

**THE SUNSET PHENOMENON**  
**REPORT OF THE**  
**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION**  
**AND ADVISORY TASK FORCE**  
**ON SUNSET LEGISLATION**  
**TO**  
**THE GOVERNOR**  
**AND**  
**THE GENERAL ASSEMBLY OF VIRGINIA**



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**1978**

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December 21, 1977

The Honorable Mills E. Godwin, Jr.  
Governor, Commonwealth of Virginia

Members of the Virginia General Assembly

Gentlemen:

I am pleased to transmit to you this report of a study of Sunset legislation prepared by the Joint Legislative Audit and Review Commission and Advisory Task Force. The study was authorized by HJR 178.

The report and the proposed "Legislative Program Review and Evaluation Act" was adopted by the study committee by a vote of 22-1 on December 13, 1977.

The study committee feels that enactment of the proposed legislation will give the General Assembly an improved program oversight capability and will help ensure more effective, efficient, and accountable government for the citizens of the Commonwealth.

With highest personal regards, I am

Sincerely yours,

Edward E. Lane  
Chairman

EEL:lg  
Enclosure

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**AND THE GENERAL ASSEMBLY**

**Richmond, Virginia**  
**December 13, 1977**

The growth of systematic legislative oversight of governmental programs through enactment of "Sunset" statutes has been phenomenal. Since passage of the Colorado Sunset Act in 1976, 25 states have adopted Sunset legislation and every state legislature (and the U. S. Congress) has a similar measure under consideration. There is no doubt that Sunset has great popular appeal. There is, however, substantial disagreement about what Sunset is--and what it should be.

The term "Sunset" can be applied to various kinds of legislation, but it has no simple, single definition. Generally, Sunset is viewed as a concept of legislative self-discipline--designed to promote accountability through systematic and periodic legislative evaluation of public functions, programs, and agencies.

Under most existing Sunset laws, a program, agency, function, or law is subject to termination on a scheduled basis unless the legislature initiates action to continue it. In these cases, the requirement for scheduled termination forces the legislature to act. Under other Sunset concepts, the legislature commits itself to an evaluation schedule without relying solely on the threat of termination. Thus, governmental activities may be modified, continued, or terminated depending on the judgment of the legislature. The results of oversight efforts become a part of the political decision-making process.

No new legislative powers are either inherent in or granted by Sunset. Rather, by adopting Sunset, a legislature commits itself to use the power it already has.

Sunset can strengthen the oversight role of state legislatures in two important ways. First, by mandating a continuing program of systematic review, evaluation, and legislative utilization, new or existing oversight procedures can be better institutionalized. Second, with all the study, debate, and consideration which culminates in adoption of a law, legislatures clearly acknowledge and accept an active oversight responsibility.

Improved legislative oversight, however, is not the only reason for Sunset's popularity. The dramatic growth in government spending in recent years; concern for effective, efficient, and economic public programs; and, increasing questions about the wisdom of providing certain services or having particular regulations--all in the name of public benefit--have contributed to an intensified interest in strengthened accountability. The search for accountability, in turn, has spurred a search for more effective legislative oversight.

### Virginia's Consideration of a Sunset Act

The potential benefits to be gained by a Sunset law are commonly recognized. Nevertheless, informed observers urge that a reasoned and cautious determination be made whether Sunset is an appropriate tool for strengthening any particular legislature's oversight function. This is the approach elected by the General Assembly. Several Sunset bills were introduced during the 1977 session, with almost half of the Assembly's legislators as co-patrons, but a Sunset act was not adopted. Instead, House Joint Resolution 178 was passed instructing the Joint Legislative Audit and Review Commission (JLARC) to study Sunset, as well as related concepts such as Zero-Base budgeting. The study was directed to include:

- the scope of coverage of Sunset legislation, required exceptions, and the timeliness and categories of program review;
- criteria that should be used to evaluate agencies or programs;
- the role of and relationship between standing committees, other legislative commissions and service agencies, and the executive;
- the mechanisms of implementation and operation; and
- the costs involved.

A twelve member task force with appointments by the Governor, the Speaker of the House of Delegates, and the Senate Committee on Privileges and Elections, was assembled to serve in an

advisory capacity to the JLARC. The task force was intended to ensure broad legislative and executive representation.

Because Sunset is a recent innovation, its accomplishments are not subject to thorough testing or evaluation; consequently, the study committee decided to carry out its mandate through a series of informational subject matter forums. Efforts were made to obtain and review current and balanced information on various types of Sunset laws, methods used to conduct Sunset reviews, and procedures used in legislative implementation.

The first forum was held in May, 1977 in Roanoke, where members of the General Assembly, key executive branch officials, and invited guests attended an introductory conference on Sunset, Zero-Base budgeting, and evaluation. Published proceedings of this important meeting titled, "Sunset, Zero-Base Budgeting, Legislative Program Evaluation" were distributed to members of the General Assembly in October, 1977.

At forum meetings in June and July, the study committee assessed the purpose and objectives of Sunset laws. First the group reviewed a survey and analysis of 25 individual state Sunset laws. A summary of the data accumulated is contained in this report. Discussion then focused on the experiences of Colorado and other states in implementation of their laws and on a congressional proposal, "The Program Evaluation Act of 1977". A publication which includes much of the testimony received during the study as well as selected staff presentations has been published to accompany this report. It is titled "The Sunset Phenomenon".

The August forum centered on other tools of legislative oversight--review of administrative regulations, and Zero-Base budgeting. A special report on Zero-Base budgeting which includes an overview of Virginia's program budget system has been prepared to serve as a public record of the information gathered, and to respond to legislative interest in this budget innovation. The report is titled "Zero-Base Budgeting?".

Finally, in September, October, and November, a preliminary report, alternative statutory proposals, and proposed legislation were discussed and debated. This report and the draft legislation it contains are the results of that discussion and have been adopted by a majority vote of the study committee.

#### Conclusions From The Sunset Study

Two conclusions emerged as a result of this study of legislative oversight which are the subject of the balance of this report.

- First, it is the opinion of a majority of study committee members that the General Assembly should not enact standard Sunset legislation which mandates program or agency termination. The benefits to be achieved are considered to be less than the costs involved for the Commonwealth.
- Second, a majority of members believe the General Assembly should adopt legislation which further promotes its existing legislative oversight through: regular and active participation of standing committees in identifying and selecting the programs and agencies of State government that are to be evaluated; ordering on a systematic and periodic basis a schedule of review and evaluation; and providing a reasonable method for utilization of the results of legislative review and evaluation.

### Organization of the Report

This report has been organized along the lines of the process followed for the Sunset study. The first principal section summarizes background information about standard Sunset laws and analyzes their component parts. The second section outlines major concerns raised during the study and includes the sense of the study committee where appropriate. The third section reports on findings and conclusions of particular relevance to the Virginia General Assembly and presents the guidelines used to draft an improved legislative oversight proposal for the Commonwealth.

Finally, the report contains a copy of the legislative proposal and bill prepared in response to study concerns and guidelines.

### SUNSET BACKGROUND AND STUDY COMMITTEE ANALYSIS

Sunset legislation consists of several interrelated component parts--any one of which can be used to distinguish one kind of proposal from another. The components generally refer to: the scope of statutory coverage; the frequency of scheduling; the processes of legislative review; and, methods of legislative utilization and action. For this analysis, these components are classified as:



- Agency or Program Coverage
- Termination or Evaluation Schedule
- Evaluation Criteria
- Evaluation and Review Process
- Legislative Utilization Process
- Operational and Safeguard Provisions

The best descriptor of a Sunset law (among these components) is the scope and nature of its coverage.

#### Agency or Program Coverage

Sunset laws can be categorized into four basic types based on coverage--Regulatory, Comprehensive, Selective, and Discretionary.

Regulatory laws generally apply to occupational and professional licensing agencies and other regulatory units such as rate-setting boards governing utilities, insurance, or industries. Regulatory Sunset assumes that no profession, occupation, business, or industry should be regulated unless regulation is essential to protect public health, safety, or welfare. A standard feature of this kind of statute is that the regulatory agency has the burden of demonstrating a public need for its continued existence. Corollary assumptions are that: regulation should not needlessly affect the competitive market; and, the public, not occupations or businesses, should be served by regulation.

Colorado, the first state to pass a Sunset law, made regulatory agencies its target. The rationale behind this selection was that regulatory agencies represented a clearly defined and manageable subject area which could also constitute an initial test application for the process. Ten states--North Carolina, Georgia, Florida, Nebraska, Colorado, New Mexico, Utah, Montana, Oregon, and Hawaii--have laws that best fit the regulatory category. Most of the ten laws, however, were the earliest enacted and were based on the example of Colorado. The momentum toward regulatory laws appears to have slowed considerably.

Comprehensive laws are those that apply to all elements of government. Five southern states--Tennessee, Alabama, Louisiana, Arkansas, and Texas--and New Hampshire, have adopted comprehensive laws. In most cases, constitutionally established units of government are exempt. Comprehensive laws terminate all state programs or agencies according to a fixed schedule. In Louisiana, in fact, after the listing of a detailed termination schedule, there is a provision covering "any other statutory entity...not previously terminated". Alabama's law states, in similar fashion, that "any state agency existing on the date of the passage of this act and not specifically listed in this act shall be terminated on October 1, 1978".

Proponents of comprehensive laws feel that application of Sunset to all parts of government is the only way to give the concept a fair test. Senator Edmund S. Muskie (D. Maine), a chief sponsor of the congressional Sunset proposal, has testified that this kind of legislation will establish the concept as a "bias free" good government measure and not one identified with partisan or ideological leanings. Opponents of comprehensive laws state that it can overburden legislative processes which are unprepared for the volume of analysis and evaluation that Sunset requires.

Common Cause, the citizen's lobby which has been credited with originating the concept, has urged a go-slow approach, fearing that overzealous states may "love a good thing to death" by trying to do too much, too soon.

Selective laws focus on specifically identified parts of government, other than or in addition to regulatory agencies. Most experimental Sunset laws are classified as selective in this analysis. South Dakota offers a good example of a selective approach. In South Dakota, Sunset has been applied to eight agencies in the Department of Commerce and Consumer Affairs. Rhode Island, Connecticut, and Oklahoma also have selective acts. Although in these states regulatory boards are covered, so too are advisory boards and committees, study commissions, and similar units. Maine, Indiana, and Washington have also enacted selective or experimental Sunset programs. Minnesota is unique in that it does not have a Sunset law but regularly includes termination clauses in newly created programs.

Selective Sunset states generally have decided not to commit themselves to the concept without experimentation and testing. Selective Sunset laws will be, almost by definition, unique, since they are tailored to the specific needs of each state.

Discretionary laws are a recent Sunset innovation. Under this option, a legislature focuses on selected subjects but only after triggering some sort of selection process. This type of legislation has evolved because of problems encountered or anticipated with regulatory or comprehensive coverage. Alaska and the proposed federal Sunset Act are examples of discretionary statutes.

Advocates of discretionary provisions claim it best preserves the opportunities of Sunset while responding to its concerns. The U. S. Senate Subcommittee on Intergovernmental Relations, for example, reported that

"throughout the year and a half of debate on the legislation, there have been those who argued that, to be effective, Sunset must be comprehensive, while others have argued that to be effective, Sunset must be selective. Senate Bill No. 2, as amended, responds to both concerns".

Proposed federal legislation now provides that all programs come up for periodic review by appropriate Congressional committees, but only select ones are studied in-depth. Those programs which are scheduled for termination but not for in-depth evaluation, are reviewed on a less formal basis. Each committee has the flexibility to recommend budget reauthorization of programs after evaluation of whatever scope or detail seem appropriate. (It should be noted that the federal act deals in termination of authorization for budget spending, not in termination of appropriations as would be the case in state government.)

The Alaska Sunset Act provides for similar discretionary evaluation. That law sets forth a schedule of program categories in which activities are subject to termination, but none actually terminates unless the legislature acts by bill.

"During the legislative session preceding each of the years set out, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year."

Discretionary Sunset then, maintains an emphasis on periodic review, but without automatic termination.

#### Termination or Evaluation Schedule

The second Sunset component is the time cycle planned for the review or termination of governmental elements. There are four basic scheduling options:

- Frequent (suggested as a 4-7 year schedule)
- Infrequent (suggested as a 8-12 year schedule)
- Flexible (as with discretionary coverage, a flexible schedule provides a mechanism which can be used to adjust the frequency of review)
- One time (no recurring cycle)

A dominant concern of scheduling is the amount of time the legislature wants to invest. If member time is available, more programs can be looked at thoroughly. However, the more frequent and greater the coverage, the greater the cost.

In an attempt to preserve the benefits of frequent review but to lessen work load and cost, the Alaska legislature adopted a discretionary approach to maintain comprehensive coverage but to give the legislature flexibility in selecting programs for review from broad functional categories. Thus, while the legislature reviews with a broad stroke a whole area of government, it dedicates the bulk of its resources and time to evaluating those programs which appear to need it the most.

The federal government has moved in a somewhat similar manner after calculating the enormous expenditure of resources and time that comprehensive evaluation of all government programs would take.

It has been argued that more frequent review will make programs and agencies more accountable. By subjecting them to frequent review, the legislature might expect agencies to be more attentive to legislative intent and more sensitive to the public they are supposed to serve.

The last frequency option establishes a one-time review schedule. The primary feature of a one-time schedule is that it subjects the Sunset Act itself to the same kind of scrutiny that the Sunset principle applies to other public activities.

### Evaluation Criteria

The criteria component establishes the standards by which agencies or programs are judged. Basic criteria usually deal with:

- Justification of existence
- Performance in the public interest
- Efficiency and effectiveness
- Compliance with legislative intent
- Accomplishment of original objectives
- Compliance with equal employment opportunity guidelines
- Federal funding impact
- Restrictiveness of regulation (market impact)

There are several approaches to implementing the criteria component. One is to legislate a detailed listing of evaluative criteria. This approach addresses the behavior, effectiveness, and efficiency of all agencies under review on the same basis. Other laws have less specific criteria that apply mainly to a basic justification of the agency's existence. Such criteria are found most often in states with regulatory Sunset laws.

One basic defect of the criteria of most Sunset laws is that, while they may question the reason for an agency's being, they do not provide uniformly clear measures of performance and productivity. The decision-making process, as a result, becomes dependent on opinion rather than fact.

### Evaluation and Review Process

The evaluation component establishes the method of assessing whether or not established criteria are met. The type of review process used will define, to a large extent, the character of the Sunset process. The review process establishes the foundation of information on which legislative decisions will be made. Therefore, the quality of the information base must be high. Significant program modifications are unlikely without a strong base of supporting facts.

Four review processes have been found in existing Sunset laws:

- Agency Self-Study
- Committee Study
- Legislative Program Evaluation Unit
- Combination Systems

Agency self-studies emphasize the use of agency personnel and expertise. The objectivity of an agency faced with termination may be suspect, however, as it reports on its own efficiency and effectiveness. With this option, the legislature also gives up all practical cost control since agencies will likely spend whatever is necessary to establish adequate justification. The evaluation expenditure may also be used to accomplish other agency objectives.

Committee study can take many forms depending on the degree to which each committee performs its selected studies. Cost could be a restraining factor especially if all committees were staffed independently.

Under option three, a designated legislative program evaluation unit gathers systematic information about program accomplishments, evaluates the information, and presents it to the legislature. This approach economizes member time and gives the legislature information that is independent of the executive agencies. Committee involvement could be maintained in identification and selection of coverage, scheduling, and in utilization.

Combination systems take advantage of the strengths of each option. The combination of methodologies might produce more thorough and balanced information, but would likely cost more and require rigid coordination, specification, and supervision.

### Legislative Utilization Procedures

Utilization procedures refer to the way in which information from the review process is integrated into the legislative decision-making process. These procedures have an important impact on Sunset effectiveness. Unless the utilization component is appropriate to the legislative process, Sunset reviews may be duplicative, superfluous, or ignored.

The decision units of the legislature must have confidence in the findings of the review process. On a practical level, such confidence is often a product of participation--the participation of decision-making committees (or representatives) in key phases of the review process. Utilization procedures involve:

Decisions - statutory requirement for either termination, continuation, modification, or other kinds of legislative decisions.

Actions - statutory provision for participation in identification and selection process if discretionary; requirement for and participation in hearings, ability to report action, and require compliance other than by statutory change.

Participants - procedures use either or all:

- Joint House & Senate Committees
- Special Sunset Committee
- Fiscal Committees
- Regular Standing Committees
- Combination assignments

When participation is broadest, Sunset is probably most effective because more members are involved directly in the process.

Fiscal committees can be the focal point of the Sunset process. Although utilization would be facilitated, the policy orientation and expertise of the standing committees would be lessened. A work load problem is also created by giving fiscal committees additional responsibilities.

A final alternative is to use a combination of participants. Standing committees, either singly or jointly, could participate in various phases such as selection and utilization, and functional committees can carry out review and other staff responsibilities.

#### Operational and Safeguard Provisions

There are additional, specific elements necessary for the implementation and management of the Sunset process. Some of these items include one or more of the following:

- Provision for a wind-down period
- Automatic Sunset coverage of new agencies, programs
- Provision for earlier legislative action out of schedule
- Protection of citizen claims against the State

- Exemption of Retirement, constitutional programs or agencies
- Requirement of a separate bill to continue, terminate or modify each specific agency or program
- Proper disposition of property and funds of any terminated agency
- Employee rights to reemployment
- Transfer of essential tasks
- Post audit and evaluation for compliance
- Periodic review of Sunset provision

An important element of this final item (periodic review) is the idea that the Sunset process itself be periodically reviewed. Half the states in the nation now have Sunset laws, but almost nothing is known about the success or failure of implementation. Proponents and opponents argue that if Sunset is adopted, there should be periodic evaluation of its success.

Innovations in the field of legislative oversight are constantly developing. Sunset is a perfect example of how a new idea can take hold quickly. A broad-based periodic study of the "State of the Art of Legislative Oversight" could itself bring about improvement and periodic adjustment to Sunset.

Analysis of the components of Sunset legislation provides an understanding of the provisions and intent of the various kinds of laws. But, in terms of implementation experience, there is very little evidence available. Only two states have completed Sunset cycles--Colorado and Alabama, and the results have been mixed. Colorado evaluated 13 regulatory agencies and terminated 2. The program cost approximately \$150,000. Nevertheless, the Sunset idea has been reported to have been considered a moderate success by the Colorado legislature. In Alabama, problems of implementation (without adequate staff or money) resulted in an unsuccessful initial effort.

Thus, while analysis of the various pieces of approved Sunset legislation provides for some theoretical optimism, concerns have been raised about its potential for success on a practical level.

#### CONCERNS RAISED ABOUT SUNSET IN VIRGINIA And Some Tentative Answers

Sunset is theoretically sound. But, it can neither be implemented independent of Virginia's institutions and traditions, nor adopted without regard to the capacity and capability of the General Assembly.

During study deliberations, a number of concerns emerged regarding the Sunset concept, proposed legislation, and its impact on the General Assembly and programs of the Commonwealth. These key concerns are outlined in the following discussion.

### Sunset Purpose and Objectives

Concern has been expressed about Sunset objectives. Will it accomplish what is intended? Is it a necessary or usable oversight tool?

Sunset laws are designed to force a periodic accounting of program accomplishments by the legislature through a threat of termination--yet few people expect much to be accomplished by way of terminations. Opponents argue that the legislature already has the authority to terminate programs and can do so regularly in conjunction with the review carried out in the biennial budget. In addition, in Virginia, statutory authority and responsibility to review agency performance has been previously assigned to JLARC. The JLARC can recommend ways to eliminate or alter programs found to be inefficient or ineffective. Therefore, there is concern that Sunset is unnecessary.

However, as pointed out by much testimony, legislatures generally and Virginia's General Assembly specifically have not had a way to ensure systematic and routine utilization of oversight findings. And, if Sunset does nothing else, it provides the marketplace for oversight information.

Thus Sunset's purpose might best be expressed as accomplishing improved efficiency, effectiveness, and economy in public programs and governmental agencies through systematic legislative review and consideration.

### Legislative and Legislator Work Load

The increased work load that could result from Sunset was a major concern to the study committee. Obviously, taking on a new legislative procedure will require time. Do Virginia legislators have the time to do this work?

One criticism of a comprehensive Sunset law, similar to those adopted in Alabama and Tennessee, and originally proposed in the U. S. Congress, is that it could absorb so much of the legislature's time, staff and budget, that other important legislative responsibilities would suffer. Colorado Senator William J. Comer pointed out in testimony to the study committee that, even with the enactment of a Sunset law dealing just with regulatory agencies, additional committee work was necessary and there were increased work loads for legislators and staff alike.



Supporters of the Sunset concept contend that while work load is important, it can be controlled by: (1) providing a realistic coverage provision and schedule and (2) building on the existing capacity of each state to carry out oversight activities.

The sense of the study committee was that work load is such an important issue for the citizen legislator that it must be considered as a prime element in: selecting the scope of any Sunset law; setting any review cycle; and establishing mechanisms that give flexibility to enable adjustments to any Sunset process when necessary.

### Staffing

A concern which is closely related to work load is staffing. How should Sunset reviews be carried out, and who should do them?

Most states have elected to make the review of agencies and programs a legislative responsibility--although some states also require executive evaluation reports. Generally, professional legislative audit or evaluation staffs are responsible for conducting program reviews. However, when the evaluation report is completed, it is customary for specific subject matter committees to collect background information, hold hearings, decide on the kind of actions required as a result of reviews, and draft necessary legislation.

Virginia is already equipped to do the comprehensive evaluations that are inherent to Sunset because the Joint Legislative Audit and Review Commission has an existing legislative evaluation capacity. The sense of the study committee has been to build any Sunset review process on that strength.

There are some additional staffing requirements, however. The utilization of reviews in standing committees will likely require staff to arrange logistics for hearings, ensure a record of committee actions, and follow-up in drafting required legislation. Study committee members have expressed concern whether this added staff needs to be assigned directly to standing committees or not. Under current procedures the Division of Legislative Services provides support for committee activities and that staff would likely require some minimum supplementation. Continuation of centralized committee staffing, however, is considered the more efficient option at this time.

A third concern in the staffing area is the extent to which executive agencies can be relied upon to prepare some of their own evaluation reports. The sense of the study committee has been that while agency self-studies are indeed desirable at times--there must be careful legislative specification and opportunity for supervision.

Cost

Knowledgeable experts have testified that Sunset can only be effective if it is properly funded. And, the extent of funding required has been a concern.

There seems to be little doubt that Sunset is expensive. Although Colorado enacted its Sunset law without an appropriation, the eventual cost of evaluating the first 13 of the scheduled regulatory boards exceeded \$150,000. The director of Minnesota's legislative program evaluation unit testified that each evaluation report prepared by his office cost roughly \$50,000.

Although Sunset will have new costs, they can be controlled to some extent by narrowing the scope of reviews or reducing the level of detail. However, if this approach is taken there are fears that: (1) the number of issues dealt with would be drastically reduced and require excessive time with too little payoff; (2) reports might become superficial; or (3) results may be less reliable.

The approximate new cost of a Sunset law in Virginia can be estimated assuming the cost ranges are based on the laws scope. For example, assuming that Sunset staffing is built on the existing program review processes (including JLARC resources), its cost can be calculated as:

<u>Cost Range</u>	<u>Coverage</u>	<u>New Annual Cost</u>
Low	Discretionary	\$50,000 or less
Median	Selective	\$250,000 - \$500,000
High	Comprehensive	More than \$500,000

Timeliness

Another element of concern about Sunset are questions of timeliness: (1) When is the best time for the legislature to do the work? (2) How can timeliness (relevance) be assured in a selection process? and (3) How can some flexibility be built into a Sunset schedule?

A review of existing responsibilities clearly indicates that the most opportune time for legislators to be involved in Sunset reviews is during the interim. Although legislative action will have to occur during a session, actions recommended in the interim can be treated later as ordinary legislation.

Since committees must play a pivotal role, it is also desirable that they be an integral part of the evaluation selection process. Such an approach is currently being considered by Congress. The U. S. Senate version of Sunset provides for a great deal of committee involvement and flexibility in determining the

priorities for evaluation. A conventional Sunset law which takes a mechanistic approach to agency or program review fails to recognize the fluid nature of issues, programs, and policies with which a legislature deals, and ignores the realities of the political process.

The study committee seems to be in general agreement that rigid scheduling serves no useful purpose. On the one hand, some device may be required to make certain that all programs and agencies are subject to oversight but, on the other, some programs may need careful review out of sequence. Some agencies may need to be exempted from the review process, a termination process, or both.

#### Agency and Public Impact

The study committee was concerned that the threat of agency termination might damage program continuity and create employee concern and skepticism. Agency personnel would be placed in a position of having to justify their existence; and there was a concern, articulated by some experts, that agency public relation efforts would increase at the expense of real program accomplishments.

Proponents of Sunset believe that review--and at least the possibility of termination, might force a more imaginative competition for scarce public resources among agencies and interest groups.

A second concern is that Sunset may produce a lot of blustery debate but not dollar savings.

Advocates argue that a Sunset proposal that builds in some kind of periodic decremental budget analysis can provide an opportunity for the legislature to consider, at a minimum, the impact of reducing appropriations rather than increasing them. A review process like that available by Zero-Base budgeting techniques might also serve to enhance subject matter committee involvement in the budget process. A standing committee could review the results of a ZBB process and advise the standing fiscal committee regarding their assessment of program priorities and concerns about substantive content in relation to concerns about funding.

It is likely that the threatened termination or modification of agencies will also increase lobbying efforts by affected interest groups. In fact, the committee responsible for conducting Sunset reviews in Connecticut has reported being contacted by representatives of agencies scheduled for review as far in advance as 1981. Colorado Senator William J. Comer indicated that lobbying in his state was most effective on those legislators who were not familiar with the legislative evaluation reports.

Thus, it is just as important for agency and public information, as for legislator use, that Sunset findings be clearly communicated.

Senator Comer also reported that Colorado's initial experience was disappointing in regard to citizen response and participation. However, it was noted by the study committee that Sunset might reasonably be expected to do more to restore public confidence in the legislative review process than to promote general public participation.

### Intergovernmental Relations

Many local programs depend on State funds for their continued existence. Moreover, a number of State supported programs are mandated by federal law or court order. The termination of State programs, therefore, could have serious repercussions at the local level of government. For example, it might be difficult for cities and counties to adequately plan knowing that a source of State support was to be evaluated and perhaps terminated in some future fiscal year.

Another challenging problem would be the reaction of the federal government if Virginia decided to end its involvement in certain programs mandated by federal law, such as water pollution control or vocational rehabilitation. Surely, the possible loss of federal funds could become a formidable obstacle to terminating State programs heavily dependent on federal support. The study committee felt these problems were best addressed in an implementation phase.

### Legislative/Executive Relationship

Although Sunset is a tool of legislative oversight, the executive branch also has a potentially important role; and the involvement of the executive has been voiced as a concern. For example:

- The Governor can veto Sunset actions.
- The executive agencies will be the primary source of data. And,
- Under certain conditions, agencies could be asked by the legislature to conduct self-studies.

The role expected of the executive needs clear definition as any kind of Sunset process is entered into by the General Assembly.

## Adjusting Legislative Oversight and Sunset

Members of the study committee indicated concern that a Sunset statute, once passed, would be difficult to change. Several members asserted that if a Sunset law were adopted in Virginia, it should itself be periodically reviewed by the legislature.

A possible mechanism for monitoring and adjusting the implementation of a Sunset law could be through a regular forum on legislative oversight for members of the General Assembly. For example, periodically during a Sunset cycle, a meeting could be convened under statutory authority to:

- review the appropriateness of review criteria;
- recommend any required fine tuning of the Sunset selection processes;
- assess the accomplishments of Sunset in Virginia (and other states); and
- review and consider other methods and techniques of legislative oversight.

## Legislative Utilization

A critical concern of Sunset is the kind of action that is taken following a review. Should the legislature terminate, continue, or modify agencies or programs? What kind of actions can be expected?

A major advantage of Sunset legislation is that it clearly spells out the rules of the game in debating the review findings in the legislative arena. There is no question that study committee members do not support a cosmetic process. That is, if a Sunset proposal is advanced, it must be usable and it must be meaningful.

Legislatures may not have paid sufficient attention to the oversight function. But, oversight will not be substantially improved until there is a full integration of the results of program evaluation with the legislative process. Sunset, members believe, can become a useful triggering device to aid in the utilization of information and evaluations currently available.

## STUDY GROUP OBSERVATIONS AND GUIDELINES

Analysis of the components of Sunset led to several observations the study committee felt were particularly relevant in consideration of a Sunset proposal for Virginia. In addition,

specific guidelines were adopted to be used in drafting a legislative proposal.

First, the study committee felt that the idea that public programs or agencies could be scheduled for automatic termination is counterproductive to legislative oversight goals. And, the term "Sunset" does not represent the goals of systematic and periodic legislative oversight. "Sunset" is, in fact, a misnomer...Although the Madison Avenue label has helped popularize the idea, Virginia's substantive programs are unlikely candidates for termination; and few programs will ever be abolished.' Thus, the title itself sets up an expectation that the legislature simply will not be able to fulfill. It was suggested that oversight was more likely to bring about a "sunrise" of knowledge and information than "Sunset". Nonetheless, references to "Sunset" were so common, it would not be fruitful to ignore the term.

Furthermore, the legislative and executive branches already possess adequate capability to identify programs that are patently unneeded. A requirement for termination could certainly force the legislature to act, but that action would likely divert time and attention from the real issues of economy, efficiency, and effectiveness to the mechanics of continuation. If such is the case, Sunset will have a negative impact and detract from efforts to address problems on a realistic basis. It will build false hopes of curtailed governmental activity and substantial savings where more modest accomplishments are likely. The purpose of Sunset should be viewed as periodic review, not automatic termination.

A second observation relates to Virginia's existing legislative oversight strength. The General Assembly already routinely does many of the oversight activities which some other states are initiating under their Sunset laws. While much can be done to improve the legislative oversight capability, the study committee found that Sunset was often being used as a starting point for improvements that, in many cases, are well underway in Virginia.

The modernization of the General Assembly has been an ongoing process. Although improvements are possible and desirable, there is no question that effective legislative oversight is already a reality in Virginia. Sunset therefore should not be viewed as a first step in Virginia--many have already been taken.

Nevertheless, the study analysis did suggest that some improvements could be achieved. And, a proposal was developed based on the following guidelines.

Work Load. Concern about legislative work load was a determining factor in the establishment of the first guideline.

Virginia has a citizen legislature. As a result, the General Assembly meets in relatively short session. Study committee members were aware that in Colorado, the legislature meets

more than twice as long as does Virginia's legislature and in unlimited session, yet it was unable to handle the work load of its first few Sunset reviews. The two largest studies--representing about half of the total work load--were put off a year.

Many other states with Sunset laws do not have citizen legislatures either. While some of their laws have desirable conceptual components, implementation could require a change in the basic legislative procedures.

Thus, *any Sunset or oversight proposal must provide for realistic coverage and appropriate scheduling so that the citizen legislature can accommodate the work load within its present time frame.*

Cost. Another guideline was adopted concerning cost. As pointed out earlier, oversight is not free, though many states, including Colorado, passed their initial Sunset acts without an appropriation.

Many of these states, however, are just starting to develop an oversight role, while Virginia is already doing a great deal. Costs can best be controlled by building on existing capabilities and not creating either new agencies or new staffs. Thus, *any Sunset or oversight proposal should be economical and build to the greatest extent possible on existing capabilities.*

Simplicity. Building on what already exists also addressed another guideline--that oversight should be conceptually simple. One of the problems that legislative oversight of any kind is supposed to address is complicated, and chaotic governmental organization. Obviously, a reasonable oversight law needs to be conceptually simple to be effective.

The third guideline, then, is that *any Sunset or oversight proposal should be simple in its procedures and direct in its approach.*

Practicability. The ultimate guideline adopted was that oversight requirements should be practical and possible. The termination goal of Sunset led to much skepticism about its chance for success. Among the oversight related mechanics that the group felt could make improvements were:

(1) A schedule of review would put agencies on notice that the legislature is, at some time, going to scrutinize them. The certainty of review may improve compliance with legislative intent. The certainty of review was believed to have the benefits of scheduled terminations with few of the potential hazards.

(2) More systematic standing committee participation is also a positive step. There certainly is no dearth of information

or studies in Virginia. In fact, more often, there are too many. The problem seems to be, however, there is poor utilization. As Allen Schick noted in his remarks to the Roanoke conference, "the greatest problem is not doing evaluations, but as those who serve in legislative bodies know, the greatest problem is using them". What is lacking is a good system of presenting all the information now available to the General Assembly in a usable, concise, and coherent manner. Because the standing committees do the basic legislative work of the General Assembly, oversight procedures should fit more closely into the committee process, so committees have better information and a more effective voice in setting priorities and policies.

The fourth guideline adopted, then, was that *any Sunset or oversight proposal must be realistic and practical--it must provide usable information on a scale that is consistent with committee capabilities and interests. Requirements for legislative action must be doable.*

### Considering Options For Virginia

Application of the guidelines to each category of Sunset law--comprehensive, selective, regulatory, and discretionary, clearly indicated the most favorable option for Virginia would be a discretionary proposal.

A comprehensive Sunset type law does not meet any of the guidelines--it would not be economical; it would be difficult to build on existing procedures; and the capacity does not exist to do the massive number of reviews and evaluations required. Safeguards to prevent the inadvertent termination of essential services and scheduling of legislative time would be very complex. The citizen legislature simply could not accommodate the amount of time a comprehensive Sunset process would take.

A selective Sunset type law might meet most of the guidelines, but selecting which agencies would be subject to intensive review and which would not set up an unnecessary and indeed undesirable process. There might be widespread misunderstanding of the intent of the law. Public and employee perception would probably be that the agency without question was going to be changed after review. Agencies that needed review could also change from year to year necessitating statutory revisions yearly.

A regulatory Sunset law could clearly meet the guidelines, but without much purpose. Many of the goals sought by regulatory Sunset as regulatory reforms have already been achieved in Virginia. Improvements, modifications, and monitoring of the current regulatory system--not the establishment of a competing system, seem to be more rational. The complex reforms sought by Sunset are unlikely to result from the use of arbitrary termination timetables.



A discretionary Sunset proposal was felt to meet all of the guidelines, fulfill the principal objectives of standard Sunset laws, and be consistent with the study group's conclusions regarding oversight improvements. Work load can be controlled because, while all agencies and programs might be subject to review, only a limited number need to be selected for in-depth evaluation. Cost and simplicity guidelines could be achieved since existing capabilities lend themselves to a discretionary approach. Discretionary Sunset is also realistic because it acknowledges by virtue of the selection process that review, not termination, is the objective of legislative oversight.

Based on these considerations, a discretionary Sunset proposal was developed that establishes a way to schedule review, procedures for active involvement of the standing committees, and a simple utilization technique. The proposal is outlined below.

#### A DISCRETIONARY SUNSET PROPOSAL

The proposal calls for periodic legislative review and evaluation of all State programs, agencies, or functions through a process of discretionary selection by General Assembly standing committees. Each functional area of State government, as defined in the program budget structure, will be scheduled for review between 1979 and 1986 by legislative resolution. Each fiscal year, several programs, agencies, or functional topics will be selected from a specific budget function by JLARC and the appropriate standing committees of each house. A resolution will be introduced listing the topics selected. JLARC, coordinating with the standing committees, will carry out an evaluation and review of each topic. When completed, the findings, conclusions, and recommendations will be reported to the standing committees and to the General Assembly. Within 120 days after each final report has been transmitted to a standing committee, a hearing would be held at which time testimony will be received about program accomplishments according to a series of performance questions specified by law.

A brief summary of each of the proposal's major provisions is described below.

#### Coverage

Every program and agency of the Commonwealth will be subject to review. Each functional area of government (defined in the program budget) will be used as the basis for topic selection, in a given fiscal year. A limited number of programs and agencies will actually be selected for in-depth review and evaluation. Even though all programs and agencies will be subject to review, the legislature will specifically select those that will receive

intensive scrutiny. Confirmation of areas selected for review will be by joint resolution introduced just prior to the year in which an area becomes subject to review.

### Schedule

The review schedule will be based on the program budget functions on a seven-year cycle. Flexibility in the schedule will be provided by authority to alter the cycle by resolution. It is expected that the first resolution will establish the functional area sequence for a seven year period. The budget areas include: Resource and Economic Development; Transportation; Enterprises; General Government; Education; Administration of Justice; Individual and Family Services.

### Evaluation Criteria

Two types of evaluation criteria will be established. First, general criteria will be referenced in the legislation to use in constructing the study scope. The various committees may specify which kind of study criteria are deemed to be most appropriate according to the nature of the study involved. Among the basic criteria to be considered during the review and evaluation process are the following:

- Program justification
- Performance in the public interest
- Efficiency, economy, and effectiveness
- Compliance with legislative intent
- Accomplishment of original objectives
- Program outcomes

A second set of performance criteria, stated in the form of questions, will be carried in the legislation, and will serve to establish an agenda for legislative hearings and would guide agency testimony.

### Evaluation and Review Process

Evaluation and review will continue to be the responsibility of the JLARC, but with closer coordination with standing committees.

After the standing committees identify programs and agencies from the scheduled functional area for review, JLARC will organize the programs, agencies, and topics into an integrated functional area approach. The number of authorized studies will be made consistent with available funding and manpower. Each study will be structured to make the most efficient and effective use of staff and legislator time. The scope of the study and delineation of tasks would also be established.

Although agency and program performance evaluations will be made by the JLARC, financial audits by the Auditor of Public Accounts, and agency self-studies might also be scheduled as required. Studies will be confirmed by resolution, but a subcommittee, appointed by the standing committee chairman, will be consulted on each study outline and necessary adjustments made. The subcommittee will meet periodically for briefings and to carry out other coordinative activities.

### Utilization

When completed, each study will be reported to the standing committees and to the General Assembly and appropriate officials. Within 120 days, the standing committees in each house acting jointly or singly, will hold a hearing on the subject area covered by the report. Hearings will be based on questions of performance contained in law. To the extent possible, final reports will be grouped so that one hearing may be held to cover an entire functional area. Testimony may be received from members of the legislature, members of study subcommittees, JLARC, executive agencies and the public.

Legislative utilization is a part of the entire process. By involving the standing committees in selecting and constructing study topics, and by periodic reports to and coordination with committees, the process ensures that the specific legislators who are the logical users of oversight information have most direct access to it. Since review and evaluation are the primary purposes of this proposal, the involvement of standing committees in the process serves as the basis of utilization. The formal guarantee of utilization is the provision that the committees will hold hearings on the subject areas and establish a dialogue on program performance in an open, public forum.

Every effort will be made to ensure that reports are geared to committee and legislator utilization. For example, short summaries of facts and recommendations can accompany each report. Where appropriate, committees might also direct that legislation be drafted to accompany a report. Each committee can establish their own convenient briefing and hearing format. Finally, the process can use subcommittees to economize member time.

### Operational and Safeguard Provisions

These additional provisions will be written into the proposed legislation.

- The legislation will not preclude in any way the General Assembly's ability to study or act on any matter at any time.

- Any action which terminates or modifies an agency or program will be effective only when a bill is passed by the General Assembly. (There is no automatic termination.)
- The legislation will establish a pilot project using existing and ongoing studies.
- A review of the pilot project and other statutory procedures will be made by the JLARC and an advisory committee, similar to the one specified by HJR 178, in 1980.
- A conference on legislative oversight will be held during 1985 to reevaluate the legislation. All legislators will be eligible to attend.
- Unless reestablished, the Sunset statute will expire on July 1, 1987.

#### Work Load and Cost

Implementation of this proposal will require an estimated new budget commitment of \$32,000 in 1978-79 and \$68,500 annually beginning in 1979-80. Annual legislator work load is expected to be about 1/2 day for members of committees affected by the selection schedule and another 4 days for each subcommittee member involved in a functional area.

LEGISLATIVE PROGRAM REVIEW AND  
EVALUATION ACT

A BILL

To amend the Code of Virginia by adding in Title 30 a chapter numbered 8, containing sections numbered 30-64 through 30-73, relating to periodic legislative review and evaluation of State programs, agencies or functions by the Joint Legislative Audit and Review Commission in cooperation with the standing committees of the General Assembly; termination of this act.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 8, containing sections numbered 30-64 through 30-73, as follows:

CHAPTER 8

§30-64. Short title.--This chapter may be referred to as the "Virginia Sunset Act".

§30-65. Definitions.--As used in this chapter, the terms below shall be interpreted as follows:

1. The term "agency" means any agency, authority, board, department, division, commission, institution, bureau, or like governmental entity of the Commonwealth and includes any entity, public or private, with which any of the foregoing has entered into a contractual relationship to accomplish an agency program.

2. The term "functional area" means that grouping of State governmental activities, programs, and agencies which constitute a single budget function as identified and classified in the Virginia State Government Program Structure.

3. The term "discretionary selection" refers to the procedure set forth in §30-67 whereby programs and agencies, contained wholly or in part within functional areas, are selected for legislative review and evaluation under the provisions of this chapter.

§30-66. Functional areas; scheduling of study areas.--  
A. The functional areas of State government shall be scheduled for legislative review and evaluation by the Joint Legislative Audit and Review Commission as specified in paragraph (B), on a seven-year cycle, and beginning in the 1979-80 fiscal year.

B. Beginning with the 1979 legislative session, and from time to time as may be required, the Senate and House of Delegates shall by joint resolution establish a schedule for the review of the functional areas of State government. In the absence of a resolution, the Joint Legislative Audit and Review Commission shall select a functional area for review on an annual basis.

§30-67. Discretionary selection procedure; coordination with standing committees; expenses.--A. Except for the pilot review provided for in this act, and prior to the year in which a functional area of government is designated to be scheduled for review, the Joint Legislative Audit and Review Commission shall cause to be introduced a joint resolution which shall identify to the extent feasible the agencies, programs or activities selected for review and evaluation from the functional area.

B. To ensure coordination of the review and evaluation activity with appropriate committees, the resolution specified in paragraph (A) shall identify each House and Senate standing committee to be invited to participate with the Commission in designing such studies as will be carried out from the scheduled functional areas.

C. The compensation and expenses of the members of cooperating committees or subcommittees necessary to accomplish the functions specified in paragraph (B) shall be paid from funds appropriated to the Commission.

§30-68. Evaluation criteria; self-studies.--A. Each study carried out pursuant to this chapter shall consider, as required: that there is a valid public need for the program or agency; that legislative intent is being carried out; that program and agency performance has been in the public interest; that program objectives have been defined; that intended program outcomes are measurable and have been accomplished; that program and agency operations are managed efficiently, economically, and effectively; or such other specific criteria as the Commission or standing committees deem necessary and desirable.

B. Agency self-studies may be required in such form and manner as may be directed under the resolution provided for in §30-67.

§30-69. Access to information.--For the purpose of carrying out its duties under this chapter and notwithstanding any contrary provision of law, the Joint Legislative Audit and Review Commission shall have access to the records and facilities of every agency whose operations are financed in whole or in part by State funds to the extent that such records and facilities are related to the expenditure of such funds. All such agencies shall cooperate with the Commission and, when requested, shall provide specific information in the form requested.

§30-70. Reporting; hearings.--A. The Joint Legislative Audit and Review Commission shall publish and submit its reports

with appropriate findings and recommendations to the Governor and members of the General Assembly, and shall transmit them to the House and Senate standing committees identified by resolution in §30-67.

B. The standing committees shall hold a public hearing on reports prepared pursuant to this chapter within one hundred twenty days after the date of transmittal. Hearings may be held jointly or singly by the committees.

C. The standing committees shall hear testimony from the Commission, agency and program representatives, the public in general, and such others as may be deemed appropriate.

§30-71. Hearing criteria.--At each hearing required by §30-70, the standing committee conducting such hearing and the agencies testifying shall respond to, but not be limited to consideration of, the following questions:

- (1) What are the problems, needs, or missions that the program is intended to address and what has been accomplished?
- (2) What is the effect of the program on the economy including but not limited to: competition, unemployment, economic stability, attraction of new business, productivity, and price inflation to consumers?
- (3) Would the absence of any regulatory activity significantly harm or endanger the public health, safety, or welfare?
- (4) Has the program or agency carried out its mission in an efficient, economic, and effective manner?
- (5) What services could be provided and what level of performance could be achieved if the program were funded at a level less than the existing level?
- (6) What other State programs have similar, duplicate, or conflicting objectives?
- (7) What federal activities have similar, duplicate, or conflicting objectives?
- (8) How does the agency ensure that it responds promptly and effectively to complaints concerning persons affected by the agency?

- (9) To what extent have the agency's operations been impeded by existing statutes, procedures, or practices of the Commonwealth of Virginia, or of other State agencies?
- (10) What action plans have been or are being proposed to improve agency operations where the need for improvements has been identified in previous executive or legislative oversight studies and reports.

§30-72. Miscellaneous.--A. The operation of this chapter shall not restrict the power of the General Assembly to study or act on any matter at any time.

B. The operation of this chapter shall not imply or require the termination of any State agency or program.

C. Nothing in this chapter shall be construed to restrict the Joint Legislative Audit and Review Commission or the standing committees from holding hearings on any subject as may be required nor shall operation of this chapter limit the Commission or committees from such other activities as may be authorized by law or custom.

D. The standing committees may carry out the functions assigned by this chapter through subcommittees.

§30-73. Termination of chapter.--This chapter shall terminate on July one, nineteen hundred eighty-seven, unless reestablished by prior act of the General Assembly.

\* \* \* \* \*

*The following separate enactments do not amend the Code of Virginia and would be contained in the Session Laws only.*

\* \* \* \* \*

2. That a pilot review and evaluation shall be carried out pursuant to this act selected from the functional area of "Individual and Family Services". The programs and agencies included in this review shall be those generally involved in the delivery of health care services. The pilot review shall consider and encompass to the extent practicable the ongoing studies of the Joint Legislative Audit and Review Commission concerning medical assistance programs and shall address, but not be limited to, medical service delivery programs concerned with long term care, outpatient care, hospital care, and the certificate of public need requirement.

The Commission shall coordinate its pilot review effort with the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health.



3. That an analysis of the pilot review effort, in the functional area "Individual and Family Services", shall be made by the Commission during 1980 with a committee to be empaneled prior to July one, nineteen hundred seventy-nine. The committee shall consist of: (i) the chairman of the House Committee on Health, Welfare and Institutions, or his designee; (ii) the chairman of the Senate Committee on Education and Health, or his designee; (iii) the Commissioner of the Department of Health; (iv) the Secretary of Human Resources; (v) the Secretary of Administration and Finance; (vi) four members appointed by the Speaker of the House of Delegates; (vii) three members appointed by the Senate Committee on Privileges and Elections; and (viii) the members of the Joint Legislative Audit and Review Commission. Vacancies on the committee shall be filled in the same manner as original appointments were made.

The committee shall review the procedures and accomplishments of the pilot program and make any suggestions as may be deemed appropriate to improve operational procedures or potential accomplishments. The report of the committee shall be made in such form and at such time as the Commission shall determine.

The responsibility of the aforementioned committee shall terminate upon completion of its report but no later than January thirty-one, nineteen hundred eighty-one.

4. That in 1985 a conference on legislative oversight will be held by the Joint Legislative Audit and Review Commission to assess and evaluate the accomplishments of this act. The conference membership shall consist of the members of the Commission, the chairman of each House and Senate standing committee, and such other members of the General Assembly as may be appointed by the Speaker of the House of Delegates or by the Senate Committee on Privileges and Elections. Compensation and expenses shall be paid to the conference membership from funds appropriated to the Commission. The conference shall be open to all members of the General Assembly. Proceedings of the conference shall be prepared and made available to each member of the General Assembly and to the public.

## STUDY PARTICIPANTS

The following individuals (in addition to study committee staff) participated in subject-matter forums.

Thursday, May 5, 1977:

Dr. Allen Schick, Urban Institute, Washington, D.C., on Sunset, Zero-Base budgeting, and legislative program evaluation

Friday, May 6, 1977:

Bruce Adams (Associate Director for Issue Development, Common Cause) on Sunset, Dr. Benjamin Shimberg (Associate Director, Center for Occupational and Professional Development, Educational Testing Service) on Sunset, Graeme M. Taylor (Senior Vice-President, Management Analysis Center) on Zero-Base budgeting, Bruce Spitz (Director, Program Evaluation, Minnesota) on legislative program evaluation and Sunset, Linda Alcorn Adams (Director, Program Review and Investigations Committee, Connecticut) on legislative program evaluation and Sunset

Sunday, July 24, 1977:

Congressman James J. Blanchard (D., Michigan, U. S. House of Representatives) on Sunset

Monday, July 25, 1977:

Senator William J. Comer (Colorado State Appropriations Committee) on Sunset, Al Kelly (LEGIS 50, Director) on Sunset, Tim Knaus (LEGIS 50, Sunset Intern Program) on Sunset, Robert E. Brooks (Deputy Director of State Regulatory Agencies) on Sunset, Representative Bob Davis (Tennessee House of Representatives) on Sunset

Monday, August 22, 1977:

Senator Michael R. Moloney (Kentucky State Senator) on legislative oversight of administrative regulations, Senator Anthony Derezinski (Michigan State Senator) on legislative oversight of administrative regulations,

Tuesday, August 23, 1977:

Stuart W. Connock (Assistant Secretary for Financial Policy, Virginia Office of Administration and Finance) on tax expenditures, S. Kenneth Howard (Staff Consultant and former Budget Director, North Carolina) on Zero-Base budgeting, Thomas L. Bertone (Acting Executive Director, New Jersey Office of Fiscal Affairs) on Zero-Base budgeting, Andrew B. Fogarty (Staff Director, Virginia House Appropriations Committee) on Zero-Base budgeting, Ruth J. Herrink (Director, Virginia Department of Professional and Occupational Regulation) on Sunset and regulation

#### PUBLICATIONS OF THE STUDY

Sunset Zero-Base Budgeting, Evaluation--Proceedings of a Conference on Legislative Oversight, dated September 21, 1977. This publication contains the major addresses delivered at a May 5-6 JLARC conference on legislative oversight held in Roanoke. Statements of the following participants are included: Congressman James J. Blanchard, Delegate Edward E. Lane, Allen Schick, Bruce Adams, Benjamin Shimberg, Graeme M. Taylor, Bruce Spitz, Linda Alcorn Adams, and Ray D. Pethel.

Zero-Base Budgeting?--Proceedings of a Forum on Legislative Oversight, dated December 13, 1977. Selected papers and testimony brought before the study group on the subject of Zero-Base budgeting are included in this report. Included are the statements of S. Kenneth Howard, Thomas L. Bertone, Andrew B. Fogarty, and Maurice B. Rowe.

The Sunset Phenomenon--Papers of a Forum on Legislative Oversight, dated December 13, 1977. This publication contains the report adopted by the study committee as well as transcripts of testimony about Sunset. "Directions for Legislative Oversight in Virginia--The Sunset Phenomenon" is the report of the HJR 178 study and it contains legislation recommended to the General Assembly. The report is the final version of a document which was developed and used throughout the study to record analytical findings, member concerns, and study committee conclusions. Statements of the following participants are included: Senator William J. Comer, Tim Knaus, Robert E. Brooks, Alvin From, and Kirk Jonas.

HOUSE JOINT RESOLUTION NO. 178

*Instructing the Joint Legislative Audit and Review Commission to conduct a study of "Sunset" legislation.*

Patrons—Lane, Gunn, Manning, Slayton, White, Pickett, Bagley, R.M., Ball, Dickinson, Cranwell, Scott, Diamonstein, Robinson, Jones, G.W., Sanford, Heilig, Glasscock, Callahan, Teel, Brickley, Fickett, Harris, Geisler, Campbell, McClanan, Creekmore, Parker W.T., McMurtrie, Pendleton, Marshall, Baliles, Allen, Melnick, Rothrock, Thomson, Council, Guest, James, Sisisky, Sheppard, McMurran, Vickery, Morrison, Grayson, and Thomas

Referred to the Committee on Appropriations

WHEREAS, the government of the Commonwealth of Virginia has become exceedingly complex and its cost has outstripped available resources; and

WHEREAS, agencies and programs need to be periodically monitored and evaluated by the General Assembly using the most modern procedures and techniques available; and

WHEREAS, public problems already addressed may change, necessitating periodic reevaluation of legislative programs; and

WHEREAS, the Commonwealth has already taken several steps toward achieving a higher degree of accountability, efficiency and economy in the government including:

- (i) a reorganized executive branch,
- (ii) a program budget structure and presentation for the General Assembly, (iii) a strengthened management program, and
- (iv) a competent legislative oversight capability; and,

WHEREAS, the concepts of (1) legislation which requires the General Assembly to reaffirm continuation of programs or agencies after a specified time period, commonly known as "Sunset"; (2) comprehensive legislative program evaluation; and, (3) Zero-Base or other comprehensive forms of budget analysis deserve study and consideration as possible ways to create and coordinate the best aspects of legislative and executive responsibility to achieve more responsive, economic, and effective public programs; and

WHEREAS, making the best use of these new techniques in State government requires careful study of procedure and attendant problems in advance of enactment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be instructed to undertake a study of the "Sunset" concept and prepare a report to the Governor and the General Assembly at the nineteen hundred seventy-eight Session of the General Assembly. If deemed appropriate, the report should present draft legislation and a plan for legislative implementation which specifies alternative procedures, costs, and potential benefits to the Commonwealth.

The commission shall ensure full participation by all interested members of the General Assembly, executive officials, and the public through hearing and conferences. The Joint Legislative Audit and Review Commission shall be assisted by a twelve-member advisory task-force appointed in the following manner: (i) two members appointed by the Governor of which one appointee shall not hold elective office; (ii) six members appointed by the Speaker of the House of Delegates of which one appointee shall not hold elective office; (iii) four members appointed by the Senate Committee on Privileges and Elections of which one member shall not hold elective office. The report of the commission shall be approved by a majority of the combined membership of the Joint Legislative Audit and Review Commission and the twelve-member task-force appointed herein.

The study shall include but not be limited to: (1) the scope of coverage of "Sunset" legislation, required exemptions, and the timeliness and categories of program review; (2) criteria that should be used to evaluate agencies or programs; (3) the role of and relationship between standing committees, other legislative commissions and service agencies, and the executive; (4) the mechanics of implementation and operation; and (5) the costs involved.

The expenses incurred in the course of this study, including any per diem and travel allowances of task-force members, shall be paid from the appropriation to the Joint Legislative Audit and Review Commission.

