskan Experience

Alaska's experience has paralleled that of other states. The process has not resulted in significant cost savings, but as the result of legislative reviews, the agencies', boards', and commissions' operations have become more effi-

1. See Footnotes, Appendix B, Page 10

cient and the entities are more aware and responsive to the public needs. They have also become more cognizant of their responsibilities for self-evaluation and have made improvements not required by the legislature. In addition, recommendations for improvements in the entities' efficiency and effectiveness, made by the legislature and auditors, have either been fully or partially implemented. Therefore, improvements in the existing programs have been more beneficial than the cost savings from terminating State programs or boards. Some of the improvements observed are as follows:

1. The number of State boards and licensed professionals has not increased. The legislature has used the Sunset experience to curb the growth of boards and commissions.
2. Legislative reviews have eliminated a number of self-serving regulations and practices. This has resulted in improved availability of services, the elimination of price protections, and the heightened awareness on the part of boards that what is in the public's best interest is not necessarily what the professions would like to see occur.
3. Investigations of licensure violation by the professionals has improved. Investigations are ranked according to possible harm to the public, and those which could cause the most harm are given priority. Prior to the Sunset review, the investigations of licensure violations or incompetent practices of professionals was almost nonexistent.
4. The legislative examination of programs under the Sunset law resulted in significant changes in the inspection programs in Alaska. Three programs were merged under one department, and the mission of the other was greatly changed.

#### Problems with Implementing Sunset

Although most states have expressed favorable reactions to Sunset laws, there have been some common complaints about the process. Again, citing the Common Cause report The Status of Sunset in the States, March 1982, 50% of the 35 states surveyed believed the major problem with Sunset involved the amount of time spent by legislators in preparing for and conducting public hearings; 35% cited the fact that response to the public hearing consisted of licensed professionals lobbying for benefits to them; and 29% believed the costs involved were too high compared to the benefits.

2. See Footnotes, Appendix B, Page 10

In Alaska and other states, attempts have been made to include the participation of the public. Very few hearings are well attended by other than licensed professionals. Solutions to this complaint have included appointing public members to the boards. This method has gained nationwide acceptance. In Alaska, almost all boards have at least two public members.

In addition, some legislators have held meetings after regular working hours in an attempt to make hearings more accessible to the general public. According to states that have tried this, there has been an increase in public attendance.

Concerns about the cost of Sunset in Alaska do have some merit. There have been little direct savings in State expenditures due to Sunset. However, due to the type of programs reviewed, little savings could have resulted. Most reviews have been of professional licensing boards which, in some cases, provide more revenue to the State through license fees than it costs to support the board. Also, even if a board is terminated, the registration of licensees is oftentimes retained so the greatest cost, administrative expense, continues.

#### Recommendation For The Future

We believe the Alaska Sunset law is an important Legislative tool which should be retained. Although the law may have been over-used in some cases, it is valuable in that it provides a formal process for legislative oversight. The following are reasons why we believe such oversight is valuable:

1. Whenever legislative authority is delegated to an appointed regulatory entity, oversight should be maintained and pursued to ensure the welfare of the public is safeguarded. Due to the very nature of the regulatory agencies, they do not demand the budgetary or audit attention that the high cost programs do. In addition, the interests of regulated professional groups may differ from the public's interest. Thus, Sunset review may be the only consistent method of ensuring public accountability.
2. Sunset reviews have provided a forum for evaluation of governmental entities on the basis of public need and a method to improve the efficiency of government. A pending legislative Sunset review encourages governmental entities to make voluntary improvements and implement legislative intent.

We believe that modification to the Alaska Sunset law and procedures would help make the Sunset process a more effective legislative tool.

1. AS 44.66.020 -.030 should be repealed as these statutes are no longer applicable. This portion of the Sunset statutes sets out provisions for the termination of programs selected by the legislature. However, there were no programs selected for Sunset under these provisions. As a result, according to legislative counsel, the times such programs could be selected was mandatory, and this portion of the statute is no longer in force.
2. The legislature should consider amending the Sunset legislation for the selection of agencies or programs to be reviewed. The Sunset law does not increase the powers of the legislature, and in fact, may reduce them in that it gives the Governor the right to veto proposed Sunset bills. The legislature could select a program or agency for consideration under Sunset by resolution. The Division of Legislative Audit could then perform a performance audit of the entity, at the direction of the Budget and Audit Committee.

The Sunset process can be an effective tool to examine in detail the performance and need of a government entity not just for the termination of an agency. We believe the Sunset process could be useful in the following areas:

1. When the legislature creates a new program or agency they can provide for a Sunset review after a period of time. In this way, the legislature has a formal method of ensuring that the new State program will function as envisioned when created. The legislature used this method in creating the Litter Program. As a result, the auditors found that program personnel were very aware of the need to perform in accordance with legislative intent.
2. A program or agency could be selected for a Sunset review when there is a substantial change in the funding or purpose of a program or agency, or if it is believed the entity has not complied with prior legislative intent. We have found that the process of selecting a program for a Sunset review heightens the entity's awareness of its purpose and legislative intent, even when the possibility for termination is marginal. There are almost always improvements in effectiveness and responsiveness to the public's needs which can be made by the government entity. In addition, the legislature has a formal method of ensuring the the State entity or program is performing their duties as planned.

3. The Sunset process can also be useful in eliminating duplicative programs or services, and excessive management. There is a recognized tendency for the management within any large organization to build up over time. As a result, programs can duplicate existing programs, or programs are retained in-house when they could be better performed by contracting with outside sources, and organization structures tend to increase in the number of managers and support services.

The legislature should increase the number of years for which a board is re-established, from four years to six or eight years for the following reasons:

1. Most boards and commissions under AS 08.03.010 have been through the review cycle twice since Sunset was enacted in 1977 and, in most cases, public need has been established. Boards are now cognizant of the review process and are more likely to perform their duties in a more efficient manner.
2. Increasing the number of years between reviews would decrease the cost to the State not only in direct costs of performing the reviews, but also in the time consumed by legislators in their oversight functions. Alaska's review cycle of four years is one of the shortest of all states. Most states' review cycle ranges from six to ten years.
3. Authority exists under Title 24.20 to request performance reviews of any program under 08.03 or 44.66 if the legislature believes evaluation is necessary prior to the regular Sunset review cycle.

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APPENDIX A  
STATE OF ALASKA  
SINGLE REVIEW  
STATUS OF AGENCIES RECOMMENDED AND RESULTS

Alaska Statute Reference	Boards, Commissions, Councils, and Organizations	Original Termination Date	Legislative Audit Recommendation and Report Date	Division of Occupational Licensing Recm.	Legislative Action Taken and SLA Reference	1st Revised Termination Date	Legislative Audit Recommendation and Report Date	Division of Occupational Licensing Recm.	Legislative Action Taken and SLA Reference	2nd Revised Termination Date	Legislative Audit Recommendation and Report Date	Division of Occupational Licensing Recm.	Legislative Action Taken & SLA Reference	3rd Revised Termination Date
42, 43, 47, 48	Board of Osteopathic Examiners	6/30/78	Continue 10/11/78	Continue	Cont'd Ch. 36 SLA 80	6/30/84	Continue 2/28/83	Continue	(Note 2)					
	Board of Dental Examiners	6/30/78	Continue 8/09/78	Continue	Cont'd Ch. 40 SLA 80	6/30/82	Continue 7/17/81	Continue	Cont'd Ch. 28 SLA 82	6/30/86				
	State Dental Board	6/30/78	Continue 10/30/78	Continue	Cont'd Ch. 87 SLA 80	6/30/83	Continue 7/30/82	Continue	Cont'd Ch. 48 SLA 83	6/30/87				
	Board of Nursing	6/30/78	Continue 10/06/78	Continue	Cont'd Ch. 74 SLA 79	6/30/83	Continue 7/07/82	Continue	Cont'd Ch. 9 SLA 83	6/30/87				
	Board of Dispensing Opticians	6/30/78	Terminate 11/01/78	Terminate	Cont'd Ch. 39 SLA 80	6/30/85								
	Board of Examiners in Optometry	6/30/78	Continue 11/03/78	Terminate	Cont'd Ch. 37 SLA 80	6/30/84	Continue 2/28/83	Continue	(Note 2)					
	Board of Hearing	6/30/78	Continue 11/10/78	Continue	Cont'd Ch. 38 SLA 80	6/30/84	Continue 2/28/83	Continue	(Note 2)					
	Board of Veterinary Examiners	6/30/78	Continue 11/01/78	Continue	Cont'd Ch. 41 SLA 80	6/30/85								
	Board of Psychologist and Psychological Associate Examiners	6/30/78	Continue 10/31/78	Terminate	Cont'd Ch. 67 SLA 80	6/30/87	Terminate 8/12/81	Indeterminate	Cont'd Ch. 29 SLA 83	6/30/87				
	Board of Nursing Home Administrators	6/30/78	Terminate 10/20/78	Terminate	Cont'd Ch. 43 SLA 80	6/30/86								
	Physical Therapy Board	6/30/78	Continue 10/20/78	None	Cont'd Ch. 42 SLA 80	6/30/86								
	Board of Public Accountancy	6/30/80	Continue 10/01/78	Continue	Cont'd Ch. 82 SLA 80	6/30/84	Review Contracted							
	Board of Public Examiners (Rate 1)	6/30/80	Terminate 3/31/79	Terminate	Merged Ch. 158 SLA 80	6/30/84	Terminate 2/28/83	Terminate	(Note 2)					
	Collective Agency Board	6/30/80	Terminate 3/22/79	Terminate	Allowed to Terminate									
	Board of Dressmaking and Beauty Culture Examiners	6/30/80	Terminate 6/11/79	None	Merged Ch. 159 SLA 80	With Barbera								
	Board of Electrical Examiners	6/30/80	Terminate 5/07/79	None	Cont'd Ch. 71 SLA 80	6/30/82	Terminate 7/16/81	Terminate	Cont'd Ch. 60 SLA 82	6/30/86				
	State Board of Registration for Architects, Engineers, and Land Surveyors	6/30/80	Continue 5/11/79	Continue	Cont'd Ch. 72 SLA 80	6/30/84	Continue 2/28/83	Continue	(Note 2)					
	Guide Licensing and Control Board	6/30/80	Continue 7/17/79	Continue	Cont'd Ch. 53 SLA 81	6/30/82	Continue 12/21/81	Indeterminate	Cont'd Ch. 13 SLA 83	6/30/86				
	Board of Barrow Pilots	6/30/80	Continue 6/15/79	Continue	Cont'd Ch. 143 SLA 80	6/30/82	Continue 8/04/82	Continue	Cont'd Ch. 8 SLA 83	6/30/87				
	Rural Electric Commission	6/30/80	Continue 5/07/79	Continue	Cont'd Ch. 147 SLA 80	6/30/82	Continue 6/04/81	None	Cont'd Ch. 94 SLA 82	6/30/86				
	Board of Welding Examiners	6/30/80	Terminate 6/08/79	Terminate	Cont'd Ch. 153 SLA 80	6/30/84	Terminate 11/24/80	None	Allowed to Terminate					
	Board of Examiners of the Alaska Bar Association	6/30/80	No Audit	N/A	Cont'd Ch. 52 SLA 81	6/30/85								
44, 44, 47, 48	Alcoholic Beverage Control Board	6/30/78	Continue 11/03/78	N/A	Cont'd Ch. 84 SLA 80	6/30/81	Continue 9/05/80	N/A	Cont'd Ch. 64 SLA 81	6/30/83	Continue 12/15/82	N/A	Cont'd Ch. 74 SLA 83	6/30/84
	Alaska Transportation Commission	6/30/78	Continue 10/24/78	N/A	Cont'd Ch. 115 SLA 80	6/30/82	Terminate 4/01/82	N/A	Cont'd Ch. 74 SLA 83	6/30/85				
	State Board of Parole	6/30/80	Continue 5/09/79	N/A	Cont'd Ch. 32 SLA 81	6/30/82	Continue 12/21/81	N/A	Cont'd Ch. 10 SLA 83	6/30/85				
	Alaska Public Utilities Commission	6/30/80	Continue 8/01/79	N/A	Cont'd Ch. 136 SLA 80	6/30/85								
	Alaska Pipeline Commission	6/30/81	Merge 7/11/80	N/A	Merged Ch. 180 SLA 81									
	Alaska Council on Science and Technology (Date 3)	6/30/81	Terminate 12/01/82	N/A										
	Alaska Renewable Resources Corporation	6/30/82	Terminate 11/11/81	N/A	Revised Ch. 142 SLA 82	6/30/82								
	Alaska Cook-Evaluation Commission	6/30/82	Terminate 10/30/81	N/A	Cont'd Ch. 65 SLA 82	6/30/85								
	Rural Development Council	6/30/83												
	Other Alaskan Commission	6/30/83												
	Council on Domestic Violence and Sexual Assault	6/30/83												
	Alaska Women's Commission	6/30/83												

Note 1 - Includes Boardmembers  
Note 2 - Legislative Review Pub 1984  
Note 3 - The Council will terminate June 30, 1984  
unless reestablished by the Legislature

No. of Audits Performed - 47  
No. of Boards Recommended for Termination - 12  
No. of Programs Terminated - 2

## APPENDIX B

### Footnotes

1. The Status of Sunset in the States: A Common Cause Report, Common Cause, March 1982. page 42.
2. ibid, page 43
3. ibid, page 43-44

The Status of Sunset in the States: A Common Cause Report, summary and recommendation follow. The complete report summarizes a questionnaire sent to states with Sunset laws. The questionnaire which allows comparisons between states is contained in the body of the report. We recommend anyone with interests in comparing the Alaska experience with other state's experiences read this report in conjunction with our report. Copies of this report are available upon request from the Division of Legislative Audit.

### THE STATUS OF SUNSET IN THE STATES

#### SUMMARY

Sunset legislation -- which requires the periodic review of state agencies under the threat of automatic termination unless affirmatively recreated by law -- has triggered state governments' interest in legislative oversight and enhanced their ability to conduct it.

Since the enactment of the first Sunset law in Colorado in 1976, 35 states have passed Sunset laws. One-third of these states have taken action to expand their Sunset laws to apply to additional agencies and programs. As recently as December, 1981 Pennsylvania passed a Sunset law for the first time. Only one state, North Carolina, has formally abandoned the automatic termination provision which distinguishes Sunset from other forms of legislative oversight.

Most state Sunset laws embrace the principles suggested by Common Cause in 1976; however, current Sunset laws differ in the type and number of agencies they cover and in their approach to organizing and implementing Sunset reviews. (The Common Cause Sunset Principles are listed on page 2.)

The following conclusions are based on the results of a questionnaire completed by all 35 states with Sunset laws, on in-depth case studies of the Florida and Texas Sunset laws, and on research of individual state Sunset statutes and reports prepared by the Sunset evaluation staff. Our review has determined that Sunset is largely achieving its goal of helping to make government work better. However,

problems with Sunset laws do exist and will require skillful handling by those involved with the implementation of Sunset laws in the states.

### THE BENEFITS OF SUNSET

1. Improvements in Government Performance - The results of the Common Cause survey indicate that two-thirds of the respondents from states with Sunset laws believe that increased agency efficiency and public accountability have been principle benefits of Sunset. Improvements have taken the form of major across-the-board reforms and specific recommendations applied to individual agencies.
2. Financial Savings - The purpose of Sunset is not to slash state budgets, but rather to improve agency performance and to free citizens from excessive regulation. Saving money and conducting Sunset are not mutually exclusive, however. In at least one-sixth of the states conducting Sunset reviews, legislators have been able to document savings.
3. Increased Legislative Experience In Conducting Oversight - Over half of the states with Sunset laws stated in the Common Cause questionnaire that increased legislative experience and interest in legislative oversight have been important benefits of Sunset. A positive outcome of this experience is the emergence of state government officials who are competent and often innovative leaders in the emerging area of oversight.

### PROBLEMS WITH SUNSET

1. False Expectations About What Sunset Can Do - States continue to look for an instant reduction in the size of state government. The number of agency terminations is the wrong yardstick of success for Sunset. Further, state legislatures expect to see instant dollar savings from Sunset. Since most states began Sunset reviews with the examination of regulatory agencies, massive savings were never possible. However, a number of states are beginning to achieve significant savings, particularly when they have begun reviews of large regulatory agencies or service delivery agencies or programs.
2. The Time-Consuming and Costly Nature of Oversight - The leading complaint about Sunset is that Sunset reviews are too time consuming. However, states are tackling the problems of managing the Sunset workload and costs creatively. They are reducing the number of agencies reviewed in each cycle, lengthening the review cycle itself, creating priority review, and streamlining auditing and reporting requirements.

3. Low Public Participation and the Disproportionate Influence of Regulated Professions - Seventy percent of the states surveyed reported that the average turnout for a public hearing has been 25 persons or fewer. That licensees attend public hearings is commendable, but industry involvement often extends beyond public testimony to include intense lobbying of state legislators. One-third of the survey respondents indicated that they only hear from licensed professionals about Sunset issues.
4. Inadequate Measurement Information on Agency Performance and Agency Value. Many states are struggling with appropriate evaluation criteria for examining an agency's performance in achieving its goals. Almost half of the states indicated that the lack of measurement information on agency performance and agency value has been a major problem. This issue is especially critical when examining non-regulatory agencies which are unlikely candidates for termination and which have a large impact on the state budget.

#### RECOMMENDATIONS

The following recommendations are discussed in detail on page 35. The recommendations were developed with the knowledge that states are at various stages of Sunset implementation. States which are looking ahead to an expanded role for Sunset frequently have an interest in the dual goals of establishing a manageable workload and in broadening the scope of their review schedules to include non-regulatory agencies (e.g., service delivery agencies and programs).

1. States involved in expanding the scope of their Sunset reviews beyond regulatory agencies should develop a timely, systematic procedure for establishing a manageable schedule of agency terminations.
2. States involved in broadening the scope of their Sunset laws should consider lengthening the termination schedules they have adopted to 8 or 10 years.
3. States may want to modify the evaluation criteria in their Sunset laws if they are adding non-regulatory agencies or programs to their review schedules.
4. To create a more manageable workload for Sunset reviews, states might consider establishing priorities for conducting their program evaluation process.
5. States should attempt to achieve a close integration of Sunset with the budget process.

6. Sunset findings should be presented in an organized, digestible format.
7. Public participation in the Sunset process should be encouraged.
8. Executive branch participation in the Sunset process should be increased.



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

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Signature of Camera Operator

9/5/89  
Date