

Approved

Thomas F. Walker
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Representative Thomas F. Walker at
Chairperson

9:00 a.m./p.m. on January 15, 1987 in room 522-S of the Capitol.

All members were present except:

Representative Sutter

Committee staff present:

Avis Swartzman - Revisor
Carolyn Rampey - Legislative Research Dept.
Julian Efird - Legislative Research Dept.
Mary Galligan - Legislative Research Dept.
Jackie Breymeyer - Secretary

Conferees appearing before the committee:

Meredith Williams - Legislative Post Audit

The meeting of the House Governmental Organization Committee was called to order by Representative Thomas F. Walker, Chairman. Chairman Walker welcomed the members, introducing each individually as well as staff. He gave his philosophy of conducting a committee, stating that rules of order can be observed while maintaining a relaxed atmosphere. Substitute motions will be allowed. The Governmental Organization Committee has been defined by a former chairman as the committee that does the sunset review. He explained this process to the new members, as well as giving an explanation of the workings of the subcommittees.

The three agencies the House Governmental Organization Committee will begin reviewing are the Department of Revenue, Water Department and Water Authority. The Senate will review State Library and State Board of Nursing. Representative Bowden moved to introduce the three bills that will extend the Revenue Department, Water Department and Water Authority for 8 years. Representative Graeber gave a second to the motion. The motion carried.

Carolyn Rampey, Research, distributed a memorandum and explained the background on sunset legislation. (Attachment I). The way legislatures manage the sunset review process varies from state to state.

Meredith Williams, Legislative Post Audit, distributed a paper which gave a summary of recent performance audits relating to the Department of Revenue. (Attachment II) He said his department is viewed as the eyes and ears which review the critical audit process. He recommended the boldprint of an audit as the part which gives the overview. From there one can review the background and go on to read the entire audit. After several other comments, Mr. Williams said to call 3792, the number of the department, for help or information. The department welcomes visits by legislators at any time.

The Chairman thanked Carolyn and Meredith for their presentations. He told the Committee where to meet for the tour of the Revenue Department. After a few brief comments about the subcommittees the Chairman asked members to bring their calendars to pick a date on which the Committee can attend a dinner given by John Peterson, Lobbyist.

The meeting was adjourned.

SUNSET LEGISLATION: DEVELOPMENT IN OTHER STATES
AND ACTIVITIES IN KANSAS

Background

In 1976, Colorado became the first state to pass a sunset law. Today, 35 states have legislation that establishes dates for the abolition of programs and agencies unless they are specifically continued by the Legislature. The most recent law was enacted by Pennsylvania in 1981. Kansas, in 1978, became the 26th state to enact a sunset law.

Common Cause, an organization which promotes governmental reform, is generally recognized as having been a major force behind sunset legislation at the state and national levels. That organization considers sunset legislation a means by which government can become more responsive to the public it serves as a result of the periodic review and evaluation of public services, agencies, and programs. According to Common Cause, it is assumed that most agencies subject to a sunset review will be continued. The concept behind sunset legislation, then, is not to abolish agencies and programs but to make them more responsive and accountable.

Because of the impact Common Cause had on the development of sunset legislation, most states incorporated principles endorsed by Common Cause in their sunset laws. These principles include the provision of ample opportunity for public participation, the establishment of general criteria to guide the review process, and the automatic and periodic termination of agencies under the law unless they are specifically continued.

In addition, the initial thrust of sunset legislation involved regulatory agencies. This was because it was thought that regulatory activities are the source of much citizen dissatisfaction with government and should be regularly reviewed; regulatory agencies usually are not as closely scrutinized in the budget review process as are agencies funded by state general revenues; and, usually being small operations with clearly defined functions, regulatory agencies lend themselves to experimentation under sunset laws as legislators seek to determine the value of periodic agency reviews and to evaluate the impact of this particular legislative oversight activity upon their time and staff resources.

Another impetus for sunset activities was the fact that the process is a management tool which helps establish the legislature as a branch of state government equal to the executive. While early proponents of sunset legislation may have been motivated by citizen disillusionment with government, some legislators may view the concept of sunset out of their own frustration with executive agencies and their desire to monitor programs and agencies they have created. Thus, sunset activities may be part of a trend toward strengthening state legislatures and the oversight functions they perform.

Attachment I
O.C. 1/15/87

Other States

Attachment I lists the 36 states that have enacted sunset legislation and notes major features of the process in each state. The list includes North Carolina, which is the only state to have repealed its sunset law.

Of the laws in the 35 states that have sunset provisions, 10 cover regulatory agencies only, 15 (including Kansas) cover regulatory and other selected agencies, and 10 provide for a comprehensive review of all state agencies. The scope of these laws has changed since they were first enacted. The original focus of a majority of the laws was regulatory activity. Today, amendments to the laws in a number of states have added larger state agencies to the sunset review cycle. Accordingly, the criteria by which agencies are reviewed have shifted from factors relating to the necessity and value of state regulation to those relating to an agency's management, organization, and performance in achieving its goals.

Other changes among the states include lengthening the review cycle and streamlining the review process by, for example, eliminating requirements that a performance audit be conducted of each agency under review. Some states, particularly those that conduct comprehensive reviews of all agencies, such as Texas and Tennessee, have established sunset review bodies and have provided for additional staffs to handle the workload.

The way legislatures manage the sunset review process varies from state to state. In a number of states, sunset activities are referred to standing or interim committees in the subject area of the agency being reviewed. In other states, including Kansas, sunset reviews are generally conducted by a committee whose jurisdiction is broad enough to include, but is not confined to, sunset reviews. A few states have established committees that deal exclusively with sunset activities.

Based upon information obtained by Common Cause in a survey of the states in 1982, 1,500 agencies had been reviewed since the enactment of the first sunset law in 1976. Of those agencies, one in five has been terminated, one in three modified, and approximately half recreated with little or no change. These findings lend support to the notion that the value in sunset legislation lies in its utility as a vehicle to periodically evaluate and improve agencies and programs, not to abolish them.

The survey also showed that, when changes were made in an agency, they most commonly fell into the category of (1) requiring public membership on boards and commissions and (2) improving administrative practices and disciplinary procedures.

In assessing the states' experiences with sunset legislation, the Council of State Governments has reached the following conclusions:

1. "Sunset was oversold to the public as a way to reduce the size of government and save money." This finding is particularly relevant when one considers that most of the agencies first reviewed -- regulatory agencies -- did not ordinarily receive

state general revenues and usually were not abolished. In fact, a common complaint of legislators among the states is that the sunset process itself is expensive and has required the addition of more staff.

2. "States have found it difficult to assess empirically the costs and benefits of state regulation." This conclusion refers to the difficulties involved in measuring the extent to which an agency's goals and objectives have been met. These difficulties tend to become more apparent when the review focuses upon large state agencies which perform a variety of functions and services.
3. "Sunset staff reports and recommendations have not always been coordinated with other legislative oversight mechanisms."

In addition, Common Cause, the organization which so actively promoted the concept of sunset as a means of public accountability, acknowledges that public participation in the sunset process has been limited and that regulated professionals have a disproportionate influence on the sunset process. According to the Common Cause survey, 70 percent of the states reported that the average turnout for a public hearing is 25 persons or fewer. One-third of the respondents reported that the only persons who are heard from about sunset issues are licensed professionals.

Nevertheless, the sunset process seems to be working successfully in a number of states. Many states, as noted, have expanded the role of this oversight procedure by broadening the scope of agencies to which it applies. North Carolina is the only state to have repealed its sunset law. (Bills to repeal sunset laws have been introduced in other states but have not passed. Kansas appears to be the only state whose sunset law itself has a termination date.)

The benefits of the sunset process most often cited include improvements in government performance, financial savings due to improved agency performance, and increased legislative experience in conducting oversight. While freeing the public from excessive regulation and reducing state budgets are still posited as objectives of the process, the notion that states are able to eliminate significant numbers of unnecessary regulations is generally less touted today than it was in the 1970s. Instead, the sunset process has begun to focus on larger, general areas of state government and continues to develop as a means by which state legislatures are strengthening their oversight functions.

The Kansas Sunset Law

The Kansas Sunset Law (K.S.A. 74-7245 et seq.), as it was enacted in 1978, provided for the abolition of 37 agencies between 1979 and 1984. All but two of the agencies were regulatory in nature. (The exceptions were the

Departments and Offices of Secretary of Social and Rehabilitation Services and Health and Environment.) The law itself was set to expire July 1, 1981, unless extended by the Legislature.

The original law required that a performance audit be conducted of each agency due to be abolished. Public hearings had to be held by committees of both houses of the Legislature. The maximum time for which an agency could be extended was six years and an agency that was not continued by the Legislature had one year from its abolition date to conclude its business.

The statutes directed the Legislature to take into account a number of considerations when reviewing the sunset agencies. All of the considerations related to regulatory activities, such as whether there was a less restrictive method of regulation which would adequately protect the public and whether the regulation was for the benefit of the public or for the regulated profession.

The applicability of the factors to be considered, focusing as they did on regulatory activities, was limited when applied to large state agencies. When the Sunset Law was due to be abolished in 1981, legislators considered not only whether to extend it, but also whether changes should be made in the substance of the law itself.

What emerged from the 1981 Session is the current law which shifts the focus of the process from regulatory agencies to broad, general areas of government and streamlines the review process. More than 20 boards, commissions, and agencies -- all regulatory -- were removed from the sunset process entirely. New agencies were added, including major cabinet agencies such as the departments of Revenue, Corrections, Transportation, and Human Resources. Added also were offices of elected officials, such as the State Treasurer and the Office and Department of the Commissioner of Insurance. (See Attachment II for a list of state agencies that have been and are currently subject to the provisions of the Sunset Law.)

The requirement that there be a performance audit of each agency was removed. Instead, the audit was made optional, subject to the direction of the Legislative Post Audit Committee, which may direct that the audit be limited to selected functions or divisions of each agency. A public hearing in both houses on each agency subject to abolition is still required. The maximum number of years for which an agency can be continued is now eight, instead of six years. The Sunset Law itself was extended until July 1, 1984. (In 1984, it was reestablished until July 1, 1992.)

All of these changes in the Kansas law are fairly typical of changes that have been made to sunset laws in other states. They reflect frustrations legislators have had with more cumbersome aspects of the process and the desire to shift the oversight function from the states' regulatory activities to more general areas of state government. Because experience with sunset legislation is fairly recent, it remains to be seen whether the concept of sunset will gradually be abandoned for its failure to live up to expectations or whether it will continue to develop as a tool for legislators to use in the oversight of state government.

ATTACHMENT I

Summary of Sunset Legislation -- 1982

<u>State</u>	<u>Year of Enactment</u>	<u>Scope of Law</u>	<u>Cycle</u>	<u>Committee With Jurisdiction</u>
Alabama	1976 (amended in 1979 and 1981)	Regulatory and Other Selected Agencies	4 years	Joint Legislative Committee
Alaska	1977	Regulatory and Other Selected Agencies	4 years	Standing Committee
Arizona	1978 (amended in 1980 and 1981)	Comprehensive	10 years	Joint Legislative Oversight Commission
Arkansas	1977	Comprehensive	6 years (only 1 cycle)	Joint Legislative Committee
Colorado	1976 (amended in 1977, 1978, and 1981)	Regulatory and Other Selected Agencies	10 years	Standing Committee
Connecticut	1977	Regulatory and Other Selected Agencies	5 years	Standing Committee
Delaware	1980	Regulatory and Other Selected Agencies	4 years	Joint Legislative Committee
Florida	1976 (amended in 1977 and 1981)	Regulatory Agencies	10 years	Standing Committee
Georgia	1977	Regulatory Agencies	6 years	Joint Legislative Committee
Hawaii	1977 (amended in 1979 and 1981)	Regulatory Agencies	10 years	Standing Committee
Illinois	1979	Regulatory Agencies	10 years	Select Joint Committee on Regulatory Agency Reform

<u>State</u>	<u>Year of Enactment</u>	<u>Scope of Law</u>	<u>Cycle</u>	<u>Committee With Jurisdiction</u>
Indiana	1978	Comprehensive	-	Legislative Council
Kansas	1978 (amended in 1981)	Regulatory and Other Selected Agencies	8 years	Standing Committee
Louisiana	1976 (amended in 1978 and 1979)	Comprehensive	9 years	Standing Committee
Maine	1977 (amended in 1978, 1979, and 1981)	Comprehensive	10 years	Joint Legislative Committee
Maryland	1978 (amended in 1980)	Regulatory Agencies	6 years	Standing Committee
Mississippi	1979	Regulatory and Other Selected Agencies	8 years	Standing Committee
Montana	1977	Regulatory Agencies	6 years	Standing Committee
Nebraska	1977 (amended in 1979 and 1980)	Regulatory and Other Selected Agencies	6 years	Performance Review and Audit Committee
Nevada	1979 (amended in 1981)	Regulatory and Other Selected Agencies	Pilot Project	Legislative Commission
New Hampshire	1977 (amended in 1979)	Comprehensive	6 years (with some exceptions)	Sunset Committee
New Mexico	1977 (amended in 1981)	Regulatory Agencies	Varies	Joint Legislative Committee
North Carolina	1977 (repealed 1981)	-	-	-
Oklahoma	1977	Regulatory and Other Selected Agencies	6 years (with some exceptions)	Joint Legislative Committee

<u>State</u>	<u>Year of Enactment</u>	<u>Scope of Law</u>	<u>Cycle</u>	<u>Committee With Jurisdiction</u>
Oregon	1977 (amended in 1979)	Regulatory and Other Selected Agencies	8 years	Joint Interim Legislative Committee
Pennsylvania	1981	Regulatory and Other Selected Agencies	6 years	Legislative Leadership Committee
Rhode Island	1977 (amended in 1978, 1979, and 1981)	Comprehensive	5 years	Legislative Oversight Committee
South Carolina	1978	Regulatory Agencies	6 years	Reorganization Commission and Standing Committees
South Dakota	1977 (amended in 1978)	Pilot Project	Only one Cycle	Joint Legislative Committee
Tennessee	1977 (amended in 1979 and 1980)	Comprehensive	6 years	Joint Legislative Committee
Texas	1977 (amended in 1981)	Comprehensive	12 years	Sunset Advisory Commission
Utah	1977 (amended in 1979 and 1981)	Regulatory Agencies	6 years	Legislative Study Committee
Vermont	1977	Regulatory Agencies	6 years	Standing Committee
Washington	1977 (amended in 1979)	Comprehensive	6 years	Standing Committee
West Virginia	1979	Regulatory and Other Selected Agencies	6 years	Joint Legislative Committee
Wyoming	1979 (amended in 1981)	Regulatory and Other Selected Agencies	Varies	Joint Legislative Committee

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

ATTACHMENT II

Activities Related to the
Kansas Sunset Law

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Athletic Commission	1979	1. Athletic Commission not re-established. 2. All-Sports Hall of Fame continued under new Board of Trustees, with administrative functions performed by State Historical Society.
Mobile Home and Recreational Vehicle Commission	1979	Abolished July 1, 1979.
Abstracters' Board of Examiners	1979	Reestablished until 1985; removed from provisions of Sunset Law in 1981.
Board of Hearing Aid Examiners	1979	Reestablished until 1985; removed from provisions of Sunset Law in 1981.
Board of Social Work Examiners	1979	Not reestablished. Behavioral Sciences Regulatory Board created basically to perform existing functions of Board of Social Work Examiners and Board of Examiners of Psychologists.
Board of Examiners of Psychologists	1979	See action taken regarding Board of Social Work Examiners.
Department and Office of Secretary of Health and Environment	1980 1986 1994	Reestablished until 1986. Reestablished until 1994.
State Bank Commissioner's Office	1980	Reestablished until 1986; removed from provisions of Sunset Law in 1981.

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
State Banking Board	1980	Removed from provisions of Sunset Law in 1981. (Board was in one-year windup period.)
Savings and Loan Commissioner's Office	1980	Reestablished until 1986; removed from provisions of Sunset Law in 1981.
Savings and Loan Department	1980	Removed from provisions of Sunset Law in 1981. (Department was in one-year windup period.)
Savings and Loan Board	1980	Reestablished until 1986; removed from provisions of Sunset Law in 1981.
Office of the Administrator of the State Department of Credit Unions	1980	Reestablished until 1986; removed from provisions of Sunset Law in 1981.
Department of Credit Unions	1980	Removed from provisions of Sunset Law in 1981. (Department was in one-year windup period.)
Credit Union Council	1980	Reestablished until 1986; removed from provisions of Sunset Law in 1981.
Consumer Credit Commissioner's Office	1980	Reestablished until 1986; removed from provisions of Sunset Law in 1981.
Council of Advisors on Consumer Credit	1980	Abolished July 1, 1980.
Commission on Civil Rights	1981 1982 1990	Reestablished until 1982. Reestablished until 1990.
Board of Barber Examiners	1981	Removed from provisions of Sunset Law in 1981.
Board of Cosmetology	1981	Removed from provisions of Sunset Law in 1981.

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Board of Embalming	1981	Removed from provisions of Sunset Law in 1981.
Real Estate Commission	1981	Removed from provisions of Sunset Law in 1981.
Board of Technical Professions	1981	Removed from provisions of Sunset Law in 1981.
Board of Accountancy	1981	Removed from provisions of Sunset Law in 1981.
Accountancy Advisory Council	1981	Abolished July 1, 1981.
Office and Office of Director of Kansas Energy Office	1982	Abolished July 1, 1982.
Energy Advisory Council	1982	Abolished July 1, 1982.
State Corporation Commission	1982 1983 1991	Reestablished until 1983. Reestablished until 1991.
Securities Commissioner's Office	1982	Removed from provisions of Sunset Law in 1981.
Department and Office of Secretary of Social and Rehabilitation Services	1982 1988	Reestablished until July 1, 1988.
Department and Office of Secretary of Revenue	1983 1987	Reestablished until July 1, 1987.
Department and Office of Secretary of Transportation	1983 1991	Reestablished until July 1, 1991.
Dental Board	1983	Removed from provisions of Sunset Law in 1981.
Board of Healing Arts	1983 1992	Reestablished until 1992.
Board of Nursing	1983 1987	Reestablished until 1987.

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Examining Committee for Physical Therapy	1983	Removed from provisions of Sunset Law in 1981.
Board of Examiners in Optometry	1983	Removed from provisions of Sunset Law in 1981.
Board of Pharmacy	1983	Removed from provisions of Sunset Law in 1981.
Board of Veterinary Medical Examiners	1983	Removed from provisions of Sunset Law in 1981.
Department and Office of Secretary of Corrections	1984 1992	Reestablished until 1992.
Division and Director of Information Systems and Computing	1984	Removed from provisions of Sunset Law in 1984.
Department and Secretary of Human Resources	1984 1985 1993	Reestablished until 1985. Reestablished until 1993.
Commission for the Hearing Impaired	1984 1992	Reestablished until 1992. (Renamed the Kansas Commission for the Hearing Impaired.)
Department and Office of Commissioner of Insurance	1985 1993	Reestablished until 1993.
Department and Office of Secretary of Economic Development	1985 1988	Reestablished until 1988. (Renamed Department of Commerce in 1986.)
Office of the State Treasurer	1985 1993	Reestablished until 1993.
Pooled Money Investment Board	1985 1993	Reestablished until 1993.

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Department and Office of Secretary on Aging	1986 1994	Reestablished until 1994.
Behavioral Sciences Regulatory Board	1986	Removed from provisions of Sunset Law in 1981.
Children and Youth Advisory Committee	1986	Removed from provisions of Sunset Law in 1981.
Kansas Water Authority	1987	
Kansas Water Office and Office of Director	1987	
Kansas State Library and Office of State Librarian	1987	
Kansas Public Disclosure Commission and Office of Executive Director	1992	

Kansas Legislative Research Department
January 13, 1986

F86-109.II

**Summary of Recent Performance Audit Reports
Relating to the Kansas Department of Revenue**

For copies of these reports, call the Legislative Division of Post Audit (3792)

Licensing Kansas Drivers with Medical
Disabilities
(87-33)

The Division of Vehicles is generally following its established policies and procedures for licensing drivers with medical impairments. These procedures are more stringent than those of other states contacted. Some license applicants expressed dissatisfaction with Division procedures. The Division could minimize such complaints by explaining its policies and procedures more clearly.

Contact person: Mary Beth Green

Reflective Sheeting Used by State Agencies
(86-62)

Only one company has qualified to bid on the sheeting specified by the Department of Revenue to reflectorize license plates, but Kansas officials were unaware of a firm that successfully competed in another state. In 1986 Kansas also began packaging all bids for license plate sheeting, stickers, and decals, which effectively eliminated competition for the stickers and decals. For highway signs, the Department of Transportation has adopted a policy of using a more expensive high-intensity sheeting on certain signs and in construction work zones for visibility, durability, and safety reasons. However, that policy was based on a limited evaluation of the cost and useful life of the materials.

Contact person: Ron Green

Tax Incentives or Reductions Available to
Kansas Businesses
(87-31)

The audit provides an inventory of major taxes levied on businesses in Kansas and summarizes statutory exemptions, exclusions, deductions, and other provisions that can allow businesses to reduce their taxes. When available, an estimate of the fiscal impact of each of the statutory provisions is provided.

Contact person: Leo Hafner

Improving Collections on Closed Sales
Tax Accounts
(86-43)

Retailers who have gone out of business without remitting all sales taxes they collected from consumers may owe the State up to \$11.5 million. The Department of Revenue's procedures for collecting outstanding amounts from these retailers are generally ineffective. To maximize collections, the audit recommends more aggressive enforcement of current State law, as well as changes in law and administrative practices.

Contact person: Mary Beth Green

Property Tax Exemption of Church Parsonages
(86-46)

Most churches provide their clergy with a parsonage, a housing allowance, or some combination of the two. An estimated 2,500 parsonages, representing \$1.4 million in property tax, will be returned to the tax rolls for 1986. About nine percent of the tax-exempt residential properties sampled were used for purposes other than housing clergy. Some of these uses may not qualify for tax-exempt status.

Contact person: Leo Hafner

Local Expenditures of Private Club Liquor Taxes
(86-65)

Most of the audited localities' expenditures for alcohol and drug abuse programs complied with State law. A few used liquor tax funds to pay administrative costs, which is not specifically allowed by law. Others funded such activities as teenage hotlines and domestic violence programs, which did not have substance abuse as their primary concern. Statutory changes made in 1986 may prohibit such expenditures in the future.

Contact person: Mary Beth Green

Enterprise Zones in Kansas
(85-73)

The 1982 Enterprise Zone Act was intended to encourage economic development in distressed areas of Kansas cities. The Department of Economic Development's interpretations of the Act, especially since it was amended in 1983, have allowed some areas to receive enterprise zone designations which may not meet the spirit of the statutory requirements.

Contact person: Mary Beth Green