

Approved [Signature] Date

MINUTES OF THE House COMMITTEE ON Governmental Organization

The meeting was called to order by Rep. Gary Blumenthal at  
Chairperson

9:00 a.m./p.m. on January 17, 1991 in room 522-S of the Capitol

All members were present except:

Committee staff present:

- Carolyn Rampey, Research Dept.
- Julian Efird, Research
- Avis Swartzman, Revisors
- Nita Shively, Committee Secretary

Conferees appearing before the committee:

Carolyn Rampey, Research

Chairman Blumenthal opened the meeting by introducing Carolyn Rampey of the Research Department who preceeded to give a comprehensive report of Kansas sunset legislation. Written testimoney was furnished (attach-ment 1).

Some of the points she addressed follow:

1. Although the original purpose of sunset was regulatory, the laws have changed; today we see large state agencies added and smaller regulatory agencies have been dropped. Legisla-tors felt they should be looking at big agencies that carry out major functions of government.
2. The criteria has now changed and instead of legislators asking the question "Why do we have this regulation?" they focus on questions concerning management and performance.
3. In many instances the cycle has been extended. The tendency, also, is to extend agencies for longer periods since it is such a time-consuming process to review all the state agencies.
4. There have been many changes since original sunset laws were enacted; mandatory performance audits are no longer required.
5. Public hearings still have to be held by committees of both Houses.
6. Under the sunset law if an agency is terminated it has one year to wind down.

Representative Ramirez pointed out that despite committee recommenda-tions, an agency may not necessarily choose to follow them.

A brief question and answer period followed.

Rep. Rick Bowden made a motion to approve the minutes. Motion seconded by Rep. Nancy Brown. Motion carried.

Meeting adjourned at 10:45 with the next meeting scheduled for Tuesday, Jan. 22, 1991.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.



## SUNSET LEGISLATION: DEVELOPMENT IN OTHER STATES AND ACTIVITIES IN KANSAS

### Background

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

Common Cause, an organization that 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 were motivated by citizen disillusionment with government, some legislators 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 became part of a trend toward strengthening state legislatures and the oversight functions they perform.

g.o. 1-17-91  
attachment 1-1

## Other States

Generally, the scope of laws enacted in other states has changed since the laws 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, 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.

The experience in Kansas and in other states lends 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. 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 that 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, concedes that public participation in the sunset process has been limited and that regulated professionals have a disproportionate

*J.O. 1-19-91  
Attachment 1-2*

influence on the process. According to a Common Cause survey in the early 1980s, 70 percent of the states reported that the average turnout for a public hearing was 25 persons or fewer. One-third of the respondents reported that the only persons who were heard from about sunset issues were licensed professionals.

Nevertheless, the sunset process seems to be working successfully in a number of states. Many states have expanded the role of this oversight procedure by broadening the scope of agencies to which it applies. 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 focused on larger, general areas of state government and provides a means by which state legislatures fulfill 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.

J.O. 1-17-91  
Attachment 1-3

(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.

ATTACHMENT II

Activities Related to  
Kansas Sunset

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Athletic Commission	1979	1. Athletic Commission not reestablished.  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.

*g. O. 1-17-91  
attachment 1-5*

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
State Bank Commissioner's Office	1980	Reestablished until 1986; removed from provisions of Sunset Law in 1981.
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.

*g.o. 1-17-91*

*attachment 1-6*



<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Commission on Civil Rights	1981 1982 1990 1994	Reestablished until 1982. Reestablished until 1990. Reestablished until 1994.
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.
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 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 1996	Reestablished until 1988. Reestablished until 1996
Department and Office of Secretary of Revenue	1983 1987 1989 1995	Reestablished until 1987. Reestablished until 1989. Reestablished until 1995.

*g.o. 1-17-91  
attachment 1-7*

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Department and Office of Secretary of Transportation	1983 1991	Reestablished until 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 1995	Reestablished until 1987. Reestablished until 1995
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 Office of Secretary of Human Resources	1984 1985 1993	Reestablished until 1985. Reestablished until 1993.
Commission for the Hearing Impaired	1984 1992	Reestablished until 1992.

*G.O. 1-17-91*  
*Attachment 1-B*

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Department and Office of Commissioner of Insurance	1985 1993	Reestablished until 1993.
Department and Office of Secretary of Commerce	1985 1988 1996	Reestablished until 1988. Reestablished until 1996.
Office of the State Treasurer	1985 1993	Reestablished until 1993.
Pooled Money Investment Board	1985 1993	Reestablished until 1993.
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.
Water Authority	1987 1989 1994	Reestablished until 1989. Reestablished until 1994.
Water Office and Office of Director	1987 1989 1994	Reestablished until 1989. Reestablished until 1994.
State Library and Office of State Librarian	1987 1995	Reestablished until 1995.
Coal Commission	1989 1993	Reestablished until 1993.
Dealer Review Board	1989 1991	Reestablished until 1991.
Public Disclosure Commission and Office of Executive Director	1992	

*g.o. 1-17-91  
attachment 1-9*

<u>Agency</u>	<u>Date To Be Abolished</u>	<u>Legislative Action</u>
Department and Office of Secretary of Administration	1992	
Lottery Commission and Office of Executive Director	1992	
Commission on Epilepsy	1993	
Real Estate Appraisal Board	1993	
Behavioral Services Regulatory Board	1993	
Film Services Commission	1994	

**ATTACHMENT III**

**Sunset Schedule 1991-1996**

1991

Dealer Review Board  
State Corporation Commission  
Department and Office of Secretary of Transportation

1992

Department and Office of Secretary of Administration  
Department and Office of Secretary of Corrections  
Board of Healing Arts  
Public Disclosure Commission and Office of Executive Director  
Commission for the Deaf and Hearing Impaired  
Lottery Commission and Office of Executive Director  
Sunset Law

1993

Department and Office of Secretary of Human Resources  
Department and Office of Commissioner of Insurance  
Office of the State Treasurer  
Pooled Money Investment Board  
Coal Commission  
Commission on Epilepsy  
Real Estate Appraisal Board  
Behavioral Sciences Regulatory Board

1994

Department and Office of Secretary of Health and Environment  
Department and Office of Secretary on Aging  
Civil Rights Commission  
Water Office and Office of Director  
Water Authority  
Film Services Commission

*g.O. 1-17-91  
attachment 1-11*

1995

Department and Office of Secretary of Revenue  
Board of Nursing  
State Library and Office of State Librarian

1996

Department and Office of Secretary of Social and Rehabilitation Services  
Department and Office of Secretary of Commerce

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g.o. 1-17-91  
attachment 1 -12