

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE  
March 3, 1983

CHAIRMAN JOE BRAND called the meeting to order at 8 a.m. in Room 129, Capitol building, Helena, Montana.

Roll call was taken and all members were present except Representatives Bardanouve, Bliss and Phillips who were excused.

SENATE BILL 137

SENATOR MATT HIMSL gave an opening statement mentioning that he sponsored this bill at the request of the Legislative Audit Committee. In 1977 the legislature adopted the "Sunset Law" which enabled them to review some forty-six boards and agencies. In the first two cycles which run every two years there were 7 terminations, 23 modifications, and 6 were continued as is. Sunsetting does not necessarily mean termination. It means that an agency or program is put through a thorough independent objective review of the standards the agency or program establishes for itself. It determines it's purpose, function and mission and it is reviewed by independent audit groups to determine whether or not it is doing what it is suppose to do. You may or may not accept the report. Our experience over the past six years has been so productive that we don't see the need to rework these areas on a scheduled basis. This bill eliminates the periodic 6 year review and instead it provides for a method of selecting agencies and programs for review.

There is a report that was put out by the Department of Commerce which covers the agencies that would be selected for review and this is an excellent report. I think that the Sunset Committee can take some credit along with the Executive that made the recommendation which terminated one of the departments of government. We don't feel that it would be necessary to review the same agencies over again right now, however, they can be under the provisions of this bill. This bill suggests that the Executive, the legislators or the audit staffs' suggestions would be prioritized by the Legislative Audit Staff and prepare a bill of suggested agencies and programs that should be reviewed. This list would change every two years. There would be no termination without a sunset review and hearing.

Under the present statute programs are not covered but they would be under this bill. If there is a recommendation that a program be terminated or ceased, this recommendation would have to go to a subcommittee which appropriates money for that program. Most likely it would mean that the program would be discontinued for want of appropriation rather than be stricken from the statute since it would not be there in the first place.

This is a new approach to the sunset principle and I think that we should understand Montana has been one of the leaders and recognized as such in this sunset program. We originally

came into this program following Colorado, then Florida and there are some 30-31 states that now have it. North Carolina terminated the sunset program and I don't know why. We feel that the Executive should have the opportunity to invite the Audit Committee to make a real review of one of his agencies if he so desires.

#### PROPOSERS

JON MOTL, representing Common Cause of Montana, spoke in support of this bill. He mentioned that they did rise in opposition to this bill in the Senate. They feel that they were hasty in doing this and he apologized to Senator Himsl for this. He suggested some amendments to the bill. See EXHIBIT A attached. He also mentioned that they have been very heavily involved in the sunset concept. See EXHIBIT B for additional testimony.

THERE WERE NO ADDITIONAL PROPOSERS AND NO OPPONENTS TO SENATE BILL 137 SO CHAIRMAN BRAND ASKED SENATOR HIMSL TO CLOSE.

Senator Himsl closed by mentioning that some of the proposed amendments suggested by Mr. Motl would be covered in a bill that this committee would hear tomorrow. He explained that this bill does not preclude the boards which have already been reviewed from coming up for examination again. This did not only apply to the licensing boards but to others as well.

#### COMMITTEE QUESTIONS

REPRESENTATIVE GLENN MUELLER asked Senator Himsl if he had any objections to the amendments as proposed by Jon Motl. Senator Himsl replied, "Yes, I do, I don't think that this is necessary. I don't think that the Common Cause people understand just what we've done in Montana. This bill is not a common cause bill to start with, it was my bill. Introduced back in 1977 and Common Cause did not have anything to do with it. We felt a real need for this kind of legislation and we went through 46 reviews, more than any other state that I know of."

REPRESENTATIVE FRANCIS KOEHNKE asked Senator Himsl if a group of citizens wanted to have something done, what would the route be. Senator Himsl replied that they would come to the legislators. Sometimes the citizens can come up with an impression about something that they really don't understand. Then you can look into the matter and if you think that their question has merit you can ask to have it put on the list and if it reaches a priority it will be reviewed by the Legislative Audit Committee.

CHAIRMAN JOE BRAND asked how much does the Audit Committee cost the taxpayers of Montana. What reduction will it be in those forces if this bill is applied? Senator Himsl explained that

the total amount of the review process over the past six years has cost around \$653,000. There are 14 people in the review performance audit area and only about 7 of them have been involved in the sunset audit review.

Chairman Brand asked if that meant there would be a loss of 7 people if this bill is passed. Senator Himsl replied, not necessarily, it depends on what other performance audits may be required someplace in the process.

Chairman Brand asked if the intention was to keep them on board if they weren't doing anything. Senator Himsl said they didn't have control over that, it was up to the subcommittee which reviews the budget.

THERE BEING NO ADDITIONAL QUESTIONS ON SENATE BILL 137 CHAIRMAN BRAND CLOSED THE HEARING.

#### SENATE BILL 181

SENATOR MIKE HALLIGAN opened on this bill explaining the re-organization of the Department of Community Affairs and the transfer of state CEIC from the Department of Administration to the Department of Commerce. He then introduced some people from the two departments and they explained the reasons they felt that this would be an appropriate move.

#### PROPOSERS

SCOTT LOCKWOOD, Bureau Chief of the Consulting Services Bureau and the CEIC, Department of Administration spoke in favor of this transfer. The Department of Commerce is the lead agency in upcoming events concerning economic development for Montana. Another major user group for this service is local governments, planners, consultants and others working for the local governments and the Department of Commerce has much more direct ties here. The computer services that this group offers are essentially accessing census and other data files for individual request groups. Those technical services were retained in the Department of Administration when the group was reorganized a year ago. Only the economist and research people were transferred to this bureau. The technicians or computer programmers were moved to other divisions in the Department of Administration. They will be retained there and their services are accessed through contract rather than establishing data processing as another department.

NANCY LEIFER, Bureau Chief, Department of Commerce spoke in favor of this bill. They feel they can be very helpful to the citizens of Montana by having these services in their agency which is more client oriented. They look forward to working with these people if this bill is approved.

THERE WERE NO ADDITIONAL PROPONENTS AND NO OPPONENTS TO THIS BILL. CHAIRMAN BRAND ASKED SENATOR HALLIGAN TO CLOSE.

Senator Halligan stated in his closing statement that only the Census and Economics Information Center is being transferred not any of the other computer related services presently offered by the Department of Administration. Local governments and other private individuals will have access to the information and they will be dealing with Commerce far more than with the Department of Administration. So it will be more efficient for the local governments and the citizens to deal with just Commerce rather than having to go back and forth.

#### COMMITTEE QUESTIONS

REPRESENTATIVE JERRY DRISCOLL asked if this would mean that they would still be paying for the computer services since that was just transferred over to the Department of Administration two weeks ago. Mr. Lockwood answered that they do pay for the computer services for processing information and this was allocated in the budget.

CHAIRMAN JOE BRAND asked Scott Lockwood how many people would be moved and how many would be remaining. Also will portions of this division remain at the Department of Administration. Mr. Lockwood responded that 3 FTE's were transferred to the Computer Services Division last July and they will be retained and have other responsibilities. Part of this is because we reorganized and they were being ineffectively utilized in one small program.

Chairman Brand asked how he planned to have them work with these people when they are being separated now. Mr. Lockwood explained that it would be approximately the same way that it is now. We pay them for their time on an hourly basis just like any other department who utilizes the Computer Services Division.

Chairman Brand wanted to clarify the fact that the 3 FTE's were going to be transferred from the Department of Administration to the Department of Commerce building. Mr. Lockwood replied that this would be done.

THERE WERE NO ADDITIONAL QUESTIONS FROM THE COMMITTEE SO CHAIRMAN BRAND CLOSED THE HEARING.

#### SENATE BILL 304

SENATOR CHET BLAYLOCK introduced Senate Bill 304 at the request of the Governor's office as a clean-up bill. He explained there have been some questions about the appointment of department heads chosen by the Governor regarding when they should

take office. There was a Supreme Court opinion on this as far as definition was concerned. This bill is needed so that when the Governor is elected and he/she comes in, they can immediately appoint their people and they do not have to necessarily wait until these people are confirmed by the Senate. He explained that all the licensing boards will have to be confirmed by the Senate but they can serve until they are confirmed. This way the Governor can get his people in immediately. He then turned the floor over to Mona Jamison, the Governor's legal counsel.

#### PROPOSERS

MONA JAMISON, Legal Counsel, Governor's Office spoke as a proponent to this bill. She went over four main points that the Governor's office feels to be pertinent to the passage of this bill. See EXHIBIT C attached for additional testimony.

THERE WERE NO ADDITIONAL PROPOSERS AND NO OPPOSITORS TO SENATE BILL 304 SO CHAIRMAN BRAND ASKED SENATOR BLAYLOCK TO CLOSE.

Senator Blaylock made no closing statement.

#### COMMITTEE QUESTIONS

REPRESENTATIVE JOHN PHILLIPS asked how many people were not confirmed on these boards. Senator Blaylock indicated that there are very few.

CHAIRMAN JOE BRAND asked Senator Blaylock if the problem was that when the Governor comes into office he wants his people on board, in their positions because maybe, the two or three months is the only lapse of time that he will have between the Governor going in and they are confirmed by the Senate. Senator Blaylock responded by saying, "Yes."

Chairman Brand said he wondered why they are in a big hurry to get them on board. Senator Blaylock explained that on some of the boards or these quasi-judicial boards at least, they are policy making and are really important to the Governor and he is probably entitled to get his people in as soon as possible because of the two differing philosophies.

Chairman Brand explained that his philosophy was that the people who are in those positions before the election know that they are going to at least stay there until the new ones are confirmed by the Senate.

REPRESENTATIVE JERRY DRISCOLL asked what would happen if someone died and Senator Blaylock explained that was covered under the present law and not dealt with in this bill.

THERE WERE NO ADDITIONAL QUESTIONS FROM THE MEMBERS OF THE COMMITTEE SO CHAIRMAN BRAND CLOSED ON THIS BILL.

SENATE BILL 141

SENATOR DELWYN GAGE gave an opening statement mentioning that the bill was requested by the Secretary of State's office to provide that absentee ballots be available at least 14 days prior to an election. Many clerks have their ballots available two weeks prior to the election now but it is not required by law.

PROPONENTS

BOB McCUE, Secretary of State's Office stated that they are very much in favor of this bill. We are especially interested in the time deadline. He went over the new language which had been added to the first page on line 12. This just makes it more specific for a person to be able to get an absentee ballot.

DON JUDGE, Montana AFL-CIO spoke in support of the bill. He stated that it was large number of their members who constitute many of the voters which utilize the absentee ballots since they are involved in the construction industry. He would suggest the time be moved up to 21 days prior to the election because it would help these people even more.

BILL ROMINE, Clerk and Recorders spoke in support of the bill. They have one problem with it which is the 14 days. Some of the clerks feel that if it reads 14 days, the printers are going to have until the 14th day in which to complete the printing. If it is wrong and it must be reprinted you would not have the necessary time to get it out to the voters. We have also thought about the 21 days but then you have the problem of House Bill 295 which says that anybody can vote anytime they want to for absentee ballots. This could make an election three weeks long. I think that the clerks would probably prefer 21 days. We don't have the problem statewide but we do have a problem in certain counties where the printer just doesn't get the ballot out until the last minute. We would hope that this bill would give the County Commissioners some push to force these printers to get these ballots by some penalty clause. We like the concept and if we can kill HB 295 over in the Senate we would like to have 21 days.

THERE WERE NO ADDITIONAL PROPONENTS AND NO OPPONENTS TO SENATE BILL 304 SO CHAIRMAN BRAND ASKED SENATOR GAGE TO CLOSE.

Senator Gage gave no closing statement.

COMMITTEE QUESTIONS

REPRESENTATIVE JOE HAMMOND asked Senator Gage if they had any

problems with the 21 days. Senator Gage replied, "No."

REPRESENTATIVE FRANCIS KOEHNKE asked what the law is presently. How much time do they have? Senator Gage replied that there is no requirement at the present time.

REPRESENTATIVE "MAC" McCORMICK said, does that mean that they can get them out anytime? Senator Gage explained that with this bill it would have to be at least 14 days prior to an election.

REPRESENTATIVE WALTER SALES asked if there is a section of law that required that the ballot be printed in the paper at a certain time. Mr. Romine explained that this does not exactly answer the question that Senator Gage has because what comes out in the paper is not necessarily the same thing as what is printed on an absentee ballot.

CHAIRMAN JOE BRAND asked if the newspaper was responsible for what they print regarding the ballots. Mr. Romine explained that the newspaper may very well come out with a printed ballot that shows everybody's name but the printer that prepared the absentee ballot may have left one off. So the mere fact that the newspaper shows one thing does not necessarily mean that they have everything before them. He said that he was a little concerned about the statement, "as soon as it is available."

THERE WERE NO ADDITIONAL QUESTIONS OF THE COMMITTEE SO CHAIRMAN BRAND CLOSED THE HEARING.

#### EXECUTIVE SESSION

##### SENATE BILL 141

REPRESENTATIVE JOHN PHILLIPS MOVED for an amendment to increase the time to 21 days. He said that he did that primarily because of the persons in uniform who are overseas and have to vote absentee. This was seconded by Representative Helen O'Connell. The question being called, the motion carried.

REPRESENTATIVE HELEN O'CONNELL MOVED Senate Bill 141 AS AMENDED BE CONCURRED IN and this was seconded by Representative Joe Hammond. The question being called, the motion carried un-animously.

Senate Bill 141 was reported out of the committee this date AS AMENDED BE CONCURRED IN. Representative Joe Hammond will carry this bill.

##### SENATE BILL 181

REPRESENTATIVE GLENN MUELLER MOVED Senate Bill 181 BE CONCURRED IN and this was seconded by Representative Clyde Smith. The question being called, the motion carried unanimously.

Senate Bill 181 was reported out of the committee this date BE CONCURRED IN. Representative Glenn Mueller will carry the bill on the House floor.

SENATE BILL 137

Discussion opened on Senate Bill 137 and it was decided to wait on this bill until tomorrow so that the committee could look at Senator Himsl's bill which will be heard tomorrow.

SENATE BILL 304

Discussion opened on Senate Bill 304.

REPRESENTATIVE WALTER SALES MOVED Senate Bill 304 BE CONCURRED IN and this was seconded by Representative Jerry Driscoll.

Representative Driscoll explained about the labor department. When the labor commissioner was appointed for a term he did not serve at the pleasure of the Governor and the Director of the Department of Agriculture was not even appointed by the Governor, he was appointed by a board or something.

REPRESENTATIVE "MAC" McCORMICK mentioned that there had been problems in the past regarding persons who were in the position prior to the election not being appointed by the new Governor. When this happened, many times these people would not attend meetings etc. because they knew that they would be leaving soon anyway. They didn't seem to care about the important decisions that needed to be made anyway.

The question being called, the motion carried with an unanimous voice vote.

Senate Bill 304 was reported out of the committee this date BE CONCURRED IN. Representative Driscoll will carry the bill on the House floor.

SENATE BILL 258

REPRESENTATIVE PAUL PISTORIA proposed an amendment to reduce the amount to \$35 rather than \$50.

CHAIRMAN JOE BRAND asked Lois Menzies what she had found out with her research on the subject. Ms. Menzies explained that she looked at a small sample, she tried to follow the example that Common Cause had since that work was already done. Generally, you will find that individuals tend to contribute

amounts of \$25 or \$50 or more than \$50. Seldom do individuals contribute amounts between \$25 and \$50, such as \$30, \$35, \$40 etc. You just don't see many people contributing those amounts. So the effect of amending Senate Bill 258 to require disclosure of contributions of more than \$25 would reduce the number of reportings by about 21 to 24 percent. We would have knocked off about 1/4 of the reportings if you changed it to more than \$25. This percentage remains pretty constant if the bill is amended to require disclosure for amounts of \$30, \$35, \$40, \$45 and so on. In other words the number of reportings would be just about the same if you amended the bill to say more than \$25 or if you said more than \$45. There just simply isn't that much of a difference because people don't contribute between \$25 and \$50. One thing that you should probably remember is that requiring a disclosure of contributions of more than \$50 as the bill now reads, you are going to knock off about half of the reportings.

One more point, the bill as amended by the Senate State Administration Committee said that you would not have to report contributions of \$50 or more. On the floor that was changed to more than \$50. That is a substantial difference.

REPRESENTATIVE JERRY DRISCOLL MOVED Senate Bill 258 BE NOT CONCURRED IN and that was seconded by Representative Joe Hammond.

Representative Hammond said that he saw a Senate race yesterday where 52 contributions would not have been reported if we said more than \$25.

REPRESENTATIVE JOHN PHILLIPS said that it is too much work to report it anyway.

The question being called, a roll call vote was taken and there were 11 "aye" votes and 5 "nay" votes with 1 member passing and 2 members absent. This motion carried. Those members voting "aye" were Representatives: Brand, Compton, Driscoll, Hammond, Holliday, Koehnke, McBride, Mueller, Ryan, Smith and Solberg. Those members voting "nay" were Representatives: Hand, McCormick, Phillips, Pistoria, and Sales. Representative O'Connell passed and Representatives Bardanouve and Bliss were absent.

Senate bill 258 was reported out of the committee this date  
BE NOT CONCURRED IN.

REPRESENTATIVE GLENN MUELLER MOVED for adjournment and it was seconded by Representative Joe Hammond. The question being called, the motion carried by unanimous voice vote.

Respectfully submitted,

  
\_\_\_\_\_  
REPRESENTATIVE JOE BRAND, CHAIRMAN

Cleo Anderson, Secretary to Committee

# STANDING COMMITTEE REPORT

MARCH 3

19 83

MR. **SPEAKER** .....

We, your committee on **STATE ADMINISTRATION** .....

having had under consideration **SENATE** .....

Bill No. **141**

~~third~~ **third** reading copy ( ~~white~~ **blue** )  
color

**"AN ACT TO PROVIDE FOR VOTING BY ABSENTEE BALLOT AT LEAST 14 DAYS  
PRIOR TO AN ELECTION; AMENDING SECTION 13-13-222, MCA."**

Respectfully report as follows: That **SENATE** .....

Bill No. **141**

1. Title, line 6.

Strike: "14"

Insert: "21"

2. Page 2, line 1.

Strike: "14"

Insert: "21"

**XXXXXX** AND AS AMENDED BE CONCURRED IN  
DO PASS

# STANDING COMMITTEE REPORT

MARCH 3

19 83

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE Bill No. 181

third reading copy ( blue )  
~~first~~ ~~white~~  
color

**"AN ACT TO TRANSFER THE STATE INFORMATION AND RESEARCH SYSTEM AND ITS FUNCTIONS FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF COMMERCE; TO CHANGE THE NAME AND CLARIFY THE RESPONSIBILITIES OF THE STATE RESEARCH AND INFORMATION SYSTEM; AMENDING SECTION SECTIONS 7-1-4121, 15-36-112, AND 90-1-109, NCA; AND PROVIDING AN EFFECTIVE DATE."**

Respectfully report as follows: That SENATE Bill No. 181

**XXXXXX BE CONCURRED IN**  
DO PASS

# STANDING COMMITTEE REPORT

..... MARCH 3 ..... 19 83 .....

MR. **SPEAKER** .....

We, your committee on **STATE ADMINISTRATION** .....

having had under consideration **SENATE** ..... Bill No. **304** .....

~~second~~ **third** reading copy ( <sup>blue</sup>~~white~~ )  
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A PERSON APPOINTED TO A PUBLIC OFFICE WHOSE APPOINTMENT IS SUBJECT TO CONFIRMATION BY THE SENATE MAY SERVE AS A DE JURE OFFICER UPON APPOINTMENT, NOTWITHSTANDING THAT THE APPOINTMENT HAS NOT YET BEEN CONFIRMED: AMENDING SECTIONS 2-15-124 and 2-16-213, NCA: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

Respectfully report as follows: That **SENATE** ..... Bill No. **304** .....

**PLEASE BE CONCURRED IN**

# STANDING COMMITTEE REPORT

MARCH 3

19 83

MR. **SPEAKER** .....

We, your committee on **STATE ADMINISTRATION** .....

having had under consideration **SENATE** .....

Bill No. **258**

~~third~~ reading copy (~~black~~ <sup>blue</sup> color)

**"AN ACT INCREASING THE THRESHOLD VALUE OF INDIVIDUAL CAMPAIGN CONTRIBUTIONS THAT MUST BE REPORTED BY NAME AND ADDRESS; AMENDING SECTION 13-37-229, MCA."**

Respectfully report as follows: That **SENATE** .....

Bill No. **258**

~~DO NOT~~ **BE NOT CONCURRED IN**

EXCUSE

Date: Mar 3, 1983

Representative Brent Bliss is excused from the committee hearing to be conducted Mar 3, 1983.

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REP. JOE BRAND, Chairman

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PROXY

In view of the above absence, I give my proxy to

Representative Brand for bill(s) \_\_\_\_\_

to follow these instructions no on SB 304

Brent Bliss  
signature

ROLL CALL

HOUSE ADMINISTRATION

COMMITTEE

48th LEGISLATIVE SESSION, 1983

Date 3/3 , 1983

ROLL CALL VOTE ON SENATE BILL 258

Name	BARDANOUE																		
	BLISS																		
	BRAND	A																	
	COMPTON	A																	
	DRISCOLL	A																	
	HAMMOND	A																	
	HAND	N																	
	HOLLIDAY	A																	
	KOEHNKE	A																	
	McBRIDE	A																	
	McCORMICK	N																	
	MUELLER	A																	
	O'CONNELL	PASS																	
	PHILLIPS	N																	
	PISTORIA	N																	
	RYAN	A																	
	SALES	N																	
	SMITH	A																	
	SOLBERG	A																	

CHAIRMAN IS CIRCLED

2 absent - 1 pass - 5 nay - 11 aye



Senate Bill 137 is an exciting, pioneering piece of Legislation. Six years ago the Legislature adopted a sunset law which addressed a review of 46 Boards and Agencies. In the first two cycles (we are in the third one now), there were 7 terminations, 23 modified and 6 continued as is.

Sunset does not necessarily mean termination. It means the Agency or Program is put under a thorough, independent, objective review of the standards the agency or program establishes for itself--its purpose--its mission.

An objective audit review measures the performance against these standards, reports the findings to the Audit Committee which holds hearings and then recommends to the Legislature in the form of a bill--to re-establish--to modify, or to terminate. It does take positive action on the part of the Legislature to re-establish.

Our experience over 6 years has been so productive that we don't see a need to rework those areas on a scheduled basis--so Senate Bill 137 eliminates the periodic 6 year review. Instead it provides a method of selecting Agencies and Programs for review.

The bill provides for suggestions from the Executive, Legislators, Legislative Committees and the Audit staff. This list would be prioritized by the Legislative Audit staff and within its capabilities and resources, prepare a bill of suggested agencies and programs -- this list would change every two years, but there would be no termination without a performance audit --

if for some reason the performance audit could not be done-- the subject would be continued as is.

Now there is some question about programs that are not set in statute! How would they be sunset. If it is the wish of the Legislature to terminate that expression, need only be made to the subcommittee on budgets--and the no funding would sunset the program.

This is a new approach to the sunset principle. Montana has been one of the leaders and recognized for its orderly use of the idea. We'd like to put this new process in place, believing it will work -- maybe two years from now we'll have to make changes -- but I hope you will continue support of this careful evaluation of our agencies and programs.

Senate Bill 137

amendment

page nine  
strike : lines 4 through 6



COMMON CAUSE

2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202) 833-1200

Archibald Cox  
Chairman

David Cohen  
President

John W. Gardner  
Founding Chairman

January 1981

SUNSET LEGISLATION IN THE STATES

Over the past five years, 35 states have enacted Sunset legislation. Colorado started the state Sunset movement when the state's General Assembly passed a Sunset law in 1976. Sunset was conceived by Colorado Common Cause as an action-forcing mechanism to increase executive and legislative evaluation of programs and agencies. While Sunset has many possible applications, a typical Sunset law establishes a timetable for review of a group of programs, laws, or agencies. These would terminate on certain established dates unless affirmatively recreated by law. Sunset is a positive response to the deep felt public belief that government is not working as it should.

Common Cause Approach to Sunset

Common Cause views Sunset as a way to make government work. Sunset should not be a tool for those out to destroy government. Nor should it be mere rhetoric designed to placate the public. Sunset legislation must contain the institutional arrangements necessary to guarantee meaningful and thoughtful program evaluation. Evaluation is the key to the goal of increased accountability.

Common Cause assumes that most of the agencies and programs reviewed under Sunset will be continued. The test of whether

Sunset is working is whether agencies are made more responsive and accountable, not merely how many are terminated. Sunset should be a "yes, but..." rather than a "yes or no" process. Through Sunset, the legislature says to most agencies: "Yes, you will continue, but you are going to shape up." If Sunset is working as it should, legislative mandates will be rewritten, public members added to boards and commissions, and other reforms instituted.

In order to ensure that Sunset will provide real opportunities for evaluation, Common Cause has identified the critical elements of an effective Sunset review process. In testimony before a U.S. Senate subcommittee in 1976, Common Cause Founding Chairman John Gardner suggested ten basic principles essential to any workable Sunset law:

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, at the Congressional level, 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 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.

Common Cause has worked hard to see that improved evaluation is the principal goal of state and federal Sunset legislation. We have been quick to point out that not all Sunset legislation is good. In 1976, for example, Common Cause urged Iowa Governor Ray to veto a Sunset bill because of its overly broad coverage and because of the lack of legislative deliberation that preceded passage. We have criticized other state Sunset legislation on similar grounds. On the federal level, we have consistently lobbied for amendments designed to make Sunset a central evaluation tool of Congress.

Since the Colorado General Assembly enacted Sunset legislation in 1976, every state legislature has at least considered the concept, and 35 states have enacted Sunset laws.\* In addition,

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\* Alabama (Act. No. 512 of 1976 and Act. No. 79-542 of 1979); Alaska (Act. 149 of 1977); Arizona (S.B. 1001 of 1978); Arkansas (Acts 100, 392, and 12 of 1977); Colorado (H.B. 1088 of 1976, S.B. 6 of 1977 and S.B. 34 of 1978); Connecticut (Chap. 614 of 1977); Delaware (H.B. 605 of 1980); Florida (Chap. 76-168 of 1976 and Chap. 77-457 of 1977); Georgia (Act 613 of 1977); Hawaii (S.B. 460 of 1977 and Act 142 of 1980); Illinois (H.B. 1944 of 1979); Indiana

Virginia has enacted a law creating a mandatory review process for state agencies or programs.

Most state Sunset laws closely follow the ten principles suggested by Common Cause, establishing the institutional arrangements necessary to make them work. All laws provide for automatic termination, the action forcing mechanism designed to force evaluation. Thirty of the laws establish a periodic termination schedule to help institutionalize the review process. Without periodic termination, the opportunity to hold an agency accountable for complying with the mandate of the original review process is limited.

On the state level, Common Cause has argued strongly that Sunset should be phased in gradually to ensure time to establish a solid foundation for evaluation. Eighteen states have followed Colorado's lead and focused coverage on regulatory activities. Common Cause has advocated beginning with regulatory agencies because they have a major impact on the economy and are a source of much citizen dissatisfaction with government. In addition,

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(continued from previous page)

(H.B. 2181 and H.B. 1763 of 1977 and S. Enr. Act. No. 43 of 1978); Kansas (H.B. 2976 of 1978); Louisiana (Act. No. 277 of 1976 and Act. No. 357 of 1978); Maine (LD. 1206 of 1977 and Chap. 683 of 1978); Maryland (Chap. 808 of 1978); Mississippi (S.B. 2310 of 1979); Montana (Chap. 562 of 1977); Nebraska (L.B. 257 of 1977); Nevada (A.B. 523 of 1979); New Hampshire (Chap. 436 of 1977); New Mexico (H.B. 133 of 1977); North Carolina (Chap. 712 of 1977); Oklahoma (S.B. 138 of 1977); Oregon (H.B. 2323 of 1977); Rhode Island (Chap. 260 of 1977 and S. 2943 Sub. A of 1978); South Carolina (H.B. 2635 of 1978); South Dakota (S.B. 1 of 1977 and Acts 48 and 1335 of 1978); Tennessee (Chap. 452 of 1977); Texas (S.B. 54 of 1977); Utah (S.B. 63 of 1977); Vermont (Act. 183 of 1977); Washington (Chap. 289 of 1977); West Virginia (H.B. 825 of 1979); Wyoming (H.B. 47 of 1979).

regulatory agencies are given little scrutiny in the budget process because they generally involve little in direct state appropriations. Sixteen state laws are selective in coverage and include regulatory activities plus certain advisory bodies or departments. Five laws apply Sunset to all or almost all government agencies or programs, a workload that Common Cause believes is beyond the capacity of most state legislatures.

Most of the laws organize Sunset reviews of agencies by policy area, making it possible to eliminate duplication and improve coordination. Twenty-seven laws require preliminary reports to be prepared by existing government bodies. This preliminary evaluation work is critical to a responsible process because it provides legislators with information which helps them refine the goals and purposes of agencies. The quality of the resulting reports depends on the objectivity and resources to do an adequate job.

All of the laws contain general criteria to guide the evaluation process and ensure a relatively consistent work product. All but four agencies require wind-up periods--time for terminated agencies to conclude their affairs--so that agencies can be phased out in a reasonable fashion. All but two laws require public hearings--one step in the essential task of ensuring a review process that is open and accessible to citizens.

A chart with an overview of how the 35 state Sunset laws comply with Common Cause's ten principles is on the following page.

# SUNSET OVERVIEW:

## How the 35 State Laws

### Comply with Common Cause's Ten Principles

	SUNSET MECHANISM	PERIODIC TERMINATION	SELECTIVE COVERAGE	REVIEW BY POLICY AREA	PRELIMINARY STUDIES	USE OF EXISTING EVALUATION UNITS	EVALUATION CRITERIA	WIND-UP PERIOD	PUBLIC HEARINGS
	1	2	3	4	5	6	8	9	10
ALABAMA	x	x	x	x	x	x	x	x	x
ALASKA	x	x	x	x	x	x	x	x	x
ARIZONA	x	x	x	x	x	x	x	x	x
ARKANSAS	x			x	x	x	x		x
COLORADO	x	x	x	x	x	x	x	x	x
CONNECTICUT	x	x	x	x	x	x	x	x	x
DELAWARE	x	x	x		x	x	x	x	x
FLORIDA	x	x	x	x			x	x	
GEORGIA	x	x	x	x	x	x	x	x	x
HAWAII	x	x	x	x		x	x		x
ILLINOIS	x	x	x	x	x	x	x	x	x
INDIANA	x			x	x	x	x		x
KANSAS	x	x	x	x	x	x	x	x	x
LOUISIANA	x	x	x	x	x	x	x	x	x
MAINE	x	x	x	x		x	x	x	x
MARYLAND	x	x	x	x	x	x	x	x	x
MISSISSIPPI	x	x	x	x	x	x	x	x	x
MONTANA	x	x	x	x	x	x	x	x	x
NEBRASKA	x	x	x	x	x	x	x	x	x
NEVADA	x		x		x	x	x	x	x
NEW HAMPSHIRE	x	x		x	x	x	x	x	x
NEW MEXICO	x	x	x	x			x	x	x
NORTH CAROLINA	x		x	x	x		x	x	x
OKLAHOMA	x	x	x	x			x	x	x
OREGON	x	x	x	x			x		x
RHODE ISLAND	x	x	x	x	x	x	x	x	x
SOUTH CAROLINA	x	x	x	x	x	x	x	x	x
SOUTH DAKOTA	x		x	x			x	x	x
TENNESSEE	x	x		x	x	x	x	x	x
TEXAS	x	x		x	x	x	x	x	x
UTAH	x	x	x	x			x	x	
VERMONT	x	x	x	x	x	x	x	x	x
WASHINGTON	x	x	x	x	x	x	x	x	x
WEST VIRGINIA	x	x	x	x	x		x	x	x
WYOMING	x	x	x		x		x	x	x

#### EXPLANATORY NOTES:

- The numbers at the top of the chart refer to nine of Common Cause's ten principles. The seventh principle, referring to committee reorganization, is of primary concern at the federal level so was not included in the chart.
- Principle 3: Defined as laws aimed primarily at regulatory activities or at only a manageable number of programs or agencies.
- Principle 5: Defined as laws mandating preliminary studies

by legislative staff other than the reviewing legislative committees or the agency itself.

- Principle 6: Refers only to laws which use existing bodies to undertake preliminary evaluation. Few states have allocated resources for additional staff.
- Principle 9: Refers only to laws providing for a wind-up period for terminated agencies or programs. Most laws provide for outstanding agency obligations and displaced personnel.

Three governors have vetoed Sunset bills. As indicated earlier, Iowa Governor Ray vetoed a poorly conceived Sunset bill in 1976. In 1978, West Virginia Governor Rockefeller vetoed a bill providing for termination of state agencies by 1983, arguing that the bill was overly broad. (A Sunset law was subsequently passed in West Virginia in 1979; the law is selective in coverage.) Mississippi Governor Finch vetoed a bill covering 70 agencies by 1982 as too burdensome for the part-time legislature.

#### State Sunset Implementation

State experience with implementing Sunset has grown rapidly since the first reviews took place in Colorado in 1977. In 1980, twenty-one states reviewed more than 300 agencies under state Sunset laws. Although problems have occurred in some states, Sunset has proven to be an effective tool for boosting government performance. Moreover, the worst fears of Sunset critics have failed to materialize. Legislators have not used Sunset as a meat ax to destroy government. By the same token, many agencies subjected to Sunset reviews have been re-created with major modifications designed to improve their performance.

Three states--Colorado, Florida, and Texas--have been especially effective in demonstrating that a well-designed Sunset process can work. In Colorado, where Sunset reviews took place in 1977 and 1979, the Sunset process has produced tangible benefits: consumer members have been added to regulatory boards, disciplinary powers have been strengthened, and anti-competitive restrictions in advertising and entry into certain professions have been eliminated.

Texas' first attempt at Sunset resulted in the termination of nine of 25 agencies reviewed and the merger of four agencies into two. Significantly, the 1979 Texas legislature mandated that public members be added to all 11 regulatory boards that were re-created. Other important reforms, such as improving agency responsiveness to complaints from the public, were established. Strong legislative commitment to the process was a key element in the success in Texas.

In its first review cycle in 1978, the Florida legislature terminated statutes relating to shorthand reporters, yacht and shipbrokers, sanitarians, and watchmakers. Eight statutes were reenacted with modifications. In the second cycle, in 1979, reorganization of the state Department of Professional and Occupational Regulation effectively strengthened the complaint and discipline procedures of that body. The legislature, in addition, reenacted 24 statutes ( Governor Robert Graham later vetoed reenactment of two statutes). In its 1980 Sunset cycle, the Florida legislature determined that the negative economic impact of trucking regulation outweighed the benefits that this regulation provided and allowed the statutes providing for regulation of the trucking industry to terminate.

Not all Sunset experiences have been positive. 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 in 1978. A similar blitz of voting took place in the Senate in 1978.

In 1979, however, Alabama lawmakers narrowed the scope of the law to cover occupational licensing boards and regulatory agencies. Automatic termination was added. In addition, the 1979 law moved the Sunset evaluation process beyond strictly budgeting and fiscal concerns by requiring legislators to take a close look at how well agencies serve the public.

Perhaps the strongest testimony in support of Sunset comes from legislators who have helped implement it. Wendall Lady, Speaker of the Kansas House and the primary sponsor of Sunset, described the impact of Sunset this way:

When we passed Sunset legislation in Kansas, I knew that it was no panacea which would solve all the problems of state government. However it has been effective in abolishing some agencies, combining others and making those re-established more responsive to the citizens of our state.

William B. Alexander, President Pro Tempore of the Mississippi State Senate, focused on the need for automatic termination in citing the value of Sunset in his state:

There is little doubt in anyone's mind that the review process is taking place because of the threat of termination. The legislative committees are having the hearings, meeting the timetables, and conducting the extensive studies because of the law's mandated termination dates for the particular agencies.

### Federal Sunset Activity

Federal Sunset legislation has been extensively debated

and significantly refined during the 94th, 95th, and 96th Congresses. On January 15, 1980, Senators Edmund Muskie (D-Maine) and William Roth (R-Del.) introduced S.2, a Sunset bill identical to one passed by the Senate in 1978. S.2 places almost all federal programs on a ten-year termination schedule, establishes a process for coordinated review of similar programs, and provides for special evaluation of priority programs. The weakness of S.2, as pointed out by Common Cause President David Cohen during Senate hearings in June 1979, is the omission of a provision requiring Sunset review of tax expenditures. Federal tax expenditures--the credits, deductions, and other exemptions that result in federal revenue losses--receive little or no scrutiny under the Congressional budget process. Yet these indirect expenditures, which will amount to \$206 billion in fiscal year 1981, have grown even faster than direct outlays. H.R. 2, sponsored by Representatives James Blanchard (D-Mi), Norman Mineta (D-Ca), Richard Gephardt (D-Mo), and 186 other Congressmen, is nearly identical to S.2, except that it includes the key provision covering tax expenditures. Hearings were held on the proposal by a House Rules subcommittee in June 1979.

#### Sunset Reference Materials

Common Cause has prepared a detailed report on state Sunset activity as of November 1978--Making Government Work: A Common Cause Report on State Sunset Activity. The 121 page report summarizes state legislative activity as well as implementation efforts in the states. The report contains a detailed

state-by-state survey of Sunset activity based on extensive interviews with state officials responsible for Sunset implementation. Copies of the report are available from Common Cause for \$3.

(1) Senate Governmental Affairs Committee, Hearings and Report (S. Rep. No. 94-1137) on S. 2925 of the 94th Congress and Hearings and Report (S. Rep. No. 95-326) on S.2 of the 95th Congress;

(2) Senate Committee on Rules and Administration, Hearing and Report (S. Rep. No. 94-1263) on S. 2925 of the 94th Congress and Hearing Report (S. Rep. No. 95-981) on S. 2 of the 95th Congress;

(3) Senate Governmental Affairs Committee, Hearings and Report (S. Rep. No. 96-865) on S.2 of the 96th Congress;

(4) New York Legislature, Temporary Commission on Management and Productivity in the Public Sector, "Sunset in Perspective: A Critical Analysis" (Albany, N.Y., February 1978). This is a report on an April 1977 conference on Sunset;

(5) Virginia General Assembly, Joint Legislative Audit and Review Committee, "Sunset, Zero-Base Budgeting, Legislative Program Evaluation" (Richmond, Va., Sept. 1977). This is a report on a May 1977 conference on Sunset;

(5) Michael March, "Sunset Review - The Colorado Program: Statutes, Organization, Methodology, Evaluation Criteria and Results" (Nov. 1977). The report is available for \$5 from the Bureau of Governmental Research and Services (Univ. of Colorado, 125 Ketchum, Boulder, Colorado 80309);

(6) Dan Price, "Sunset Legislation in the U.S.", 30 Baylor Law Review 401-62 (Summer 1978);

(7) Benjamin Shimberg and Doug Roederer, "Occupational Licensing: Questions a Legislator Should Ask" (March 1978). This pamphlet is available for \$3.50 from the Council of State Governments (P.O. Box 11910, Iron Works Pike, Lexington, Kentucky 40578);

(8) Ronald Gregson, "Sunset in Colorado: The Second Round", State Government (Spring 1980);

(9) Donald L. Martin, "Will the Sun Set on Occupational Licensing?" State Government (Spring 1980).





State of Montana  
Office of the Governor  
Helena, Montana 59620

TED SCHWINDEN  
GOVERNOR

House-State Administration- Room 129  
S.B. 304, Summary of Testimony

1. Good Government Bill - Bill clears up confusion regarding when a new appointee can take office.
2. Bill covers appointees to quasi-judicial boards in Section 1 and appointees to other boards requiring Senate confirmation in Section 2. These "other" boards include the professional and occupational licensing boards.
3. Problem with current law is that an incumbent quasi-judicial board member must continue to discharge his duties (hold-over) until his successor is "qualified". Qualified has been interpreted by the Montana Supreme Court to mean confirmed.

The practical effect of this rule of law is that often times an incumbent who has been informed that he will not be reappointed, loses interest, and fails to attend the board meetings where a majority of the membership is necessary in order for the board to adopt any resolution, motion or other decision.

4. This bill would make certain that the philosophy behind Section 2-15-124, MCA (quasi-judicial boards), is actually implemented. Since a governor is authorized to appoint a majority of board members to terms concurrent with his, this bill would allow his appointees to take office immediately upon appointment. Senate confirmation would still be required.
5. Simply stated, when a term expires, a new appointee to any board can serve.

  
MONA JAMISON  
Chief Legal Counsel  
Office of the Governor



WITNESS STATEMENT

Name Don Judge Committee On State Administration  
Address Helena Date 3/3/83  
Representing MT STATE AFL-CIO Support X  
Bill No. SB 141 Oppose \_\_\_\_\_  
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Support legislation but would like to amend to require ballots to be provided at least 21 days in advance.
2. Many of these individuals affected by this bill are members of organized labor ... often construction workers are away from home for long periods of time, also often during elections. They frequently
3. vote by absentee ballot. This bill would help alleviate problems incurred by these workers in obtaining ballots in sufficient time to vote.
4. <sup>← X</sup>  
I didn't do this

We ask you support for this bill

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Bill Ramin Committee On State Ad  
Address None Date 3-7-83  
Representing Clerks & Receivers Support x  
Bill No. S.B. 141 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *This Bill should ensure that absentee ballots will be available at least 14 days prior to the election.*

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.