

SB

29

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET

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April 1, 2003

The Honorable Fred Dyson
Alaska State Senate
Room 121 State Capitol
Juneau, Alaska 99801-1182

Dear Senator Dyson:

You have requested the Administration's support for Senate Bill 29 "An Act establishing a sunset date for each department of state government [and] review of the functions of state agencies". The Governor shares your goals and objectives. As you know, on his first day in office, Governor Murkowski signed Administrative Order No. 202 directing "all principal departments of the executive branch to perform internal performance audits." He further directed the Office of Management and Budget to coordinate those audits and work their findings and recommendations into the Fiscal Year 2004 Governor's Budget. The time and effort spent doing this was substantial and the budgetary results of that process are now before you.

The Administration supports your effort to refocus state government spending on those essential services the state must provide. The criteria you have proposed provide good guidelines for both Executive and Legislative Branch reviews of agency operations. And, if tailored to fit within the annual missions and measures legislation, they would provide additional, useful Legislative direction for the annual budget review process.

This Administration believes we must make state government more efficient and economical in operation and more responsive to the public. To do this requires determination by the Governor and the Legislature to make progress toward those objectives in the annual state budgets recommended and enacted each year. Without the effort of both branches, state government will not become more efficient, more effective, and the obsolete will live on.

Sincerely,



Cheryl Frasca
Director



SENATOR FRED DYSON

SB 29 SPONSOR STATEMENT

"An Act establishing a sunset date for each department of state government; relating to the review of the functions of state agencies, certain instrumentalities of the state, and other persons and offices."

Government services must be tailored as accurately as possible to public need. In addition, a waning Constitutional Budget Reserve motivates Alaskan lawmakers to focus on efficiency of government services. This bill creates a sunset review process that asks a fundamental question: how should state resources correspond to public need? This bill initiates the regular assessment of state agencies and entities on a periodic rotating basis, and sets a date on which an agency will be abolished unless legislation is passed to continue its functions.

Many state programs were aimed at meeting very specific needs. Over time, these needs grow, shift, or diminish. A thorough and detailed review of each government instrumentality will enable legislators to be better equipped to make crucial policy and budget decisions. Nearly 20 states utilize a similar sunset review process, notably Texas, and there is debate on implementing a federal sunset process. The goal of this sunset process is not getting rid of benefits or government jobs; the goal is efficient government.



SENATOR FRED DYSON

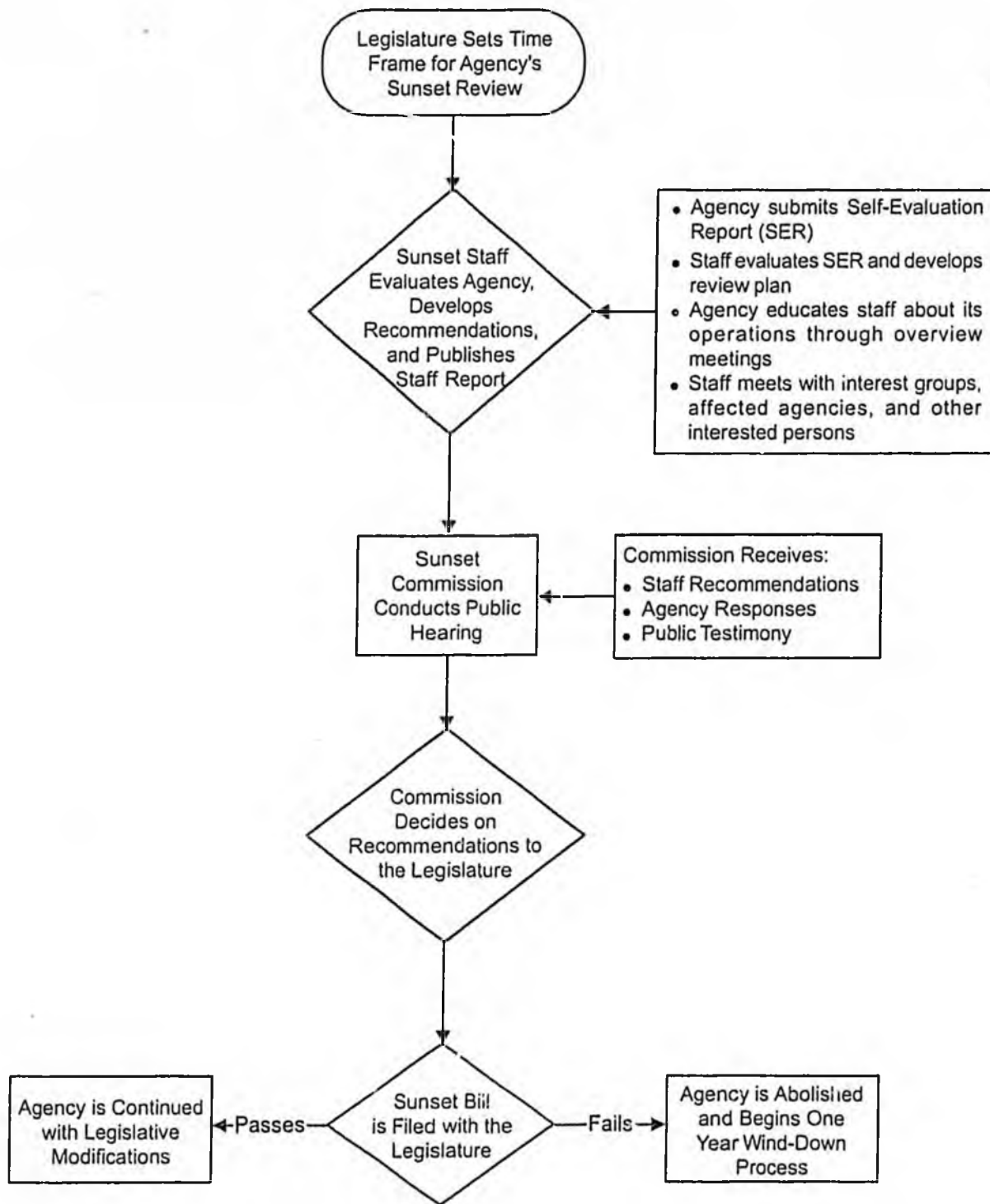
SB 29 SECTIONAL ANALYSIS

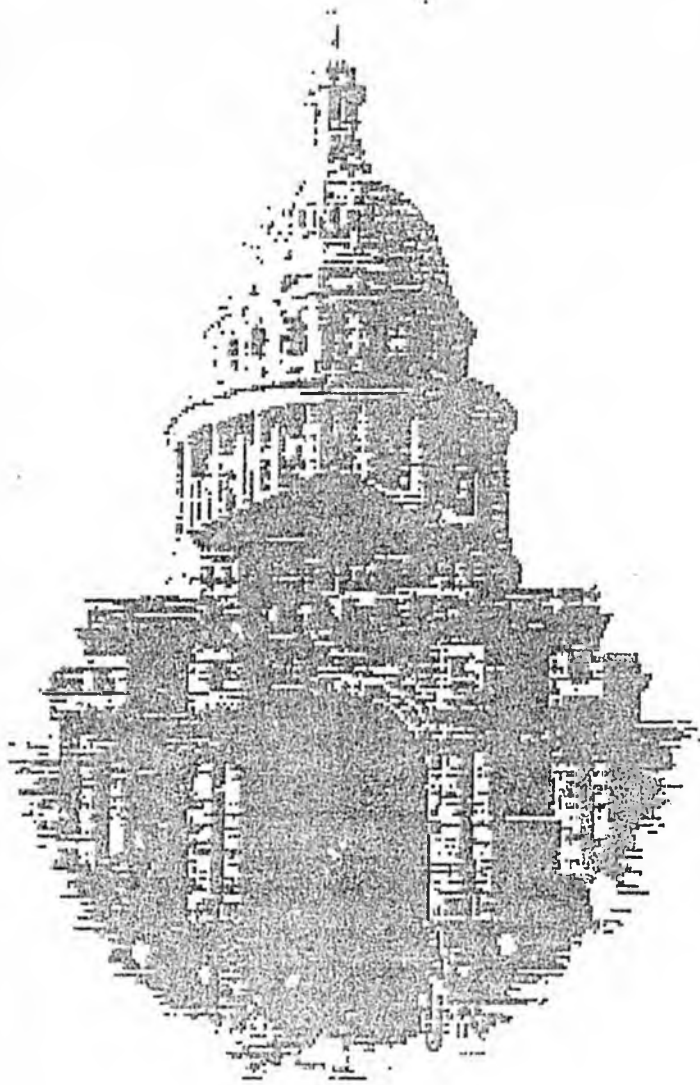
"An Act • tablishing a sunset date for each department of state government; relating to the review of the functions of state agencies, certain instrumentalities of the state, and other persons and offices."

Section 1:

- Specifies that a 10-year rotating cycle be used to review each of the state entities by the Legislative Budget and Audit Committee. This does not affect the "missions and measures" procedures. The reviews will be completed in the year preceding the dates listed in this section. Each department will be discontinued on the date specified, unless legislation is passed—directed by the review—that extends this date 10 years. The Legislature, Offices of the Governor and Lieutenant Governor, Court System, and University of Alaska will be reviewed, but are not eligible for discontinuation. If the expiration date is reached before legislation (that would clean up or eliminate the laws that would no longer apply should the agency be abolished) is adopted, then the agency will continue functioning for an additional year. If legislation (that would continue or abolish the agency) is not enacted, then the agency is abolished on July 1, one year after the agency's sunset date specified earlier in this section, and the obsolete laws will be resolved by the revisor's bill, following the direction of the Legislative Budget and Audit report, if necessary;
- The review will answer the question: does a public need exist that justifies the continuation of a government agency—or any of its functions? The section identifies criteria which will be considered in addressing that question;
- By December 1 of the year preceding the sunset date specified above, the Legislative Budget and Audit Committee will submit a report to the Rules Committees of each house that presents the committee's findings of the review and which is based on the criteria listed above. The report will also include a bill that specifies legislative recommendations based on the review that would implement continuation, discontinuation, amendment, or transfer of the program, entity, or agency.
- The report and bill named above will be referred to appropriate standing committees and public hearings will be held to discuss the agency. These committee hearings may include information not included in the report.

Sunset Review Process





SUNSET ADVISORY COMMISSION

Sunset Process
Report Card



December 2002
(Revised February 2003)

Sunset Process Report Card

Introduction

As the Sunset Commission neared completion of its work for the 2003 Session of the Legislature, it began to assess the impact of its deliberations. Reflecting the results of this interim, the Commission also wanted to assess the impact of the Sunset process overall. In December 2002, it discussed the basic question of how can the Legislature review and measure the impact of the Sunset process. The Commission asked the Sunset staff to prepare a "self-assessment" of the process. The following is a discussion of what Sunset is, what it does, what it has done, what it has become, and how it is periodically assessed. The report concludes with highlights from the current review cycle.

What is Sunset?

Sunset is part of the Legislature's oversight of state government. It asks the basic question of whether an agency continues to be needed. It also looks at ways to make government simpler and better meet the needs of Texans. Sunset works by setting a date for an agency to be reviewed, thus giving the Legislature a chance to look closely at an agency and keep it, usually with improvements, or get rid of it. In most cases, legislation must pass to continue the agency reviewed. This strengthens the accountability of state agencies to the Legislature and provides a forum to set the mission of those agencies.

Sunset asks the basic question: Does an agency continue to be needed?

One key to Sunset's effectiveness is public input. The process has several opportunities, which add value to the outcome. Sunset staff seeks public input as it does its work. More importantly, the Sunset Commission also seeks public input and uses the results in its deliberations. Public debate of issues is a cornerstone of the process, and, in effect, sets it apart from the efforts of other legislative oversight agencies.

Public debate is a cornerstone of the Sunset process.

What Sunset Does

The Sunset process is guided by a 10-member body appointed by the Lieutenant Governor and the Speaker of the House. Assisting the Commission is a staff whose reports assess an agency's need, and suggest improvements to the way it operates. Through public deliberation, the Commission develops a record of the perspectives of the agency involved, the interested stakeholders, and the general public, as to the potential future of the agency and what changes should be made if the agency is to be continued. The Commission reports its

recommendations to the Legislature, which passes legislation to implement its decisions on an agency. As with all legislation, Sunset bills must also be approved by the Governor.

What Has Sunset Done?

Sunset has led to 44 agencies abolished and 11 consolidated.

Since its inception in 1977, the Legislature has recognized the Sunset process as an important tool for overseeing state agencies and bringing needed change to state government. Originally established to look at the need for agencies and evaluate their efficiency and effectiveness, Sunset's mission has matured over time to also serve the Legislature's need to analyze state policies and, as needed, address special concerns regarding certain state agencies. Ultimately, Sunset has institutionalized a way for the Legislature to make state government smaller and smarter.

Direct Impact

Sunset is a structured way to make government smaller and smarter.

The Sunset process has worked to streamline and change state government. Although its impact is broad, the key indicators of Sunset's success have always centered on the number of agencies abolished and the savings generated from its work. Since Sunset's inception, the Legislature has used the process to abolish 44 agencies and consolidate the functions of 11 others. The chart, *History of Sunset Commission Action*, details the results of Sunset reviews from 1979 through 2003. In terms of savings, the Sunset process has generated \$720 million, at a cost of \$17 million. That is a return of \$42.50 for every dollar spent.

History of Sunset Commission Action - 1979 to 2003															
Legislative Session	1979 66th	1981 67th	1983 68th	1985 69th	1987 70th	1989 71st	1991 72nd	1993 73rd	1995 74th	1997 75th	1999 76th	2001 77th	2003 ² 78th	Total	Percent
Agencies Continued	12	22	29	24	18	25	23	27	16	19	22	21	24	282	81%
Agencies Abolished Outright	8	2	3	6	1	3	3	1	0	0	1	1	2 ³	31	9%
Agencies Abolished & Functions Transferred	1	3	0	0	1	2	3	1	2	2	0	0	1	16	5%
Agencies Combined	4	1	0	0	0	0	1	2	0	0	2	1	0	11	3%
Agencies Separated	1	0	0	1	0	0	0	0	0	0	0	0	0	2	1%
Agencies Reviewed	26	28	32	31	20	30	30	31	18	21	25	25 ¹	29 ¹	346	

¹ Some agencies reviewed were not subject to continuation or abolishment.

² Based on Sunset Commission recommendations.

³ Two statutes.

Other Impact

Aside from the more obvious indicators of success, the Sunset process has had many other positive impacts on state government. These impacts are grounded in the goals on which the process was originally created – efficient, effective agency operations; open government; public participation; protections against conflicts of interest; and responsiveness to and protection of the citizens of Texas.

*Each dollar spent on
Sunset has returned
\$42.50.*

The Legislature has used the Sunset process to create the standard of how state agencies should be structured and operate through a template of good government principles. These “across-the-board recommendations” are applied, as appropriate, to all agencies as they go through Sunset review. They have also become the standard used by the Legislature when it proposes to create a new agency or program.

The Sunset process has also established an operating model for occupational licensing agencies. This template covers all aspects of the structure and operation of a licensing agency, including the agency’s policy body, administration, examinations, licensing, enforcement, and penalty authority. The model has been well received and should become the standard for state licensing.

The Sunset process also acts as a catalyst for agencies to get their “ship in order.” As agencies near their scheduled Sunset review, an amazing amount of improvement is often observed. Backlogs of complaints disappear, languishing projects often get finished, and much attention is given to meeting performance measures. At times, the Legislature even uses the threat of a Sunset review to get an agency to improve its performance.

*Direct changes number
in the thousands, with
untold indirect benefits.*

Overall, the Legislature has used the Sunset process to change the face of state government. Direct changes through Sunset legislation number in the thousands, and the unmeasurable indirect changes all point to the success of the process.

What Sunset Has Become

The Sunset process has become a forum for discussion of policy issues that surround an agency. This has been the age-old debate concerning Sunset, as to whether the review and resulting legislation should be confined to the agency and its operation, or should bigger policy issues also be considered. While the debate continues, it is, for now, a reality. An agency’s Sunset review is often the only time that some issues see the light of day. This may be because an issue is “under the radar screen,” except during a Sunset review. In other cases, the proponents of the status quo can sometimes keep a bill on the subject from passage. A Sunset bill must pass so the playing field is leveled. Sunset staff do not take a position on this matter, but simply report that changes in state policy are not uncommon in Sunset bills.

*Though controversial,
Sunset is a forum for
policy debate.*

The Sunset process has also become a method used by the Legislature to deal with problem agencies. Almost every Session, some agency's Sunset date is changed to move up its review date. This brings an agency under increased scrutiny to hopefully allow for persistent problems to be addressed. In addition, some agencies are given short Sunset dates so the Legislature can revisit issues sooner than the standard 12 years. In extreme cases, an agency is given a two-year "probationary" period, to allow continued oversight until problems are resolved. All these tactics point to the Legislature's use of the Sunset process as a problem solver.

Finally, the Legislature uses the Sunset Commission as a resource for special projects. Sunset staff have assisted in a number of projects over the years, assisting interim committees and task forces, working on the first Texas Performance Review, evaluating Requests for Proposals, and participation in joint projects with other oversight agencies. Most recently, the Leadership asked the Sunset Commission to develop the approach needed to make sure all agency boards and commissions comply with a 1999 constitutional amendment regarding membership structure.

How Is Sunset Assessed?

The Legislature itself "sunset" the Sunset process.

The question often asked is, "Who sunsets Sunset?" The answer is the Legislature itself. As a legislative agency, the Sunset Commission is directly accountable to the Legislature. The results of the Sunset process are directly reported to and acted on by the Legislature. Historically, 90 percent of the Sunset Commission's recommendations have been approved, in some form, by the Legislature. This record points to the acceptance of the process and its results.

The Legislature has openly debated the continuing value of Sunset. During the 1993 Session, it debated a bill that would have abolished the process. This difficult but necessary dialogue resulted in the Sunset process being continued but with some beneficial changes. This new approach centered around communication, between the staff and the Commission members, and with the legislative Leadership. This has strengthened the process and its impact. The Legislature should continue its critical evaluation of Sunset, assessing its value and demanding results.

Sunset staff also take a critical look at how Sunset does its business. Staff completed an internal assessment and produced a business plan to deal with needed improvements. While much of the effort involved internal operations, Staff also went outside the agency to seek input from its customers. Talking with legislators, legislative staff, staff of agencies reviewed, and other stakeholders, Staff have made several adjustments in the way it does business. Staff constantly strives to

provide a quality product that meets the needs of the Legislature and its secondary audiences.

Sunset This Cycle

During the current interim, the Sunset Commission has carried on a tradition of excellence. The Commission met six times, conducted public hearings on the 29 reviews scheduled for this Sunset cycle, and made decisions on recommendations that resulted from its Staff's work and testimony raised during its hearings. The Commission adopted almost 700 recommendations, continuing 24 of the agencies reviewed, abolishing the Texas Department of Economic Development and transferring its functions, abolishing the Riding Stables Chapter and the Licensing Agency Pilot Project, and making numerous improvements to the agencies continued. The fiscal impact of these decisions is estimated at \$6.8 million the next two years, and \$7.6 million annually thereafter.

Key recommendations from this cycle include:

- creating a streamlined, focused economic development and tourism function within the Governor's Office;
- simplifying the formula for distributions from charitable bingo;
- providing for a clear separation of the duties of the full-time Workforce Commission and its agency staff;
- reining in the transfers of unemployment compensation experience that cost employers millions of dollars each year;
- providing the Ethics Commission with the ability to adequately conduct investigations;
- improving the accountability of the State Bar, and simplifying the attorney grievance procedure;
- positioning the Higher Education Coordinating Board to better implement the strategic plan for higher education; and
- strengthening the enforcement capability of a number of licensing agencies, most notably for the Board of Accountancy.

Conclusion

The Sunset process recently celebrated its silver anniversary. It has many supporters, and some opponents. Its impact is widespread. The results are well-documented. Its reputation is strong, both in Texas and around the nation. Sunset's future is, as it should be, up to the Legislature.

Sunset's current work will save the State more than \$7 million annually.

Sunset's future is up to the Legislature, as it should be.

Ending immortality in government

By CHRIS EDWARDS

After its embarrassing support of the \$190 billion farm subsidy bill, the Bush administration needs to find ways to regain its fiscal conservative credentials. The president can reach into his Texas budget experience for one idea that could provide lasting benefits for federal spending control. Texas Republican Kevin Brady has introduced a bill (H.R. 2373) to "sunset" or automatically terminate most federal programs every 12 years.

About 20 state governments have sunset procedures, and Brady has drawn on the successful Texas law for his federal legislation.

Brady's legislation would establish a commission to review government programs on a rotating basis and make recommendations prior to each program's sunset date. Poorly run, wasteful, and unneeded programs would be slated for overhaul, privatization or elimination. The administration supports the idea. But the president needs to move such proposals to the front burner to show that he is serious about reforming government.

In the late 1970s, there was strong bipartisan support for a federal sunset law introduced by Sen. Ed Muskie, D-Maine. Supporters of that legislation ranged from Jesse Helms, R-N.C., to Ted Kennedy, D-Mass. While gaining broad support in the Senate, the legislative effort failed in the House. Twenty-five years later, the need to reform and abolish federal agencies and programs is much greater.

Congress has been eager to add new programs to the \$2.1 trillion federal empire in recent decades. But Congress rarely cleans its house of programs that do not work. By contrast, private sector firms are routinely put out of business, or "sunset," by new firms that better serve the public. For example, Montgomery Ward was recently sunset by consumers when more efficient retailers, such as Target, arrived on the scene. In fact, about 10 percent of U.S. firms go out of business each year, and roughly 10 percent of all private sector jobs disappear each year due to business contractions and failures.

Unlike the private sector, there is no structured method to sunset government



agencies when they fail or when better alternatives become available. Consider Amtrak. The Bush administration's budget notes that Amtrak has "utterly failed" to wean itself off subsidies and is a "futile system." Policy makers need a process to sunset Amtrak and the many other failed and futile programs.

The Bush administration has proposed virtually no program terminations or privatizations yet, although it is trying to bring private sector management practices into government. That was also one of the goals of Al Gore's "reinventing government" initiative. Unfortunately, such initiatives will not work without an enforcement mechanism. A federal sunset process could help ensure that programs actually lose funding unless they are truly reformed.

A successful federal sunset process may require changing numerous procedural rules of Congress. For example, creating enough time for members to consider sunset commission recommendations has been an issue raised with regard to sunsetting in the past. One possible solution would be to move to a two-year budget cycle with alternate years devoted to sunset commission proposals. Congressional rules could also be changed to build on the administration's new program-effectiveness ratings. For example, programs that the administration grades as "ineffective" five years in a

row could be made to trigger an automatic review by the sunset commission.

Such reviews could study how agencies and programs may be transferred to the private sector. A sunset commission could draw on the experience of dozens of countries which have implemented successful privatization programs in recent years.

For example, the Bush budget rated the U.S. air traffic control system "ineffective." Meanwhile, Canada's privatization of air traffic control has won rave reviews. The new Canadian private system has invested in technology superior to that used in the United States, and flight delays have been substantially reduced.

Aside from increases in service quality, privatization is valuable simply because it moves economic activities off the federal budget. This is crucial because with the coming budget pressures of entitlement programs set to explode when baby boomers retire, the next generation will be crushed with taxes unless Congress starts to terminate and privatize as many government programs as possible. The Bush administration should step up to the plate and support a federal sunset procedure to help Congress make those needed reforms.

Chris Edwards is director of fiscal policy at the Cato Institute.

Here is today's ACTION ITEM:

ISSUE: In a recent report, CNSNews.com asked, "What can be done about a federal bureaucracy run amok? Set an expiration date for federal agencies and let Congress intervene if it wants them saved from extinction. That's the solution put forward by Republican Congressman Kevin Brady and Democratic Congressman Jim Turner." It's called "sunsetting."

Sunseting establishes the process to evaluate the performance of federal agencies. The law proposed by Brady and Turner, the "Abolishment of Obsolete Agencies and Federal Sunset Act of 2001" (H.R. 2373), would also promote accountability and customer service within agencies that have not demonstrated either in the past.

H.R. 2373 would place an expiration date on every federal agency, department and program. This would require them to justify their existence to taxpayers and Congress, or face elimination. A similar law is used in 20 states including Texas, which has eliminated 23 agencies, saving Texas taxpayers \$630 million.

Every agency, regardless of whether they were created 100 years ago or 20 years ago, must prove they deserve our precious tax dollars today. Under sunseting, not only do you abolish federal agencies and streamline others, you force agencies to become more responsive to the taxpayers and the customers they serve.

This bill was introduced in 1998 and attracted an impressive 67 original co-sponsors, including then-House Budget Committee Chairman John Kasich and Dan Burton, who chairs the House Government Reform and Oversight Committee where the bill will be considered. The measure was also endorsed by the Citizens Against Government Waste.

The act creates a 12-member bi-partisan commission composed of eight members of Congress and four private citizens. The commission -- to be paid for by cutting a portion of the current federal budget -- will evaluate each agency and recommend to Congress if it should be abolished, streamlined, consolidated or reauthorized with recommendations for improvements.

The bill was re-introduced last June, and sent to the House Subcommittee on the Civil Service and Agency Organization -- where it's now stuck. This bill, should it become law, would do wonders to make the conservative dream to reduce the size of government a reality -- but it needs our action to get it out of committee and onto the House floor for a vote!

ACTION ITEM: This legislation would ensure that our federal agencies perform functions that best serve the public need and justify every tax-dollar in their budget. Contact your Congressman TODAY and ask him or her to co-sponsor the "Abolishment of Obsolete Agencies and Federal Sunset Act of 2001" (H.R. 2373), and to request that it be sent out of committee for a vote immediately -- Click Below:

<http://www.conservativehq.com/042902.htm>

NOTE: You can also call Rep. Dave Weldon (R-FL) at 202-225-3671 (he's the Chairman of the subcommittee where H.R. 2373 is now