JOINT LEGISLATIVE
AUDIT & REVIEW
COMMISSION

THE
VIRGINIA
GENERAL
ASSEMBLY

SUNSET

ZERO-BASE BUDGETING

EVALUATION

Proceedings of a Conference on Legislative Oversight

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Sunset
Zero-Base Budgeting
Legislative Program Evaluation

Transcripts of Conference Proceedings
May 5-6, 1977

Joint Legislative Audit and Review Commission

Preface

On May 5 and 6, 1977, the Joint Legislative Audit and Review Commission sponsored a two-day conference on the concepts of Sunset, Zero-Base Budgeting, and Legislative Program Evaluation. The conference was held in Roanoke. It was attended by many members of the Virginia General Assembly, key executive branch officials, educators, students, and representatives from the various news media.

The conference was intended to be a first step in implementing House Joint Resolution 178 which directed JLARC to study Sunset legislation and related methods of legislative oversight.

This publication contains each major address delivered at the conference. The keynote speech was presented on Friday evening, May 5th, at a working dinner. All other speeches, except that of Congressman Blanchard, were given on May 6th.

Congressman James J. Blanchard had been scheduled to share in the conference keynote session but was unable to attend because of an important congressional vote. He graciously agreed to make his comments at another time, and he did so on July 24, 1977, at a JLARC Sunset Forum. This speech offers an important perspective on Sunset, and it is included as a part of these proceedings as originally intended.

The proceedings were transcribed using a combination of taped comments and prepared remarks. Some editing has been done by the participants and some by the JLARC staff for format and readability.

This is the first of several publications planned for general distribution as a result of the JLARC Sunset study. It will be followed by selected proceedings from the Sunset Forums referred to in my closing comments and by a final, project report.

R. Kirk Jonas, Associate Analyst, had a major staff assignment for the Sunset conference and was responsible for meeting logistics and preparation of these proceedings. He and Philip A. Leone, Chief Analyst, have shared with me in project planning, publication review, and general conduct of the HJR 178 study.

Ray D. Pethtel

Ray D. Pethtel
Director

September 21, 1977

Agenda

Thursday, May 5th

4:00 – 6:30 p.m.	Registration, Oval Lobby
6:30 – 8:30 p.m.	Working Dinner, Shenandoah Room Keynote Addresses: Congressman James J. Blanchard (D. Mich.), Dr. Allen Schick, Urban Institute, Washington, D.C.

Friday, May 6th

8:00 – 9:00 a.m.	Breakfast, Cavalier/Pocahontas Room
9:00 – 10:20 a.m.	**Sunset — A Legislative Tool** (Shenandoah Room) Speaker: Bruce Adams, Associate Director for Issue Development, Common Cause Speaker: Dr. Benjamin Shimberg, Associate Director, Center for Occupational and Professional Development, Educational Testing Service
10:20 – 10:30 a.m.	Coffee Break
10:30 – 11:30 a.m.	**An Introduction to Zero-Base Budgeting** Speaker: Graeme M. Taylor, Senior Vice President, Management Analysis Center
11:30 – 12:30 p.m.	**Approaches to Legislative Evaluation** Panel: Bruce Spitz, Director, Program Evaluation, Minnesota; Linda Alcorn Adams, Director, Program Review and Investigations Committee, Connecticut
12:30 – 1:30 p.m.	Lunch
1:30 – 2:30 p.m.	Task Force Planning Session **Paper: "Directions for Legislative Oversight in Virginia"** (Staff)
2:30 p.m.	Adjournment

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Introduction and Welcome

Edward E. Lane

I am very pleased to welcome you here tonight.

This conference deals with Sunset legislation and two closely related and supporting concepts--Zero-Base budgeting and evaluation. This is the first step in a summer long study which was mandated by House Joint Resolution 178, adopted at the last session of the General Assembly. The next step will occur within the next few weeks, when members of the Joint Legislative Audit and Review Commission and a twelve-member advisory task force, to be appointed by the Governor, the Speaker of the House of Delegates, and the Senate Committee on Privileges and Elections will be convened to begin the actual study.

This conference is sponsored by JLARC to introduce in a preliminary fashion the concepts of Sunset, Zero-Base budgeting, and evaluation to interested members of the General Assembly, key executive branch officials, and other concerned individuals. It is my hope, in opening a public dialogue on these important concepts, that we can establish the pattern of openness and accessibility within which these ideas can be creatively and productively debated.

Not only is this an open conference, it is a representative one as well. On the one hand, we have been fortunate to gather some of the nation's leading experts on these subjects as speakers and panelists. And, on the other, among the conferees are prominent members of the General Assembly, leading educators, political writers, and key figures in Virginia's executive branch. It is large enough to represent many interests, but small enough to encourage informality and a free exchange of views.

We all look forward with great interest to this conference and to the Sunset study. Interest that is spurred as much by the opportunity posed for enhanced accountability in Virginia's government, as by the challenge of taking an introspective look at some of our legislative procedures.

The General Assembly of Virginia, I believe, does a good job of legislating. That is, we ardently represent our constituents, we express the variety of philosophies which are the heritage of a citizen legislature, and we carefully deliberate and debate in making law.

Edward E. Lane (D., Richmond) is Chairman of the Joint Legislative Audit and Review Commission.

But, good law does not automatically result in good programs, and that is one of the reasons we are here tonight.

We have already equipped ourselves with some of the tools that we require to find out whether programs are carried out as intended. Whether they are efficient. Whether they are effective. For example:

- We meet in Annual Session;

- We have studied the legislative process and made many procedural changes;

- We have added competent staff assistance such as is now a available from JLARC, the Appropriations Committee, the Division of Legislative Services, and the Auditor of Public Accounts; and

- We have made structural changes in the executive branch through the work of the Commission on State Governmental Management.

But we can't stop now. It may be that the topics we deal with here can also help us to strengthen the legislative process in the future, so that you and I can continue to improve the quality of service which the people of the Commonwealth expect, deserve, and, indeed, demand.

Before turning to tonight's agenda, I would like to observe that there have not been many times in my 24 years in the General Assembly that a legislative tool has generated as much interest as Sunset--either in this state or in other states across the nation. Since the introduction of this idea just two short years ago, every state and the federal government have considered its passage. Ten or more states have already adopted a Sunset law.

I believe we have, in HJR 178, taken a reasoned approach to development of the Sunset issue. There will be full participation, open study, careful analysis, objective staff work, and deliberate consideration by a broadly based task force.

This conference is intended to start that process off on common ground. I believe it will.

Sunset: Order Out of Chaos?

Congressman James J. Blanchard

As you know, I am here tonight to discuss Sunset and similar program review legislation which has been introduced at the national level by Senator Muskie in the U. S. Senate and myself in the House of Representatives.

This bill has a lot of personal significance for me. In the two and a half years since I was elected to Congress, I have learned a great deal about the federal government. I have been surprised, not so much by its size--I expected that--but by the apparently chaotic way in which it is often organized.

There are many ways to get some idea of the remarkable complexity which has developed over the years in our government.

The catalog of federal domestic assistance, for example, reveals that we have 228 health programs, 156 income security and social service programs, 83 housing programs--and in all, nearly 1,000 federal spending programs touching on nearly every aspect of our lives.

The United States Government Manual uses 831 pages to describe the functions of government agencies and to list major personnel. But that is not surprising, since in addition to 11 departments and 44 independent agencies, there are over 1,200 advisory boards, committees, commissions, and councils involved in government.

As I am sure you know, by the way, state government is not immune to this process of expansion and proliferation. I had the Michigan state telephone directory checked a few months ago, and an unofficial count revealed 17 departments, 65 bureaus, 334 divisions, 144 sections, 152 offices, 41 programs, 37 boards, 20 commissions, and 233 other miscellaneous units for a total of 1,043 separate headings.

Congressman James J. Blanchard (D., Michigan) was first elected to the U. S. House of Representatives in 1974 to represent Michigan's 18th Congressional district.

Congressman Blanchard is the principal sponsor of H.R. 8783, the Sunset Program Evaluation Act of 1977, which is the primary Sunset proposal in the U. S. House of Representatives.

H.R. 8783 requires reauthorization and review of budget authorities for all federal programs at least every six years.

The fundamental question which faces Congress and to some degree the states today is how to get a handle on all that bureaucracy.

Congress has already taken the single most important step--getting its own budgetary house in order. For years and years, as you may know, there was no Congressional budget process worthy of the name.

Congressional committees, almost completely independent from any supervising authority, established spending levels in their areas of jurisdiction. Under such a system, budget control was nearly impossible, and a Congressional program for setting federal priorities was completely out of the question.

In 1973, the Budget and Impoundment Control Act became law, and we are now wrestling with its implementation.

The new and healthy effects of the budget process are easy to see. For the first time, members of Congress are being forced to accept the idea of spending limits--within which choices must be made. States have been doing this for years.

The proposed Sunset Act is the logical extension of the budget process. It would correct the second major defect which now exists in Congress's approach to the federal budget--the lack of adequate review of the component categories and programs of the overall budget.

In Congress, there is currently no process for systematically and periodically reviewing these programs whatsoever. As a result, they are generally renewed without any real debate, particularly when their budget requests are limited to increases matching the inflation rate for the coming year.

This means that Congress, in effect, operates on an "incremental" budgeting system, with substantial increases in a program or agency budget being evaluated, but with the hard questions often neglected:

- Is the program still relevant? (Some have been in existence for decades.)
- Should it still be a priority of the federal government?
- Could it work just as well with less money?
- Is it being duplicated somewhere else in the federal government?

Program review, Zero-Base review, and Sunset programs, whatever their names, are all aimed at forcing these tough questions to be asked--and answered.

Zero-Base review or Zero-Base budgeting is a budgeting process which allows us to evaluate each of the numerous spending programs from zero dollars up, asking those tough questions. A Sunset law refers to the process of automatically terminating programs on a regular basis unless a conscious decision is made to keep the program.

Another reason for the growing interest in these proposals is that increasingly today, citizens are demanding their money's worth from government.

We cannot expect to keep on enacting new programs and chartering new agencies without eliminating old ones, and I believe that all of us in government are becoming more and more convinced that this is so.

In some cases, no matter how good the ideas and intentions were initially, programs are not going to work, no matter how much money we spend on them. And rather than perpetrate a fraud on the people by giving them a false sense of security or hope, it might well be better to quit fooling around and put our money and time into areas that will work.

"We cannot expect to keep on enacting new programs and chartering new agencies without eliminating old ones, and I believe that all of us in government are becoming more and more convinced that this is so."

An additional reason we need legislation of this type at the federal level is that it provides a way for Congress to reestablish its power and influence over the executive agencies. It may well be that that's where we went off the track years ago--the agencies grew so swiftly and became so large and complex that it became impossible for the people, acting through their elected representatives, to keep a firm grasp on their structure, their spending, and their objectives.

In the last few years, Congress, of course, has begun to fight back by increasing its own staff. That is part of the answer, but obviously it must be limited before Congressional staffs, too, become unwieldy and bureaucratic.

The best approach, in my view, is to keep legislative staff at a reasonable level, and to strive instead to change the focus of staff time and effort--from searching out new problems and dreaming up new and ever more expensive programs to deal with them, to finding out which programs are effective and why. For at least the near future, that is where the focus needs to be.

Now I would like to turn, for the balance of my statement, to some of the mechanics of Sunset and how to approach it.

Our bill calls for a full review of each and every federal spending program every five years, with programs in similar functional areas being reviewed during the same year. The Senate bill recently reported out of committee alters that to six years, to lighten the work load.

Next, the standards for conducting the review are more clearly defined, and committees are given more flexibility in how they are to be applied to each program. In the committee bill, these include the following questions:

- What were the original objectives of the program?
- To what extent have they been fulfilled?
- What have been the program's accomplishments and budgeted costs during the preceding five years?
- What types of persons, and how many, are served by it?
- What have the personnel costs been for the last three years, both direct and contracted?
- What is the program's effect on the economy? On productivity and employment?
- To what extent do the stated rules, regulations, etc., of the program conform to the intent of Congress in establishing it?
- What are the costs and benefits of the program at various levels of funding?

I believe the addition of this last question is significant, since one of the major elements of Sunset legislation should be the development of cost/benefits analysis in a well-defined form for legislators, so that intelligent decisions can be made.

Programs not reviewed in this fashion are automatically terminated; and, hopefully, many programs that are reviewed in this fashion will be eliminated or modified.

There are other provisions, of course, but these are the major ones.

Despite reservations which have been expressed about its workability, I am convinced that this review concept will become law at the federal level in the future.

It will become law, I believe, because it seeks to respond to one of the most basic weaknesses of our political system today--the national decline in respect for politicians, the bureaucracy, the Congress, and other governmental institutions.

There are many reasons for this decline, but one in particular, I think, is the failure of our government to act on certain major issues where there is a general public consensus for action.

One such issue is the largely uncontrolled growth of government. It is an issue which has been around for a long time, but which seems more pressing today than ever before.

The multiplication of government agencies, boards, commissions, and programs is well known to us all--and to the American people, who are regulated, supervised, queried, and otherwise assaulted by them.

In my own Congressional district--an ethnically and economically heterogeneous district in the Detroit suburbs--I asked the following questions in a questionnaire last year:

"I have introduced a bill to require review and justification of all federal spending at least once every two years (at present, only budget increases are normally reviewed). Do you favor or oppose such a bill?"

The results are remarkable by any polling standards.

Ninety-five percent of those responding favored the bill, and only three percent were opposed, with the remainder giving no answer.

I believe that when there is such clear evidence of public support for legislation, we in public office must respond or risk a breach of faith with those who elected us.

In July of 1975, I first introduced by bill, called "Truth in Budgeting". In less than a month, I had recruited 60 cosponsors, even though I was a "freshman" in a world of seniority. In February of 1976 when Senator Muskie introduced his bill and we got together, the number of House cosponsors doubled. All in all, I have recruited 150 House cosponsors; and Senator Muskie has corralled over 60 Senate cosponsors. Representatives of both parties and all philosophies are for this concept.

That is the background of Sunset at the federal level. There are countless variations and modifications of the concept that you may wish to consider. We can discuss them today if you like. I think you will agree with me that it represents a healthy trend--a trend toward looking realistically at the effectiveness of government in solving problems, toward willingness to do away with those programs that have been found to be bad investments, toward allocating our limited tax and governmental resources in the most responsible fashion, and--I hope--toward helping restore some of the integrity of our democratic system of government.

Keynote Address: Putting It All Together

Allen Schick

I have been asked to talk about integration--integration of Sunset, Zero-Base budgeting, and evaluation. I think integration is important because we recognize that: (1) we can have Sunset, (2) we can have Zero-Base budgeting, and (3) we can have evaluation. But unless they are related to each other in a meaningful way, perhaps none will be effective. Surely, they will not be as effective separately as they can be if they are related together.

The theme that I would like to pursue this evening is a very simple one. First we have evaluation. Then, we have Zero-Base budgeting because of limitations in evaluation. And, we are thinking about Sunset because of limitations in Zero-Base budgeting.

Now notice the term that I am using is not inadequacies. I am talking about limitations. Evaluation can take you only so far. Zero-Base budgeting takes you a bit further. And Sunset might be the last mile. So let me proceed in the following sequence. First evaluation, then Zero-Base budgeting, and finally--Sunset.

Evaluation--Everybody's Favorite

Evaluation is everybody's favorite. About a decade ago, the federal government had a huge harvest of Great Society legislation, and tens of billions of dollars of programs were established. Money was being pumped in on one end but results were not flowing out the other end. People said, "what we need to do is to evaluate the investments we are making, the programs we have established, to find out what works and what does not and why." With evaluation, it would be possible to make necessary adjustments so that future programs would learn from past experience.

Allen Schick has a unique combination of interests and knowledge about legislative oversight. He helped develop both the Sunset and Zero-Base budgeting concepts being considered by the U. S. Congress. He has written extensively about evaluation and analysis of public programs. He is currently on leave from the Congressional Research Service, and is now a principal research associate with the Urban Institute. He is a graduate of Yale (M.A. and Ph.D. in Political Science) and Brooklyn College (B.A. in Political Science).

Accordingly, the federal government invested a great deal of talent and money in evaluation. Whereas a decade ago, we could have said concerning a lot of the problems of the nation that we simply do not know the answers--it is increasingly difficult to make that statement.

Evaluation has made us much more informed about what works and what does not work. For example, just this past week, President Jimmy Carter unveiled part of his new national welfare plan. Those who followed his announcement in the press discovered that he said, in effect, "we need four years in order to evolve this plan, and my plan is just a gloss--in another half year from now I will provide you with the details." Had Jimmy Carter sought welfare reform a decade ago, had he pursued the path of Lyndon Johnson, his attitude would have been to legislate first, and make it work later.

Jimmy Carter has, in several ways, been paralyzed by evaluation. We know so much today about the poor, about their demographics, about their income, about their family structure, where they live, their age and racial groupings, their handicaps--social, mental, physical--that we now have to go slow because we know so much.

In evaluation, the lead has been taken by the federal government, but similar trends scaled down to the size of individual states have occurred nationwide. Virtually every state and many large counties and cities have invested very substantially in evaluation. Not only in the executive branch but in the legislative branch as well. Virginia's Joint Legislative Audit and Review Commission is part of a nationwide trend in which, over the last ten to fifteen years, virtually every state legislature has established similar bodies to review laws already on the books, look at programs already funded, and to derive some meaning and intelligence for the legislature.

A Question of Staffing

A decade ago, it was fashionable to say that the greatest problem was in doing enough evaluation. We did not have enough analysts, we did not have enough staff for evaluation. We needed more of each. And I guess whether it is JLARC or elsewhere, you are constantly hearing the refrain, "If only we had more staff we could do more evaluations." As a guest of JLARC, it is not for me to question that. (Laughter)

I am reminded, however, of a little colloquy on the floor of the United States Senate. In 1974, just at the moment that the Senate passed what came to be the Congressional Budget Act, which established a new Congressional organization in the Congressional Budget Office (that is regarded as one of the major pieces of legislation in modern times), Senator Muskie turned to me and said:

"Allen, now everything is going to be okay because Congress is going to have its own budget staff."

What do you say to a United States Senator? Not having been elected to anything, I said "Senator, you know what the Bible says about that." 'And Jacob died leaning on his staff'." (Laughter)

Now Senator Muskie liked that and he told it to Sam Ervin who was the resident Bible critic in the Senate. And he told it to others.

Let me tell you something, it's not in the Old Testament, and it's not in the New. (Laughter)

But there is a problem with staff. Those who seek reform through more legislative evaluators have misconstrued the role of the legislature when they think of it primarily as an evaluating body. No matter how much staff a legislature has, it cannot oversee everything. A legislature functions best when it has windows to the outside world taking in everything that happens. When a legislature makes program decisions, evaluation has no preferred position over a letter from a constituent or an editorial in a back home newspaper. Evaluation can be no more than one of numerous samples of legislative intelligence.

A legislature, through its own staff, can do only a small fraction of the evaluation which is necessary to create an informed legislature. You can up your supply-5%, 10%, 20%-- but you will still be doing only a fraction. Most evaluation still will be done by executive agencies or by other organizations.

Using Evaluations--The Hard Part

The greatest problem is not doing evaluations, but as those who serve in legislative bodies know, the greatest problem is using them.

Evaluations can be done, and are done by the tens of thousands in the United States each year. Consider one program TITLE I, ESEA. Virtually every school district that gets compensatory education grants, has its own evaluation effort. The greatest problem, to repeat, is using evaluation--the demand side of the equation, not the supply side. But there is a simple problem with demand. There is nothing to compel a legislator-- buffeted with conflicting pressures, his time eaten up by so many things, unable to read and absorb everything which is written on the subjects of his or her legislative jurisdiction--to give attention to evaluation.

Sometimes when evaluators find their work gathering dust on a shelf, they walk away from a legislature, and they say "It's all politics". They do not understand that to have an audience with a legislature, with its committees, with its members, or even with the Governor or an executive branch agency, evaluators have to have an agenda which relates to the business of public officials. You can evaluate education, but unless a legislature is called upon to make evaluation decisions for which the evaluation is relevant, the study will be ruled out as not germane to its business.

ZBB--Marketing Evaluation

This is why Zero-Base budgeting turns out to be so important. Zero-Base budgeting creates a market place for evaluation. It creates an environment and purpose for which evaluation can be used. In the course of preparing and reviewing the budget, legislators have an opportunity, not merely to look at the lines, the organization charts, or at the increases over the current year, but to raise the following question: Are there any evaluations germane to making decisions with regard to this budget?

Tomorrow, Graeme Taylor, will discuss a number of the features of Zero-Base budgeting. It is a process which seems to conveniently respond to the fiscal predicament of many states and local governments. It has been primarily a state movement; about a dozen states have moved into various aspects of Zero-Base budgeting. Surely in terms of the imitative aspect of Zero-Base budgeting, many governments are joining the bandwagon, potentially Virginia also.

State fiscal predicaments have a good deal to do with the contemporary appeal of ZBB. The fiscal crisis develops when revenues from existing sources go up perhaps 5% a year, and expenditures for existing programs go up perhaps 10-15% a year. Each year's task of balancing the budget by closing the gap becomes more and more difficult. The percentages vary from state to state, from city to city, from region to region. But virtually every government is confronted with a growing imbalance between revenues and mandatory costs. As a response, many try to close the gap by digging beneath the base. But that alone does not suffice to explain the (motivating) force of Zero-Base budgeting.

Consider the following anomaly, that two of the leading pioneers for Zero-Base budgeting are "sunbelt states": Georgia and Texas. The Washington Post recently had a big article on the embarassing predicament facing the Texas Legislature. I'd better whisper it before the secret is out. "They have a $3 billion surplus." Don't worry, the very same article said that they had a $500 million deficit. (Laughter)

I had to read between the lines to reconcile the two figures, but it's quite simple.

Before the legislature began to work on the budget, they had a $3 billion surplus. Need I complete my statement... (Laughter)

There is another side to Zero-Base budgeting, one which is virtually unwritten. If one looks at the literature on Zero-Base budgeting, it deals almost entirely with technique--decision units, decision packages, and ranking of priorities. Zero-Base Budgeting seems to exhaust itself in mechanics. That is all there seems to be to it.

Yes, there is a bit more to this method and it is revealed in Jimmy Carter's favorite Zero-Base budgeting story. It is a story he has told many times, and he uses the same illustration again and again. A foreman supervised a small ground crew whose job was to cut the grass alongside the State highway. This ground crew, three or four people, did every year what it did in the previous year, it cut the grass to 30 feet widths on each side of state highways. Then came Zero-Base budgeting, and the foreman asked:

"Why are we cutting to 30 feet widths? Let's let the flowers grow wild and cut it to only 15 feet and save some money."

If you simply listen to the story you might ask, "Mr. President, are you really putting us on? We didn't need Zero-Base budgeting for that. After all, in a budget of billions of dollars are we really only talking about pennies? Small change?"

Looking at the Budget Base

Let us go back to the grounds crew and read something more into Zero-Base budgeting. Zero-Base budgeting, leaving its mechanics aside, tries to do four things which deviate from conventional budget practice. I will leave the most important one for last. The first thing is to require government agencies to examine their budgets below the base; the base being their current level of expenditure. Notice not down to point zero. Zero-Base budgeting does not get down to point zero. Budgeting is a process for preparing and requesting money. The act of requesting money is always an act of asking for something above zero. If an agency wants nothing, it does not budget. At any rate, Zero-Base budgeting requires each agency to specify--on paper--as part of its regular policy submission--possibilities for spending less money than the current year.

People who prepare budgets often claim "We considered the possibility (of spending less)." But putting it in writing makes a big difference. Zero-Base budgeting is not just an analytic exercise; an agency must identify the program changes it would make if its budget were cut.

Identifying Alternatives

Change number two. Zero-Base budgeting compels agencies to produce budgetary alternatives. In budgeting, no matter what alternatives were considered when the numbers are prepared, the alternatives are usually put under the rug or in the file cabinet. In your own legislative body, if you go to an executive agency and ask it to lay it all out, specify the alternatives, it frequently stonewalls. The Governor goes to legislature, not with alternatives, but with a recommendation.

Zero-Base budgeting compels agencies not only to think about alternatives but to put them in writing. What would happen if it spent less than last year's level? And what would happen if you spent only this year's level? And without getting its hopes too high, what would happen if it spent a bit more than this year's level?

Specific Priorities

Then there's a third difference introduced by Zero-Base budgeting. That is to name agency priorities--put them in writing. With regard to all program alternatives, which are most important to an agency.

You know when the Governor appears before the legislature with his budget, he is like my mother back home in Brooklyn, New York. Back home in Brooklyn, New York, when me and my brothers were arguing too volubly around the kitchen table, and the decibel count would get too high, my mother would stare us down and say, "You're right and you're right and you're right and you all shut up." She loved us equally, she had no priorities. Zero-Base budgeting, nevertheless, requires that every public agency has priorities. It demands that they be explicit about their true priorities.

Increased Participation

Finally, the story about the ground crew in Georgia suggests a fourth thing that Zero-Base budgeting tries to do. It insists that people who run programs prepare and be responsible for their agency budgets. Down, down, down to the lowest level of organization, managers should be fully involved in budgeting.

Now that might sound to a legislator as nothing different. After all, the parade forms every year or two at budget hearings in which department and agency chiefs come before the legislature with budgets, having given them micromoments of attention. In most agencies, the plain fact is that budgets are prepared by budget staff, not by program officials. Zero-Base budgeting prefers that persons responsible for spending public money should prepare their own budget. Only such persons can articulate their priorities and identify alternatives. In ZBB, everybody means down to the person who is responsible for a four member crew cutting the grass. That person is a manager. Why? Because that person spends public funds. This is the single most important deviation of Zero-Base Budgeting from conventional practice.

Over the last half century, first beginning with the larger governments and then going to the smaller ones, governments have developed specialized budget staffs which do the routine but vital work of budgeting. Zero-Base budgeting prefers that program managers should prepare their budgets because only under such circumstances can agencies have effective inventories to be more efficient and to identify possibilities of change. Zero-Base budgeting is predicated on the assumption that the reason why people in bureaucracies are inefficient is because they never have been given an adequate opportunity to express what they would do if their budgets counted.

<u>ZBB Expectations and Limitations</u>

There are many reasons why Zero-Base budgeting will not work. Before it has been tried, it has been buried. Actually, two things are happening simultaneously. The music men are blowing their 76 trombones in one parade, and the pallbearers are playing their dirges in another parade. Various states are passing at different stages of the two parades.

In my judgment, Zero-Base budgeting, if it is applied, will make a difference primarily in terms of the efficiency with which programs are run. That can be very important with ZBB. Marginal changes--do not expect huge, zig-zagging, abrupt deviations in the budget. After all, all budgeting--no matter whether it is conventional line item budgeting in Virginia, or your new program budgeting in Virginia--is decided at the margins. Most of what is spent in one year is determined by what was spent in the preceding year. Zero-Base budgeting tries to accelerate the process of identifying better ways of delivering government programs. It thus encourages agencies to shift resources from lower to higher yield activities.

But Zero-Base budgeting, too, has limitations--just like evaluation. Remember evaluation's limitation was that while it can be done, there's often a problem of using it? Strangely enough, Zero-Base budgeting is afflicted with exactly the same disease. Let me explain the limitation of Zero-Base budgeting by referring back to its origins. The first organization known to apply Zero-Base budgeting, in its current form, was not a government organization; it was Texas Instruments, back in the late 1960's. Just about a week ago, there was an article in the Wall Street Journal with the following headline: "Zero-Base Budgeting is a Fraud", written by a very distinguished person, a professor at the Harvard Business School. One of the charges he levied against Zero-Base budgeting was that at Texas Instruments, it was applied to less than 25% of the firm's operation. If it was such a good thing, he asked, what about the other 75%? Let us look at this a little more closely because it instructs us about the limitation of the new approach.

The limitation of Zero-Base budgeting applies to all budget systems. We tend to have a very exaggerated view of the potency of budget processes. Back to Texas Instruments, suppose Texas Instruments, in preparing its budget for 1977, projects that it will produce two million calculators and that these two million calculators will have a production budget of $20 million. That is its estimate. Now suppose in the course of the year demand for Texas Instruments calculators falls off, and rather than being able to market two million the company sells only one million of these machines. Imagine the next year's budget review session at Texas Instruments. The production manager comes in all excited and says to the Board of Directors, "Gentlemen, I'm proud that last year I saved you $10 million. We planned to spend $20 million on production, but we only spent $10 million."

"The greatest problem is not doing evaluations, but as those who serve in legislative bodies know, the greatest problem is using them."

Just imagine. It spent $10 million because it only produced one million calculators. At Texas Instruments for production, marketing, and sales decisions--most of what the firm is all about--the budget does not really make the policies. The budget is the costing out of decisions already made by other means.

Texas Instruments, like almost every other successful firm, has a variable budget. That is, the budget automatically adjusts itself to levels of production. No matter what amount is put in the production budget, that does not make the decision. The divisions which come in with new semiconductors and new markets and new designs and new applications, those are the units which make the decisions which then are translated into budgets.

Texas Instruments applies Zero-Base budgeting only to a small fraction of its total activities which are decided via the budget, primarily research and development and overhead functions. Those expenses are not tied to production. There is no way of relating dollars invested in research or personnel in Texas Instruments to levels of production or to profits. So they need a budget process for assuring that the small fraction, less than 25%, is spent efficiently. For this limited purpose, it developed Zero-Base budgeting.

Now, it might seem that virtually everything that government does is similar to the 25% nonproduction activities of Texas Instruments. Government, like the R&D work in a firm, does not have a bottom line profit motive. Governments are involved primarily in overhead and service functions which eat up billions of dollars. So it seems at first glance that what was applicable to 25% of the budget in Texas Instruments is applicable to 100% in government. But that is not the case. And this is the limitation of Zero-Base budgeting.

If we examine the budget for the State of Virginia, we might think that when the legislature sits and makes appropriations, it has a free hand in deciding what the appropriations should be. Ladies and gentlemen you know it isn't so. Every time you sit in session to mark up a budget, the words you hear are "uncontrollable", "it's mandated", "there was a court order", "there's a law on the books" that says you have to provide for a particular problem.

There's a law on the books that says that if you want to run a day care program, so many staff are used. There's a law on the books which distributes billions of dollars across the nation to school districts. All by law. Sometimes the budget choices are made by judicial decision, sometimes by regulations.

No matter what a state puts in its budget or appropriations, the law drives the numbers, just like the production line at Texas Instruments.

You can do all the Zero-Base budget studies you want; you can couple Zero-Base budgeting to the best evaluations, the most informed and the most relevant that money can buy, and if the law is on the books, the budget process doesn't take you all the way. In Georgia and Texas and other ZBB states, the instructions read, "Treat Uncontrollables Different". That seems innocuous, except that just as production is 75% or more of Texas Instruments budget, uncontrollables are 75% or more of virtually every state's budget. What are the choices which a state actually has full control over? To add some staff people here or to subtract them there? Unless a legislature penetrates to the guts of law, it can budget and appropriate whatever it wants and the numbers do not mean anything. If it so happens that a state is running a welfare program and the legislature underappropriated next year, it will have to make up the deficiency. Legislators might grumble, but they really have got no choice.

Suppose an agency comes with an evaluation of a program, including a Zero-Base budget set of alternatives and priorities for the program. It has not opened up significantly more possible choices. The budget becomes the costing out of decisions made elsewhere rather than the opportunity to really make the decisions themselves; all of which takes us to Sunset.

Finally, Sunset

It's not at all surprising that in the United States Senate, the leading sponsor of Sunset is the Chairman of the Senate Budget Committee, Ed Muskie. Some of you may have read a lot of good things about the new budget process in Congress. For the first time in American history, Congress has a way of controlling and being responsible for its fiscal decisions. When Ed Muskie lets his hair down, he can tell a different story about the Senate Budget Committee. It often just has to add up all the IOU's, all the uncontrollables, all the mandated costs. So Senator Muskie reasoned, what drives the budget? And the answer seemed to be mostly legislation already on the books, particularly entitlement programs. In other words, if Congress wants to change the numbers in the budget, it usually has to change the legislation. And that brought him full circle to Sunset.

Recognizing that laws already on the books which establish programs, and confer benefits on people and groups and communities, are very hard to change, Senator Muskie sought a process, not merely to force people to evaluate, not merely to force people to budget, but to force programs to expire.

That is all the term "Sunset" means--to expire according to a fixed schedule. A legislature can pick up the option and renew them. In fact, that is what will happen with most programs under Sunset. Or it can make mid-course corrections in them.

But at least a legislature will have a free hand to decide what to do. It will be able to use program evaluations, and Zero-Base budget data through a Sunset process.

So it turns out that rather than Zero-Base budgeting, and Sunset, and evaluation being alternatives to one another, they have the potential, each for enriching the other. Zero-Base budgeting can create a market for evaluation and Sunset can create an opportunity for a legislative body to apply the knowledge acquired through Zero-Base budgeting.

I thank you for your attention.

Sunset: A Workable Approach

Bruce Adams

We all know why you as state government officials are here today. Citizens are upset with government, and you want to do something about it. The pollsters tell you--and you know it--that the base of public support for government is perilously thin. The reasons are obvious: Certain essential services are not provided; still others are provided in an inefficient and wasteful manner. Taxes are up. Regulation is too burdensome. Accountability is often undermined by secrecy and special interest domination.

Sunset--as with other reforms proposed by Common Cause--sunshine, ethics, disclosure, and Sunset--all stem from a common theme. They all aim at increasing the accountability of our institutions of government. Common Cause stands ready to work with you and other problem-solving officials toward the goal of a government that works.

The Sunset legislation that we are here to discuss this weekend is an excellent example of the creative role that citizens can play in a representative democracy. Sunset is the brainchild of a Colorado Common Cause activist--a Denver lawyer named Craig Barnes--who had grown frustrated with more traditional methods of reforming Colorado's regulatory structure. It is a tribute to the power of ideas in our political process that less than one and one half years after Barnes first broached the idea, eleven states have enacted Sunset laws--Alabama, Arkansas, Colorado, Georgia, Flordia, Indiana, Louisiana, New Mexico, Oklahoma, South Dakota, and Utah.

I have included with my statement the results of a recent Common Cause state-by-state survey of Sunset activity. Incredible as it might seem, we found that every state has at least considered Sunset during the last year. Common Cause

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expects enactment of Sunset legislation in many more states in the next year. In Montana, a Sunset bill awaits the signature of the governor. In another dozen legislatures, Sunset legislation has already passed in one house this year. Study resolutions have been adopted in not only Virginia but also in Michigan. Congress is into its second year of very serious deliberation on Sunset legislation and might be expected to pass a federal Sunset law within the next year.

What is Sunset and Why is it Needed?

I take it that I have made my point--Sunset is a hot item. But what is it?

Common Cause would define Sunset as an action-forcing mechanism designed to increase executive branch accountability through improved executive and legislative evaluation of programs and agencies. While Sunset has many possible applications, a typical Sunset law would establish a timetable for review of a group of programs, laws, or agencies. These would terminate over a period of time on certain established dates unless affirmatively recreated by law. This threat of termination is the mechanism designed to force evaluation.

Why, you ask, do we need Sunset? Can not the legislatures terminate programs and agencies without Sunset?

The legislatures do have the power to terminate existing programs and agencies. But they seldom exercise that power. There is a grain of truth in the saying that "Old agencies never die. They don't even fade away." Programs and agencies tend to proliferate. Evaluation reports sit on the shelf. The reasons are not mysterious--program evaluation and legislative oversight are difficult, time-consuming tasks. It is easy to put them aside. Most legislators look ahead rather than behind. They are extremely busy and can always justify doing something other than oversight. Proposing legislation is more glamorous than reviewing existing laws.

In recent years, this state and many others have made improvements in their evaluation work. But most legislatures still spend far too little time on oversight and make little use of the program evaluation information that they do receive. The lack of legislative response to the 1971 report of the New Jersey Professional and Occupational Licensing Study Commission serves as an excellent example of the need for the action-forcing mechanism of Sunset. After a thorough study, the commission proposed abolition of ten regulatory boards and substantial substantive changes in others. There has not been any legislative action on these recommendations in six years.

What is the Common Cause Approach to Sunset?

Common Cause views Sunset as a way to make government work. But the name and the termination mechanism alone are not enough. Sunset should not be a tool for those out to destroy government. Nor should it be mere rhetoric designed to placate the public. Common Cause believes that Sunset legislation must contain the institutional arrangements necessary to guarantee meaningful and thoughtful program evaluation. Evaluation is the key to the increased accountability that we seek.

In testimony before a U. S. Senate subcommittee last year, Common Cause Chairman John Gardner suggested ten basic principles essential to any workable Sunset law:

First: The programs or agencies covered under the law should automatically terminate on a date certain, unless affirmatively recreated by law.

Second: Termination should be periodic (e.g., every eight or ten years) in order to institutionalize the process of reevaluation.

Third: Like all significant innovations, introduction of the Sunset mechanism will be a learning process, and should be phased in gradually, beginning with those programs to which it seems most applicable.

Fourth: Programs and agencies in the same policy area should be reviewed simultaneously in order to encourage consolidation and responsible pruning.

Fifth: Consideration by the relevant committees of Congress must be preceded by competent and thorough preliminary studies.

Sixth: Existing bodies (e.g., the executive agencies, General Accounting Office) should undertake the preliminary evaluation work, but their evaluation capacities must be strengthened.

Seventh: Substantial committee reorganization is a prerequisite to effective Sunset oversight.

Eighth: In order to facilitate review, the Sunset proposal should establish general criteria to guide the review and evaluation process.

Ninth: Safeguards must be built into the Sunset mechanism to guard against arbitrary termination and to provide for outstanding agency obligations and displaced personnel.

Tenth: Public participation in the form of public access to information and public hearings is an essential part of the Sunset process.

Common Cause views the sunset process as a means of increasing executive branch accountability through increased evaluation. The Sunset process should not be limited to a "yes" or "no" vote on whether to continue an agency. The Alabama Sunset law--which should really be termed a "High-Noon" law instead--required the legislature to vote "yes" or "no" on over two-hundred agencies, one right after the other with a two hour limit on debate for each agency. They actually took about 12-1/2 minutes per agency. Because of the crushing work load, few detailed evaluations were prepared and the information that was turned up was not used to change statutes or adjust budgets.

This is not Common Cause's view of a good Sunset process. We assume that most agencies will be continued. Sunset is more of a "yes, but..." rather than a "yes" or "no" process. The test of whether Sunset is working, as Colorado Governor Richard D. Lamm properly has pointed out, is whether agencies are made more responsive and accountable, not merely how many are terminated. Through Sunset, the legislature says to most agencies: "Yes, you will continue, but you are going to shape up." If Sunset is working as it should, legislative mandates will be rewritten, public members added to boards and commissions, and other reforms instituted.

Even before the Sunset reviews began, Colorado provided us with a hint of the promise of Sunset as an accountability device. In 1975, the Shorthand Reporters Board certified only 3 of 84 applicants, an example of the way some state regulatory agencies block access to occupations, impede competition, and lead to increased consumer costs. But last year, after the Board became the subject of much discussion at the time of debate over Colorado's Sunset law, the Board conducted a massive housecleaning of procedures and increased its certification rate to 50%.

In this session of the Colorado General Assembly, a large number of reform bills have been requested by agencies set for review in future years. Facing the certainty of close public scrutiny, agencies are reforming their rules and regulations. They want to be ready for their moment in the sunshine. Of the five agencies voted on by Senate committees in Colorado to date, two have been terminated and three have been the subject of substantial change.

How Should Sunset Work?

It is not possible to design a program evaluation process that could be used in every state. Existing state resources and government organizations vary considerably. That is why Common Cause has proposed ten Sunset principles rather than a model bill. Nevertheless, I would like to describe in general terms how Common Cause thinks a Sunset process should work.

Let's take a licensing agency and its underlying statute that are set for termination on July 1, 1979. At least one year before termination--preferably, as early as the spring of 1978--representatives of the relevant standing committees of each house should meet with representatives of the agency and the state's evaluation agencies. From this meeting, the committee should establish a work plan for the year-long evaluation. In most cases, the agency under review would be asked to provide certain basic data.

The committees would designate in their work plan whether, for example, the governor's budget office or the legislature's fiscal staff would prepare an evaluation report summarizing basic findings and providing policy options. The committees should receive the evaluation report in the late fall or early winter of 1978. Public hearings should be held before the session or, at a minimum, in the early weeks of the session. This should allow the committee time to prepare a committee report and draft a bill incorporating needed substantive changes long before the end of session logjam.

I now would like to focus on four key elements of the evaluation process--the work plan, preparation of evaluation reports, the evaluation criteria, and committee consideration--as well as some important lessons that we have learned from our first year of experience with Sunset.

I. Evaluation Work Plans

As Allen Schick said last night, the greatest problem with evaluation is that it is not used. All too often, evaluation is done with no thought of whether or not it will be useful to legislative policy makers. The work plan forces the evaluator and the legislative committees to sit down together and to communicate concerns and priorities. Through early communication and continued monitoring, the committees can ensure that the evaluation product is useful to them in their deliberation.

II. Preparation of Evaluation Reports

While Sunset is generally thought of as a legislative tool and Zero-Base budgeting as an executive tool, the two complement each other and can be integrated into a coherent evaluation system. Sunset should be a partnership between the executive and legislative branches aimed at making government work.

Very few state legislatures have standing committees that have the staff resources to enable them to prepare meaningful agency evaluations. The Florida and Louisiana laws require the standing committees to do the preliminary evaluation work. They are almost certain to be overwhelmed with work. In most states, it is important that evaluation be done outside of the legislative committee structure. Each state must decide which state entities are most able to perform the evaluation task and must provide them with the staff and resources necessary to do an adequate job. For example, the Colorado law directs the Legislative Audit Committee to have a performance audit completed prior to the termination date. The State Auditor's office reports spending over 9,000 hours at a cost of over $130,000 to prepare the thirteen audits required for 1977.

In many states, the executive branch has a greater evaluation and fact gathering capacity than the legislative branch. It makes sense to build these executive branch evaluation resources into the Sunset process.

The evaluation report is critical. Colorado Senate President Fred Anderson, the author of the performance audit requirement in the Colorado law, has pointed out that without the evaluation report the fate of agencies might rest on whim or misinformation. The job of marshalling information into a manageable review package with policy alternatives set forth in straightforward terms is a difficult but essential task. Legislators are busy people whose talents lie in making common sense political judgments, not in analyzing mountains of statistics described in the sometimes incomprehensible language of bureaucrats. Legislators must have information readily available that allows them to refine the goals and purposes of agencies and to identify alternative methods to achieving those goals.

III. The Evaluation Criteria

Virtually all Sunset legislation contains evaluation criteria to guide the legislators and evaluators in their Sunset reviews. Benjamin Shimberg, of the Center for Occupational and Professional Assessment at the Educational Testing Service, has suggested that the Sunset review should be a two-step process. The first step should be a determination of need. The second step should be an examination of the way in which the agency has fulfilled its mandate. Common Cause agrees.

The first line of inquiry is whether the government should perform the function under evaluation (e.g., Should the state license barbers?). The Florida law poses a series of questions that are relevant to this point (e.g., Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?).

The second line of inquiry assumes a positive answer to the first and asks whether the function could be performed in a better way. The Colorado law establishes criteria that are relevant here (e.g., The extent to which the division, agency, or board has permitted qualified applicants to serve the public.).

IV. Committee Consideration

The Alabama law establishes a special joint committee to perform all Sunset reviews. This is not a good idea. It is important that the existing legislative committees take responsibility for program review and oversight in their areas of expertise. Oversight should be an integral part of the duties of all legislative committees and Sunset is a mechanism for establishing the necessary discipline. Creation of a special joint committee is a legislative admission of failure, an admission that the standing committees cannot do their jobs. A joint committee is likely to become a bottleneck that impedes rather than facilitates action. It is preferable to spread the evaluation work load among the standing committees.

V. Other Aspects of the Sunset Process

Over the past year, Common Cause has found that the Colorado law is not a model law for use in every state. It is, however, an excellent first draft. No significant and far reaching legislative proposal can be blueprinted ahead of time. We proceed slowly. The description of how a Sunset process should work is based on the lessons of this last year. A few others are especially worthy of note.

First, the Florida law established a joint committee and gave it one year to prepare for implementation. The disappointing experience in Alabama with sunset and even the generally positive Colorado experience have demonstrated the wisdom of providing additional time for implementation.

Second, the Colorado law terminates agencies but leaves their underlying statutes on the books. The Florida, Georgia, and Utah approach--with sunset applied to the laws as well as the agencies--is preferable. In Colorado, the Board of Cosmetology, for example, might terminate under Sunset, but the law to require cosmetologists to be licensed might remain. Thus, there would be a requirement for a license, but no state agency to issue a license.

Should We Apply Sunset to the Entire Government?

It was inevitable that people would learn of the Colorado law and conclude that if Sunset is such a good idea, they should apply it to all government programs and agencies. The Alabama, Arkansas, and Louisiana legislatures did just that. Ultimately, these legislatures may be responsible for ruining a good concept by loving it to death.

Program evaluation is immensely difficult and costly. Evaluation techniques are still in the developmental stage. As Common Cause Chairman John Gardner has said:

"Like all significant innovations, introduction of the Sunset mechanism will be a learning process, and should be phased-in gradually beginning with those programs to which it seems most readily applicable."

Allen Schick, an expert on state and federal budgeting, told the 1976 annual meeting of the National Conference of State Legislatures:

"The more comprehensive you are, the less analytic you are and the less likely there will be change."

The planning-programming-budgeting system (PPBS) experience of the 1960's should serve as a warning of the danger of a reform that choked itself with paperwork. Common Cause would rather see thorough evaluation of selected agencies and programs than superficial evaluation of all agencies and programs. Common Cause believes that if Sunset is phased-in and made to work, its coverage can be expanded at a later date.

No state currently has the capacity to perform comprehensive, governmentwide evaluation. Such a requirement would overload the system to the lasting detriment of the Sunset concept. That is particularly true in a state such as Virginia where the legislature meets only a few months a year. There are two clear dangers in an overambitious Sunset law. First, agencies might be routinely recreated because of the lack of time for meaningful deliberation. Second, entities that have wide public support might fail to be recreated in the confusion caused by repassage of so much legislation in the last minute logjam. In either case, Sunset would be discredited just as PPBS was discredited by well motivated government officials trying to do too much evaluation in too short a period of time.

Sunset should not be allowed to become a bureaucratic paper-shuffling exercise. Also, Common Cause would not support a sunset proposal that would so overburden the legislature that it could not find time to do evaluations that come up on an emergency basis. Legislatures must build in the flexibility to allow them time to tackle targets of opportunity.

Common Cause is quite serious about the need to go slow with Sunset. Our experience over the last year has taught us that this is by far the most important of our ten principles. Last month, Common Cause President David Cohen devoted the bulk of his testimony on the federal Sunset bill (S.2) before Senator Muskie's Subcommittee on Intergovernmental Relations to the need for and ways of phasing-in Sunset. Common Cause proposed four priority areas in which to initiate Sunset--tax expenditures, regulatory activities, programs selected on a priority basis by action of the Congress each year, and advisory committees.

On the state level, Common Cause--in Colorado and elsewhere--has advocated Sunset for regulatory agencies. While regulatory agencies do not have substantial budgets, they do have a heavy cost impact on the economy and are a source of much citizen dissatisfaction with government. An added incentive for applying Sunset to regulatory agencies is that they are given little scrutiny in the budget process. Six of the ten state Sunset laws--Colorado, Florida, Georgia, New Mexico, Oklahoma, and Utah--are aimed primarily at regulatory activities.

Common Cause has demonstrated that we are prepared to lobby as hard against a bad or overambitious Sunset law as for a good one. In the last days of the 1976 session, the Iowa legislature adopted a sunset law for a host of departments and regulatory agencies. Because of the hasty manner of approval--without a public hearing or serious legislative debate--and the broad coverage, Common Cause urged the Governor to veto the bill. He did so. In Florida, Oklahoma, and Utah, Common Cause opposed sweeping Sunset bills and the legislatures adopted laws similar to Colorado's. Common Cause/Nebraska stopped one bill by labeling it "Total Darkness" and was able to focus the unicameral legislature on a more responsible Sunset bill.

"Sunset (is) an action-forcing mechanism designed to increase executive branch accountability through improved executive and legislative evaluation . . ."

In addition to trimming the number of agencies covered, states should consider expanding the review cycle. The four year review cycles for 400 agencies in Alabama and 20 departments in Louisiana are ridiculous. Little meaningful evaluation will result. An eight or ten year cycle would make more sense.

Legislative oversight has been, in the words of Alan Rosenthal of the Eagleton Institute of Politics, the "neglected stepchild" of the legislative process. According to Rosenthal:

"Much of the transfer of power from legislatures to executives, and especially to executive bureaucracies, in recent times is due to the lack of legislative capability in this respect."

I did not come here to argue that Sunset is a panacea. It is not. But it is a powerful concept with enormous promise. Sunset contains risks and presents problems, but they can be managed. If legislators resist the temptation to try to do too much too soon--if they avoid overpromising--Sunset can gain the necessary public credibility. If legislators have the will and provide the institutional capacity to implement Sunset properly, Sunset could help to restore the balance of power between the legislative and executive branches.

The promise of Sunset is a stronger legislative branch overseeing a more accountable executive branch. But the benefits of Sunset will come only if a workable Sunset law is enacted. The test for the states is to formulate workable Sunset laws so that the great promise of Sunset can become a reality.

Thank you.

Is There Life After Sunset?

Benjamin Shimberg

The question before the house is oversight: how to make sure that programs and agencies are still needed; that they are accomplishing their intended objective in an effective, efficient manner.

The current preoccupation with Sunset has served to focus attention on the oversight issue. So while I'll be talking about Sunset, I will not specifically endorse the concept. I will try to relate Sunset to a number of other approaches and consider the pros and cons of these alternatives vis-a-vis Sunset.

I agree heartily with my friends in Common Cause who are saying that legislators have failed to exercise their oversight responsibilities. It seems clear that, while legislators like to create new programs, they are less than eager to go back to re-examine these programs once they are underway to determine whether they are still needed, whether they are working as expected, whether they are accomplishing their intended objectives.

Sunset has been described as an "action forcing" mechanism. By establishing a date certain for program termination, Common Cause believes legislators will be forced to reexamine and reevaluate existing agencies and programs--something they might not otherwise do. It is the deadline date for program termination that makes Sunset unique. Yet, the more I think about the idea of forcing action, the less faith I have in it. Legislators have a way of not dealing with issues they want to avoid. I doubt if Sunset is going to force legislators to exercise their oversight function if they are strongly disinclined to do so--law or no law.

In the 18 months since the phrase was coined, a dozen states have enacted Sunset legislation. However, the only real experience we have had with the law has been in Colorado. I don't

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consider what's happened in Alabama a serious exercise of the Sunset concept. Although the Colorado law has been regarded by many as a model law and widely copied, it has a number of defects. For one thing, the evaluation criteria were loosely drawn so that they fail to provide the legislative auditor with real guidance as to what he should be looking for. The approach is also defective in that it makes no provision for dealing with broad issues that may cut across several boards. The agency-by-agency approach is too atomistic. It causes one to lose sight of the "big picture".

The Colorado bill calls for two reports--one from the legislative auditor; another from the Department of Occupational and Professional Regulation. During the past year, the auditor examined 13 programs and agencies at a cost of $133,000. I've had an opportunity to study four of the reports; and in my opinion, the money was not well spent. Most of the criticism is aimed at administrative shortcomings, such as executive secretaries not having enough to do, or a board not having copies of its rules and regulations in stock. There are recommendations to abolish or consolidate a few boards, but no coming to grips with the purposes of licensing or whether regulation is serving a public need.

The parallel studies by the department were conducted under a $25,000 grant from HEW, utilizing graduate students in public administration. I have read only one of these reports--that for the Shorthand Reporters Board. The quality of this report seems higher than that of the auditor's reports, perhaps because the department was looking at more fundamental questions, rather than at administrative trivia.

Criteria of Sunset Reviews

As I indicated earlier, I found the Colorado criteria deficient in coverage and altogether too vague. For example, there was no criterion statement in the law by which to judge the need for regulation.

In another context, I had suggested a two-stage approach to evaluation. First, the evaluator should examine the need for the program or agency. In the case of regulatory agencies, he should ask:

"Would the absence of regulation significantly endanger the public health, safety, or welfare?"

Unless there is evidence of a need for the program or agency, abolish it. If need doesn't exist, why proceed with evaluation? It no longer matters whether the program is well administered or poorly administered. If it is not needed, it should be abolished.

I still feel that this two-stage approach would save time and energy, but it is not as crucial as I originally thought. Looking at evaluations done in several states, it now appears that relatively few are going to be terminated. If this is the case, it is probably worthwhile to study them all prior to making final recommendations as to what type of regulation, if any, is needed; how abuses can be corrected; how the public interest can be better protected.

If I were going to examine a group of regulatory agencies, under Sunset or some other type of oversight evaluation plan, I would urge the development of criteria or questions that leave no doubt in the mind of the evaluator--or the agency being evaluated--as to what types of information the legislature wanted. I have prepared the following list to indicate what sorts of things I would look for. Additional questions will surely come to mind.

1. Does the regulation of the occupation meet a public need? Would the absence of regulation significantly endanger the public health, safety, or welfare?

2. Is there another less restrictive method of regulation which could adequately protect the public?

3. Does every qualified person--including those from out of state and foreign countries--have an equal opportunity to become credentialed, or has the board used its authority in an arbitrary or capricious manner to restrict the supply of practitioners?

4. Are all requirements established for entry into an occupation clearly related to safe and effective practice? Are any of the requirements unnecessarily restrictive or exclusionary?

5. Are the written and/or performance examinations based on an up-to-date job analysis? Do the procedures used in developing, administering, and scoring the tests meet accepted professional standards? Is there evidence that these tests and other screening procedures are objective, reliable, and valid?

6 Does the agency evaluate qualifications of candidates in an expenditious manner? Do candidates have an opportunity to challenge administratively any requirements they deem to be arbitrary, not job related, or invalid?

7. Does the basic statute or the rules governing practice in an occupation impede the provision of services by qualified persons in other occupations?

8. Are all rules and regulations promulgated by the agency consistent with the legislative intent? Do any of the rules have the effect of restricting competition or otherwise serving primarily the interests of the occupational group rather than those of the public?

9. How responsive has the agency been to complaints of consumers? Are all complaints investigated promptly and thoroughly? What action has the agency taken to resolve complaints that might properly come within its jurisdiction? Is there any formal mechanism to provide redress to consumers victimized by fraud and incompetence on the part of licensees?

10. Are disciplinary actions against licensees carried out in an expenditious manner with adequate due process safeguards? How many licenses have actually been suspended or revoked during the past three years for fraud, incompetence, or other serious offenses? Are other disciplinary strategies being used to achieve rehabilitation or to provide restitution to injured parties?

11. Has the agency actively sought to involve the public in its rule-making activities? How responsive has the agency been to the views expressed by the public at such hearings?

12. Has the agency been accountable? Has it regularly filed required reports of its activities? Have these reports been informative and oriented toward serving the public interest? Has the agency made an effort to keep the legislature, the press, and the public informed of its activities? Has it proposed legislative changes to enable it to better serve the public or have such changes been directed toward serving the interests of the occupational group?

13. Is there a system of checks and balances in place? Are proposed rules and other board actions subject to review to ensure that these are not only in conformity with the law, but also clearly in the public interest?

Evaluation Outcomes

Assume now that you have adopted some such list and have collected the best data available. Several things are likely to happen as a result of the evaluation. A few agencies may be abolished or combined. The agency will make some administrative changes on its own. There will be some recommendations for change in the statute such as clarification of purpose, removal of obsolete provisions, clarification of language to remove ambiguities, or perhaps changes in requirements or composition of boards.

What about problems that transcend a specific board? What if the evaluation reports reveal that boards have too much authority, that they lack accountability, that they have excessively stringent requirements, that some rules promulgated by boards are anticompetitive, that there has been a laxness in enforcement and discipline, and a lack of responsiveness to complaints from consumers?

Problems such as these are likely to call for legislation that goes beyond the statute of a single occupation. The solution may lie in structural changes to strengthen the authority/accountability mechanism. There may be a need to create a centralized unit to handle complaints, conduct investigations, and conduct hearings on disciplinary matters.

Sunset, as presently conceived, is not equipped to deal with broad structural changes. It can abolish; it can consolidate; it can tinker with the existing statute; but it is not designed to achieve any major overhaul of the regulatory machinery in order to bring about greater accountability, more efficient administration, or greater responsiveness to the needs of the consumer.

Perhaps I am taking too narrow a view of Sunset. Perhaps Colorado is not the model we should be looking at. But, to the extent that the Colorado law typifies the Sunset approach, we have reason to ask whether it may be too cumbersome, too time-consuming, too costly for what it is likely to accomplish.

Alternatives to Sunset for Regulatory Agencies

What are some possible alternatives?

I would like to share with you some things I have learned from the efforts of several other states to deal with these same issues, without invoking the termination date approach that is characteristic of Sunset. I will be drawing primarily on the experience of three states: Wisconsin, Michigan, and California.

In Wisconsin, a joint legislative committee has spent about a year studying licensing. Without an elaborate Sunset process, it examined 19 boards and decided to get rid of only one--the board that regulates watchmakers. Of the remaining 18, it concluded that, while regulation was necessary, such regulation could in many Instances be handled administratively by the Department of Occupational and Professional Regulation without retaining individual boards. So it has recommended abolishing 9 of the 18 boards. For the remaining occupations--which are primarily in health-related fields--boards would be retained, but their independent decision-making power would be limited.

To achieve greater accountability and to provide an independent appeals agency, the committee has suggested the creation of an occupational standards board. This lay board would have rule-making power of its own, as well as the power to review actions of the various boards and the regulatory agency. It would also review appeals of those denied licensure as well as appeals in disciplinary actions.

In addition to proposing structural changes, the committee has proposed a number of substantive changes. The Legislative

Council staff prepared for the committee a series of issue papers on such topics as the good moral character requirement, citizenship, age, reciprocity, advertising, testing, conflicts of interest, and the functions of public members. These papers served as the basis for discussion by the committee and paved the way for policy recommendations. A bill incorporating both structural and substantive changes is now before the Wisconsin legislature. If this legislation is enacted, the impact on occupational and professional regulation in Wisconsin will be more far-reaching and more significant than that which is likely to occur in Colorado as a result of the Sunset approach. Regardless of what one may think about the specific results, the process that was used by the Wisconsin legislature is worthy of close examination.

In Michigan, Governor Milliken took another approach. He established an interdepartmental commission to study occupational and professional regulation. After a year of work, they have come

"If I were going to examine a group of regulatory agencies, under Sunset or some other type of oversight evaluation plan, I would urge the development of criteria or questions that leave no doubt in the mind of the evaluator—or the agency being evaluated —as to what types of information the legislature wanted."

up with a report that urges a structured approach--one in which the type of regulation is geared as specifically as possible to the risk of potential loss to the consumers, with full consideration of costs and benefits to the public. Commission members established criteria in which the degree of regulation was related to seriousness of impact. They then applied the criteria in a crude way to some 117 agencies presently regulated in the state.

Their preliminary analysis suggested that only 13 occupations and professions merited continued regulation by means of licensing. For 76 occupations, they felt that alternative methods, less restrictive than licensing, would suffice. For example, they indicated that for 32, certification might be appropriate; for 23, registration; and for 14 others, the enforcement of an Unfair and Deceptive Practices Act. The commission thought that only six occupations should be deregulated altogether, but reserved judgment on 22 others since the reason for licensing them was not apparent.

The interdepartmental task force did not develop specific legislation, but did recommend further study that could result in major changes in the regulatory structure in Michigan.

In California, there is activity in both the executive branch and in the legislature. Without waiting for a legislative directive of any type, the Department of Consumer Affairs established a Regulatory Review Unit charged with responsibility for conducting an in-depth study of the boards, bureaus, and commissions that regulate some 38 occupations and professions. A multidisciplinary team is now at work collecting background data and program data, looking at need, and examining present procedures in such areas as examinations, complaint handling, enforcement, and adjudication. It is my understanding that the Review Unit plans to study carefully whether less restrictive approaches might be appropriate--registration, certification, fair trade practice laws, civil and criminal law, and the operation of the marketplace.

In short, the executive branch in California is preparing to suggest to the legislature how the regulatory machinery might be overhauled to achieve protection of the public where needed without the concommitant drawbacks associated with mandatory licensing.

In the meantime, the legislature is proceeding on a somewhat similar track. I recently talked to some staff people who are working on legislation that is intended to be an alternative to Sunset. This legislation is not restricted to regulatory boards, but will apply to all but a handful of programs, specifically excluded by name.

The legislation (A398) is entitled "The Program Planning and Evaluation Act of 1977". It would require every program to identify its program goals and to set forth as specifically as possible its program planning objectives. This would be coupled with a comprehensive system of regular performance audits to determine the extent to which an agency had achieved its objectives. It is felt that this approach will put the legislature in a better position to improve program efficiency and to reassess the public need to continue programs and agencies.

The proposed Program Planning Statement would include the following information:

(a) A description of the nature and scope of the program, including the character of the social or economic problem or problems which caused the creation of the program and the number of persons affected.

(b) The reasons why the program could not or should not be conducted by the private sector or by another level of government.

(c) The identity of other programs in federal, state, or local government which duplicate or overlap the program.

(d) Specific, quantifiable program goals and objectives for five-year periods beginning January 1, 1979.

(e) Measurements of program effectiveness which are in use or potentially available for use.

(f) Existing evidence of program effectiveness, if any.

Each agency would file its program report with specified persons or committees: the Senate Rules Committee, Assembly Speaker, Joint Legislative Budget Committee, and the Joint Legislative Audit Committee. The Office of the Auditor General would assist state agencies in the preparation of their program planning statements and would develop a standard reporting format for such statements.

An auditing schedule would be worked out by the Joint Legislative Audit Committee in consultation with the Joint Legislative Budget Committee and the permanent standing committees of the legislature. Approximately one-fifth of the programs would be audited annually beginning in June 1980. Thereafter, all state programs, with only a few exceptions, would be audited on a five-year cycle. Note that the work of preparing program reports would rest with the various agencies. The auditor would focus his attention on verification to ensure that performance claims, for example, could be documented.

The Legislative Audit Committee would submit the agency reports, together with its findings, to the Senate Rules Committee and to Speaker of the Assembly who, in turn, would assign the reports to the appropriate policy committees in their respective house for study and review. The legislative policy committees would hold hearings, where necessary, within 90 days of receipt of the report, and submit recommendations within 120 days on whether the program should be continued unchanged, be modified, consolidated, or terminated. Such recommendations would be accompanied by appropriate remedial legislation developed by the committee and its staff.

I am not suggesting that the Wisconsin, Michigan, or California approaches are appropriate models for Virginia. I have cited them primarily to underscore the point that Sunset is stimulating states to tackle the problem with mechanisms that lack the Sunset termination date feature. It remains to be seen if these efforts are capable of producing change equal to or greater than that achieved under Sunset.

Regulatory Reform in Virginia

What implications do I see in all this for Virginia?

First, it is my belief that Virginia is already ahead of most other states in regulatory reform. The establishment of the Department of Occupational and Professional Regulation, with administration centralized and the staff accountable to the director, was a step in the right direction.

The creation of a commission to review the need for new regulation and to recommend the appropriate type of regulation was another significant innovation. The appointment of Mrs. Herrink, as the director, was most fortunate. Her style of leadership; her ability to work effectively with boards; her insistence that the interest of the public come first has brought about a regulatory program that seems to be relatively free of the problems that plague regulatory agencies in other states.

I believe that the legislature should now consider putting all occupational and professional regulation into the Department of Commerce. I can see little justification for allowing certain boards which were excluded from the department at the time of its formation to continue to operate autonomously.

Whether or not you adopt a Sunset approach, I believe that the department should be charged with conducting periodic regulatory reviews similar to those underway in California. Planning for such studies should be done in conjunction with the Commission on Occupational and Professional Regulation. Findings should be reported to the commission for study and evaluation. The commission could then formulate recommendations for consideration by appropriate policy committees of the legislature. By using the department and the commission to collect and analyze data and to formulate recommendations, the burden on the legislative committee would be substantially reduced; yet the responsibility for decision making would be reserved to the legislature as it should be.

I recognize that there may be some danger in relying so heavily on the executive branch for information and performance evaluation. However, the executive is better equipped than the legislature to conduct such studies. To make sure it is receiving reliable information, the legislature may wish to conduct periodic audits of departmental reports. This would ensure that the information is accurate and that claimed performance benefits are verifiable.

It is important to remember that the present Commission on Occupational and Professional Regulation is already charged with the responsibility for examining new requests for regulation and for determining the type of regulation that is most appropriate. I would urge that the charge to the commission be broadened, so that it would also have responsibility for periodically reexamining need and applying the concept of structured regulation to existing agencies as well as to new ones. It could then recommend to the legislature that certain occupations, presently licensed, be deregulated or be regulated by some less restrictive method.

The legislature may also wish to consider granting the commission powers similar to those proposed for the Occupational Standards Board in Wisconsin. This would give the commission power to make rules that would be binding on all boards; to review proposed rules and actions of the various boards; and to hear appeals when a license has been denied or disciplinary action taken. A board with such powers would go a long way toward making regulatory agencies accountable and thereby ensure that their actions are in the public interest.

As I indicated earlier, all this presupposes that the legislature wants to review regulatory agencies; that it is serious about evaluating programs and getting rid of those that are no longer needed or not fulfilling their expectations.

If the legislature is not serious about fulfilling its oversight function, Sunset is not likely to be much more than a public relation gimmick. If it is serious, then the task can be accomplished without Sunset.

Program evaluation conducted cooperatively by the executive and the legislative branches, with results tied into the policy review process--rather than into the budget process--will, in the long run, produce more significant and more far-reaching results than is likely to result from the Sunset mechanism alone.

I have enjoyed the conference and look forward to talking with as many of you as time permits. Thank you.

Introducing Zero-Base Budgeting

Graeme M. Taylor

Ladies and gentlemen, I have really enjoyed being here this morning. I only wish I had a more delightful topic to discuss.

Zero-Base budgeting is a gloomy topic for many people, particularly in the executive branch. Although a lot of legislators around the country are licking their chops, waiting to get their hands on the true inside scoop that ZBB might appear to promise them, this is a promise that may not be fulfilled--at least in the federal government.

It is not quite clear precisely what information Congress will receive as a result of the President's intention to implement Zero-Base budgeting throughout the federal government for fiscal year 1979. It is an issue that has not yet been addressed; however, the present version of the Sunset bill does have in it a section which stipulates that the original agency requests shall be transmitted to Congress the day after the President submits his formal budget. And I understand that in the mark-up sessions that particular section has been further strengthened. So if Sunset passes, then there is the prospect that the detailed, original Zero-Base presentations by the federal agencies to OMB, will indeed by transmitted, as is, to the Congress. And I am sure that is a prospect which many Congressmen and many congressional staff are eagerly looking foward to.

I am sort of sandwiched in between Sunset and evaluation. I feel somewhat compressed. Allen, last night, I thought, gave a very pithy, very eloquent, and very elegant summary of what he feels ZBB can do. It is interesting that he emphasized the participation of lower level managers in budget formulation as perhaps the most significant change that Zero-Base budgeting brings, at least to Washington. That again is a promise that might not be fulfilled.

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I know that the President himself feels that is a very significant advantage of Zero-Base budgeting. In his remarks on the topic recently, for example, when he appeared before the Treasury Department employees, he said that he envisioned a situation where "you", meaning the GS 13's, 14's, and 15's in the audience, would have a major role in budget formulation. I do not think that is going to happen this year.

The way the OMB is approaching Zero-Base budgeting, their priority task is just to get a credible fiscal 1979 budget put together. And the prospect of starting at the lowest level--the branches, the sections, the field offices of the vast federal establishment--is somewhat mind boggling and is certainly not happening at this moment. The decision units, to use Zero-Base jargon, are so large that there is no prospect at all of the kind of bottom-up approach to Zero-Base budgeting that the President envisions, that the President knew in Georgia. There is simply no prospect of that actually happening this year. The intention, of course, is that next year and in subsequent years, the process will be driven deeper down into the bowels of the departments.

Let us get back to some of the basic ingredients of Zero-Base budgeting. I know that you have been exposed quite heavily to Sunset, but I understand that at least for the legislative people here this may be your first exposure to Zero-Base budgeting. So I have taken the liberty of bringing along some slides that will walk us through the basic mechanics of the process.

As Allen said last night, he feels that ZBB exhausts itself in the mechanics. I would quibble with that. The mechanics are very simple. They are necessary. But they are only mechanics.

Clearly, Zero-Base budgeting, in my view at least, is only five percent mechanics, and it is 95 percent implementation and how managers choose to use the process. So I do not think we should confuse the medium with the message. We should not confuse the rather simple mechanics of the process with the profound managerial changes that it can bring about if done properly.

Some Budgeting History

The term Zero-Base budgeting has been around for some time. The first recorded effort on any scale was in the United States Department of Agriculture back in 1962 in connection with the FY 64 budget.

Secretary Freeman brought with him from Minnesota an abiding interest in the budget process. He was very aware of the power of the budget process. He wanted to do something to rationalize agriculture's budgeting process. So he issued an order instituting the Zero-Base approach to formulation of the FY 64 Department of Agriculture budget. The problem is that it was done within a very short space of time, with not too much preparation, with rather brief guidelines, and it was an attempt to fundamentally reappraise what Agriculture was doing. It was not the kind of Zero-Base budgeting that President Carter is familiar with. This particular all out, root and branch, radical reappraisal of Agriculture was, I think, roundly condemned as a failure by, not only those who were involved in it, but also those who observed and then subsequently wrote about it. So that particular experiment in Washington gave Zero-Base budgeting a rather tainted reputation. But that is not the kind of Zero-Base budgeting that we are talking about today.

(S-1) ZERO-BASE BUDGETING

- USDA experiment (FY 64)

- Phyrr develops practical application, Texas Instruments, Inc. (1970)

- Midseventies...successful application in private industry, federal, State, local agencies

The kind of Zero-Base budgeting that we know today was originally developed, as Allen mentioned last night, at Texas Instruments in Dallas. And it was in response to their need for a more flexible method of controlling overhead costs. That effort was written up by Peter Phyrr in the "Harvard Business Review" in November-December, 1970.

Jimmy Carter read the article, liked the approach, and invited Pyhrr to come to Atlanta. Phyrr spent a year working with Carter in Georgia helping design and implement the first year of Zero-Base budgeting for the entire state government in conjunction, incidentally, with reorganization of the executive branch of Georgia's government. It is interesting that exactly the same circumstances exist in Washington today. We have a new chief executive who wants not only to reorganize the federal branch, but also implement Zero-Base budgeting government wide in one year.

Here we are then in the mid-70's. The efforts of Texas Instruments and Georgia are, of course, now by no means the only efforts to install Zero-Base budgeting. At least a dozen states, scores of city and county governments, hundreds of private corporations have, with varying degrees of success, used Zero-Base principles to help them formulate their budgets. And then on April 19 of this year, the Office of Management and Budget published their Bulletin 77-9, which is the official federal Zero-Base budgeting instruction. The entire executive branch is currently laboring with the task of defining decision units, preparing decision packages. In most cases, the process is very well underway in Washington.

Let us quickly look at where Zero-Base budgeting stands--the evolutionary history of budget reform in the public sector in this country. Many of the successive waves of budget reform can be traced to one or another alleged flaw in current traditional budgeting practice.

(S-2) EVOLUTION OF BUDGET SYSTEM

Problems with Traditional Budgeting

Focus	Instead Of	Response
Accounting	Management	Performance Budgeting
Line Items	Programs	Program Budgeting
One Year/No Planning	Multiyear/ Planning	PPBS
Incremental	Reexamine Base	ZBB

For example, people accused traditional budgeting of being more preoccupied with the needs of accountants rather than with the needs of the managers. The response decades ago was so-called performance budgeting, with its emphasis on including unit cost data, work load, performance measures, in budget documents.

Another alleged flaw is that traditional budgeting deals with line items rather than with programs. The response, as you in Virginia well know, has been program budgeting. But even that did not satisfy the accusers of traditional budgeting.

In addition to the previous alleged flaws, they also say that traditional budgeting has too short a time horizon. It deals with just one year, and there is very little planning orientation in traditional budget practice. Now the response to that, of course, was the Planning Programming Budgeting System, PPBS, initiated back in the early 1960's in the Defense Department. PPBS attempted to add a multiyear time horizon and a heavy emphasis on systems analysis and planning as part of budget formulation, in addition to displaying budgets in a programmatic framework.

But none of these attempts at improving traditional budgeting dealt with yet another alleged flaw of traditional budgeting practice, namely that it is incremental in nature. That is, the focus on proposed increases or, in some cases, decreases to the prior year's funding level. It is this particular flaw in traditional budgeting that Zero-Base budgeting aims to correct.

A Definition of ZBB

What are some of the essential characteristics or the essential features of Zero-Base budgeting which distinguish it from other attempts at improved budgetary practice?

(S-3) ZBB BUDGET REQUEST

- Deals with total budget request, not just increase (decrease) over previous year

- Existing activities scrutinized as closely as proposed new activities

- Emphasis on choice

  - alternative ways of providing services
  - alternative funding levels

I think the first and the absolutely essential hallmark of ZBB is that it attempts to deal with the total budget request, not just the change from the prior year. Secondly, existing activities are not immune from scrutiny. They are not considered sacrosanct or inviolate during the budget review process. They are open to question just as much as are proposed new activities or proposed expansions in existing activities.

Thirdly, and I think practically the most important characteristic of Zero-Base budgeting, is its emphasis on giving decision makers a range of choice--two kinds of choices. First, a choice as to how we do something, as to how we deliver a service. Secondly, a choice as to the level of funding that we commit to a given program or activity. So not only do we question "Are we doing something in the most efficient way?" but also "How much should we be spending on this particular activity?"

And, of course, that is the central budgetary question. How much is enough to spend on a particular item? But Zero-Base gives us a choice in terms of giving alternate levels of funding for us to choose among. In fact, some people have suggested that the name Zero-Base budgeting is really quite a misnomer. That we should call it multiple choice budgeting or alternative-level budgeting. Some people would even say that the word budgeting is inappropriate, that we should talk about Zero-Base programming or Zero-Base planning and budgeting. But what's in a name? Semanticists warn us not to confuse the map with the territory. A rose is a rose, etc., etc. The name is immaterial.

Some of you saw Bob Anthony's piece in the Wall Street Journal a week or so ago with the headline "Zero-Base Budgeting is a Fraud". If one read that article carefully, he was really saying not that Zero-Base budgeting is a fraud, but that the name Zero-Base budgeting is misleading. As Allen said last night, perhaps the name violates the Truth in Labeling Act. That does not really concern me very much. What I am concerned about is "is the substance of the approach sensible? Is it a practically useful tool for decision makers?"

These are really very simple characteristics--the idea of looking at a total budget, the idea of examining what we are currently doing as thoroughly as what we propose to do, and the idea of giving ourselves choices among alternative ways of doing something and alternative levels of service. These seem to me to be very simple notions. They are in no way earth-shattering, new, conceptual approaches. They just seem to be rather common sense, practical kinds of principles. But to operationalize these, to put these into practical effect, is hard. Some mechanics are required. So if you will bear with me, let us now get into the mechanical features or elements of how most Zero-Base budgeting systems have been recently implemented.

ZBB and How To Do It

The first element is the identification of so-called decision units. Secondly, the analysis of these decision units. Thirdly, the formulation of so-called decision packages. The fourth process is to rank the decision packages in descending order of priority. And then finally, for us to prepare our formal budget after having looked at these rank-ordered packages. Let us look at each of these in a little more detail.

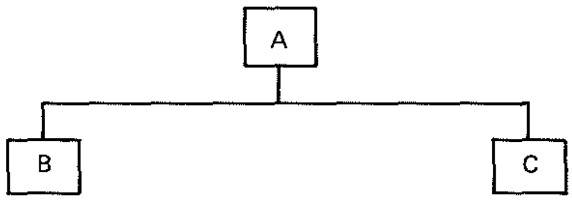
(S-4) ELEMENTS OF ZBB

- Identify decision units
- Analyze decision units
- Formulate decision packages
- Rank decision packages
- Prepare formal budget

Please note though that the jargon associated with ZBB is mercifully much less than that which was associated with PPB. To understand PPB, one had to consult a fairly extensive glossary which was usually conveniently printed at the back of the budget instructions. To understand Zero-Base budgeting, mercifully, one has only to learn three new terms: decision units, decision packages, and ranking.

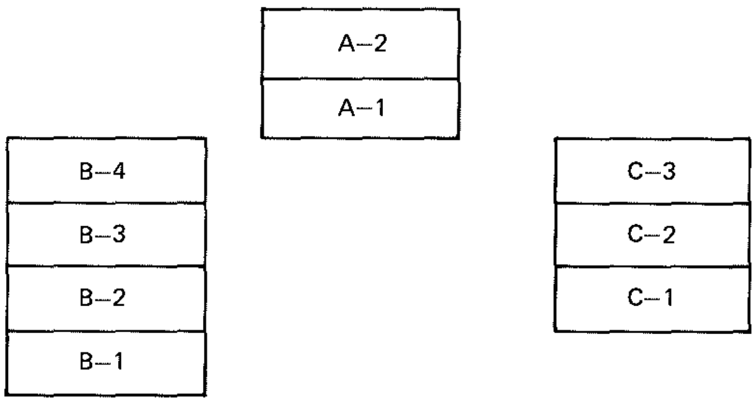
Before we go into each of these notions though let us look quickly at a pictorial example which may clarify what I have been talking about. Suppose we have a very simple little organization. The Director (A) has two bureaus or divisions reporting to him, (B) and (C). Now let us say that the organization has decided to use the organizational units as the decision units. That is to say those things for which budgets will, in the first instance, be formulated. So we have three decision units, A, B, and C.

(S-5) DECISION UNITS



The next step is for the manager of each of these decision units, which is simply another name now for the organizational units, to segment their activities into a series of things called decision packages.

(S-6) DECISION PACKAGES



A decision package is nothing more or less than a discrete set of activities and the resources required to pursue those activities, arranged in priority order starting from a base of zero. So our friend B, for example, has broken his budget request into four levels of service or levels of effort. His first or minimum level decision package (B-1) presumably represents those things that he considers to be absolutely top priority. Without those he might as well fold up his tent and steal away. Unless he has at least those things in B-1, we might as well cancel out the entire unit B. Then if he had some more money he would add back in the activities and the resources characterized by B-2. And then B-3. And then finally B-4.

Likewise, our friend C has identified three alternate levels of effort and has, therefore, prepared three decision packages: C-1, C-2, and C-3. The director of the office, who presumably has a small staff, has identified only two possible levels of effort: A-1 and A-2. So now we have steps two and three completed. We have done some analysis and prepared our decision packages.

The next step is for the manager "A" of the entire enterprise, acting either by himself, if he is a dictator, or sitting down with B and C if he is a participative kind of manager, to rank all nine decision packages in descending order of priority.

(S-7) RANKING OF ALL DECISION PACKAGES

A–1
B–1
C–1
B–2
B–3
A–2
B–4
C–2
C–3

This simply sketches one way in which it might have been done. You will notice that the minimum levels from each of the three units, in this particular example, have all been ranked very high on the priority scale: 1, 2, and 3. That need not necessarily happen. It may be that one would want to fund several decision packages from one decision unit before going to the minimum level in another. It entirely depends on management's view of what the priorities really are within the organization.

So, those are all of the mechanics we have to worry about--the identification of decision units, the identification of packages, and the ranking process--it sounds awfully simple. But as with most simple notions, of course, in practice it is not.

Take accrual accounting, for example. Conceptually, accrual accounting is a very simple idea. You keep the debits near the window and the credits near the door and that is all you need to know to do your T-accounts and prepare balance sheets and income statements. But as we all know, accrual accounting, although it's very simple conceptually, is very complex when you try to apply it to different kinds of organizations with different kinds of financial circumstances. Many learned professors have made eminent careers out of interpreting and expanding the web of accrual accounting and practice. One has to be a CPA, and one has to be licensed in order to practice this arcane mystery. Fortunately, we do not yet have any ZBB licensing boards in the states. But anyway, it is still a complicated and somewhat difficult thing to put these simple notions into practice. And so let us look at some of the practical aspects of doing just that.

(S-8) IDENTIFYING DECISION UNITS

- May be programs, organizational units, activities, cost centers, appropriation items, line items
- Should correspond to responsibility for budget decision making
- Identifiable manager
- Other considerations: size and data constraints

First are decision units. Decision units can be anything. ZBB is very permissive. Whatever seems to make most sense to the particular organization can be used. They can be programs, they can be organizational units, they can even be appropriation items, they can be cost centers, functions, activities. Whatever basic building block seems to make most sense in a given organizational context.

Now in Washington, this diversity is already evident. For example, NASA is being asked by OMB to use their appropriations structure as the basic framework for designing decision units. On the other hand, EPA, the Environmental Protection Agency, is being asked by OMB to use air, water, solid waste, etc., as the basic framework for preparation of their decision units. In still other agencies, the organizations, the bureaus, the divisions, the branches, the sections are being identified as decision units. So even within the federal government, enormous diversity is already apparent only a few weeks after the initial instructions were published.

In my view, at least, decision units should be identified or selected so as to correspond to the responsibility structure for budgetary decision making in the agency.

Another criterion is that there should be a responsible manager. There should be a clearly identifiable person who can be held clearly accountable for not only budget formulation, but also for executing the budget after it is approved. And there may, of course, be other considerations such as reasonable size, the degree to which our data systems may or may not constrain our choice of decision units, and so forth.

Of course, the identification of decision units hopefully is a one-time task. Once done the first year, with only minor modifications, that structure may serve as well in the years ahead. Obviously, it may be necessary to break them apart or consolidate them if we find that the first year's experience indicates that we chose too large or too small units. Maybe new programs are legislated and so we have to create new decision units to accommodate the budget request for those programs of course. But, by and large, if we have done a good job in the first year, the identification step is not something that has to be repeated.

(S-9) ANALYZE DECISION UNITS

- Document current operations and resources
- Define objectives
- Define measures
- Analyze alternative means of achieving objectives
    - improve effectiveness
    - improve efficiency
- Document results of analysis

The second step then is the analysis of the decision unit--an analysis of two kinds. One is the kind that perhaps most truly deserves the name Zero-Base; namely, the fundamental Sunset kind of question as to "Why on earth are we doing this?", "What would be the problem or the impact if we were to eliminate this unit altogether?", "How serious would the impact be on the people of the State?", "How serious would the impact be on other State programs?".

Then we need to ask other questions. "How can we do this job more effectively? How can we do it more efficiently? How can we improve the operations of this decision unit?"

This is the kind of thing that leads to the grass cutting example, that Allen mentioned last night. The crew that mowed the lawn along state highways came up with the idea of cutting back on the width of the strip of grass cut from 30 feet to 15 feet. That sort of idea would presumably bubble out of this step that we are talking about here.

Another example from Georgia, which Allen did not mention, but which Peter Phyrr is very fond of, concerns the highway patrol. They got all the sergeants from the detachments into a room and locked them up and said,

"Come up with ideas on how to improve the efficiency and effectiveness of the highway patrol."

A more unlikely lot, perhaps, those of us who are professional analysts and somewhat arrogant about the contribution that real life program people can make, might have been hard to find. In fact, these hard-bitten Georgia state troopers did in fact come up with some very sensible, not earth shattering perhaps, but very sensible ideas as to how to improve the operation of the highway patrol. For example, they hated radio duty. They hated having to be rotated into the dispatching room. They felt that was a waste of their time and training. They felt the job could easily be done by lower priced civilians. So that was one of the recommendations they made.

"To understand Zero-Base budgeting, mercifully, one has only to learn three new terms: decision units, decision packages, and ranking."

It was also recommended that the civilians should be handicapped people, trained in the vocational rehabilitation programs.

So, in effect, several objectives were achieved. The troopers were freed up for the job that they were trained to do, namely, patrolling the highways. Some money was saved because civilians were paid less than the troopers. Social objectives were achieved by giving jobs to physically handicapped people that they were perfectly capable of doing, and doing very well.

So these kinds of ideas, which individually might not be too earth shattering, collectively do add up to more economical, more effective, more efficient delivery of public services. It is in this step that these ideas are sought. They are sought not just from staff people, but from the actual line people themselves. This appears to be the feature of ZBB that President Carter is most interested in. Unfortunately, it will not be possible, in most instances, to get this low level involvement the first time around at the federal level.

The formulation of decision packages, of course, represents a second kind of analysis. But here the analytic focus shifts from what should we be doing and how should we be doing it, to a different kind of question; namely, what are our priorities given that we should be doing something? What are our priorities within that area? What would be the effect of varying funding levels for that activity? What would be the cost and consequences of the different levels of effort built up in priority order? The step of preparing a series of decision packages, then, essentially is the budget formulation step, but breaking the budget request into optional levels of effort. The budget request for that unit is simply the sum total of these decision packages. Each package is a discrete set of services or activities and the associated resources--in other words, the funding required to put that decision package into effect.

(S-10) FORMULATE DECISION PACKAGES

- Decision units budget request = sum of a series of decision packages
- Each package - discrete set of services or activity resources
- First package - highest priority ("minimum level"). Usually substantially less than current.

The first package is probably the most difficult to define both conceptually and practically. This is the one that is usually referred to as the minimum level or perhaps the survival level for the decision unit--that level below which we might as well abolish the unit altogether. It is very hard to get people to force themselves into the mode of thinking in those terms. The reaction from most state managers will obviously be

"Heavens, I'm already at minimum, what do you mean? I've got to be cut back still further?"

That is a very hard behaviorial situation to deal with. One would have to assure the person that this is not his budget request.

"All we're asking you to do is tell us what the minimum level of funding is below which we might as well scrap your activity?"

That is not exactly an unthreatening question. In practice, it can be a major road block to effective ZBB implementation.

The number of decision packages per decision unit can obviously vary. In practice, it usually ranges from about three to about ten. Obviously, one needs to document the packages so that one knows what the manager is thinking. It is clear that the budget process is a communications tool as well as anything else. I think that is an aspect of budgeting that is frequently overlooked. If one is asked to review an existing budget process, I think one of the first questions I would ask is:

"How well does this budget process communicate budgetary needs from one level of an organization to another or from one branch of government to another?"

(S-11) FORMULATE DECISION PACKAGES

- Number of packages per decision unit
- Documentation
  - service to be provided
  - resources required ("this package" and "cumulative")
  - measures ("this package" and "cumulative")
  - other back-up information
- Higher level management may conduct preliminary review of package before forms are completed in detail

We are very good technically at designing budget forms. Perhaps sometimes we design too many budget forms, but nevertheless, we are fairly good at designing budget forms. The question is how well do these forms communicate from one level to another within the executive branch? And, secondly, how well do they communicate from the executive branch to the legislative branch?

Our forms are necessary evils; but fortunately with Zero-Base budgeting, the number of forms per decision unit need only be as few as two, depending on how skillfully and artfully we design the process. So, contrary to some published statements, ZBB need not deluge us in a blizzard of paper. Sometimes, it is a good idea for high-level management to sit down with a subordinate and discuss with them how they propose to formulate the packages before they get too far into the detail work. The organization's priorities can be reviewed and you can make sure that the packages that will be submitted are consistent with upper management's view of the world.

The ranking step is the easiest, conceptually, but is by far the hardest to do. This is a painfully explicit process. This is the process in which managers have to say, as Allen said last night, in writing, that this piece of program A is more important than that piece of program B. It is a naked, exposed, vulnerable, painful, agonizing thing for people in public service to have to do. It is very hard to have to do it in industry, for that matter. But at least in industry you do not usually have so many people looking over your shoulder and second guessing what you are doing. So in government it is very, very hard to go public with priorities in this detailed and painstaking a fashion. But it is an essential part of the Zero-Base approach.

The idea of ranking all packages in descending order, as I said earlier, can be done individually or it can be done by groups of managers acting in a collegial fashion. Sometimes if you are in a very large complex organization, a series of rankings might be required as the process moves up the organization. Packages may frequently have to be consolidated into super packages for review at higher levels to avoid innundating the Governor or a secretary or a department head or the legislature with excessive detail. And clearly, one wants to spend one's time, somewhat above and below, where the probable funding cut-off point is for that organization. One does not need to worry too much about the very highest priority packages nor about those that are clearly blue sky and have no chance of being funded. Clearly, one wants to reserve one's judgment most heavily for the areas which are within the probable funding total for the organization.

(S-12) RANKING DECISION PACKAGES

- Rank all packages in descending priority
- Individual manager or committee
- Series of rankings at successive higher organizational levels may be required
- Package may be consolidated for review at next highest level
- Focus attention on package around probable "cut-off line"

Now this is what a ranking table might look like for the very simple organization we considered earlier.

The first column gives the priority order one through nine, the second column gives us the name of the decision package, what it is, the third column gives the cost of that package, and the fourth column gives the cumulative cost for that package plus all preceding ones. The dotted line would indicate our imaginary cut-off point. In this example, if the organization has available to it \$950 or \$950,000 or \$950 million, depending on which level of government we are in, then six packages can be approved. If funds were to fall short of the estimate, if they were to fall back to $900,000, we would have to drop package six. On the other hand, if a miracle occurs and we can get some more money, we might be able to afford package seven. So that is roughly what the ranking table might look like in a highly simplified form and roughly how we might think about using it.

(S-13) RANKING TABLE

Rank	Decision Package	Cost	Cumulative
1	Program A - #1	200	200
2	Program B - #1	300	500
3	Program C - #1	100	600
4	Program B - #2	200	800
5	Program B - #3	100	900
6	Program A - #2	50	950
Cut-off line.			
7	Program B - #4	20	970
8	Program C - #2	40	1,010
9	Program C - #3	20	1,030

ZBB Design Considerations

Now, so far, we have talked about mechanics; we have talked about very simple notions. Both the notions and the mechanics are very simple. But, as I said, doing it is somewhat harder. Here, I think, are some of the things that any organization, whether it be the entire Commonwealth or an individual State agency, might wish to think about before plunging into the design of a Zero-Base budgeting effort. I would call these simply design considerations.

(S-14) ZBB DESIGN CONSIDERATIONS

- Strengths and weaknesses of existing budget process
- Objectives for ZBB
- Consumers
- Implementation strategies
- Links to existing management systems
- ZBB "technology"

In the first place, one really is not starting from zero in designing any budget process. Obviously, the budget process of any organization has evolved over the years and, of course, in Virginia your budget process is still very much evolving. But the first thing one would want to do is take a look at the current strengths and weaknesses of the existing budget process. How well does it serve our decision-making needs? And, clearly in thinking about Zero-Base budgeting, one would want to know to what degree can Zero-Base approaches help improve, help shore up the strengths, and to what extent can Zero-Base approaches help overcome some of the deficiencies in the current process?

Secondly, I think one has to be very clear about what exactly one's objectives and expectations are for Zero-Base budgeting. Thirdly, who are the consumers? Are the consumers the appropriations committees in the General Assembly or are they the Governor, are they the cabinet secretaries, operating managers, program evaluators? Who are the consumers for the information that will be generated by Zero-Base budgeting? What implementation strategy shall we follow? Shall we phase it in over time? Shall we do it all at once in one year? Shall we do it on a pilot basis first before extending it statewide? How deep shall we drive it within the organization? All kinds of implementation issues. What is the degree of linkage that is appropriate to other management systems that exist within the State, in addition, of course, to the budget process itself? And, finally, what particular technology of ZBB shall we adopt?

Now let us look at some of these in more detail. What are our objectives?

(S-15) OBJECTIVES FOR ZBB

- Cut budget rationally
- Reallocate resources
- More credible justifications
- Link budgeting and operational planning
- Improve management insights
- Involve line management in budget formulation
- Organizational development
- Evaluate management capabilities

Cutting budgets rationally is not the only objective that public and private organizations have had in mind when they have gone into Zero-Base budgeting. For example, one objective can be simply to devise a better method of reallocating existing resources according to priorities. Making sure that the resource allocation that we come up with in the budget is better aligned with our priorities. A third objective might simply be to develop more credible justifications for our budgets. Fourth might be better to link budgeting and operational planning within the executive department. Another might be to improve top management's insights into what is going on within their large bureaucracies. Another, and this is certainly one of the President's objectives, is to involve line managers more heavily in budget formulation.

The last two tend to be objectives in the private sector and may or may not apply to government. One is to achieve all kinds of organizational development objectives. That is to say, organizational behavior kinds of objectives, improving a sense of shared mission in the organization, improving communication up and down the line, and so forth. The last objective applies particularly to a new chief executive in a corporation who wants to quickly assess the capabilities of his management team. Certainly, going through Zero-Base budgeting is a crash course in how capable one's subordinates are.

Consumers can, of course, be various. They can be not only the legislative body, but also the chief executive, department heads, line managers, staff, the public, Common Cause. Everybody can share in the Zero-Base information.

(S-16) ZBB CONSUMERS

- Legislative body
- Chief executive
- Department heads
- Line managers

In terms of strategies, I have already mentioned some of them. The scope--shall we include all State programs, shall we go full scale versus a pilot, shall we do it all at once or phase it in, exactly how will it relate to our existing budget process? How shall it relate to our existing planning, control, information systems, to our MBO system if we have such a thing? And, finally, what shall be the ZBB technology that we shall adopt?

(S-17) ZBB DOCUMENTATION STRATEGIES

- Scope
- Full scale versus pilot
- Relationship to existing budget process

(S-18) RELATE TO EXISTING MANAGEMENT SYSTEMS

Planning, Control, Information, MBO Systems

(S-19) ZBB "TECHNOLOGY"

- Logic of decision units
- What kind of analysis will be emphasized
- Forms, procedures, calendar
- Manual of instructions
- Training and technical assistance

By technology, I mean selection of the particular mechanics. In other words, how shall we identify decision units? What logic shall we follow in picking them? Shall we parallel our organization structure, our program structure, or what? What kind of analysis are we going to emphasize? Are we going to emphasize the Sunset kind of analysis; namely, what should we be doing, how should we be doing it? Or are we going to emphasize the analysis that leads to the creation of decision packages (i.e., in terms of alternate funding levels for a given activity). We have to put out some kind of instructions and figure out what kind of training and technical assistance we are going to provide the operating people just as with any budget improvement effort.

There are some other design issues that are more subtle perhaps. What are we going to do for an encore? What shall we do the second year and subsequent years? Shall we shift our emphasis? Shall we go deeper in the organization? Can the computer help us at all to ease some of the burdens of arithmetic? How shall we handle support units? For example, how shall we handle a state computer facility? How can we figure out what we need to spend on computers until we have first figured what programs we want to implement in the line operating agencies? And what is the degree of appropriate computer back-up support required? Even within a department, it is sometimes a good idea to wait until we have the mission or program budgets put together, and then worry about the appropriate level of spending for support activities.

(S-20) OTHER DESIGN ISSUES

- Second and subsequent years
- Role of computers
- Treatment of support units
- Budget accountability

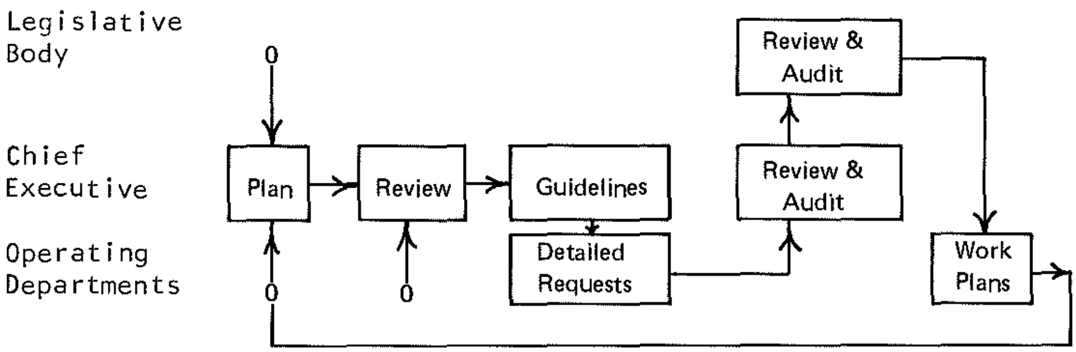
In regard to budget accountability, I would refer again to the point that Allen made last night. ZBB can be helpful in driving accountability for budgeting and budget execution deep into an organization.

And the final slide simply portrays a schematic, a highly simplified schematic, of the overall state budget process and the question is where does Zero-Base budgeting fit into that?

Clearly, it fits in at the request stage. But, also, Zero-Base budgeting can be useful where agencies have received their appropriations and the appropriations may be less than they expected or more than they expected. But the question is now, "How do I translate this lump of money that I have received into a detailed financial operating plan for the year?" Some federal agencies, even before the election, were beginning to think about and some were actually using Zero-Base approaches to do their FY

1977 operational plan. But the question was not how much money can I ask for, but rather, how can I make the best use of the money that I have been appropriated?

(S-21) ROLE OF ZBB IN STATE BUDGET PROCESS



Questions

Mr. Taylor, I have two questions. The first question concerns ZBB, as it is currently being enacted in federal government. We have been asked to come out with four levels of funding for decision packages. One is for 85 percent, one is for 95 percent, one is for the current budget, and one is for "blue sky". The difficulty we're having is that one unit's 15 percent cut at the 85 percent level works out to their disadvantage compared to another agency that might be able to take a total cut of 50 or 60 percent. I would like to know what your reaction would be to the overall implications of that.

My second question deals with an article contained in Harvard Business Review about a year ago talking about organizational change. It was contended that managers of operating units are process oriented and simply do not have the time or the perspective to be able to come up with effective plans for change. If you can put any credence in that argument, what can we really expect in terms of involvement by line managers with ZBB?

Taylor

I think the second question is the easier to tackle than the first. So let me take the easy way out. I have not read that article but I disagree with the premise as you have paraphrased it. In my experience, line managers are very interested in what they are doing, how they are doing it, and given the opportunity, they welcome the chance to make some input into what their budget destiny should be. So, I flatly disagree with that point.

As far as the first point is concerned, if your agency chose to establish 85 percent, 95 percent, 100 percent and "blue sky" guidelines, that is its own affair. That is not from OMB. OMB gives enormous flexibility to agencies in terms of how they interpret the guidelines. All that OMB says is that there shall be a minimum level which shall be below the current. There shall be a current level. In addition, there may be, at the agency's choice, intermediate levels between the minimum and current and there may be improvement levels which are above current. But they do not specify any number, they do not specify any percentages.

Percentages are sometimes a useful starting point, but they have got to be arbitrary. The only reason, in my view, why percentages are helpful is that without them, some managers refuse to define minimum levels. If you say to someone, "What is your minimum level?" he may say "I'm already at minimum. 100% is my minimum." But if you say "Thou shalt come up with a minimum level which is no greater than 85% of current", then that is something he can relate to and say, "Well, I don't like it, but if you say so, I'll come up with an 85% level and I'll tell you what I'll do at 85%." But that really indicates to me a symptom of a failure of the communication process about what Zero-Base budgeting is really all about. It may be necessary in the first year when the entire FY 1979 budget has to be put together on a crash basis, but I would hope that as it evolves, that such crutches may be thrown away--and you can get up and walk.

Question

Mr. Taylor, what can really be done to keep agencies from designating their most popular and important programs outside of the base and putting less important programs inside the base where they will receive less scrutiny?

Taylor

Nothing can be done to prevent them trying. This is what is known, of course, as the Washington Monument Syndrome. When the parks service is asked what they would cut, they say "Oh well, we'll close the Washington Monument on weekends." If that kind of gamesmanship goes on again, it is a symptom of failure in the involvement of line managers and what the process is all about. There is nothing you can do to prevent people from trying.

What you have to do is be very alert to the fact that it is likely to happen. And make sure that people really document their minimum so that you can see if they have got a dog in the minimum and a really popular program in a lower priority increment. You can sit down and say, "Now look, that really does not square with our priorities. Why don't you go and change your decision packages and reconfigure them more sensibly?" You just have to be very alert to the possibility that that can happen--and try to make sure that it doesn't. This has been a very quick course in ZBB; I appreciate your attention and interest.

Sunset and Legislative Evaluation

Bruce Spitz

It is a pleasure to address this conference and to have the opportunity to discuss the relationship between program evaluation and Sunset. To me, the careful consideration and study of such relationships, as exemplified by the current effort in Virginia, represent a maturing and more effective legislative process.

For some time I've been involved in reviewing and analyzing various Sunset proposals and related legislative reforms. This morning I'd like to discuss the effect Sunset legislation might have on existing program evaluation and legislative oversight efforts. I don't come here as either an advocate or opponent of Sunset but merely to point out some aspects of such legislation that might affect existing evaluation oversight efforts such as those in Minnesota and Virginia.

Before I begin I think it would be worthwhile to outline the evaluation process in the Minnesota state legislature. In Minnesota, we have a Legislative Audit Commission. This 16 member body is made up of leaders from the House and the Senate. It has both a Financial Audits and a Program Evaluation Division.

Through a process of trial and error, and after a number of successes and failures, the Program Evaluation Division has been organized over the past year and a half and an evaluation process has been established. While this process is to change over time, I'd like to share it with you as one example of how evaluations can be carried out and particularly how the legislature can be involved in evaluation studies.

To begin with, the commission regularly solicits requests for evaluation topics from its members and standing committees. Suggestions from individual legislators and state agencies are

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also considered. To assist in this selection process, a Subcommittee on Program Selection and Review (made up of six commission members appointed by the chairman) screens these requests.

The subcommittee considers various criteria during the selection process. These are divided into mainly legislative and staff research issues.

Legislative criteria include the following:

Saliency. That is, is the problem or issue addressed by the proposed study of significance to the legislature?

Pertinence. Is the problem under consideration appropriate for state action? Or, in short, can we do anything about the problem or is it somebody elses' concern?

Actionability. Closely related to pertinence is the question of whether perceived problems are actionable. That includes not only the question of our ability to solve the problem but also the willingness of state legislators to do so.

Timeliness. A key issue involves the timing of studies. Is this the right time to evaluate a program? Do we have enough information and experience to evaluate it? How would the results of such a study tie into the legislative process?

Fiscal Impact. Another important criterion involves the scope and cost of the program to be evaluated. In setting priorities for program selection, costs and potential cost savings are important issues.

Study Cost. Finally, the subcommittee must consider whether the cost of the study is worth the effort involved. It simply does not make sense to spend $100,000 to solve a $10,000 problem.

In addition to these criteria, the subcommittee receives related recommendations from staff on the feasibility of proposed studies from the viewpoint of evaluation research. These recommendations involve the following criteria:

Evaluability. Through a brief preliminary assessment, the staff assists in determining whether the proposed program is amenable to definition and measurement. Too often evaluators are unsure of what it is they are supposed to evaluate and frequently they have trouble measuring those aspects of greatest concern to legislators. Many programs are simply unmanageable and defy evaluation because their objectives are undefined.

Utilization. The most critical criterion for evaluators is the ability to use evaluation findings and recommendations. This is true for legislators as well.

Suitability. This criterion involves the appropriateness of using the Program Evaluation Division or other staff.

Research Compatibility. One final and important criterion is whether qualified staff is available to conduct the proposed study. Consultants may be needed or it may be advisable to decide not to do the evaluation until a later date when such staff might be available.

Based on an analysis of these criteria and on staff assessments, the Subcommittee on Program Selection and Review makes its recommendations back to the Audit Commission. The commission examines the report of its subcommittee and decides which programs should be evaluated. At the time of this decision, the Speaker of the House and the Senate Majority Leader make appointments to special subcommittees to oversee the upcoming evaluation. Subcommittee members come from both the commission and the legislature as a whole and are appointed as a result of their interest, expertise, and leadership roles. Executive branch staff may also be asked to participate.

Upon selection, staff begins a more detailed assessment of the program which culminates in a research design and work program. During this process, special subcommittee members assist in identifying evaluation issues and in structuring the research questions. Once the study begins, the special subcommittee receives updates on the progress of the evaluation.

Studies may be conducted in distinct stages; one building on the other. At the end of each stage, a staff paper addressing a limited number of issues is usually prepared and presented to the special subcommittee and agency(s) being studied. The subcommittee can, at this point in time, assist in providing further directions for continued study or decide to recommend that the research be terminated.

Also, during the research, the agency(s) involved is kept informed of the progress of the evaluation through a series of meetings. All written materials are reviewed by the appropriate agencies prior to publication and agency comments are encouraged.

At the conclusion of the study, a final draft report is prepared for special subcommittee and agency review. The report usually contains not more than 100 pages of summary text. Staff papers providing more detail on specific study areas are also published for those interested in pursuing a more detailed analysis of the evaluation issues.

The final report is the responsibility of the Program Evaluation Division. It may include a variety of analyses of program inputs, outputs, effectiveness, management, efficiency, benefits, costs, and impacts. Written agency comments are included in the printed text.

While policy issues are often examined in these reports, recommendations are not made regarding legislative policy. Rather, alternatives are assessed and presented for legislative consideration. Operational and administrative recommendations are included.

When the report is received by the Legislative Audit Commission, the special subcommittee and staff make recommendations for utilizing the study. Normally, the reports are forwarded to appropriate standing committees with specific suggestions. Hearings may be encouraged. Staff is involved in assisting committees in whatever way possible to assure the fullest participation in this utilization phase.

Well, now that we've followed the process from program selection to utilization, lets look at how Sunset might change things.

Evaluation and Sunset

First, it's important to note that Sunset is not a unitary concept. Some Sunset laws and proposals are limited to regulatory agencies, others are not. Some involve agencies, some programs or activities. Some Sunset concepts are limited to a handful of terminations each year, others are much greater in scope. Certain proposals call for intensive evaluations and others require a less rigorous hearing and review process. Some Sunset approaches place the burden of proof on agencies, others propose to use legislative staff for this purpose. Clearly, these differences will have important effects on the need for evaluation and the type of analysis required.

Regardless of the differences in approach, and there are many, all Sunset laws make explicit the legislator's responsibility to make life and death decisions regarding state programs. This emphasis is clearly much stronger than in existing program evaluations. Because of the critical nature of these decisions, evaluations must be more thorough and in-depth than some limited efforts currently underway.

When we talk of the need for in-depth analyses, it's important to recognize the wide variety of activities that currently are grouped together under the general heading of program evaluation. Legislative program evaluation is a mixed bag. Various definitions include measuring program effects against objectives, determining the efficiency of certain activities, assessing the adequacy of management processes, and analyzing the appropriateness of goals, objectives, and policies. In practice, evaluation activities range from short range investigative reporting to complex applied social science research.

Clearly, legislatures need to decide what they want evaluators to accomplish within the Sunset context before they establish new organizations or modify existing staff units. One point is generally agreed upon. The more thorough, objective, and rigorous the evaluation research, the more confident legislators can be with its results.

Given this conclusion, and given the significance of Sunset decisions, it's clear that adequate Sunset decision making will require some form of evaluation as a supportive tool. But remember, this tool is complex, difficult to implement, and costly. Don't expect too much from it too soon.

In Minnesota, we currently spend about two and one-half person years on each evaluation at a cost of roughly $50,000 per study. A small but significant part of this expense is required

"One point is generally agreed upon. The more thorough, objective, and rigorous the evaluation research, the more confident legislators can be with its results."

to collect data not readily available through existing information systems. The large majority of the cost is for qualified personnel needed to conduct the research.

This cost of analysis complicates the Sunset process. The Program Evaluation Division can evaluate six to eight programs a year with 20 professionals. In addition, staff may be able to undertake several more limited studies that are significantly less rigorous than these evaluation efforts.

If we were required to add ten more Sunset evaluations of the type proposed in some bills, we might have to add as many as 25 professionals and support staff at a cost of well over $500,000; and ten Sunset evaluations aren't many given the scope of some Sunset bills. If we were limited to evaluating regulatory agencies, we would need to add staff specialized in regulatory evaluation; a rare breed. In any event, we would need to add additional staff if Sunset were adopted unless the Legislative

Audit Commission decided to view itself as exclusively or mainly a Sunset organization.

If we had to significantly expand our efforts without additional staff, I would expect the following results:

1. First, the scope of reports would be reduced. The number of issues addressed in studies would have to be greatly limited. This scaled down effort could result in dissatisfaction on the part of legislators who usually want to look at more issues not less.

2. The level of analyses would also probably need to reduced and, therefore, results would be somewhat more superficial. Unfortunately, it may cost up to $250,000 or more for certain evaluations. When we can't get into the necessary level of detail, it raises concern regarding our credibility.

3. If we spread ourselves too thin, our results may be less reliable. This is especially hard on evaluation units which must prove their credibility while under fire from dissatisfied agencies.

Several other considerations must be taken into account before developing great expectations from evaluation efforts, regardless of cost and performance. First, the development of evaluative criteria is a difficult process. Measurement is often problematic and complex; certain activities and relationships may defy direct measurement. Data may not be available for any reasonable assessment. Further, if some understanding of legislative intent is necessary, this may prove to be a difficult task more often than not.

The lack of a clear statement of intent or objectives has limited numerous goal-based evaluation efforts.

Other potential impacts on existing legislative evaluation systems include the following:

1. Without careful planning, an already complex legislative evaluation process may be put under even greater stress. However, with sound planning and program development, there is potential to improve the process. Such plans should provide clear lines of authority for the conduct of evaluations. A fragmented staff approach may cause more difficulties that it solves.

2. A reasonable process of priority setting is needed in Sunset legislation. Legislative staff needs clear directions as to what activities should be evaluated, at what time, and what research questions need to be addressed.

3. Ways are needed to tie evaluation to the budgetary process. Fostering good relations with "money" committees is not enough.

   Hopefully, Sunset might help to formalize the relationship between evaluation and expenditure. Through this process, a better means of implementing evaluations might be found.

4. If abolishing programs is the only alternative proposed by Sunset, it will not make optimal use of evaluation research. In fact, a process is needed to implement recommendations short of termination to make evaluation effective.

5. One additional impact of Sunset on evaluation is in the improvement of data systems. If Sunset fosters executive branch data collection and management information systems, it will be a shot in the arm to evaluators. This points to the need to place the burden of proof on the agency being evaluated.

   Without adequate information systems, evaluators have spent too much time and effort trying to reconstruct information that was collected haphazardly or not at all. Executive branch agencies need to bear this responsibility. If we as legislative staff have to continue to shoulder this burden without agency assistance, Sunset will only add to our miseries rather than assist us.

While there are problems in developing and adopting evaluation systems to conform to the sunset framework, within reasonable limits program evaluation can assist legislators in making the difficult policy decisions required by Sunset. However, if evaluation is adopted as a decision making tool, it is important to caution legislators not to expect too much too soon.

While program evaluation has already demonstrated potential for improving legislative oversight, such effort cannot provide all the answers. Nor can program evaluation be all things to all people. Evaluation research can assist legislators in Sunset decision making. However, the responsibility for this decision making continues to rest with those of you who are elected to make such decisions.

Thank you.

Evaluation: Can It Survive Sunset?

Linda Alcorn Adams

I am delighted to be in Virginia today to talk about legislative program evaluation: how it has developed nationally to meet the public demand for improved governmental accountability; how it works in Connecticut; and how it is likely to be affected by Sunset.

I should like to preface my remarks by letting you know that after I was invited to participate in this conference, a 500-page Executive Reorganization Bill emerged from Committee in Connecticut. It calls for my office to conduct twenty Sunset performance audits per year for the next five years. This event caught me and my committee quite by surprise and, needless to say, heightened my interest in this issue to new levels. I will get back to Sunset in a few minutes, but first I will try to provide a context within which to understand its appeal and to assess its potential.

Improving Government Operations

The pressures to improve governmental functioning are by no means new. Perhaps they have existed as long as government has. In the last fifteen to twenty years, however, we have experienced a new thrust for more scientific management of government affairs. Sputnik triggered a federal space program too massive to be managed by "seat of the pants" estimates and informal procedures. Through the defense department, scientific management crept into general government in many forms, such as operations research, system analysis, PPBS, sophisticated, computerized information systems, and program evaluation.

Nearly all of this development, however, took place in the executive branch--at least until the 1970s. Weak, poorly

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staffed, part-time legislatures then began to realize they were no match for executive branch administrators at appropriations hearings. Rapidly escalating budgets, scandals of mismanagement, and taxpayer outrage prompted legislatures to seek their own capability for assessing program management and program results.

The Legislative Response

As systematic legislative oversight capability began to develop across the country, it attached itself in various places in various states. In some, such as Hawaii, Massachusetts, and Minnesota, this capability was built into existing legislative (post) audit operations. In others, such as Michigan, Texas, and Wisconsin, program evaluation was assigned to the fiscal or budget staff.

In still others, such as New York, Illinois, Connecticut, and Virginia, a separate, bipartisan oversight committee was created by statute with a mandate to assess efficiency, effectiveness, and compliance with legislative intent in selected government programs. This latter approach is the newest, New York's Legislative Commission on Expenditure Review being the first in 1969. In 1972, the Illinois General Assembly created the Illinois Economic and Fiscal Commission, and Connecticut established its Program Review Committee. Virginia's Joint Legislative Audit and Review Commission followed two years later.

A wide variety of formats continue to exist for the conduct of performance reviews by legislatures, but every year the number doing it increases.

National Staff Organization

The Legislative Program Evaluation Section (LPES), now affiliated with NCSL, was formed by a handful of people in 1973 (your director, Mr. Ray Pethtel, prominent among them) to provide a forum for information exchange and professional development among this new breed of legislative staff. The membership of this organization is currently about 250 persons, representing over 40 agencies in some 35 states.

LPES has a clearinghouse at the Eagleton Institute for all legislative program evaluation studies, it publishes a quarterly newsletter with summaries of particularly good studies, and it runs training workshops as part of its program at NCSL's annual meeting.

While few of us are satisfied with the small number of programs we are able to impact in a year (mainly due to small staffs), legislative program evaluation has come a long way in the last five years. Our methods of analysis, reporting and following up of recommendations have all been substantially strengthened by opportunities to learn from each others' mistakes as well as our own. LPES has been of immense value in helping us find our way in this new kind of research endeavor. It has been an evolutionary process, and one that must be undergone with Sunset as well. Nobody really knew how to do effective legislative program evaluation at the beginning, and no one really knows how to make Sunset work yet either.

Legislative Program Evaluation in Connecticut

At this point, I would like to describe briefly how legislative program evaluation operates in Connecticut.

First, I should point out that legislative staffing in Connecticut, as in many other states, has undergone considerable change over the past five to seven years. An Eagleton study, entitled *Strengthening the Connecticut Legislature*, had major impact in the modernizing of the Connecticut legislature. As many of you may know, Connecticut now uses a joint legislative committee system and a centralized staffing system with four functionally specialized, professionally staffed offices: the Office of Legislative Research, the Office of Fiscal Analysis, the Legislative Commissioner's Office (bill drafting), and the Office of Legislative Program Review and Investigations.

Oversight Committee. As I indicated a moment ago, Connecticut's Program Review Committee was created in 1972, early in the national movement toward strengthened legislative oversight. It was originally established as a demonstration project in cooperation with the Eagleton Institute of Politics at Rutgers University with Ford Foundation funding. The purpose of the project was to show how an oversight committee could improve the General Assembly's capability for evaluating and monitoring on-going programs of state government.

The case was so well made that the 1972 General Assembly overrode the Governor's veto for the only time that year to create a permanent, bipartisan Joint Legislative Program Review Committee with a powerful statutory mandate.

The committee's statutory authorization was well conceived. The charge is to examine

> "state government programs and their administration to ascertain whether such programs are effective, continue to serve their intended purposes, are conducted in an efficient manner, or require modification or elimination."

In addition, the committee has subpoena power, and a section requiring corrective action by agency officials:

"In any instance in which a program review cites inadequate operating or administrative system controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the head of the state department or agency to which the report pertained shall take the necessary corrective actions and when the committee deems the action taken to be not suitable, the committee shall report the matter to the General Assembly together with its recommendations."

The committee is structured in a way which has proved to be highly successful. Of the twelve members, three are House Democrats appointed by the Speaker, three are House Republicans appointed by the House Minority Leader, three are Senate Democrats appointed by the President Pro Tempore, and three are Senate Republicans appointed by the Senate Minority Leader. According to statute, each appointing authority shall appoint at least one member from the joint standing Committee on Appropriations and at least one from the Government Administration and Policy Committee. This assures that at least four Program Review Committee members, and at least one from each party in each chamber, sit on the important Appropriations and Government Administration and Policy Committees. All members serve for two year terms and the cochairmanships rotate from a Senate Democrat and a House Republican to a Senate Republican and a House Democrat.

In addition, the committee has adopted the practice of augmenting its membership during each program review to include, on an ex officio (nonvoting) basis, the cochairmen of the standing committee having jurisdiction over the program under review. When appropriate, the cochairmen of the Appropriations and Finance Committees are also included on an ex officio (nonvoting) basis. This policy strengthens our ties with other legislative committees and enhances interest in our work.

For example, at the outset of the 1977 session, three legislative committees were charged with reviewing the higher education restructuring issue: the Program Review and Investigations Committee, the Education Committee, and the Government Administration and Policy Committee. On February 10, the Education and Government Administration and Policy Committees held a public hearing on higher education governance. Subsequent to the public hearing, an agreement was reached that the Program Review and Investigations Committee would complete its legislative recommendations by mid-March and forward them simultaneously to the Education and GAP Committees. The Education Committee would act on the Program Review and Investigations Committee proposal and forward its recommendations to the GAP Committee by April 1. GAP would consider the work of both committees and forward its recommended version to the floor of the House by April 20. The release of this final report of the Legislative Program Review and

Investigations Committee was targeted for April 20 to maximize its usefulness to members of the General Assembly as the issue came to a vote.

Broadening the Mandate

Investigations. There have been pressures in the General Assembly to expand our role almost from the beginning. In 1975, the committee's mandate was broadened to include investigations of "any matter" referred to it in accordance with a procedure detailed in statute. (In the conduct of investigations, the committee is augmented by statute to include the cochairmen and the ranking minority members of the committee requesting the investigation--again on an ex officio, nonvoting basis.

Efficiency Unit. In 1976, a bill to further expand our mandate was petitioned out of Appropriations and passed in the House. The bill called for the addition of an efficiency unit to our staff to conduct small scale efficiency studies, primarily in agencies with high processing volume, such as the Medicaid claims payment section of the social services department or driver's license processing in the motor vehicle department.

Due largely to fiscal (staffing) considerations in a year when an $80 million budget deficit was anticipated, the efficiency bill failed in the Senate last year. It has been reintroduced this year but is now threatened by a new challenger on the oversight horizon, Sunset.

Sunset. The Government Administration and Policy Committee in its "Executive Reorganization Bill" has called for a sweeping one-time streamlining of the executive branch from 256 agencies, boards, and commissions to 21 "super agencies"--and, in addition, requires the ongoing Sunset review of some one hundred boards, councils, and commissions to be completed (twenty per year) over the next five years by the Legislative Program Review and Investigations Committee.

What Makes Program Review Work

Since its inception in 1972, our committee has completed nine program reviews, two preliminary reports, and one investigation. Two program reviews and one investigation are currently underway. The committee has evaluated major programs such as Medicaid, unemployment compensation, special education, bonding and capital budgeting, and the structure and governance of higher education. It has followed up each of these reports with a credible compliance effort and has a high implementation rate on its recommendations, approaching 100% on several studies. Implementation of committee recommendations has saved the state millions of dollars--already over $6 million on Medicaid alone--at a cost that only now approaches $110,000 per year.

In addition to directly saving a great deal of money, implementation of committee recommendations has substantially improved the functioning of the program reviewed. Some would claim that it even affects other programs which anticipate review. How is this effectiveness achieved, and could anything like our current program review methodology be applied to some twenty agencies per year in Sunset reviews?

Committee Respect. The results we have achieved can, in part, be traced to the teeth in the committee's statutory authority. This, together with the appointment of interested and serious legislators, whose concern for quality government has overwhelmingly transcended partisan considerations, has built a solid respect for the committee throughout state government.

Quality Staff. The second essential ingredient is, in all candor, quality staff. Like Virginia, we have consciously sought a blend of backgrounds, experience, and expertise--in addition to solid research and communication skills--in recruiting, hiring, and training personnel. Members of our staff have advanced degrees and professional experience in public administration, accounting, law, economics, government, social psychology, operations research, and systems analysis.

Evaluation Process. Third, we use a carefully designed, systematic, and thorough research strategy. We begin all studies with what we call the "preliminary investigation" phase. On a major study, it may take four weeks to survey the relevant literature, establish key agency contacts, identify outside experts, assess the usefulness of available data, and isolate the major issues.

During the second (research design) phase, which also may consume up to four weeks, a general outline of the study is developed, methodology is decided upon, and, if a staff or client survey is needed, it is drafted, pretested, and programmed for computer analysis. By the end of this phase, a specific outline for the report has been drafted.

The "data collection" phase usually begins early in the third month and may take five weeks or more. This stage includes the administration of the surveys (by mail or interview), field work, public hearings, and the coding and key punching of data for computer analysis.

The "analysis" stage is the review of computer output, identification of significant and interesting findings, following up unanticipated or unexplained findings to determine their meaning, and development of alternative solutions to problem situations. It is not until late in this stage that we really know much about the results of the study. We always have hypotheses, and usually they are more or less confirmed--but sometimes they are not. It is important that legislators be aware that nonpartisan evaluators may not find what the legislators expect or want to find. Staff must be assured independence--as they are in Connecticut and Virginia--if the findings are to be valid and credible. The committee, on the other hand, may not adopt every recommendation proposed by staff.

The fifth stage, writing the report, can be the most tedious and the most challenging. Editing seems to go on forever and requires such precision and discipline after the findings and recommendations are already known, that many staff members find this stage the least interesting of all.

As an indication of how my staff copes with this process, I will share with you some "anonymous" cartoons I have received during the edit stage. On about the third draft of our Medicaid report, I found a "Mr. Tweedy" cartoon on my desk. Two men were lounging in a backyard observing an obviously splendid rainbow. One man, stroking his chin, muses to the other, "Too much orange and it needs a little less contrast." At least I don't try to fool with Mother Nature.

Similarly, on the last day of proofreading the technical appendices to the higher education study, I found taped to my desk lamp, Today's Chuckle: "A perfectionist is one who takes great pains--and gives them to others." I could hear myself asking for corrections and changes that must have seemed trivial by then.

The importance of clear writing and technically accurate presentations cannot, in my opinion, be overemphasized, however. In the evaluation business, it often appears that some sort of quasi-paranoia is the only realistic state of mind. The agency receiving a harsh review will use every opportunity to tarnish the credibility of the review and the reviewers. In that kind of environment, every mistake that can be avoided, should be.

The final stage is of course publication and release of the report. Agency responses must be sought and resolved prior to printing, and arrangements for press coverage follows. But obviously this is not the end of the review.

Follow-Up. Successful compliance results depend upon ongoing follow-up. Frequent communication with agency administrators, including written progress reports on the status of implementation, is essential. Sometimes intervention is necessary between a department and the personnel or budget office, for example, to assure the necessary filling of costly staff vacancies or the approval of new positions.

Interface With Other Committees. Frequently, both committee members and staff are sought by standing committees for information and explanation of particular agency operations or committee findings and recommendations. In Connecticut, the Legislative Program Review and Investigations Committee reports its activities and the implementation status of previous recommendations to the General Assembly in an "Annual Report" at the beginning of each session. Legislative recommendations from all previous studies, which have yet to be enacted, are given special attention through a letter to the cochairmen of appropriate committees explaining the significance of the proposals and urging their support. Testimony is given at public hearings, and briefings for other legislators are held on request.

These are some of the major factors which I believe account for the effectiveness of the Legislative Program Review and Investigations Committee in Connecticut. To recap, these factors are an interested and respected committee, statutory clout, quality staff, a carefully designed, systematic reseach strategy, and ongoing follow-up of compliance activities.

Enter Sunset

The second part of my earlier questions was, "Can anything like our program review effectiveness be achieved under Sunset?" The obvious answer is, of course, it can if properly empowered, staffed, and funded.

But what has been the funding record of Sunset to date? The Colorado law passed without appropriation, was eventually funded at $50,000, and cost an estimated $133,000 for the first year. To my knowledge, none of the ten states now implementing Sunset laws have funded adequately, if at all, the extensive performance audits called for by law. If PPBS suffocated under the weight of its own paperwork, Sunset may fade for lack of funds to do the job.

The Connecticut bill calls for the first twenty agencies to expire on July 1, 1980 and requires a performance audit on each (using the standard nine or so criteria) by January 1, 1980. This would be an immense task if adequately funded for the preceding year, calendar 1979. At the moment, however, it appears that it may not be funded until, at best, the last six months before the audits are due, and then with only enough money for three new staff.

I titled this talk, "Legislative Program Evaluation: Can It Survive Sunset?" The reason for that title should soon become clear. If Sunset passes in Connecticut, and if it is not adequately and separately funded, the "Legislative Program Review and Investigations Committee" could become the "Legislative Sunset Committee". Our efforts could be diverted from major programs where millions of dollars in savings and vastly improved service delivery are possible to dozens of minor boards, commissions, and councils which cost almost nothing to operate.

The regulatory functions of many of these bodies have been transferred to the Department of Business Regulation, the

Department of Consumer Protection or the Department of Health Services in the Executive Reorganization Bill. About half of them, therefore, become merely advisory. If there were not so many of them, and if the required performance audits did not require so much detail, and if the task were not locked into a fixed schedule for termination, perhaps the task would not be so onerous.

On the positive side, the burden of demonstrating need and results according to each of the sunset criteria is placed with the agency. But is it reasonable to assume that a body fighting for its life would or could be objective about its worth? If so, its documentation could be reviewed in a simple desk audit and probably a relatively straightforward recommendation could, in most cases, be made.

"There is no quick, painless, one-shot cure for the morass created over years of unmanaged growth in government. The solution must be a careful untangling of the bureaucratic jungle and that will take time and money. The effort is worth making; indeed it is overdue. But I believe it should be done calmly and systematically—not in a frantic rush to restore public confidence by summertime."

It seems more reasonable to expect, however, that Sunset reviews will only be easy in cases where there is no contest--where the entity itself offers little or no resistance. Those boards and councils that want to continue will provide extensive documentation that will have to be assessed and verified or refuted. The issue and information will probably be cloudy if not down right muddy.

Our program evaluation experience tells us that rarely is something all good or all bad. If we are to live up to the reputation we established with program reviews--that of objectivity, thorough analysis, systematic development of alternative solutions, and workable recommendations--then we need time and staff. If we cannot live up to those standards and that reputation during the next five years of Sunset, then where will we be in 1984?

Obviously, when a Sunset bill calls for review of larger and more complex agencies than the Connecticut bill does, the task becomes even more unmanageable and even more threatening to the credibility of legislative program evaluation. There is no quick, painless, one-shot cure for the morass created over years of unmanaged growth in government. The solution must be a careful untangling of the bureaucratic jungle and that will take time and money. The effort is worth making; indeed it is overdue. But I believe it should be done calmly and systematically--not in a frantic rush to restore public confidence by summertime. High expectations may be engendered at grave risk for the future.

Sunset is a catchy concept. Twelve states have adopted it and the other thirty-eight have or are considering it this session. Congress is considering it. Legislators campaigned on it; the public thinks it's great. The problem is, can it live up to its promises, and, if so, at what cost--both in dollars and in damage to the recent inroads made by legislative program evaluation.

I have attempted to share with you my prognosis. I think this is all any of us can do before the fact. No one really knows for sure how Sunset would work in each state.

I commend you for this excellent, thoughtful, and thought-provoking conference.

I thank you for giving me this opportunity to share in your deliberations.

Directions for Legislative Oversight

Ray D. Pethtel

I think it's fair to say that during these last two days we have had an exceptional conference. By now, you should feel well grounded in the theory of Sunset, the fundamental principles of Zero-Base budgeting, and the processes of evaluation.

I believe the objectives set out for this conference have been met.

On behalf of the JLARC staff, I would like to thank each of our eloquent speakers for sharing their thoughts with us and thank each of you for taking time to come here today.

Before we adjourn, I have been assigned the task of commenting about the direction legislative oversight may take in Virginia. While it's much too early to make substantive statements about a Sunset plan, I believe I can begin the process of localizing the discussion to the Commonwealth, posing some of the questions that are likely to be a part of the public debate, and outlining a schematic for a study.

A Perspective on Oversight

In a way, it's noteworthy that we even focus attention on such topics as legislative evaluation and oversight at the State level. Just a few years ago, when employment was high, the economy booming, and State government small, this kind of discussion would not have occurred.

Now, government is big, revenues lag, and there is growing skepticism about the effectiveness and efficiency of public programs. There is a renewed interest in assessing the way in which the public's business is carried out. And, considering the excitement caused by Sunset and ZBB, that interest has come about rather dramatically.

There are several important reasons that may explain the shift in legislative attention to such oversight functions as evaluation and Sunset. Some of these can be attributed to the unique political environment of Virginia. Others mirror broader trends. Each goes beyond our day-to-day concern about good government.

Ray D. Pethtel is Director of the Joint Legislative Audit and Review Commission.

First, the tendency of public management during the better part of this century was to concentrate power in the executive. Legislatures quickly became dependent institutions for planning, budgeting, and evaluation information. That concentration is no longer viewed as a prerequisite for effective government. Legislatures in every state have begun to reassert more deliberate involvement in program and policy decisions and in direct, independent oversight--holding the executive accountable for proper, efficient, and effective program implementation.

Second, government today is open government. There are an increasingly large number of citizen groups demanding greater access to decision making. Sunshine laws and regulations which require citizen participation have opened up programs to intense public scrutiny. As a result, many taxpayer, community, and civic associations have found themselves joined together in pointing out failure to comply with existing law and wasteful spending practices.

Legislators have grown more concerned about waste, lack of effective impact, and programs which continue to proliferate in scope, enlarge in staff, and expand in cost. Some agencies, legislators have concluded and told me, in serving their individual interests, have lost sight of the public interest.

Third, legislators are being asked to make judgments about such technically complex programs that, often, even full-time administrators are not certain about the results of policies they support.

Finally, the economic environment of the mid-1970's imposes a new reality on government. Raw materials are scarce, energy costs are spiraling upward, and prices, such as that of the coffee we drink, reflect different kinds of economic, political, and international concerns than we have been accustomed to. The philosophy espoused by many that "less is better" may mean before long that--"less is likelier".

In the public sector, and especially in the micro economy of state government, these conditions translate into such notions as Sunset and "decremental budgeting". That is, we have less than we expected to have, so we must spend less than we planned to spend.

Yet, we are faced by the need for many new programs and new agencies--to be manned by more staff--who will serve larger populations than ever before--and at a greater cost than ever before. Unfortunately, in times like these, the increase in service demand is often far greater than the increase in our capacity to finance it.

Thus, it's profitable to focus on the economy, efficiency, and effectiveness of existing programs--to deal with program alternatives and priorities.

While much remains to be done to improve our capability for legislative oversight, it should be noted that Virginia has already come a long way.

The Commission on the Legislative Process identified and proposed many changes between 1968 and 1974 which have since been carried out. For example:

- The number of House committees has been reduced by a third and Senate committees by half. Members are able to specialize more and devote more time to especially touchy problems.

- Adequate legislative facilities have been developed to support the kind of office activity required of members on a year-round basis. Not too long ago, a member's office was his desk.

- An innovative, computer-supported legislative information and bill drafting system has been installed.

And, the Division of Legislative Services was established and developed to provide much needed staff assistance to committees and members.

In 1974, a newly organized Appropriations Committee staff began to develop the professional expertise necessary to examine the State's then $6 billion and now $7.6 billion budget.

That same year, JLARC assembled its first staff team and began a series of performance and operational evaluations dealing in comprehensive fashion with a broad range of state government programs.

The Auditor of Public Accounts' office underwent substantial reorganization and modernization late last year and now has an enhanced capability to test the adequacy of internal controls, the appropriateness of computer systems, and the integrity of financial records.

And from another perspective, the work of the Commission on Governmental Management must be cited for providing a reasoned structure for the Executive Branch, within which a modern system of State government can function.

In short, the modernization of the Virginia General Assembly, as with the modernization of Virginia's State governmental agencies, has been an ongoing process for quite sometime. And, while we may not have perfected our procedures, progress has been made. Thus, as we evaluate Sunset and consider Zero-Base analytical techniques, they should not be viewed as first steps.

We have already taken many. What we need to determine is whether or not these concepts can make a new and positive contribution. If they can, we will continue to build from strength; if not, we certainly need not adopt them.

A Sunset Law for Virginia?

Problems of growth, efficiency, effectiveness, and cost are compelling reasons why Sunset and Zero-Base analysis are fast becoming popular tools of legislative oversight. But, because these tools have not been thoroughly tested, we must proceed with the utmost caution. To quote Allen Schick,

"The overselling of new ideas (like Sunset and Zero-Base budgeting) is a chronic problem in American public administration... (apparently) innovations cannot be successfully marketed unless they promise more than they can deliver."

This is precisely the reason why the General Assembly asked for this study.

The purpose of this two-day conference was to set the stage for consideration of possible ways to improve the legislative oversight process. Sunset is a potentially valuable tool to improve accountability. Zero-Base budgeting is potentially valuable to improve efficiency. Unfortunately, both are advanced by some as legislative panaceas which will, in one fell swoop, eliminate unnecessary programs and drastically reduce the size and cost of government. To view Sunset in this manner is misleading and shortsighted.

A truly effective legislative oversight process contains a number of carefully interrelated, albeit sometimes conflicting, parts. It requires a responsive legislature, objective information, and adequate resources. It requires a viable committee structure, a system of advocates and critics, and a mechanism to assess financial and program accountability as well as performance success and performance failure. It requires different kinds of professional staffing; and, most important, it requires an articulation and acceptance of the fact that the legislature and its standing committees have an oversight role.

A Sunset law may be one of the parts, but it is important that Sunset be viewed from a practical perspective. Inflated expectations must be tempered by consideration of existing State resources, governmental organization, political reality, and the customs and traditions so much a part of Virginia's government.

The conference proceedings to this point have been designed to provide a common information base on Sunset, Zero-Base budgeting, and evaluation. A significant part of the future study effort needs to be aimed at becoming intimately familiar with the experiences of other states. We can learn from their mistakes.

A Host of Issues and Questions

As already noted by our distinguished conference participants, there are a number of unexpected, complex, and often controversial issues associated with these oversight tools. I think it's important to focus on a few of these. Specifically, I would like to look briefly at: (1) Some practical problems of implementation; (2) Several substantive policy issues that might be raised by program termination; and (3) some questions about Sunset's potential impact on our legislature. At this very early stage, I believe that it is appropriate that these questions be posed. In the months ahead, the Sunset study group will have the difficult and challenging assignment of finding answers.

First, what are the practical problems of implementation? A number of states have enacted Sunset laws, and many others are considering it. Although a limited amount of information is available on their experiences, many questions are still unanswered.

1. Why should the General Assembly even enact a Sunset law? All statutory agencies live at the discretion of the legislature. It is argued, however, that Sunset, with its mandatory termination dates, can provide the commitment--the gun, the trigger, and the bullet - if you will--that is necessary to eliminate or change unnecessary, outmoded, or inefficient programs on other than a crisis basis.

2. How comprehensive should we be and what will it cost? Should agencies, programs, functions, or all three be included in the scope of the legislation? Obviously, the cost of implementing Sunset will depend, in part, on its scope.

In Colorado, where the Sunset law is limited to licensing and regulatory functions, an evaluation report on each regulatory board reportedly cost an average of $10,000 to prepare. The total cost of looking at the first cycle of 13 regulatory boards, was $133,000.

The U. S. Chamber of Commerce estimates that Congress will have to hire an additional 2,500 employees at a cost of $100 million to implement a comprehensive Sunset law at the federal level. What might it cost and what can we afford in Virginia?

3. What evaluation criteria should be specified? Consideration must be given to performance standards, as well as the way in which these standards relate to program objectives. This is especially important since many laws establishing programs in Virginia do not carry a clear expression of legislative intent.

4. What impact will a Sunset law have on federally mandated and optional programs? How will it impact local governments? Will some special provision need to be made for programs which require an increasing assumption of costs on the part of the State, such as the programs funded by the Law Enforcement Assistance Administration?

5. Should a Zero-Base procedure be looked at as an analytical tool to complement Sunset (as in Louisiana) or should it be viewed as a permanent part of the biennial budget process? In either case, we must very carefully look at the impact and relationship ZBB might have on the State's about-to-be implemented program budgeting system.

The second area of concern deals with the consequences of program termination or modification. There seems to be little doubt that Sunset would have its most pronounced affect on agency personnel and program clients.

1. Should Sunset deal with terminations? Or should it deal with modifications and adjustments brought about by the threat of termination?

2. Will there, in fact, be dollar savings? Will termination of an agency actually save money, or will that function (and budget) just be picked up by another agency?

3. Will program managers and clients be forced into a more united and powerful coalition by virtue of the threat of termination?

4. Should provision be made for the impact Sunset might have on service recipients?

5. Should provision be made for the impact Sunset might have on long-term fiscal obligations?

6. Should provision be made for the impact Sunset might have on State employees? Certainly, employee recruitment, security, compensation, and retirement must be considered.

Finally, we will have to consider the impact Sunset might have on the legislature itself.

1. What is the appropriate mechanism for legislative review that should be embodied in Sunset legislation? The role of the citizen legislature in Virginia makes this a particularly germane question. If Sunset were adopted, it would require communicating an enormous amount of data to the General Assembly. The adoption of any Sunset provision will require a great deal of money, staff, and time. Most important, the potential increase in work load and the implications this has on the citizen legislator, must be considered.

2. Will there be time to review Sunset actions in a 30 or 60 day session with all of the other business of the General Assembly? Sunset doesn't give a legislature additional power; it does, however, commit it to use what it has. What will be the impact on public confidence if we have a Sunset law but don't use it?

3. Should a special Sunset-oriented select committee be created as in Alabama, Florida, and South Dakota? Or can standing committees or subcommittees carry out required hearings and sunseting actions? How should any Sunset action be communicated between subject matter and fiscal committees?--House and Senate?

These are just a few of the issues related to Sunset that the study group will need to grapple with. The experiences of other states in implementing various mechanisms for legislative oversight--Sunset, in particular, may help; but there is no prescriptive model. Certainly, we can't start with the assumption that any Sunset program is mandatory. All that is really self-evident is that the facts should be impartially evaluated in the context of the needs and resources of Virginia's State government.

In this regard, I believe HJR 178 has provided us a sound vehicle for that study.

"A truly effective legislative oversight process . . . requires an articulation and acceptance of the fact that the legislature and its standing committees have an oversight role."

It establishes a 12-member advisory task-force to assist the Commission. That provision was included in the resolution because the study was viewed not only as analytical but also developmental. Any Sunset proposal will require the widest possible representation of legislative, Executive, and public views.

This conference was conceived as a first step in the process. It ensured:

- familiarization with the various concepts;
- an opportunity to develop some of the issues;
- exposure of the process to interested members of the General Assembly and to the public; and
- an opportunity to establish communication.

We have proposed to hold a series of meetings during June, July, August, and September. The study task force will be an active group. Public hearings will also provide an opportunity to elicit citizen opinion and to ensure exposure of the concepts as well as open debate.

We have also proposed these meetings be focused around a series of open, subject matter forums (one-day mini conferences) with specialists brought in to participate in round table discussion of issues and problems. During June, we would like to hold a Sunset forum; in July, one on Zero-Base budgeting; in August, the subject would be on the evaluation process; and in September, we would deal with alternatives to Sunset. By November, we hope to finalize the study findings, conclusions, and options and make recommendations for legislative consideration.

Finally, we will propose there be several specific follow-up activities in addition to the study report, including public hearings on any proposals and publication of this conference proceedings and forum relevant proceedings.

The results of this effort, I am sure, will serve to further enhance the capability of the Virginia General Assembly and the functioning of state government in the Commonwealth.

I thank you for your attention and look forward, with the staff, to working with you in this important endeavor.

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, Councill, 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 process, 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 procedures 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.

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