

SENATE  
GOVERNMENT AFFAIRS COMMITTEE

Minutes of Meeting - March 2, 1977

Present: Chairman Gibson  
Senator Foote  
Senator Faiss  
Senator Gojack  
Senator Raggio

Also Present: See Attached Guest Register

Chairman Gibson opened the eighteenth meeting of the Government Affairs Committee at 2:00 p.m. with Senator Schofield being absent due to a conflict with the Commerce committee having a joint meeting at the same time.

BDR 29-905 relates to state publications providing for the publication of a biennial report and statistical abstract and providing other matters properly relating thereto. This was presented to the committee for consideration for committee introduction. Motion to introduce by Senator Foote. Seconded by Senator Raggio. Motion carried unanimously.

BDR 28-1036 and 1037(a resolution), Chairman Gibson indicated that this bill relates to the State Public Works Board. It provides for accounting, etc. With this is a resolution calling for a study should this bill not be passed. The idea behind this is to reflect the continuing costs of the capital projects. Motion for committee introduction by Senator Foote, seconded by Senator Raggio. Motion carried unanimously.

BDR 24-762 is an act relating to elections extending the provisions for voters to express opposition to all candidates to office and providing other matters properly relating thereto. Motion for Committee Introduction by Senator Raggio, seconded by Senator Faiss. Motion carried unanimously.

SB-219

Provides for termination of certain boards, commissions and similar bodies in executive department of state government.  
(BDR 18-358)

Senator Raggio, as one of the main sponsors, testified to the committee and audience on this bill. Senator Raggio went over the bill and indicated in the beginning that the entire thrust of the bill is contained in the first six pages and the final section (531). It incorporates a form of the sunset legislation. The concept of sunset law which provides that in the absence of a positive act on the part of the legislature, those agencies or commissions which are covered under such legislation would

automatically expire after a specified period of time. The period is specified at 6 years in this bill. The sunset mechanism is seen as a measure to strengthen the role of the legislative branch by mandating a continued program of comprehensive oversight. This is handled by legislating a terminal date for those agencies, boards and commissions that are within the purview of this bill and then providing a means by which a reprieve can be granted by the legislature if the legislature is convinced that it does have merit.

Senator Raggio indicated that there have been some comments made that this bill gives too much autonomy to the legislature. He feels that this is not true as the legislature has the power to abolish a board or agency if it feels that the usefulness is no longer there and this bill gives the legislature no more power than it already had. It does give a continuing review and a more systematic approach to looking at these agencies. The sunset law fixes in the law a date by which statutory authorization for that particular board or agency will terminate, it also provides that prior to this termination date there will be a review process. This process would be thorough and prove that the agency could be justified to the legislature's satisfaction, thus giving the agency another six years of life. If the agency could not justify its existence it would then be abolished. The legislature is not just restricted to continuing or abolishing an agency or board but has many other options.

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Senator Raggio concluded by indicating that this bill has a two fold purpose: 1) Make the agency accountable and 2) eliminate the agency that no longer will be of value to the public.

Frank Daykin, Legislative Counsel, noted that the Colorado law is not self executing. Nevada has made this bill complete in itself. On July 1st one group of agencies could be abolished and the law would remain as it was. If on the other hand the legislature decided not to abolish an agency you would only have to amend a certain date section to make the date July 1st of a particular year.

Senator Raggio indicated that many were concerned with Section 531. Some felt that their powers were taken away automatically.

Frank Daykin gave the committee an example of an agency and should it happen to them with regards to Section 531. If we are going to keep an agency we would amend subsection 2 so that it would read that sections 15 through 81 would be effective 7-1-79. Take the section in question out and use the other date of 7-1-85. This would apply to any other commission as well.

Ron Sparks and John Dolan, Fiscal Analysts with Legislative Counsel Bureau, went over the fiscal impact that this bill would create if enacted.

Ron Sparks noted that they encountered two main areas of concern. First is that Nevada has had no previous sunset experience to base our estimates. Secondly, AB-278 which is an implementation of the Planning Coordinator's study as originally printed repeals several of the initial agencies to be studied. However, recent hearings on AB-278 indicate widespread opposition to many of these selected eliminations and amendments have been offered by the executive branch which are now proposing to retain agencies that were originally scheduled for termination.

In preparing the note we (fiscal analyst dept.) contacted the state of Colorado and they indicate that the performance audits for the relatively minor agencies in Colorado (small budgets and few full time staff) average about 200hrs each. Most of the agencies scheduled for termination in SB-219 on July 1st 1979 fit within this relatively minor classification. Thus, the estimated fiscal note assumes an average of 200 hours of study for those mandated to be complete by January 1, 1979. The fiscal note assumes 35 agencies to be completed between July 1, 1977 and January 1, 1979. (7,000 man hours = 200 hrs per agency)

In assuming 1,800 hours per year for two proposed new analysts with 1½ years would account for 5,400 of the man hours required. The remaining 1,600 hours would be absorbed by the existing four analysts in our office upon the stipulation that our staff is assigned fewer primary responsibilities for interim legislative commission studies.

We have also included in our fiscal note one new clerical position to support the new analyst. If time permits during the next biennium studies would be conducted on those agencies scheduled for termination by July 1, 1981. The experience we gain in the first one and a half years of operation would be used as a basis for budget recommendations to the 1979 legislature.

We feel that this is a reasonable and responsible method of implementing this part of the legislation and Mr. Sparks reiterated that it was based on the agencies listed for termination on July 1, 1979.

The total fiscal impact that we have developed for the next biennium indicates \$79,340. for fiscal 1978 and \$80,920. for fiscal 1979. This total reflects the inclusion of travel in each of the two fiscal years in order for the analysts to travel to Colorado to review with them the procedures that they are currently using for their sunset legislation and also to review the problems that they have experienced.

John Dolan stated that they did contact people in Colorado who were responsible for carrying out the performance audits. In Colorado this function was given to the legislative auditors. They have a staff of approximately 60 and when the sunset legislation was adopted

they absorbed the additional responsibilities within the existing staff. Since they have had the operating experience of performing these audits they were very helpful to us. The two boards that were done by the Colorado staff first were; the State Board of Cosmetology and the State Board of Barbers Health & Sanitation. It took 573 professional man hours to complete the audit on the Barbers Health and Sanitation board and 600 to complete the audit on the State board of Cosmetology. They now feel this would be shortened considerably. The Barbers Board would probably take about 300 hours and the Cosmetology board would also take about 300 man hours to complete.

Mr. Dolan pointed out that some audits we would be doing in the near future, such as the Public Sanitation Board, would take about 200 man hours. Mr. Dolan felt that as the program is being phased in so too could the staff to support the workload. Mr. Dolan stated that Colorado is doing a professional audit on what would be the equivalent of our Public Service Commission. For that audit they have 2,000 man hours budgeted, this is the equivalent of one full time analyst per year.

Art Palmer, Director, L.C.B., indicated that the only impact that might affect the balance of the staff with the counsel bureau could be tied in with a fiscal note observation that the Legislative Commission studies couldn't expect the fiscal section to assume any primary responsibilities.

Stanley Miller, Employment Security Department; Board of Review, and Chief of Appeals Referee, testified to the committee. Mr. Miller questioned whether they are the type of agency or board that should be in this bill. They are full of requests for review every month. See Attachment #1.

Frank Daykin noted that in Section 6, line 43 the executive director would have to perform internally within the department whatever review was required by federal law, the step beyond that would be judicial review.

Melvin Brunetti, Nevada State Board of Accountancy, introduced Mr. Burkstrom, C.P.A. to the committee. Mr. Brunetti had some questions and the first question was would they be able to have some time to prepare any suggested amendments or corrections to the bill at a later date. Chairman Gibson assured Mr. Brunetti that the bill would be heard again.

Mr. Brunetti stated that in reviewing the act with regards to the Board of Accountancy it seems that the sunset law is based upon a "performance audit". If the board of Accountancy was done away with then the discipline which would control an audit would be lost.

Mr. Burnetti felt that there was an inconsistency by the possibility of eliminating the Board of Accountancy on the one hand and requiring an audit by the certified public accountant on the other. We have made a short study and there are seven or eight agencies, such as the Intra-State Stock Offerings, requires no certification by a C.P.A. or a P.A. Local government audits are eliminating the requirement of C.P.A.'s or P.A. The question would remain that if the discipline is being eliminated there doesn't seem to be a change-over to protect the governmental requirements of proper accounting and the private sector on proper public accounting.

Mr. Lee Burkstrom then addressed the committee and informed them that he is the President of the Nevada Society of C.P.A.'s. He stated that he did not formally represent the Board today as they haven't had proper time to prepare testimony. Mr. Burkstrom feels that the bill, in concept, is in the best public interest. He feels that we can find a more effective way to handle this type of legislation. In the process of changes he noticed that the legislative auditor need not be a C.P.A. Offered any help in revising this bill.

Chairman Gibson stated that there may be many amendment changes in the first part of the bill.

Frank Daykin stated that in the next session we would have to amend many sections in addition to many pieces of legislation that has passed this session to keep it current.

Mr. W.W. Richards, Motor Carrier Division, did want to note that in the bill they are charged with the enforcement and administration of the special appeal tax, possibly the gasoline tax as well. Under the enforcement, the way its been drafted, it takes chapter 366 out of the Motor Carrier Division and goes to the Highway Patrol for enforcement. (Page 143, section 458)

Mr. Richards also noted that in the repealing, Section 504, page 149, we would be repealing the departments criminal penalties under NRS 706.756, even though we are tied to the Public Service Commission as well as the department.

Mr. Leonard Winkleman, Chief of Services within the Department of Motor Vehicles, noted problems with pages 134 and 135. It looks like we will be deleting privilege tax on the motor vehicle fund. He is also concerned about the 1% and 6% interest tax that was bracketed out.

Mr. Daykin stated that this was only the distribution of the tax. It would go back to the local county collection. The formula for computing the tax would be different. We are deleting the particular formula pursuant to which the tax monies were distributed

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Mr. Richards commented that on page 154, under the definition of a vehicle, there are brackets on line 34 to delete NRS 706 which is the privilege tax under the definition of NRS 371.020.

Senator Raggio also noted that they do retain the privilege tax under Chapter 482, collected by the local governments, although it would be eliminated from the inter-state highway user fee apportionment under NRS 706.

Norman Hall, Department of Conservation and Natural Resources, read his testimony to the committee. (See Attachment #2)

Frank Daykin responded to Mr. Hall's testimony by stating that the amendments here are simply removing one administrative organism. The pledge of good faith would prevent, for example, our impairing the authority of districts to levy a tax for the payment and interest on their bonds.

Mimi Rodden, Nevada State Museum, and a member of the board of trustees. They welcome the sunset legislation and are in favor of this bill. They were concerned that the Board would be abolished in its entirety if it does not meet the justification standards set in the performance audit. She also questioned where the Board of Archeology would fit in.

Frank Daykin noted that they would fall within the changes made with respect to the Museum unless there is a decision to put them wherever the legislature decides they should go.

Pat Gothberg, Common Cause, had many pieces of literature for the committee to look at as well as amendment suggestions. See Attachments 3, 4, 5, 5A & 5B. Ms. Gothberg indicated that they were in full support of the sunset concept. In her policy statement she feels they are going to do too much too soon. Wants a more gradual approach. Ms. Gothberg went over the Amendment 2 group for the committee. The only difference between Amendment group 1 and 2 is who would be qualified to do the audits.

Senator Raggio indicated that the fiscal analysts would have the authority to perform the audits.

Ms. Gothberg felt that the Amendment 2 group was based on the understanding that the group of boards and agencies to be considered would be reduced by approximately 50%.

The committee discussed the amount of boards and agencies to be considered and felt that they had taken the boards and agencies into consideration before coming to that figure. It was the general consensus that the boards and agencies to be considered first were small and should not be too difficult to handle.

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Milos Terzich, Health & Life Association, referred the committee to page 80 and 81 which amends the insurance code. Lines 48 and 49 through lines 6 of page 81. In the event any of these provisions are terminated you would have to go back and change the chapter numbers. The intent of the provisions is to compel the insurance companies to provide for the payment or treatment of those who are licensed in the state. Thinks the language could stay to the effect that, "medical or surgical services, including services within the scope of his license rendered by any individual while duly licensed by the State of Nevada to practice"..... without naming the chapters.

Frank Daykin interjected that the only omission was the technical definition.

Daisy Talvatie, League of Women Voters, testified to the committee and read the attached. (See Attachment #6) Other comments were that they questioned whether or not there is really a sunset mechanism in the Colorado law. Every time you have to perform a legislative audit we will be writing new laws and statutes. They also feel a real sunset bill would go beyond the agencies and take into consideration the executive agencies as well.

Bill Cozart, Nevada Association of Realtors, had a prepared statement by the Realtors Association. See Attachment 7.

~~Senator Raggio wanted the records to indicate the Greater Reno Chamber of Commerce was also in favor of this bill~~

Grant Bastian, Nevada State Highway Department, indicated that the problem they have with the bill is on page 5, line 8. Limits the agency to their contracts that would extent beyond the July 1st deadline. They have many agreements that go beyond that date and they see this as a problem.

Frank Daykin felt that they might need to reconsider this legislation as it applies to a certain few of those boards that are going to be considered.

Tom Cooke, representing the State Contractor's Board, has some reservations with the bill. Feels that you might inhibit these agencies by making them have a six year life before renewing their chances to continue. Is against the termination aspect of the bill.

Senator Hilbrecht stated that this bill is directing all agencies on a regular basis to re-evaluate and see if the agency is truly effective and if not to have it reviewed for its reason for existence.

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Senator Hernstadt testified to the committee and stated that it has been brought to his attention that sometimes boards go beyond their delegated authority. Feels that this type of legislation could also keep the agencies and boards within the scope of their intent.

Robert Guinn, Nevada Motor Transfer Association, stated that they were in favor of the concept of sunset legislation. Since there will be no consideration given to abolishing the Department of Motor Vehicles, but the Department of Highways is being considered for abolishment because it has a Highway Board. Feels that this is an inconsistency. If you are going to exempt the Department of Motor Vehicles you must also exempt the Department of Highways. Has some question about your automatically abolishing the Public Service Commission. We all know that they can justify their existence but this shouldn't be placed on the list.

His next question was whether or not these agencies could have proper funding to conduct these performance audits within their budgets.

Frank Holzhauer, Department of Human Resources, noted that he discussed this bill with Mr. Trounday, Director, and they have major concerns with the fiscal note. They feel that they would need a good deal more money to handle these audits. They agree with it in concept. We see the sunset mechanism every two years, once when we see the Governor and the second time is when we go before the budget division. We find no problem with implementing this bill and are in favor of this type of legislation. We have several boards and commissions that are mandated by federal statute that are not included in the state statutes. There may be a need to consider a more blanket statement and look at some of these situations.

Heber Hardy, Public Service Commission, stated that they are in agreement with the concept in this sunset legislation and welcome the idea of periodic review.

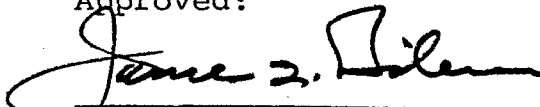
Chairman Gibson thanked those who testified and noted that this would come up again for hearing after the committee has had time to digest the comments made today. Chairman introduced into the minutes three letters that were submitted to him. (See Attachment 8, 9, & 10)

With no further business the meeting was adjourned at 5:20 p.m.

Respectfully submitted,

  
Janice M. Peck/Committee Secretary

Approved:

  
Chairman



Transmitted February 15, 1977

AGENCY ESTIMATES

Date Prepared

Submitting Office of Fiscal Analysis, Legislative Counsel Bureau

Revenue and/or Expense Items	Fiscal Note 1976-77	Fiscal Note 1977-78	Fiscal Note 1978-79	Continuing
Estimated Budget		\$79,340	\$80,920	Yes
Total		\$79,340	\$80,920	Yes

Explanation (Use Continuation Sheets If Required)

The attached estimated budget figures and budget assumptions.

Local Government Impact YES  NO

(Attach Explanation)

Signature

Title Chief Deputy Fiscal Analyst

DEPARTMENT OF ADMINISTRATION COMMENTS

Date

Signature

Title

LOCAL GOVERNMENT FISCAL IMPACT (Legislative Counsel Bureau Use Only)

Date

Signature

Title

EXAMPLE A

Estimated Fiscal Note for Senate Bill 219, 1977

	<u>1977-78</u>	<u>1978-79</u>
2 Deputy Fiscal Analyst (39-15)	\$48,000	\$50,160
1 Principal Clerk Typist	8,520	9,330
Fringe Benefits	<u>7,920</u>	<u>8,330</u>
Personnel Services	\$64,440	\$67,820
Out-of-state travel	500	500
In-state travel	1,000	1,000
Operating--3 employees @ \$600	1,800	1,800
IBM Mag Card A typewriter--maintenance & lease	3,000	3,000
Printing	1,800	1,800
Contract services	5,000	5,000
2 Executive units	<u>1,800</u>	<u>--</u>
<b>Total Expenditures</b>	<u><b>\$79,340</b></u>	<u><b>\$80,920</b></u>

Assumptions for the Estimated Fiscal Note for Senate Bill 219, 1977

In developing an estimated fiscal note to implement the provisions of SB-219, two major difficulties were encountered:

1. Nevada has no previous "Sunset" experience upon which to base estimates.
2. AB-278, as originally printed, repeals several of the initial agencies to be studied. However, recent hearings on AB-278 indicate widespread opposition to many of the suggested eliminations and amendments offered by the Executive Branch propose to retain several of the agencies originally scheduled for termination.

Colorado is a pioneer in the initiation and operation of sunset legislation and SB-219 is generally patterned after the Colorado legislation. Communication with the implementing agency in Colorado indicate that the performance audits for the "relatively minor agencies" in Colorado (those with small budgets and few full-time staff) average about 200 hours each. Most of the agencies, scheduled for termination on July 1, 1979 (for which a performance audit must be completed by January 1, 1979) fit within this "relatively minor" classification. Therefore the estimated fiscal note assumes an average of 200 hours per study for those mandated to be completed by January 1, 1979.

The estimated fiscal note assumes 35 agencies to be completed between July 1977 and January 1, 1979 (one and one-half years) or 7,000 man-hours. Assuming 1,800 hours per year for 2 proposed new analysts for 1-1/2 years accounts for 5,400 man-hours. The remaining 1,600 hours mandated would be absorbed by the existing four analysts in the Office of Fiscal Analysis upon the stipulation that this staff be assigned fewer primary responsibilities for interim Legislative Commission studies. One new clerical position is projected to support the new analysts.

If time permits, studies will be conducted on those agencies scheduled for termination in 1981. Experience gained in the first 1-1/2 years of operation will be used as the basis for budget recommendations to the 1979 Legislature.

PRESENTATION FOR SENATE GOVERNMENT AFFAIRS COMMITTEE, SB 219

March 2, 1977, Room 243

By Stanley Miller, Chief Appeals Referee, Employment Security Department

Mr. Chairman and Committee Members:

Senate Bill 219, Section 282\*, Lines 4 and 5, Page 71, repeals NRS 612.325 and NRS 612.490-530 inclusive. In other words, it eliminates the Employment Security Board of Review and Appeals Referees. I respectfully request that these lines be deleted. The reason is that the Referees handle around 600 appeals monthly for benefit claimants and employers, while the Board of Review handles up to 100 administrative reviews monthly. Remedial legislation is involved and there is a United States Supreme Court mandate for prompt adjudication.

If the Board of Review and Referees were eliminated, the unsophisticated or unaffluent would be denied administrative recourse unless they were ready and able to flood the district courts with such cases. Others would be effectively denied recourse since many of the actions would not justify the expense of a court action.

The Employment Security Program is federally funded, and Section 303 (a) (3) of the Social Security Act requires that state laws have provision for:

"Opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."

When states are out of conformity with the Social Security Act, the federal administration threatens to cut off funds. I see no reason at all to abolish the required appeals apparatus only to have to re-establish it or lose federal funds. *We have on-going fiscal and other justification through the parent federal agency. Inclusion in SB 219 would only burden the state.*

\* Also Section 6, Lines 42 and 43, Page 3

NORMAN HALL, Director  
STEVE ROBINSON, Assistant Director

MIKE O'CALLAGHAN  
Governor



Address Reply to  
Capitol Complex  
Nye Bldg., 201 S. Fall Street  
Carson City, Nevada 89710  
Telephone (702) 885-4360

DIVISIONS  
LANDS  
FORESTRY  
STATE PARKS  
WATER RESOURCES  
CONSERVATION DISTRICTS  
OIL AND GAS CONSERVATION  
STATE ENVIRONMENTAL COMMISSION  
COLORADO RIVER RESOURCES

STATE OF NEVADA

## Department of Conservation and Natural Resources

OFFICE OF THE DIRECTOR  
CARSON CITY, NEVADA 89710

March 2, 1977

SB 219 - Senate Committee on Government Affairs

My name is Norman Hall, Director, Department of Conservation and Natural Resources.

We have no objections to the concept of "sunset legislation" as set forth in SB 219. I see no problem with boards and commissions of this department facing a performance audit.

On page 10, beginning on line 28, references are made to the Irrigation District Bond Commission and their authority. I would like to call the Committee's attention to NRS 539.665 in which "The faith of the State of Nevada is hereby pledged that any law under which irrigation district bonds are issued shall not be repealed, nor taxation thereby imposed omitted, nor such law be so amended as to impair the security of such bonds, until all the bonds and coupons issued under and by virtue thereof have been paid in full as specified and provided in such law." The Committee may desire to have this reviewed further to make certain that amendments to the Irrigation Bond laws are proper.



March 2, 1977  
Re: Suggested Amendments to SB 219  
From: Pat Gothberg, CC / Nevada  
To: Senate Government Affairs Committee

*Amendment group  
# 1*

Page 5, Delete lines 11, 12, 13. and substitute the following:

A performance audit shall be conducted by the office of the Legislative Counsel or the appropriate division thereof. The audit shall start no later than July 1st of the year before termination of an agency and shall be completed no later than December 15th of the year before the termination of an agency.

Page 5, Delete "office of fiscal analysis" in line 14. and substitute the following:

Legislative Counsel or the appropriate division thereof,

Page 5, Delete lines 18 and 19. and substitute the following:

The Legislative Counsel or appropriate division thereof shall prepare and present the performance audits to the legislature at its next regular session. Its recommendations shall be referred to an appropriate standing committee of the Senate or Assembly, which has jurisdiction over the agency, following which a public hearing shall be held no later than February 15th of the next regular session of the legislature.

A committee recommendation for termination, continuation, or reestablishment shall be presented to the legislature no later than March 15th of the next regular session.

Page 5, Delete lines 36 and 37 and substitute the following:

The Legislative Counsel or appropriate division thereof, in determining whether an agency has demonstrated a public need for its continued existence, shall take into consideration the following factors, among others:

Page 6, two new sections should be added:

For the purpose of carrying out the provisions of this act, there is hereby appropriated \$X to the Legislative Counsel to defray the cost of the performance audits required hereunder.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

March 2, 1977  
Re: Suggested Amendments to SB 219  
From: Pat Gothberg, CC / Nevada  
To: Senate Government Affairs Committee

*Amendment group  
# 2*

Page 5, Delete lines 11, 12, 13, and substitute the following:

*2  
of statements  
1.*

A performance audit shall be conducted by the office of fiscal analysis. The audit shall start no later than July 1st of the year before termination of an agency and shall be completed no later than December 15th of the year before the termination of an agency.

Page 5, add new section between lines 19 and 20:

*7  
for  
legislature*

Its recommendations shall be referred to an appropriate standing committee of the Senate or Assembly, which has jurisdiction over the agency, following which a public hearing shall be held no later than February 15th of the next regular session of the legislature.

A committee recommendation for termination, continuation, or reestablishment shall be presented to the legislature no later than March 15th of the next regular session.

Page 6, two new sections should be added:

For the purpose of carrying out the provisions of this act, there is hereby appropriated \$X to the office of fiscal analysis to defray the cost of the performance audits required hereunder.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

February 23, 1977  
Policy Statement  
Re: SB 219 / Sunset

In view of the active involvement of Common Cause in the consideration of applying the Sunset mechanism to various aspects of government, the following statement is made to all Nevada legislators and interested public.

SB 219, Nevada's first attempt at application of the Sunset concept should be amended in order to minimize risks and assure, as much as possible, the success of the program. Most importantly, 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.

Our recommendations fall into two categories. First, is the area of how many agencies or boards should be covered, and which ones should be covered. It is urged that a limited list of agencies be selected with selection of programs and agencies in the same policy area being reviewed simultaneously in order to encourage consolidation and responsible pruning. In reviewing the agencies in SB 219, approximately 45 stand out as possibly being agencies which might grant licenses. There may be other ways of determining a common denominator which might be found in only some of the agencies and boards listed in SB 219. The point is that the success of the Sunset program could be drastically reduced if, in our enthusiasm, we try to do too much too soon. Although Common Cause is not in a position to suggest which agencies should be selected, we do suggest that a limited selection is best.

The second area of concern is in the actual make-up of the Sunset concept which is found, for the most part, on pages 5 and 6 of SB 219. The goal of Sunset is to provide periodic evaluation of the boards and agencies covered in the law. The action-forcing mechanism which assures that the evaluation will be done is the threat of termination if the legislature determines that the agency should no longer exist. The goal of Sunset is NOT termination of boards and agencies, however, once Sunset is working properly, there should not only be termination of unnecessary agencies, but those agencies which the legislature reestablishes should be operating more efficiently. Waste should be cut. Consolidation of agencies can often be a result of Sunset.

It is our opinion that there are not enough safeguards built into SB 219 to guard against arbitrary termination. The bill provides all the necessary language to terminate boards and agencies. It does not provide the necessary language to enable continuation of boards and agencies. Following are suggestions for correcting this inequity:

1. When requiring by law that an agency be evaluated and that a performance audit be done, it is always wise to assure ample time for the audit to be completed. Audits in the state of Colorado on small agencies are taking approximately 200 hours to prepare. Our law should give a date certain by which the performance audit should have begun. This would guarantee that work would begin in plenty of time and would leave up to the division doing the performance audits the decision of starting even sooner, if they so choose.
2. The law should provide that the performance audit be completed by a date certain so that the legislature will have ample time to review the audit and take into consideration all the factors necessary to make a recommendation for termination, continuation, or reestablishment.
3. Performance audits are not the only things that the legislature should consider when evaluating agencies. SB 219 does not provide for mandatory public hearings. Although the final decision must rest with the legislature, the public should have the guarantee that their input will be considered. Representatives of the agency should be heard, and so should anyone who is regulated by the agency who wishes to be heard. The law should provide that a public hearing will be held by a date certain.
4. The law should provide that the standing committee which is hearing the bill must report the bill out to the legislature by a date certain. This is particularly important in view of the automatic termination of all agencies if they are not reestablished by affirmative legislative action. It could well be that the committee recommendation might be for termination or consolidation with another agency, but that recommendation should be made early enough in the session to assure that the legislature will have time to act.
5. A section should be added to SB 219 appropriating the necessary funds so that the department charged with the job of preparing performance audits will be able to increase its staff if necessary. It should be remembered that there may not be any department which presently prepares performance audits. Our department of fiscal analysis, for instance, concentrates on financial audits. They may well be able to do the performance audits, but it must be remembered that they may need additional staff. No one should underestimate the difficulty of what is being attempted. One of the great consequences of a Sunset law is that it would force us to improve our skills in the difficult business of evaluation.
6. SB 219 lists the criteria which should be considered when evaluating an agency. We hope that a discussion of criteria in other state laws will help in the ultimate selection for our law. For example, Florida law asks if the increase in cost is more harmful to the public than the harm which could result from the absence of regulation. Or, is there another less restrictive method of regulation available which could adequately protect the public?
7. Lastly, we would suggest a severability clause in case a portion of the law is held invalid. This would assure that other provisions of the law would not be affected.



STATE OF COLORADO

3/2/77

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXX



Robert J. Scott, CPA  
State Auditor

OFFICE OF STATE AUDITOR  
SUITE 2410, 1660 LINCOLN STREET  
DENVER, COLORADO ~~80202~~ 80264  
February 23, 1977

Pat Gothberg  
c/o Common Cause  
4265 Warren Way  
Reno, Nevada 89509

Dear Pat:

Attached is an outline of material presented at the Council of State Governments seminar on Sunset laws in Harrisburg, Pennsylvania by Bob Waxman, Deputy State Auditor. The data should answer some of the questions posed by you in our conversation last week. If after reviewing this information you have any further questions or wish clarification, please call me.

Sincerely,  
*Bob*  
Robert J. Scott, CPA  
State Auditor

RJS/mep  
Attachment

XXXXXXXXXXXXXXXXXXXX  
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STATE OF COLORADO



Robert J. Scott  
State Auditor

OFFICE OF STATE AUDITOR

SUITE 2410, 1660 LINCOLN STREET  
DENVER, COLORADO 80203

February 15, 1977

To: Robert Scott, State Auditor  
From: Robert Waxman, Deputy State Auditor  
Subject: Seminar on Sunset, Harrisburg, Pennsylvania

Enclosed is an outline of the material I presented at the Council of State Governments Seminar on Sunset in Harrisburg.

From the standpoint of implementation, no one else really had anything tangible to contribute at the conference. However, from a conceptual standpoint, one issue was discussed that could have a very significant effect on a state's approach to Sunset. The issue was presented at the conference by Dr. Benjamin Shimberg of the Educational Testing Service, and his position has been corroborated by a Colorado study and other discussions I have had.

Shimberg proposed a two-phase approach to Sunset. In the first phase, the analysis is oriented solely toward defining the public need for the agency in question.

No attention is given to evaluating operations at this point. The contention is that if the need cannot be demonstrated, evaluating existing operations is only an academic exercise. The second phase of evaluating operations would occur only if a public need were demonstrated first.

The Colorado Sunset Law lists certain questions which the State Auditor must answer in his Sunset performance audits. We have incorporated these questions into our basic performance audit approach, but our audits still concentrate more on effectiveness of operations than on determination of public need. In my opinion the questions listed in the law are oriented more towards current performance than to public need.

The following questions are Florida's counterpart to the questions listed in the Colorado Law:

- (1) Whether the absence of regulation by the state agency or office would significantly harm or endanger the public health safety or welfare;
- (2) whether there is a reasonable relationship between the exercise of the police power of the state by the state agency or office and the protection of the public health, safety or welfare;
- (3) whether there is another less restrictive method of regulation available which could adequately protect the public;
- (4) whether the regulation by the state agency or office has the effect of directly or indirectly increasing the cost of any goods or services involved, and, if so, to what degree;
- (5) whether the increase in cost is more harmful to the public than the harm which could result from the absence of regulation by the state agency or office; and
- (6) whether all facets of the regulatory process are designed solely for the purpose of the protection of the public and have such protection as a primary effect.

These questions appear to be more need-oriented than performance-oriented. The difficulty with them is that the analysis methodology required is much more sophisticated than what we are currently using here. In fact, at the conference, a legislator from Florida was unable to comment on how these questions were really going to be answered. My reaction was that Florida does not (yet) have the resources to do this kind of analysis.

In summary, it appears that the Florida law better reflects the spirit of Sunset than does the Colorado law, but methodology to implement the Florida law may still be lacking. In connection with our second Sunset audit cycle here, I think it would be worthwhile to invest more resources in analysis of public need, at least with a couple of the agencies.

Encl: (1)

SEMINAR ON SUNSET  
OUTLINE OF PRESENTATION

- I. The Sunset Process in Colorado - Overview
- II. The Colorado State Auditor's Office
- III. The State Auditor's Role in Sunset
  - Staff Background
  - Resources
  - Basic Audit Organization
- IV. General Audit Plan
- V. Audit Techniques
- VI. Overview of Audit Findings
- VII. Additional Observations

I. AGENCIES AFFECTED

Department of Regulatory Agencies - "Umbrella Department"

Regulatory Divisions (8)  
Public Utilities Commission  
Insurance Division  
Racing Commission  
Banking  
Savings & Loan  
Securities  
Civil Rights Commission  
Commission on Status of Women  
Licensing Boards (31)

II. AUTOMATIC TERMINATION, UNLESS OTHERWISE  
MANDATED BY LEGISLATURE

July 1, 1977:  
3 Divisions  
10 Boards

July 1, 1979:  
2 Divisions  
10 Boards

July 1, 1981:  
3 Divisions  
11 Boards

If terminated each agency will have one year to  
wind up its affairs

THE SUNSET PROCESS IN COLORADO  
(2)

III. PERFORMANCE AUDIT OF EACH AGENCY REQUIRED UNDER AUSPICES  
OF LEGISLATIVE AUDIT COMMITTEE

Legislative Audit Committee

- 8 appointed members
- 4 Senators, 4 Representatives
- 2 Democrats, 2 Republicans from each house.

Appoints and Supervises State Auditor and staff

Questions to be answered in Performance Audit

- . The extent to which the division, agency, or board has permitted qualified applicants to serve the public;
- . The extent to which affirmative action requirements of state and federal statutes and constitutions have been complied with by the agency or the industry it regulated;
- . The extent to which the division, board, or agency has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of the department of regulatory agencies, and any other circumstances, including budgetary, resource, and personnel matters;
- . The extent to which the agency has recommended statutory changes to the general assembly which would benefit the public as opposed to the persons it regulates;

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- . The extent to which the agency has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency on the public regarding improved service, economy of service, and availability of service;
- . The extent to which persons regulated by the agency have been required to assess problems in their industry which affect the public;
- . The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates;
- . The efficiency with which formal public complaints filed with the division, board, or agency or with the executive director of the department of regulatory agencies concerning persons subject to regulation have been processed to completion by the division, board, or agency, by the executive director of the department of regulatory agencies, by the department of law, and by any other applicable department of state government; and
- . The extent to which changes are necessary in the enabling laws of the agency to adequately comply with the factors listed above

THE SUNSET PROCESS IN COLORADO  
(3)

Legislative Audit Committee Hearing

Presentation of the State Auditors performance audit report

Discussion of findings with auditee agency

Agency's plans for implementation of recommendations contained in report

Not a decision making process

Committee of Reference Hearing

Presentation of State Auditor's report or related information

Testimony from the Department of Regulatory Agencies

Testimony from Public

Testimony from agency involved

Testimony from regulated industry

- . This is where the agency has the burden of demonstrating a public need for its existence.

THE COLORADO STATE AUDITOR'S OFFICE  
(1)

REPORTS TO LEGISLATIVE AUDIT COMMITTEE

Financial Post Audits of All State Agencies

Colleges & Universities annually all others-biennially

Performance audits on a select basis

PART OF CHECK & BALANCE SYSTEM OF STATE GOVERNMENT

INDEPENDENT REPUTATION

STAFF:

54 professionals

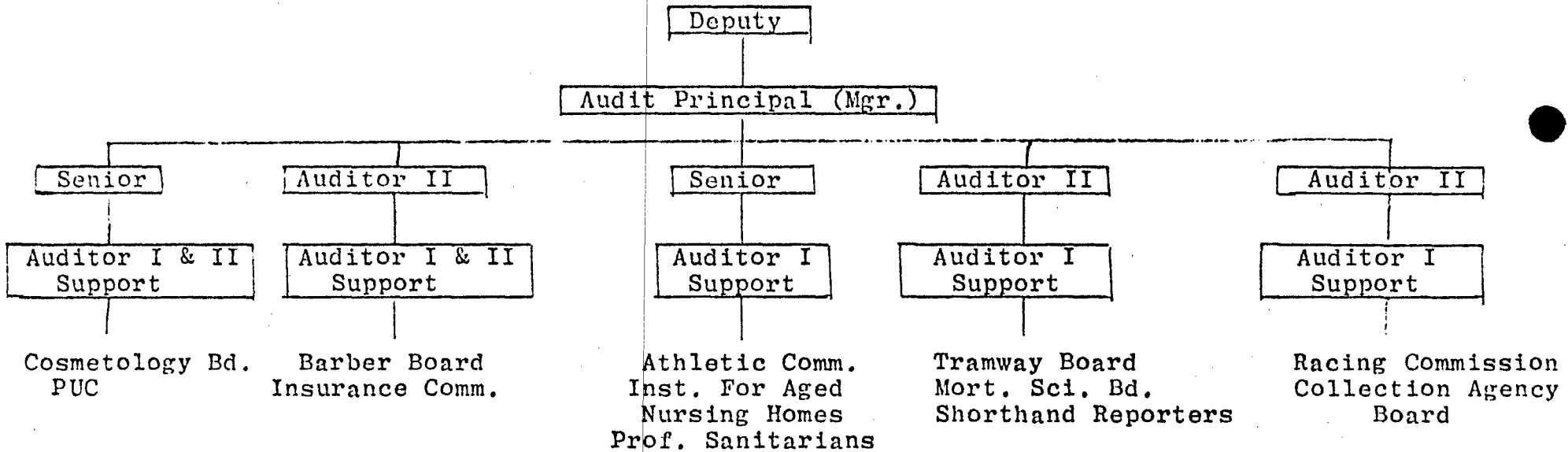
Over  $\frac{1}{2}$  are CPA's

All have accounting/business educational backgrounds



THE COLORADO STATE AUDITOR'S OFFICE  
(2)

SUNSET AUDIT STAFF ORGANIZATION



THE COLORADO STATE AUDITOR'S OFFICE  
(3)

SUNSET STAFF BACKGROUND

No. of Auditors - 13

No. of CPA's - 10

Education

- Bachelors Degree	-	<u>13</u>
Accounting	-	<u>10</u>
Finance	-	1
Economics	-	1
Math/Stat.	-	1
- Masters Degree	-	<u>3</u>
Accounting	-	<u>1</u>
Finance	-	1
Math/Stat.	-	1
- Ph. D. - Math	-	1

Experience (in Man-Years)

- Auditing	-	<u>52</u>
State Auditors Office (financial)	-	40
Internal Operational/Performance		
auditing in private sector	-	6
CPA practice - Private sector	-	6
- Private Accounting	-	<u>24</u>
- Mgt. Private sector	-	<u>15</u>
- Teaching	-	<u>11</u>
- Self-employment	-	<u>3</u>
- Other	-	<u>10</u>

THE COLORADO STATE AUDITOR'S OFFICE  
(4)

MANPOWER & COST OF  
SUNSET AUDITS  
(1st. Cycle of 13)

<u>Agency</u>	<u>Man-hours</u>	<u>People</u>	<u>Cost</u>
Barber Board	573	2	\$8,400
Cosmetology Board	613 1/2	2	8,975
Racing Commission	667 1/2	2	9,765
Mortuary Sci. Bd.	310	1	4,540
Prof. Sanitaricians Bd.	216	1	3,165
Athletic Comm.	250	2	3,660
Inst. for Aged Bd.	250	1	3,660
Collection Agency Bd.	200	1	2,930
Shorthand Reporters	250	2	3,660
Tramway Safety Bd.	461 1/2	2	6,750
Nursing Home Admin.	250	2	3,660
Insurance Division	2,040	5	29,870
PUC	2,000	4	29,280
General Planning & Review	<u>1,000</u>	2	<u>15,000</u>
	<u>9,080</u>		<u>\$133,315</u>

40

STATE AUDITOR'S OFFICE  
SUNSET LAW PERFORMANCE AUDIT  
GENERAL AUDIT PLAN  
(BARBER BOARD)

I. Background Information

- A. Overview of the barbering profession in Colorado (historical data, etc.)
- B. Description of market and economic conditions in the profession
- C. Development of key statistics of industry
- D. Role of professional associations and unions in the industry
- E. Evolution of the Board of Barber Examiners
- F. Impact of any federal laws and regulations on the profession

II. Objectives of Board - Definition (Tentative, pending preliminary review of Board)

- A. Safeguard the health and safety of the consuming public
  - B. Maintain standards of quality in the profession expected by the public (competency)
    - 1. Health
    - 2. Cosmetic
-

III. Functions ("Programs") (Tentative, pending preliminary review of Board)

A. Licensure - Maintain a balance between high professional standards and over-restrictiveness to entry into the profession.

1. Testing

a) Availability to applicants

1) Frequency

2) Location

3) Cost to applicant

b) Subjective vs objective testing methods

1) Can applicants be measured uniformly and without bias?

c) Grading procedures

1) Objective

2) Uniform

d) Relevance to "state of the art" in the profession

1) Health, safety and sanitation

2) Cosmetics

3) Practical testing

4) Written testing

5) Use of nationally promulgated examinations

e) Passing rate

1) Comparison to other states

2) Trends over time

f) Retesting procedures

1) Right of applicant to review test he failed

2) Undue restrictions on retesting

3) Changing of test subject matter

2. General application procedures
  - a) Verification of data
  - b) Relevance of data
  - c) Completeness of data
  - d) Administrative efficiency in processing
3. Personal requirements
  - a) Relevance to health, safety and welfare of public
4. Educational requirements
  - a) Reflect current state of the profession
  - b) Accreditation procedures and criteria (colleges, training schools)
    1. Uniformity
    2. Fairness
    3. Depth of review
    4. Monitoring of school standards over time
    5. Relevance of requirements
      - (a) Do requirements only serve to subsidize the schools?
  - c) Excess requirements over necessary knowledge
  - d) Continuing education requirements (alternative to retesting)
    1. Relevancy of material
    2. Monitoring of compliance
    3. Comparison to retesting
5. Experience requirements
  - a) Relevant and necessary
  - b) Apprenticeship - involuntary source of "cheap" labor?
  - c) Availability of experience opportunities
  - d) Accreditation and verification of experience

6. Reciprocity

- a) Existence of positive program to encourage reciprocity
- b) National standards on which to rely to ensure competence
- c) Unnecessary restrictions to entry into the profession
- d) Risk of undue leniency on the part of other states in enforcing their own laws

B. Renewals - Ensure the maintenance of professional competence

1. Length of renewal period
2. Retesting to ensure competence (or continuing education)
3. Administrative efficiency in processing

C. Inspection (schools and places of business)

-Ensure maintenance of proper professional training and health and safety standards

1. Objectives and procedures of inspections properly defined.
2. Frequency of inspections - adequate for control
3. Timeliness of inspections - where a part of a sequence of other events (may not be applicable to barbers)
4. Uniformity and depth of criteria applied
  - a) Use of national standards
5. Qualifications of inspector

6. Follow-up on violations

- a) Corrective action
- b) Disciplinary action
- c) Timeliness

D. Complaint review and disposition - ensure that consumer and professional complaints are justly and timely handled

1. General nature of complaints - from all sources
2. Frequency of complaints
  - a) May be a general indicator of conditions in the profession
3. Timeliness of handling
4. Propriety of disposition
5. Conflict of interest - investigators of complaints vs inspectors
6. Does public know to whom to complain?

IV. Other Factors

A. General Comparison with other states

1. Philosophy
2. Degree of regulation
3. Organization

B. Alternative organization

1. Overlapping duties and jurisdictions with other agencies

C. Board Composition

1. Professionals
2. Public representation
3. Degree of involvement by members

D. Fee structures - legislative intent

1. Cost of regulation
2. Issue of "occupational" or "indirect" tax

E. Affirmative action evaluation (Sec. (8) (b) (II) )

1. Within agency
2. Within profession

F. Laws impeding effective operation ( Sec. (8) (b) (III and IX) )

G. Proposed statutory changes advocated by agency  
(Sec. (8) (b) (IV) )

H. Feedback of persons regulated regarding rules and decisions  
of board (Sec. (8) (b) (V) )

1. Availability of information to profession
2. Availability of information to public

I. Assessment of industry problems by regulated persons  
(Sec. (8) (b) (VI) )

J. Participation by public in board decisions  
(Sec. (8) (b) (VIII) )

1. Hearing procedures

V. General Conclusion - Does the agency serve in the public interest?  
(Sec. (8) (b) (III) )

A. Summary of findings

B. Recommendations

1. Administrative and program
2. Statutory
3. Budgetary



## AUDIT TECHNIQUES

- I. Review of Statutes, Agency Rules and Regulations
  - Define statutory duties (goals and objectives)
- II. Develop a Plan
- III. Interview Board Members/Agency Executives
  - Management's interpretation of agency's duties
  - Overview of operations and organization
  - Policies and philosophy
- IV. Review Board Minutes and Transcripts
  - Identify Board's activities and areas of their emphasis
  - Evaluate decision-making process
  - Determine involvement of industry and public
- V. Review Basic Management Documents
  - Organization chart
  - Operating procedures
  - Define functions and responsibilities
  - Establish functional performance criteria
- VI. Interview Agency Employees
  - Corroborate functions and responsibilities
  - Corroborate performance criteria
  - Identify workloads
  - Evaluate usefulness of functions in meeting goals and objectives

VII. Review Routine Operating Documents

- License applications and forms
- Inspection data
- Tests and grading thereof
- Complaint forms and processing thereof
- School accreditation data
- Follow-up documents and procedures
  - Violations
  - Disciplinary/revocation documents
- Routine correspondence
- Correspondence with Board members
  - Does Board know what is going on?

VIII. Physically Observe Operations

- Examinations
- Inspections
- Hearings
- Other, depending on agency's role with the industry

IX. Use Survey Questionnaires

- Regulated industry
- Board members
- Agency employees
- Public

X. Clear All Findings with Agency Before Issuing Report

## OVERVIEW OF AUDIT FINDINGS

### I. NEED FOR THE AGENCY

- A. Need for the functions, but not necessarily for the Board
  - 4 agencies out of 9 reviewed
  - Functions could be transferred to other existing agencies or to local government
- B. One Board could be abolished
- C. Two Boards could be combined into one
  - Commonality of functions
- D. Two agencies should remain intact

### II. PERFORMANCE OF REGULATORY FUNCTIONS

- A. Two out of 9 were adequately fulfilling their statutory duties
- B. One was partially fulfilling its duties
  - Statutory and budgetary restrictions
  - Lack of administrative diligence
- C. Six were virtually ineffective, or functions were not meaningful
  - \* We could not, or did not, determine the degree to which the public was harmed by the ineffectiveness of the agencies - KEY WEAKNESS OF PROCESS
  - Inspections of establishments not accomplished (4)
  - Testing irrelevant and poorly administered (1)
  - Regulatory authority not properly defined (1)
  - No follow up on violations and complaints (4)
  - Boards inadequately informed on activities (3)

## ADDITIONAL OBSERVATIONS

### I. Allocation of Time

- We did 13 audits in 8 months
- We probably could have spent a whole year on the Public Utilities Commission
- Must allow enough time between passage of law and report due dates on first audit cycle

### II. Major Question: What will happen to the industry and the public if the agency is terminated?

- "Consumer Impact Statement" - Shimberg
  - Economic impact (prices, etc.)
  - Social impact (safety, competency)
- This must be directly addressed in the law.

### III. Many Boards are not Prepared for the Sunset Process

- Analysis and criticism is being done by full-time bureaucrats
- Many Board members donate their time and only on a part-time basis
- Result sometimes is a lack of response or inadequate information on which to make conclusions

### IV. By Concentrating on Regulatory Agencies, two major factors are avoided that are present in other agencies.

- Agency expenditures are relatively minimal
  - Board members donate their time
  - Staff investment is minimal
- Impact on State Personnel System is minimal
- If Sunset is an experiment, it should include some agencies that do not escape the above factors.

### V. Current law will terminate the Board only.

- What about the functions?
- What about the profession or industry?

February 22, 1977  
Policy Statement  
Re: SB 219 / Sunset

SB 219, Nevada's first attempt at application of the Sunset concept should be amended in order to minimize risks and assure, as much as possible, the success of the program. Most importantly, 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.

It is urged that a limited list of agencies be selected with selection of programs and agencies in the same policy area being reviewed simultaneously in order to encourage consolidation and responsible pruning. In reviewing the agencies in SB 219, approximately 45 stand out as being agencies which pass regulations which affect the public. Although Common Cause is not in a position to suggest which agencies should be selected, we do suggest that a limited selection is best.

Following is a point by point analysis of SB 219 with suggestions for changes:

**TITLE:** An act relating to the state executive department, establishing a system for the periodic review of certain boards, commissions, and similar bodies, and for the termination, continuation, or reestablishment thereof, ~~providing a method for continuing or reestablishing these bodies by express act of the legislature;~~ providing for performance audits of these bodies and requiring that the audits contain certain information; and providing other matters properly relating thereto.

Sec. 1 - OK

Sec. 2 - OK

Sec. 3 - OK

Sec. 4 - Unless continued or reestablished by express act of the legislature, the following agencies shall terminate on July 1, 1979;

(List a limited number of regulatory agencies.)

Sec. 5 - Unless continued or reestablished by express act of the legislature, the following agencies shall terminate on July 1, 1981:

(List a limited number of regulatory agencies.)

Sec. 6 - Unless continued or reestablished by express act of the legislature, the following agencies shall terminate on July 1, 1983:

(List a limited number of regulatory agencies.)

Sec. 7 - delete

Sec. 8 - OK

Sec. 9.1A performance audit shall be conducted by the office of the Legislative Counsel or the appropriate division thereof. The audit shall start no later than July 1st of the year before termination of an agency and shall be completed no later than December 15th of the year before the termination of an agency.

OR

If interim committees are established, audits could be to the appropriate joint legislative committee in the Fall so work could be done prior to the session.

2. Upon the request of the Legislative Counsel or the appropriate division thereof, the legislative auditor shall make available any audit or other information which the legislative auditor is required to maintain and which pertains to the agency being audited.

3. The Legislative Counsel or appropriate division thereof shall prepare and present the performance audits to the legislature at its next regular session. Its recommendations shall be referred to the appropriate joint standing committees of the Senate and Assembly, which have jurisdiction over the agency, following which a public hearing shall be held no later than February 15th of the next regular session of the legislature.

4. A committee recommendation for termination, continuation, or reestablishment shall be presented to the legislature no later than March 15th of the next regular session.

NEW SECTION. For the purpose of carrying out the provisions of this act, there is hereby appropriated \$X to the Legislative Counsel to defray the cost of the performance audits required hereunder.

Section 10. The Legislative Counsel or appropriate division thereof in determining whether an agency has demonstrated a public need for its continued existence shall take into consideration the following factors, among others:

(In considering criteria, the eight points mentioned in SB 219 should be considered along with criteria from Colo. and Florida bills.)

Colo.: The extent to which the division, agency, or board has permitted qualified applicants to serve the public.

The extent to which affirmative action requirements of state and federal statutes and constitutions have been complied with by the agency or the industry it regulates.

The extent to which the division, board, or agency has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of the department of regulatory agencies, and any other circumstances, including budgetary, resource, and personnel matters.

The extent to which the agency has recommended statutory changes to the general assembly which would benefit the public as opposed to the persons it regulates.

The extent to which the agency has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency on the public regarding improved service, economy of service, and availability of service.

The extent to which persons regulated by the agency have been required to assess problems in their industry which affect the public.

The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates.

The efficiency with which formal public complaints filed with the division, board, or agency or with the executive director of the department of regulatory agencies concerning persons subject to regulation have been processed to completion by the division, board, or agency, by the executive director of the department of regulatory agencies, by the department of law, and by any other applicable department of state government.

The extent to which changes are necessary in the enabling laws of the agency to adequately comply with the factors listed in this paragraph.

Florida: Would the absence of regulation significantly harm or endanger the public health, safety or welfare?

Is there a reasonable relationship between the exercise of the state's police power and the protection of the public health, safety or welfare?

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

Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved, and if so, to what degree?

Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?

Section 11 - OK

Section 12 - subsections 1, 2, and 3 OK

subsection 4. The life of any division, board, or agency scheduled for termination under this section may be continued or reestablished by the legislature for periods not to exceed six years. Any newly created division, board, or agency shall have a life not to exceed six years and shall be subject to the provisions of this section.

Section 13 - OK

New Section. No more than one such division, board, or agency shall be continued or reestablished in any bill for an act, and such division, board, or agency shall be mentioned in the bill's title.



New section. Any program or function scheduled for termination under this act or any subsequent act may be reestablished by the Legislature for any period of time specified by law, not to exceed 6 years, at the end of which time the Legislature shall again review such program, or function pursuant to this act and may again reestablish, modify or allow the termination of such program or function pursuant to this act.

New Section. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

There is presently an amendment being proposed to the Colo. Sunset law which contains a provision for pro-rating licenses of agencies that have been terminated.

Washington State is proposing that there be a provision in their Sunset law for distribution of the performance audits to main state and university libraries prior to the public hearings.



*Boards only should include programs agencies*

S.B. 219 Statement of League of Women Voters of Nevada by Daisy J. Talvitie, President

The League of Women Voters supports the concept of legislative oversight and periodic review of government agencies, boards, and programs, with performance auditing as a mechanism to keep our government system open, representative, accountable, and responsive to citizen needs plus a mechanism that should assist in preventing governmental regulatory boards from becoming the tool of those being regulated. We also believe it can prove useful in consolidating related programs, developing needed improvements in performance, and elimination of boards and agencies which have outgrown their usefulness. However, we cannot support S.B. 219 in its present form as we feel it needs extensive revision. Our concerns are:

1. ~~First-of-a-~~ As presently written, there are 139 performance audits to be prepared and acted upon by the Legislative body within three sessions. We recommend that the review process be phased in more gradually. We should begin with a few limited number of selected programs, to allow the staff which is to do the performance audits to gain some experience and expertise, "to get its feet wet" so to speak, before tackling some of the more major programs. It seems to us that the timetable for review should be based on the grouping of agencies that deal with related functions, having similar orientations. One basic reason for this would be the possible finding that some of the related programs could be consolidated under a single agency with improved operation of programs that are to continue. We are not prepared to recommend just exactly what the timetable should be, or the time periods between automatic reviews, but we do submit several factors that must be considered: (a) Staff availability to do the necessary in depth reviews (b) The amount of available time within each Legislative session to make the proper evaluation of the reports and recommendations (c) The burden and effect upon the performance of the agency itself if the period between evaluations is too short and (d) the possibility of the development of firmly entrenched programs supported by powerful special interest groups if the period is too long. Finally, we suggest the possibility that consideration might need to be given to elimination of automatic termination of a selected group of agencies that obviously cannot be eliminated--such as the gaming control boards which will certainly have to continue for so long as we have a gaming industry. This is not to say that these boards or programs should be exempt from review--for this certainly would not be true--but perhaps they should not be subject to automatic terminations.

2. The League does not feel that the real purpose of a sunset law is to simply terminate boards and agencies. Its real purpose is the review and evaluation in order to determine the question of termination. For that reason, the League feels that any law that sets an automatic threatened termination should also establish adequate mechanism for the agency ~~and the public to defend the agency if~~ to defend itself. And in this, we find S.B. 219 deficient. Although the bill does include section 11, on page 5, which requires that the performance audit shall include certain things prepared by the agency, it does not give clear cut direction that the agency will have an opportunity to review the findings of the audit for further comment; it does not require public hearings--only establishes that if a public hearing is held, the general public, persons being regulated, and a representative of the agency shall be allowed to submit information. Additional safeguards should be incorporated into the bill such as establishing a timetable that assures ample time for the audit to be completed with an in depth investigation, publication of the report in ample time for both the public and the Legislature to have adequate periods to study and develop recommended actions based on the report, and a requirement that the committee considering legislation must report the bill out to the entire legislative body with adequate time for action to be completed before the session adjourns.

3. The League questions the assignment of the performance audit responsibility to the fiscal analyst as the performance audit goes far beyond fiscal considerations.

*requires*  
The task of reviewing governmental programs ~~requires~~ considerable staff and expertise. Certainly the program must be adequately funded.

4. On page 5, Section 10, beginning with line 20, we find a list of criteria by which an agency's continued existence should be judged. To this list, the League recommends the addition of determination of whether or not the industry being regulated is actually being required to comply with the adopted regulations and also a determination of the impact on local governments if the state programs are abolished.

TESTIMONY REGARDING S.B. 219  
PRESENTED TO  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS  
MARCH 2, 1977  
by  
THE NEVADA ASSOCIATION OF REALTORS®

General Statement

The Nevada Association of REALTORS® is in complete agreement with the "Sunset Law" concept that bureaucracy must be curbed and that existing bodies should be made accountable to justify their existence.

Comments

1. Such legislation should not only pertain to boards and commissions, but to all agencies, departments and divisions within the state executive department.
2. S.B. 219 takes a negative approach to the concept of accountability. It really assumes automatically that these entities should not exist and provides more for their abolishment than for their continued productive existence. We feel that such legislation should provide more for the productive evaluation of these entities.
3. The evaluation and review process leaves much to be desired. Such evaluation should be a continuous, on going process, say on a yearly basis, rather than a one-shot analysis which could be no sooner than six months prior to the stated termination date. If these entities are not performing as they should, they need to know and also to have the chance to correct the situation.
4. The question comes to mind - "Why the office of fiscal analysis?" What gives that office the expertise, time and resources to handle such an awesome task? Perhaps more thought should go into the evaluation process and the evaluator.
5. The evaluation criteria leaves much to be desired. Many of the terms such as "in the public interest" are too vague and broad to be meaningful. Why should the termination of an agency be predicated upon its affirmative action policy?
6. By placing the restraint on these entities whereby they cannot enter into contracts or obligations beyond their scheduled date for termination, you automatically impair their ability to function efficiently and effectively.

7. Most of S.B. 219 deals with what happens to the powers, authorities and responsibilities of these entities once they are terminated. Again, the emphasis should be on making them productive and viable. If certain boards or commissions are abolished then what happens to their authority and responsibility can probably be answered best at that time. With the bill as it now is power-hungry administrative agencies, who are not included, are given the opportunity to make sure that these boards and commissions do not function so that they can gain more power and authority. This bill does not foster cooperative government.

In conclusion, the concept is a good one and much needed; however, the Nevada Association of REALTORS® is of the opinion that the bill needs major revision if it is to accomplish its purpose in the best interest of the public and good government.

COMMISSIONERS

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GEORGE R. E. BOUCHER  
COUNTY MANAGER  
(702) 738-5398

*Board of County Commissioners*

ELKO COUNTY COURTHOUSE  
ELKO, NEVADA 89801

February 25, 1977

Senator James I. Gibson  
Chairman  
Senate Government Affairs Committee  
Legislative Building  
Carson City, Nevada  
89710

RE: Senate Bill 219, Section 460  
Paragraph 5, Page 135

Dear Senator Gibson:

Senate Bill 219 will be discussed by the Committee at 2:00 P.M. on Wednesday, March 2, 1977. Potentially, there will not be a representative from the Board of County Commissioners for Elko County present. Therefore, this letter will serve as a comment to the Committee concerning Section 460 of the Bill.

The Board of Commissioners representing Elko County are opposed to the provisions of Paragraph 5 in Section 460 where the privilege taxes collected on vehicles subject to the provisions of Chapter 706 of the Nevada Revised Statutes are removed from distribution among the counties. It is the Board's opinion that the distribution of this portion of the privilege taxes should remain as has been current practice.

The Committee's consideration of the County of Elko's opinion in this matter will be sincerely appreciated.

Sincerely yours,  
ELKO COUNTY COMMISSIONERS

*George R. E. Boucher*  
By: GEORGE R. E. BOUCHER  
Elko County Manager

GREB/lm

Office of COUNTY ASSESSOR

P. O. Box 8  
ELKO, NEVADA 89801

February 24, 1977

In Re: S. B. 219  
Hearing Date  
March 2, 1977

Mr. James I. Gibson, Chairman  
Senate Committee on Government Affairs  
Legislative Building  
Carson City, Nv 89701

Dear Mr. Gibson:

I am sorry that the great distance from Elko will not permit us to attend your hearing on March 2nd regarding the above bill.

While I am not familiar with all provisions therein, I do object to Page 135, Section 460, Par. 5 wherein it is proposed to eliminate the motor carrier portion of the privilege tax now distributed to the counties.

For the 1975-76 fiscal year in Elko County this amounted to \$69,630.18 which was apportioned to the cities, county and school district.

During the past years the governor has advocated no new taxes. To follow this thinking I would suggest that you also not take anything away from us.

Yours very truly,

  
JOHN W. MOSCHETTI  
Elko County Assessor.

JWM/lr

cc- All Assessors.

- Elko Co Commissioners
- Senator Norman Glaser
- Assemblyman Dean Rhoads



Sierra Arts Foundation

P. O. Box 2814, Reno, Nevada 89505 • Phone 329-1324

February 18, 1977

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E. H. Fitz, 2nd Vice President  
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Barbara Wright

James I. Gibson  
Clark, No. 1, Seat 5  
806 Park Lane  
Henderson, Nevada 89015

Dear Senator Gibson:

Sierra Arts Foundation would like to make two observations in regards to Bill No. FB219 -- the portion in reference to the Nevada State Council on the Arts to be presented at 2:00 p.m. on Wednesday, February 23, 1977.

1. The suggested number of a nine (9) member council is in agreement with the size council common to most states according to a Lou Harris survey. It must have been felt in evolving this proposal that this size council would be small enough to be effective and large enough to represent all of our state urban and rural, and to have sufficient membership to investigate the many arts organizations and their individual grant requests.
2. ~~In respect to the appointment of both the executive director and chairman of the council, an improved method is obviously needed. To insure future efficient selection I would hope that a good selection method would be written into law. This method could, of course, be similar to that used recently whereby a review committee selects candidates to present for the final gubernatorial selection.~~

We thank you for the suggested number of council members and we would appreciate your further consideration additionally writing into law a selection mechanism, if this has not already been done.

Sincerely yours,

SIERRA ARTS FOUNDATION

*Barbara J. Feltner*

Barbara J. Feltner  
President  
BJF/mb

SENATE GOVERNMENT AFFAIRS COMMITTEE

GUEST REGISTER

DATE 3-2-77

PLEASE SIGN - EVEN IF YOU ARE NOT HERE TO TESTIFY.....

NAME	WILL YOU TESTIFY	BILL NO	REPRESENTING - - - - -
Stanley Miller	✓ yes	SB 219	Employment Security Bd. of Review
Ellen Pope	No	SB 219	Nevada L & P Assoc.
MELVIN BRUNETTI	✓ yes	SB 219	NEVADA STATE BOARD of ACCOUNTANCY
W. W. RICHARDS	✓ yes	SB 219	MOTOR CARRIER DIV.
LEONARD H. WINKELMAN	✓ yes	SB 219	DEPT. MOTOR VEHICLES
W. G. HULL	✓ yes	SB 219	Dept. Motor Vehicles Motor Carriers
Jeneane Harter	yes	SB 219	Chiropractic Assoc of Nevada
Tom Carpenter	yes	SB 219	Chiropractic Assoc of Nevada
NORMAN HALL	✓ yes	SB 219	Dept CONSERVATION & NAT. RESOURCES
Homer Rodriguez	✓ yes	SB 219	Carson City Assn
Doris Rodden	✓ yes	SB 219	Nevada State Prisoners
PAT GOTHBERG	YES	SB 219	COMMON CAUSE
Milos Terzich	yes ?	SB 219	Health Ins Association
John F. Olson	yes ✓	SB 219	Leg. Council Bureau
Don Sparks	yes ✓	SB 219	" " "
Daisy Salvette	yes ✓	SB 219	League Women Voters
Bill Cozart	yes ✓	SB 219	Nev. Assoc. of REALTORS
Grant Bastian	yes ✓	SB 219	Nev. Hwy Dept.
Tam Cooke	yes ✓	SB 219	STATE CONTRACTORS BOARD
CHARLES M. THOMAS	No	SB 219	STATE CONTRACTORS BOARD
Albie Edmunds	No	SB 219	State Health Division