

TESTIMONY CONCERNING SUNSET LEGISLATION

SUBMITTED BY HONORABLE LES AuCOIN

(To be included in the record of hearings regarding sunset legislation to be held by the Subcommittee on Legislative Process of the House Rules Committee).

Mr. Chairman, distinguished members of the Legislative Process Subcommittee:

I appreciate the opportunity to submit testimony in support of the concept of sunset legislation that this subcommittee is presently considering.

A New York Times/CBS poll taken recently indicated that approximately 80 percent of the American public thinks the government wastes a lot of tax dollars. I agree. And I want some method to eliminate some of those wasted dollars and prove to the public that the dollars that Congress appropriates are valuable and are spent in the manner that the Congress intended.

Sunset legislation has been heralded simultaneously as the possible solution to the wasteful practices of the federal government or the biggest potential wasteful practice of them all. I don't believe that sunset is a quick and easy solution to unsnarling the bureaucracy. But sunset does have the potential of bringing order out of the bureaucratic chaos if it is brought to bear in the process of overseeing various aspects of the operation of the Federal government.

It's a particularly healthy process when the Federal government, namely the Congress, must consult state models in order to incorporate good aspects and avoid possible pitfalls of this legislation. The experience in the 30 states that now have sunset laws has been mixed. But the most successful experiences have occurred when states have incorporated several key elements into their sunset process.

1. Establishment of a schedule of periodic and automatic termination of agencies or programs. The underlying assumption of sunset is that the best way to bring the evaluative and oversight forces to bear on a program or agency is to face a fixed deadline that compels action.

2. Thorough, preliminary studies must be available. Without in-depth staff work in advance, there will be no way for legislators to reach judgements or formulate knowledgeable opinions. This will put an emphasis on utilizing the vast resources available to the Congress

including the Congressional Research Service of the Library of Congress, the Congressional Budget Office and the Government Accounting Office.

3. A procedure of phasing in sunset. The states that have had problems with sunset bit off more than they could chew initially. Certainly we don't have the resources in terms of staff, energy or time to take on the entire federal bureaucracy at one crack. Sunset must take workload into account so that evaluations will be just that and not perfunctory renewals as has been the case in some states.

4. Specific policy areas must be reviewed simultaneously. Accurate perspective can only be achieved if we review related programs at the same time wherever they are located in the federal jigsaw puzzle. This will allow us to analyze the ongoing coordination with respect to our original spending decisions or the lack of that coordination.

These aspects of sunset -- a strict schedule of automatic terminations, thorough preliminary staff work, a phased-in approach and review of programs according to policy area -- are vital to the success of the sunset method.

What impact can sunset have?

I liken sunset's potential to that of the budget function that Congress now exercises.

Let's sketch the scenario not so many years ago. The President would send his budget down Pennsylvania Avenue. The Congress was compelled to await its arrival. There was no device that allowed Congress to cope with OMB and get an overall picture of spending priorities. If they balked at complying with specifics of the President's budget by appropriating more than requested, the President impounded the money. Effectively, the President's budget was sacred.

Congress' response: the establishment of the Congressional Budget Office and the Congressional budget function. What began with a rocky start has become an essential procedure that seems almost second-nature today. There has been no increase in Congressional powers, just a systematic manner for exercising our responsibilities.

I predict sunset will become a similarly essential function that will seem second-nature in just a few short years. The problem is large -- Congress needs a way to systematically oversee the bureaucracy and to compete with the bureaucracy's ability to renew itself seemingly endlessly. It may be a rocky road initially but sunset has constructive potential that rivals almost every other task that we perform. It is not an increase in powers, just as the budget function wasn't. It's merely a method for exercising the responsibilities that constituents demand we perform.

Another aspect of the potential good that sunset could bring has to do with the often-thwarted legislative intentions of the Congress.

Due to the complexity of issues, it is difficult for even Members of Congress who are lawyers to write definitive laws that will stand the test of time. Indeed, a number of cases are being argued in the courts now as high-priced lawyers attempt to cite the legislative history written into the committee and floor record that will prove their cases.

The Congress needs leverage to ensure that its will is being exercised practically, not just legally.

Legislation doesn't stop when a bill becomes law. Follow-through is important to ensure that legislative intentions become reality. Circumstances can change warranting new solutions or perfections in old programs.

Sunset can serve to tip off legislators to other needed initiatives, not always requiring vast overhauling legislation. The state experience shows that not many agencies or programs are eliminated completely. But many refinements are made, and many a bureaucrat is forewarned of impending disaster if he doesn't shape up.

For these reasons, I support the sunset concept, and I ask that my colleagues give these measures the attention that they deserve. It would be tragic if we allowed technicalities to stand in the way of this timely idea, and I ask that the committee take note of the important principles that I have cited and incorporate them into this legislation.