

Committee
Findings and Recommendations

Sunset Law in
Connecticut

Approved December 20, 2007

Legislative Program Review
& Investigations Committee

Introduction

Sunset in Connecticut

Under the Sunset concept, statutorily specified state entities are required to periodically justify their continued existence. These entities are terminated, unless the legislature takes affirmative actions to authorize their continuation for another defined period of time of indefinitely.

In January 2007, after a series of five postponements spanning almost 25 years, Connecticut's sunset law was poised to start up again with 28 specific entities or programs scheduled to automatically terminate on July 1, 2008, unless they were each re-established through legislation.

Under the state's sunset law, the Legislative Program Review and Investigations Committee (PRI) is charged with conducting a performance audit of each listed entity or program in the year prior to its scheduled termination. Uncertain of continued legislative interest in the sunset process as currently formulated, and concerned about sunset activities draining committee resources from other work absent legislative interest, the committee raised legislation in 2007 to postpone the start of sunset for two years. That bill passed. The postponement was intended to allow the committee to consider the continued need for sunset and report its findings and recommendations on that need by January 15, 2008. *A central question to the discussion of resuming implementation of the sunset law is whether the landscape of legislative oversight has changed in Connecticut in the 30 years in a way that alters views on the value of sunset as an oversight tool.*

Connecticut's sunset law was enacted in 1977 as part of a major reorganization of state government. Under the law as originally enacted, a list of almost 100 selected state entities or programs were scheduled to automatically terminate, staggered over a five year period, unless re-created by an act of the General Assembly. The legislature specifically included a legislative finding in the law:

The General Assembly finds that there has been a proliferation of governmental entities and programs, and that this proliferation has occurred without sufficient legislative oversight or regulatory accountability. The General Assembly further finds that there is a need for periodic comprehensive review of certain entities and programs, and for the termination or modification of those which do not significantly benefit the public health, safety or welfare. (C.G.S. Sec. 2c-1)

In its original enactment, the terminations were scheduled to begin in 1980 and continue through 1984. Figure 1 sets out the 78 entities and programs currently under the sunset law. This collection of entities and programs has changed somewhat since 1977, but not significantly. The largest category of entities regulate a profession or occupation.

Figure 1. Entities and Programs Subject to Current CT Sunset Law

FIRST YEAR

15 Regulatory Boards/Commissions

- Homeopathic
- Natureopathic
- Electrologists
- Nursing
- Veterinary Medicine
- Optometrists
- Psychologists
- Barbers, Hairdressers, and Cosmeticians
- Embalmers and Funeral Directors
- Opticians
- Medical
- Podiatry
- Chiropractic
- Dental
- Liquor Control

Regulation of:

- Hearing aid dealers
- Speech pathologists and audiologists
- Nursing Home Administrators

Other

- Agricultural lands preservation program
- Nursing Home Ombudsman
- Mobile Manufactured Home
- Child Day Care Council
- Advisory Council on Intergovernmental Relations
- Commission on Children
- Task force on development of incentives for conserving energy in state buildings
- Estuarine embayment improvement program
- CT Economic Information Steering Committee
- Registry of former DMR workers with abuse histories

28 Reviews

SECOND YEAR

1 Regulatory Board

- Physical Therapists

Regulation of:

- Sanitarians
- Subsurface sewage disposal system installers and cleaners
- Bedding and upholstered furniture

Other

- Regional mental health boards
- All advisory boards for state hospitals and facilities
- Commission on Medicolegal Investigations
- Board of Mental Health and Addiction Services
- Residential energy conservation program
- Commission on Prison and Jail Overcrowding

10 Reviews

THIRD YEAR

5 Regulatory Boards/Commissions

- Landscape Architects
- Professional Engineers and Land Surveyors
- Occupational licensing
- Pharmacy Commission
- Real Estate Commission

Regulation of:

- Building demolition

Other

- State Codes and Standards Committee
- Fire Prevention and Control Commission
- CT Food Policy Council
- Firearms Permit Examiners
- Police Officer Standards and Training Council

11 Reviews

FOURTH YEAR

2 Regulatory Boards

- State Board of Accountancy
- Architectural Licensing Board

Regulation of:

- Occupational therapists

Other

- State Insurance and Risk Management Board
- CT Marketing Authority
- Occupational Safety and Health Review Commission
- CT Siting Council
- CT Public Transportation Commission
- State Milk Regulation Board
- Council on Environmental Quality
- Employment Security Board of Review
- CT Energy Advisory Board
- CT Solid Waste Management Advisory Board
- Investment Advisory Council
- State Properties Review Board
- Commission on Human Rights and Opportunities
- Coastal management program
- Dept. of Economic and Community Development
- Family support program (DSS)
- CT Transportation Strategy Board

20 Reviews

FIFTH YEAR

1 Regulatory Board

- Crane Operators

Other

- Area advisory councils for children and youth center facilities
- Advisory Council on Children and Families
- Board of Education and Services for the Blind
- Commission on the Deaf and Hearing Impaired
- Advisory and planning councils for regional centers for the mentally retarded
- State Library Board
- Advisory Council for Special Education
- Commission on Capitol Preservation and Restoration

9 Reviews

“Regulatory Boards/Commissions” refers to entities that have the authority to discipline an individual for occupational license violations. “Regulation of” refers to state regulated occupations in which all regulation is performed by a state agency vs. a specific board

Since the beginning of sunset in Connecticut, the program review committee has been charged with conducting performance audits of all the listed entities or programs prior to their respective scheduled terminations dates. As the committee had been established just five years prior to sunset's enactment to conduct program reviews in 1972, it was deemed a natural body to carry out this similar evaluation work. Three additional staff were added to committee's workforce to handle the new responsibility, bringing the total number of staff up to 13.

The committee completed its initial round of evaluations in December 1979 and, as required by the law, submitted its findings and recommendations to the Government Administration and Elections Committee (GAE) for its consideration during the 1980 session of the General Assembly. A full cycle through the list was completed during the 1984 legislative session. During the first five-year cycle, most of the entities or programs that were reestablished by the legislature were also placed back on the sunset list, meaning they were re-created for another limited period of time (i.e., five years). Since then, due to a series of five postponements described in more detail in Section II, no further sunset review cycles have been carried out.

In 1998, the committee authorized a study very similar to this, for the same reasons. That study, which presented a comprehensive summary of what happened during the sunset review days of the early eighties and made a recommendation to continue sunset in a modified form, is utilized extensively in this review. Two interesting events happened in 1999, the year after that sunset study was completed.

First, the program review committee raised, reported out, and referred a bill to GAE to implement its sunset study recommendation to modify sunset to focus exclusively on regulatory entities. That bill died at GAE during the 1999 legislative session.

Second, also in 1999, the program review committee commenced a study on performance measurement¹. One of that study's results, adopted by the program review committee in December 1999, was to recommend the repeal of sunset in order to use the resources needed for that task in a different way.

Performance measurement in government was a subject that had caught on a few years earlier in Connecticut and other states and, in addition to being seen as a benefit to better executive branch management, was also seen as leading to more effective legislative oversight. In its performance measurement study, the committee concluded that to kick start performance measurement in Connecticut, which existed on paper only, the program review committee should be involved on behalf of the legislature in analyzing and commenting on agency performance measure and benchmark data prepared by the agencies under the Office of Policy and Management's guidance. To ensure the program review committee could continue doing its normal studies as well as this new task, the committee recommended that the sunset law be repealed, noting "this law consumes an enormous amount of staff and legislative time and, as currently written, is disproportionately focused on relatively small and narrow programs."² The bill to implement this recommendation was raised in the 2000 legislative session, got through

¹ In the study, performance measurement was defined to mean the systematic measuring of agency or program activities, outputs, and outcomes, and their relationship to the objectives of the agency or program.

² Legislative Program Review and Investigations Committee, *Performance Measurement*, p. 27 (December 1998)

three committees, passed the Senate in a version requiring OPM to report on the matter, and died in the House.

These two events -- an unsuccessful proposal to continue but modify sunset, followed by a proposal, also unsuccessful, to promote the actual implementation of performance measurement with the assistance of the program review committee, and repeal sunset -- took place within a year of each other. While they are conflicting proposals, they are similar in suggesting a search for a new direction in legislative oversight that does not include the current sunset law. While the lack of success of those proposals might indicate an underlying interest in the current sunset law, the fact that those two events were followed by another postponement, not including the most recent, casts doubt on that interpretation. *After reviewing the nature and scope of the program review committee's work over the last several years in comparison to the actual experience of sunset, and recognizing possible new avenues to enhance legislators' opportunities to know how well the programs they established are actually working, the program review committee concludes that the landscape of legislative oversight has changed in Connecticut since the advent of sunset, and recommends Connecticut's sunset law be repealed.*

Report Format

This report has four sections in addition to this introduction. Section I describes the statutory sunset review process and criteria, as well as the process the program review committee followed in carrying out its mandate from 1979 to 1984. Section II examines Connecticut's actual sunset experience during the five years the law was active, and sets out the sunset-related actions that have occurred since then, primarily postponements of the law. A brief overview of sunset laws in other states is provided in Section III. Finally, Section IV identifies other legislative oversight sources in Connecticut, compares the differences and similarities between sunset reviews and "regular" program reviews conducted by the program review committee, and proposes staff recommendations.

Sunset Review Process and Criteria

Overview

Public Act (P.A.) 77-614 defined the process for the General Assembly to follow in carrying out its sunset responsibilities. The process, depicted in Figure I-1, begins with the program review committee conducting a review of the entities or programs scheduled to terminate under C.G.S. Sec. 2c-2. At a minimum, the review must address the criteria outlined in C.G.S. Secs. 2b-7 and 2b-8. At the conclusion of its work, the program review committee is required to produce a written report that includes a recommendation to terminate, reestablish, or modify the entity or program.

During the second phase of the sunset review process, the Government Administration and Elections Committee and the committees having cognizance over matters related to the entities or programs under review receive the reports prepared by the program review committee. The recommendations of the program review committee serve as the focal point of the public hearing GAE is required to hold on each of the entities or programs scheduled to terminate. Historically, the committees of cognizance also raised legislation reflecting the recommendations of the program review committee, held public hearings, and proposed their own recommendations in the form of committee bills.

The Government Administration and Elections Committee is charged by statute with making the official sunset recommendation to the General Assembly (C.S.G. Sec. 2c-6). In making its decision, GAE is not bound by the recommendation of the program review committee or any of the committees of cognizance. GAE's recommendation to reestablish or modify an entity or program is sent to the full General Assembly in the form of a bill. If the intent of GAE is to terminate an entity or program, no bill is required.

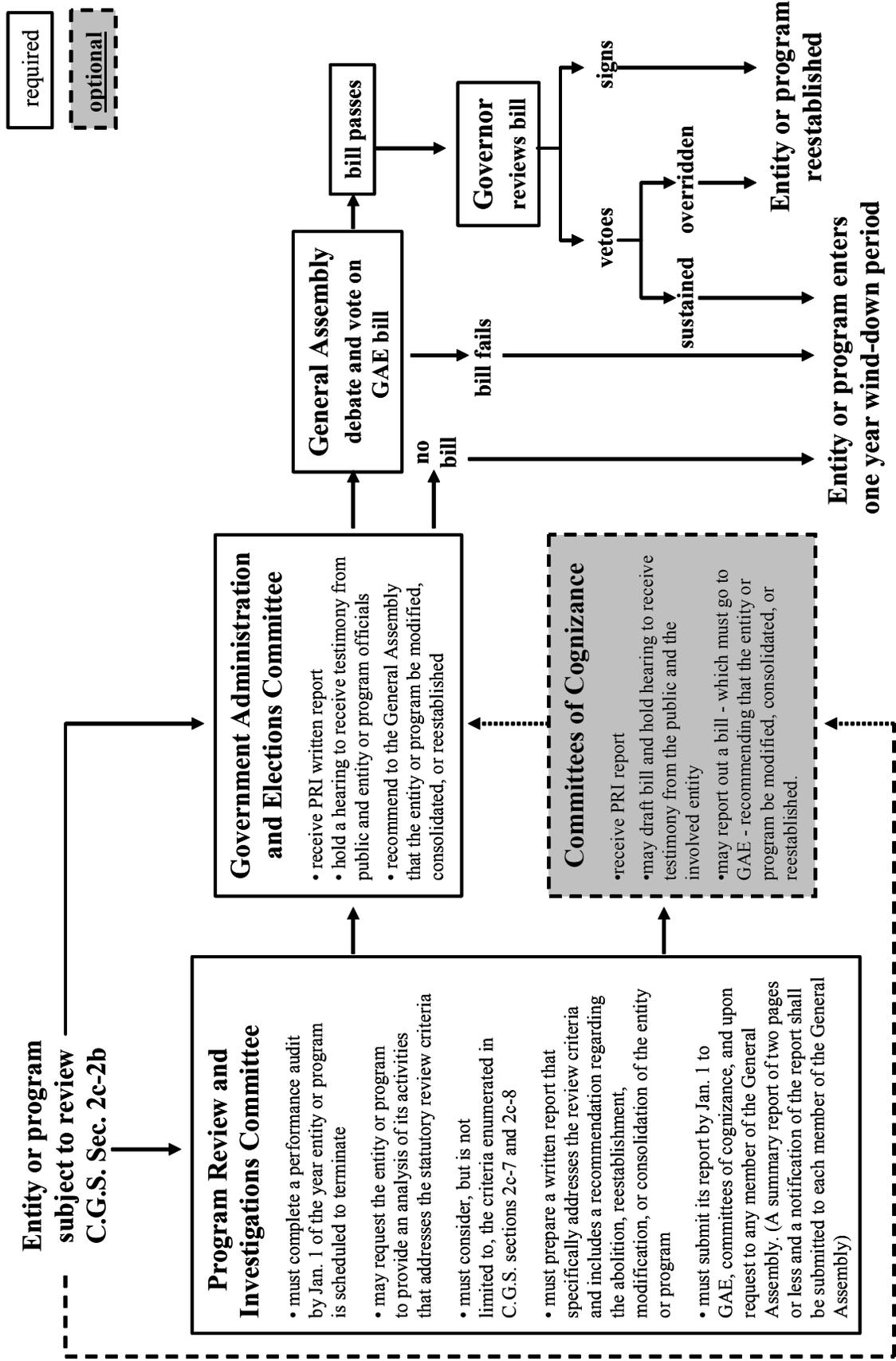
The last phase in determining the fate of an entity or program subject to a sunset review is governed by the requirements of the normal legislative process. As Figure I-1 shows, an entity or program can only be reestablished if the General Assembly passes a bill, and it is signed by the governor, or the legislature overrides a veto issued by the governor. Further, if the legislature wants to put the reestablished entity on the sunset list again, subject to another termination date within a five-year period, affirmative legislative action is also needed.

Finally, if the General Assembly fails to pass a reestablishment bill or override a veto, the affected entity or program is given a one-year wind down period to conclude its affairs before termination.

Types of Entities

The original law emphasized small regulatory boards and commissions, but did include some large agencies and programs. A total of 94 entities and programs were covered. Virtually everything with the word "board" or "commission" in its title was selected for inclusion, as were

Figure I-1. Sunset Review Process In Connecticut



a few other entities and programs that had, for one reason or another, caught the attention of the proponents of reorganization.

The entities and programs included under the original sunset mandate can be divided in five broad functional categories, as can the entities and programs on the current list. The categories are based on the general purpose of the entity or program and include:

- regulating individual practitioners;
- formulating or guiding state policy in specified areas;
- advising state officials in specified areas;
- enforcing state approved standards on specified industries; and
- providing services to the public or other state agencies.

Review Criteria

Similar to sunset laws in other states, Connecticut's law lists criteria that are to be considered in reviewing the merits of an entity or program, although the law does not limit the committee to the criteria. As outlined in C.G.S. Sec. 2c-7, the criteria for determining whether there is a public need for the continued existence of an entity or program shall include among other things:

- (a) whether termination of the entity or program would significantly endanger the public health, safety or welfare;
- (b) whether the public could be adequately protected by another statute, entity or program, or by a less restrictive method of regulation;
- (c) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services, and if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and
- (d) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

In addition, C.G.S. Sec. 2c-8 requires the following criteria be considered in determining whether the general public and not just the persons regulated have been served by any entity or program that exercises regulatory authority:

- (a) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade or activity regulated by the entity or program;
- (b) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements;

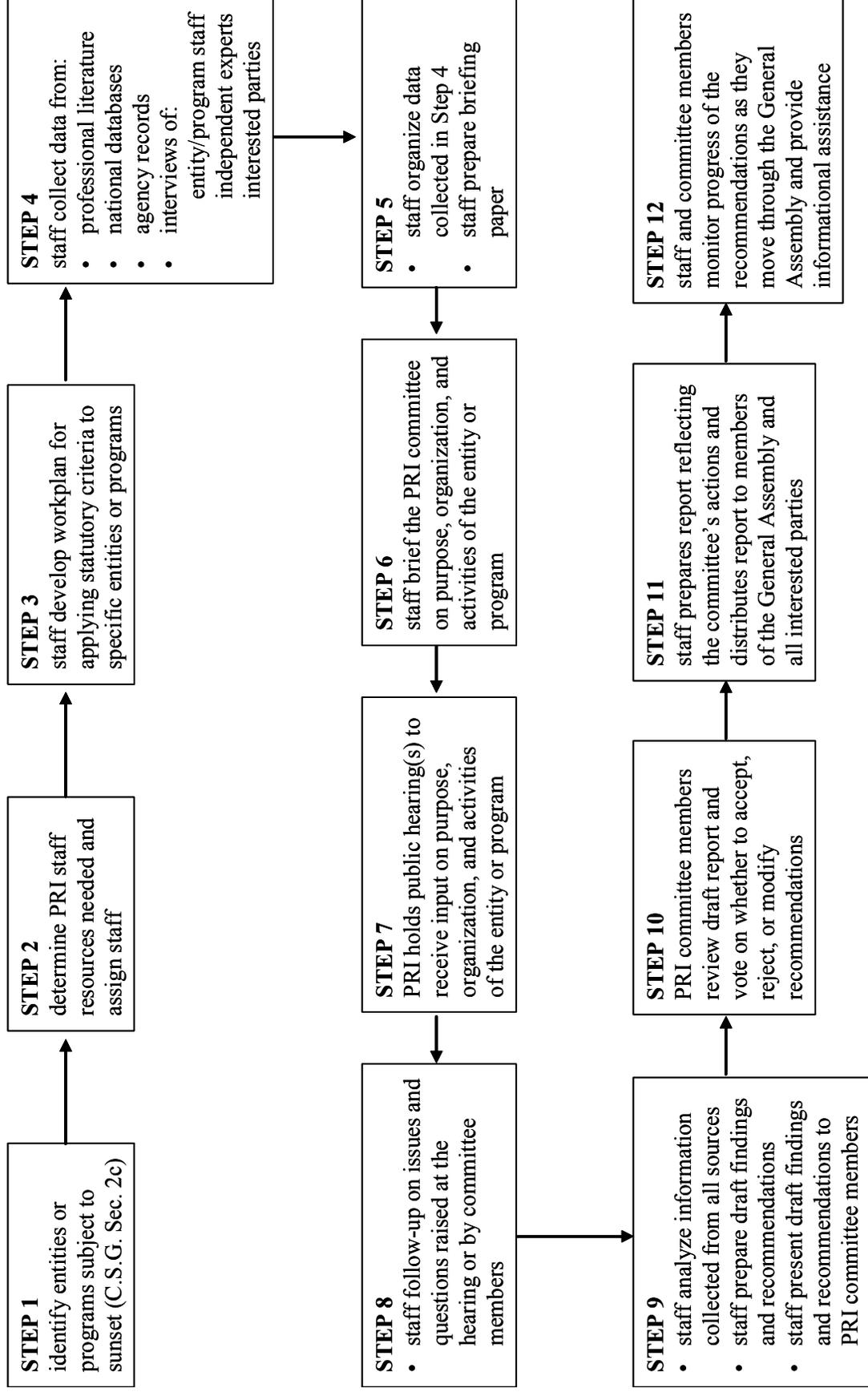
- (c) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated;
- (d) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and
- (e) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to regulation.

As can be seen from the criteria, they place heavy emphasis on factors relevant to regulatory entities.

Review Committee's Process

As noted above, the program review committee is responsible for conducting a review of each entity or program covered by the state's sunset law. The committee is required to complete the review by January 1 of the year the entity or program is scheduled to terminate. Figure I-2 outlines the sequence of actions the committee undertook in meeting this responsibility during the one completed round of sunset reviews from 1979-1984.

Figure I-2. Steps Followed By LPR&IC In Meeting Its Sunset Responsibilities



Connecticut Experience: 1979-1984 and Present

Activities

Figure II-1 shows the number of entities or programs reviewed under Connecticut's sunset law from 1979 until it was suspended at the end of 1983, after the completion of the fifth and final round of the initial cycle. The variation in the number of sunset reviews the committee performed per year is noteworthy and significantly affects the committee's operation.

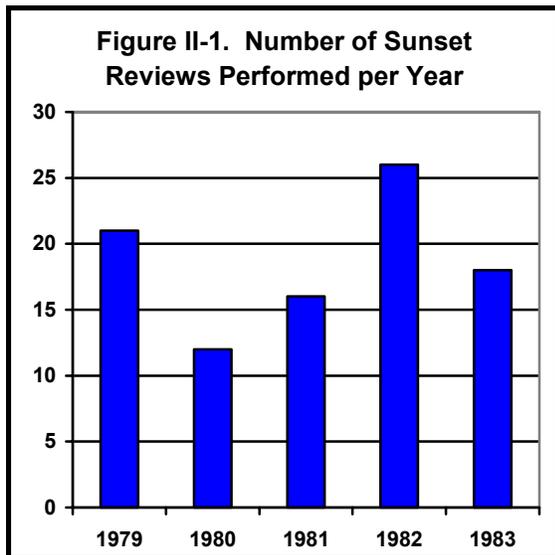


Figure II-2 shows the distribution of the 94 sunset reviews among the five functional categories described in Section I. Although regulatory related entities and programs comprise a majority of those on the sunset list -- 52 percent when "regulation of individual practitioners" and "enforcement of state standards" are combined -- coverage under Connecticut's sunset law is not limited to regulatory matters. Indeed, nearly a quarter of the reviews (23 percent) involved entities classified as providing a service directly to the public or to other state agencies.

Resources Expended

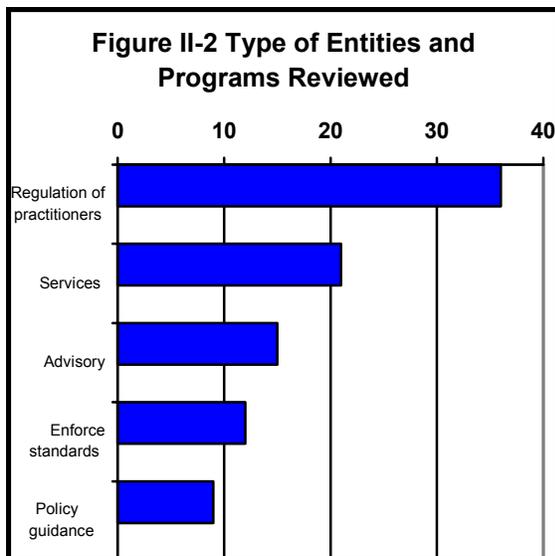


Table II-1 tracks the effort expended by the committee and its staff over the life of the sunset cycle. The table includes annual data on the number of reviews completed; staff assigned to sunset; committee meetings held; reviews per assigned staff person; and committee meetings per review.

The data in the table show output per assigned staff increased and committee meetings per review declined over the five-year cycle. There are two explanations for this increase in efficiency. First, the reservoir of knowledge accumulated as the committee and staff progressed through the sunset review cycle resulted in less time being needed to: develop

methods; understand the basic environment within which all of the entities and programs had to operate; identify problems; and conceptualize solutions. This resulted in the need for less staff time and fewer committee meetings to grasp and resolve issues surrounding the reviews.

Second, the final two years of the sunset cycle had proportionally more entities and programs falling into the "advisory" and "policy guidance" categories than the earlier years. Such entities and programs are typically less complex in their structure and operation than those enforcing state approved standards or regulating licensed practitioners and, therefore, require less time and effort to review.

The resource information in the table is limited and the absence of certain key resource data from the table should be noted. Specifically, the table does not contain information on the time spent on sunset-related activities by program review committee staff not directly assigned to sunset (i.e., staff director, staff attorney, and clerical staff). Also missing from the table is the time spent on sunset activities by other legislative staff, committees, and the full General Assembly. The limited availability of records and difficulties encountered in reconstructing data from the records that could be located made it impossible to present other staff activity data covering the entire sunset cycle.

Table II-1. Program Review Committee and Staff Activity					
	<i>1979</i>	<i>1980</i>	<i>1981</i>	<i>1982</i>	<i>1983</i>
Reviews	21	12	16	26	19
Analysts assigned	6	4	5	7	4
Reviews per analyst (Avg.)	3.5	3.0	3.2	3.7	4.8
PRI meetings	28	21	26	30	20
General	4	2	1	4	5
Briefing	8	4	8	9	5
Hearing	10	7	7	10	6
Decision	6	8	10	7	4
Meetings per review (Avg.)	1.5	1.6	1.4	1.1	1.1
Source of data: LPR&IC records					

However, a one-time snapshot is available with respect to resources expended by the program review committee staff. At the completion of the first year of the cycle (1979), an estimate of the committee staff time spent planning, conducting, organizing meetings, presenting materials, and writing reports was developed. The estimate covered analysts conducting the reviews plus all other program review committee professional and support staff involved during the first year. The estimate put staff time at 1,039 total person-days or approximately 50 person-days per review.

Results

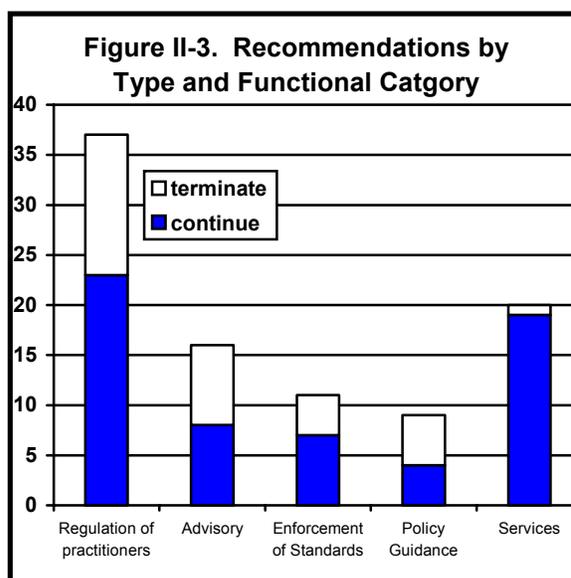
During the completed five-year sunset cycle, the program review committee examined 94 entities. In total, the committee proposed slightly more than 350 recommendations, of which approximately 270 were implemented. The recommendations ranged from the obscure -- elimination of the regulation of second-hand hats -- to the significant -- restructuring the state's hospital regulatory program. The key results of Connecticut's sunset review process include:

- development of a model act standardizing the organization and operation of boards and commissions in terms of meetings, appointments, attendance, quorums, etc.;
- elimination of state restrictions on the business practices of health professionals;
- elimination of 17 boards and commissions; and
- numerous entity or program specific instances of increases in efficiency and accountability, such as entity consolidations, clarification of authority and responsibility, and requiring that information be more accessible to the public.

Given the initial focus of the sunset review process on the termination of entities and programs, it is appropriate to look at Connecticut's experience in this area. Overall, the program review committee proposed terminating 32 entities. Seventeen of these recommendations were acted upon favorably by the General Assembly; the other 15 were reversed.

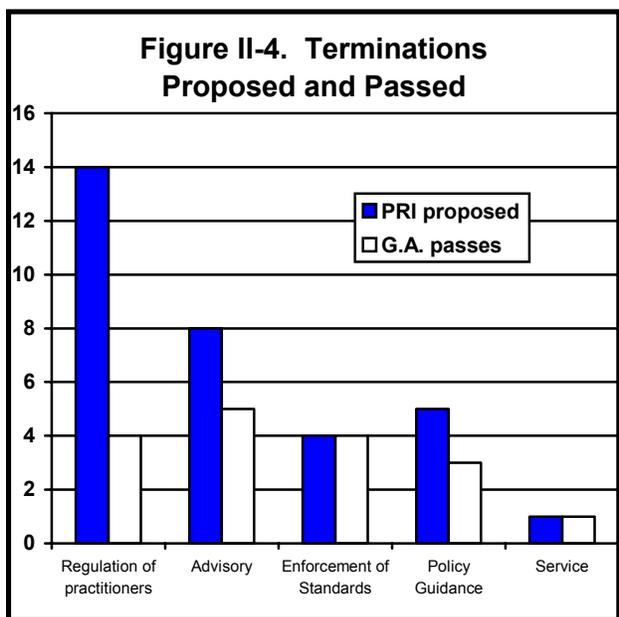
Figure II-3 illustrates the relationship between the committee's recommendations to continue or terminate entities within each of the five functional categories previously identified. The graph shows the highest number of termination proposals occurred in the "regulation of practitioners" classification (14).

In terms of the percentage of reviews resulting in termination recommendations, two categories stand out: "policy guidance" (55 percent) and "advisory" (50 percent). The high number of terminations proposed by the committee in the "regulation of practitioners" category is directly related to the statutory review criteria. In all of these instances the committee, adhering to the criteria, concluded such things as a bad haircut, dead tree, or poor landscape job did not endanger the public health, safety, or welfare. In the committee's view, regulation of practitioners, in areas where a reasonable consumer had the capability to assess and assume the risks, needlessly restricted competition.



The high percentage of committee-proposed terminations in the policy guidance and advisory categories also is not surprising when the statutory review criteria are considered. It is very difficult for an entity or program designed to provide policy guidance or advice to prove its elimination would endanger the public health, safety, or welfare. Thus, despite low costs, their existence could not be justified, and the committee was compelled to recommend termination. It should be noted such recommendations were typically met with outcries of objection by interests represented by the involved entities.

As noted above, the committee proposed 32 terminations, but the General Assembly adopted only 17. Figure II-4 illustrates by functional category the relationship between the termination recommendations of the program review committee and subsequent actions of the General Assembly. The graph shows the General Assembly concurred with slightly less than 30 percent of the committee's termination recommendations in the "regulation of practitioners" category, about 60 percent in the "policy guidance" and "advisory body" categories, and all five recommendations in the "enforcement of state standards" and "service" categories.



Although not shown in Figure II-4, the General Assembly concurred 100 percent of the time when the program review committee recommended an entity or program be continued.

A closer examination of the 17 committee termination proposals agreed with by the full General Assembly reveals these decisions were not as significant as might first be thought. Six of the 17 agreeing actions -- including three of the four agreeing actions in the enforcement of state standards classification -- involved consolidation of boards and commissions. In five instances, the authority for the

regulatory or service function underlying the terminated entity was transferred to another state agency. The activity level of three of the remaining six entities terminated was virtually nonexistent.

One explanation for the differences between the committee and the General Assembly can be found in the decision-making processes each followed. The committee was guided by the statutory criteria and had sufficient staff and time to obtain and analyze data related to claims made by the involved entities and their supporters. This enabled committee members to reach an acceptable comfort level with the rationale for terminating an entity or program.

On the other hand, the full General Assembly relied heavily on obtaining information from public hearing testimony and direct contact with constituents. It had little time to sort facts from claims. As a result, its members were very aware that terminating an entity often meant

imposing a real or perceived negative consequence (e.g., loss of ability to control competition, loss of influence, etc.) on a portion of the state’s population. Legislators also seemed to sense many terminations would only provide an incremental benefit that would be little noticed or appreciated by most citizens.

As the key outcomes listed at the beginning of this section indicate, there was more to the sunset process in Connecticut than terminating entities and programs. Indeed, nearly three out of every four sunset-related recommendations made by the program review committee involved issues other than the continuation or termination of an entity or program. Included were recommendations to limit matters subject to regulation, change the level of regulation, streamline and standardize procedures, fine tune the 1977 reorganization by transferring functions from one state agency to another, and enact a host of reporting requirements designed to increase accountability by making information available to the legislature and public.

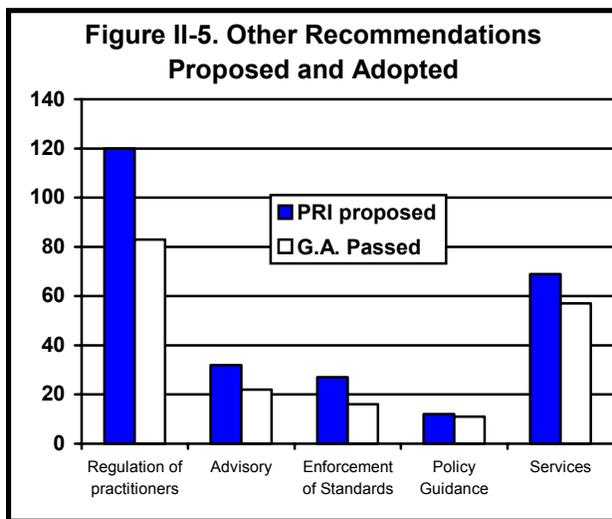


Figure II-5 shows the number of such proposals introduced by the committee in each functional area. Also included in Figure II-5 is the number of proposals adopted by the General Assembly. The overall number of recommendations per entity reviewed ranged from a low of about 1.3 in the “policy guidance” classification to a high of 3.5 in the “service” category.

Most notable, the agreement rate between the committee and the full General Assembly was much higher in areas where the issue did not involve whether to terminate an entity or program. It ranged from 59 percent in the “enforcement of standards” category to 92 percent in the “policy guidance” area. Overall, the rate of agreement on recommendations not addressing the termination issues was nearly 75 percent.

In summary, if the success of Connecticut’s sunset program is measured by the number of entities or programs terminated, the results are mixed. Some progress was made in eliminating entities on the sunset list, but it fell short of what was envisioned by proponents of a sunset law. However, if success is measured by the number of recommendations resulting in laws, the experience has been decidedly more positive. Further, if the significance of the changes adopted as a result of the sunset process is considered, the effort was very successful.

Two examples of such changes involve the regulation of business practices for health professionals and the requirements to be a manicurist. In the case of the former, regulation of business practices of health professionals (e.g., number of offices, advertising, etc.) was separated from matters of competence and removed altogether from the control of practitioners of the profession. With respect to manicurists, requirements they receive 500 hours of training and be restricted to practicing only under the supervision of a licensed cosmetologist were

eliminated. This gave rise to the large number of nail boutiques currently located throughout the state.

1984 to Present

Although the sunset law has been in abeyance since 1984, sunset-related activity has occurred since then. This activity falls into two categories: sunset law postponements and changes to the sunset entity list.

In regard to changes to the list, a handful of entities has been added to the sunset list since the first postponement in 1983. None have been reviewed yet due to the postponements. These are in addition to a few entities that were added to the review list prior to the first postponement but, due to the timing of their additions, have also never been reviewed. A few entities that were reviewed during the original sunset cycle and re-established were not placed back on the sunset list to be reviewed in another five years (e.g., the Connecticut Student Loan Foundation and the Connecticut Agricultural Experiment Station).

The sunset law has been postponed six times. Selected aspects of the postponements are discussed below.

First postponement (1983). The first postponement of sunset was enacted during the 1983 legislative session, as the committee was winding up the first five-year cycle. (That year, the committee was set to conduct performance audits of 22 entities scheduled to terminate on July 1, 1984.) In 1984, the sunset cycle was to begin again, with PRI required to review 19 entities, most of which involved regulated health-related providers previously assessed in 1979. As reflected in PRI meeting minutes, the committee generally agreed that instead of repeating the list, a new schedule of entities should be proposed. At the same time, Senator Joseph Harper, who was one of the Appropriations Committee's co-chairs that session and a recent past PRI co-chair, had raised a bill to shift the focus of sunset from regulatory boards and agencies to major operating departments for the next five years, targeting five to 10 major agencies for performance audits over those years. The program review committee endorsed the Harper bill.

What ultimately passed (PA. 83-466) instituted the first five-year postponement and a one-year pilot to test the Harper approach. Specifically, the existing sunset list, which had entities terminating each year out to July 1, 1988, was repealed. A new list, almost identical to the repealed list, was put in place, with a beginning termination date of July 1, 1990.

Also, a one-year pilot to test the idea of having the program review committee examine large agencies as opposed to predominantly regulatory boards was also established, with the following provisions:

- the pilot focused on programs within the Department of Income Maintenance (DIM) (predecessor to the Department of Social Services);
- the program review committee would select the specific programs after consultation with and approval by the chairs and ranks of the GAE and human

services committees, and members of the pertinent appropriations subcommittee;

- program selection was to be completed by November 1, 1983;
- PRI was to submit a performance audit report to the General Assembly on or by December 1, 1984; and
- each audited program would cease to exist on July 1, 1984, unless an appropriation for its continuance was included in the state budget.

As a result of the pilot, three separate reports were produced in 1984 on three DIM programs: 1) Error Detection and Prevention; 2) General Assistance Program; and 3) Agency Management. While none of the programs were defunded, several recommendations were made. Changing the sunset focus permanently to larger agencies was not pursued.

Second and third postponements (1988 and 1993). In 1988, with committee work on sunset slated to begin in 1989 for the first round of entities (with July 1, 1990 termination dates), P.A. 88-165 set back the sunset law for five years with a new beginning termination date of July 1, 1995.³

The same thing happened in 1993 via P.A. 93-250, which pegged the restart of the sunset law back another five years to July 1, 2000. This bill addressed other committee matters, including clarifying its authority to receive confidential state records. In regard to the sunset delay, then-PRI co-chair Representative Jonathan Pelto testified before the GAE committee that the activation of the sunset review process was “a policy matter as much as it is anything else” for GAE and the legislature, but that in order to conduct the sunset reviews and continue the other program review work of the committee, additional staff would be needed. While he recommended a 10-year postponement, only another five-year delay was instituted.

Fourth postponement (1998). In 1998, the program review committee was again faced with the restart of sunset, and in addition to seeking a delay, it determined that a study should be done on the need for and benefits of sunset and alternative ways of addressing the needs. Unlike the previous delays, P.A. 98-30 pushed off the start for three years, and a study was conducted in 1998.

The report, completed in December 1998, reviewed Connecticut’s experience with sunset as well as those of other states. The report noted the reasons frequently cited for repealing or suspending sunset laws in other states, which included:

- the process places excessive time demands on legislators and legislative staff;

³ Then-PRI co-chair Senator John Atkin stated as he introduced the bill in the Senate on April 19, 1988: “Basically what this bill does is postpone for five years the schedule of sunset reviews of the state agencies, with a couple of exceptions. The Program Review Committee felt that this postponement was appropriate, because the time and expense of reviewing all of these agencies on an every five year cycle is not necessarily appropriate, and felt that the staff of the Program Review Committee is much more valuable doing reviews and the investigation that we are doing now of the criminal justice system.”

- the process often requires legislators to choose between proposals that are modestly beneficial to all citizens but can be devastatingly negative to specific interest groups; and
- other forms of oversight have become more popular.

Based on its Connecticut-specific findings, provided in Table II-3, the program review committee concluded if the success of Connecticut’s sunset program was measured by the number of entities or programs terminated, the results are mixed. Although progress toward the goal of sunset was made, it fell short of what was envisioned by proponents of the sunset law. However, if success was measured by the number of adopted recommendations resulting in new laws leading to improved operations of entities and programs, the experience has been decidedly more positive. Ultimately, the committee concluded that the sunset concept was a valuable oversight tool and should remain available for use by the General Assembly.

Table II-3. Summary of Outputs and Outcomes of Sunset Law Implementation in Connecticut
<ul style="list-style-type: none"> ▪ The committee conducted 94 sunset reviews and made slightly more than 350 recommendations, including 32 proposals to terminate entities or programs. ▪ Approximately 270 of the committee’s recommendations, including 17 termination proposals, were adopted. ▪ Most of the 17 terminations were not significant (six involved consolidations, five eliminated an administrative level but kept the underlying regulation, and three were not functioning prior to the review). ▪ Other key results achieved through the sunset process were: <ul style="list-style-type: none"> • development of a model act standardizing the organization and operation of boards and commissions in terms of meetings, appointments, attendance, and quorums; • elimination of state restrictions on the business practices of health professionals; and • major restructuring of the powers, duties, and operations of the state hospital commission, the Commission on Human Rights and Opportunities, and several less prominent entities.

It could be argued that many of the benefits attributed to the sunset process in the committee findings that supported continuation could also have occurred through program reviews. Perhaps implicit in the committee findings is a belief that the sunset successes are distinguishable from those potentially achieved by program reviews. This belief is in part because of sunset’s action-enforcing mechanism (i.e., an automatic termination date), which requires asking whether the entity is needed at all, and forces the legislature to take affirmative action if the answer is yes.

In assessing the form in which sunset should continue in 1998, the committee considered four options. Significantly, no option maintained the status quo. Three options maintained the

automatic termination tool that makes sunset reviews unique; the fourth option did not. The latter essentially sketched out an alternative PRI function more closely allied with the budget. Under all options, the review cycle was lengthened.

The option adopted by the committee in 1998 as a recommendation is set out in Figure II-6. During the 1999 legislative session, PRI raised the recommendation as a bill (HB 1177), which died in GAE. At the PRI public hearing on HB 1177, there was no testimony on the merits of the new proposal.

At first glance, the proposal might seem to limit the scope of sunset by eliminating three out of five types of entities from the list. All entities and programs whose primary purpose was to provide advice, policy guidance, or direct services would be removed from the list. Left were entities regulating individual practitioners or enforcing state-approved standards, to which would be added entities not already on the list. The proposal, focusing on the *processes* of regulation rather than *entities*, included a broad definition of regulatory process, called “state action”, which meant:

- a process that includes an approval or a revocation or termination by an agency, including, without limitation, the process of licensure, certification, permitting, chartering, or franchising; or
- the process of registering with an agency.

This “state action” definition in the proposal in fact greatly expanded the scope of sunset.

While the proposal gave the program review committee discretion in regard to which entities carrying out “state actions” would be reviewed in detail, it effectively created a mandatory reauthorization requirement for the Connecticut legislature for many state programs. Whether or not program review examined any process on the list, the authority for the process (i.e., state action) was scheduled for termination on a date certain unless it was affirmatively reenacted by the legislature.

On another front, in 1999, just one year after the committee reviewed the sunset law, the committee directed its staff to conduct a study of performance measurement in Connecticut. The result of that study was to recommend a new and revitalized system of performance measurement, building on the many parts already on the books in Connecticut but not implemented by the executive branch. The program review committee was to be involved in the new system. The legislation containing the study recommendations was not successful, due in part to opposition from OPM. The performance measurement study is pointed out here because the committee in that report recommended that the sunset law be repealed. The committee said:

The ninth recommendation calls for the repeal of the state's sunset review law. The committee believes if the sunset law is not repealed, the demands it places on the program review committee coupled with the requirements of the above recommendations will force the committee to either severely reduce the number of studies it undertakes annually or add staff. In the opinion of the committee, the expense of adding staff could be avoided and the legislature

better served by repealing the sunset law. This law consumes an enormous amount of staff and legislative time and, as currently written, is disproportionately focused on relatively small and narrow programs.

Fifth postponement (2001). Without an alternative approach in place after the 1998 study, the sunset law was again set to restart with a termination date of July 1, 2003, for the first round of entities. In 2001, P.A. 01-160 was passed with another five-year postponement, setting back sunset to July 1, 2008 (as the date of the first terminations).

Sixth and current postponement (2007). Early in the 2007 legislative session, the newly formed 2007-2008 program review committee was confronted with the sunset question again. With a first-year termination date of July 1, 2008, the committee would have to conduct 28 sunset reviews during calendar 2007 in order to have the required reports prepared for the General Assembly and the GAE committee by January 1, 2008, pursuant to the sunset law. The numerous postponements over the years with little comment suggested a low level of interest in the sunset process, but because there also seemed to be a reluctance to outright repeal the law, the committee determined to try again to clarify the legislative interest in sunset. Thus, P.A. 07-33 set back the start date for termination to July 1, 2010, the shortest postponement ever enacted. Conducting the current study was a required part of the delay.

Figure II-6. PRI Recommendation from 1998 Sunset Review Study

Connecticut's current Sunset Law should be modified in the following manner:

- A. Selection of Entities and Programs for Review:**
- eliminate from current sunset list all entities and programs whose primary purpose is to provide advice, policy guidance, or direct services;
 - add to sunset list all entities and programs not identified in the current sunset list that either regulate individual practitioners or enforce state-approved standards;
 - require each listed entity and program to prepare a report addressing the sunset criteria 20 months prior to the scheduled termination; and
 - after reviewing each report and holding a joint public hearing, the program review committee, in consultation with the Government Administration and Elections Committee and the relevant subject matter committees, shall determine which entities or programs need a further review by the program review committee.
- B. Review Criteria:**
- add a provision requiring the sunset review to determine whether the entity or program has complied with state rules and procedures, including but not limited to such matters as the Uniform Administrative Procedures Act, human rights statutes, and freedom of information requirements.
- C. Length of Review Cycle:**
- increase the review cycle from five to eight years.
- D. Source of Staff:**
- provided primarily from the program review committee, with assistance from the Offices of Fiscal Analysis and Legislative Research.
- E. Management of the Review Process:**
- program review committee.
- F. Recommendation to the Legislature:**
- program review committee.

Section III

Sunset in Other States

Over the years, as many as 38 states have enacted sunset laws. Today, only 19 states have active sunset programs of varying scope.

History

When Connecticut adopted its sunset law in 1977, it was among the leaders of what has been called the “Sunset movement.”⁴ Between 1976 and 1982, the peak of sunset, 36 states enacted some version of a sunset review process. The advocacy group *Common Cause* was at the forefront of promoting state sunset laws as a way to increase legislative oversight, specifically “to provide the incentive and discipline necessary to motivate public officials to increase program evaluation”.⁵

A 1986 report by the South Carolina State Reorganization Committee surveyed states’ experiences with sunset, and offers an instructive overview of the multiple intents behind sunset, explaining that “[s]unset was the product of at least three streams of legislative reform activity of the 1970s:

- *The strengthening of legislative oversight capabilities, including the expansion of professional legislative research staffs, and the development of administrative procedures acts;*
- *The increasing interest among some states in the reorganization of the executive branch of government;*
- *Increasing intent at the state and federal level in the deregulation of businesses and professions by government.”*⁶

The report goes on: “*It was thus under several banners that sunset was launched, a favorite of many diverse legislative interests, and from the outset something of a victim of exaggerated expectations and misunderstandings.*”⁷

Over time, 13 of the original 36 states repealed their sunset statutes, and six states (including Connecticut) suspended their sunset laws in some fashion, leaving 19 states with statutory sunset processes that are actually active. Twelve states have never enacted sunset laws.

Among the reasons frequently cited for repealing or suspending sunset laws are:

⁴ Dan R. Price, *Sunset Legislation in the United States*, 30 *Baylor L. Rev.* 401, 401 (1978)

⁵ Congressional Research Service, *Federal Sunset Proposals: Developments in the 94th to 107th Congresses*, p. 2 (2002), citing Bruce Adams in “Sunset: A Proposal for Accountable Government”, *Administrative Law Review*, vol. 28 (Summer 1976, p.520.

⁶ State Reorganization Commission, South Carolina, *Ten Years of Sunset A Survey of States’ Experiences*, p. 3, Sept. 1986

⁷ *Ibid.*, p. 4

- the process places excessive time demands on legislators and legislative staff;
- the process often requires legislators to choose between proposals that are modestly beneficial to all citizens but can be devastatingly negative to specific interest groups; and
- other forms of oversight have become more popular.

The South Carolina report contained similar conclusions:

The disenchantment [based on the exaggerated expectations and misunderstandings about sunset] was not long setting in. Sunset set off enormous and swift reaction from regulated professions, and unleashed a wave of lobbyists who descended forcefully on state legislatures. Under such battle cries as "If it ain't broke don't fix it", anti-sunset forces effectively neutralized early efforts to terminate agencies and de-regulate professions.

In some states complaints were voiced about high costs of sunset reviews compared to relatively low payout identified from agency termination or reorganization. Others complained that the political payouts were hardly worth the headaches and hazards incurred in trying to terminate an agency or regulatory process.

In short, the sunset ballyhoo was short-lived...⁸

Current status. Despite this sunset retrenchment, as noted above, 19 states still have active sunset laws, but of varied scope. Key aspects of these active sunset laws are highlighted below. First, a brief description of the Texas sunset law is provided, as it is perhaps the most well known sunset process currently.

Texas, which established a sunset law the same year as Connecticut in 1977, still has its sunset law as the backbone of legislative program evaluation in Texas, in addition to the state's budget process. Texas takes a comprehensive approach to sunset --about 130 state agencies are subject to the Texas Sunset Act, covering almost all the large and small agencies of Texas state government. Each of these agencies is scheduled to terminate on a date certain unless reauthorized by the legislature. Typically, agencies go through a sunset review every 12 years, although the review schedule may be changed if the legislative wants more frequent review of a particular agency.

The Sunset Advisory Commission is the entity that oversees the sunset process, a 12-member body of 10 legislators (five Senate and five House members) and two public members. The commission is assisted by a staff of 30. The Texas statute, like Connecticut's, contains a set of criteria for the reviews.

Even though the Texas sunset law is 30 years old, it is interesting that in a published Guide to the Texas Sunset Process (January 2006), the commission notes how sunset reviews

⁸ Ibid. p. 4

have evolved in Texas: “Early sunset reviews focused on whether the state should regulate certain occupations and how to ensure an arm’s length relationship between regulators and the regulated. As the sunset process has matured over time, both the commission and the legislature have focused on substantive changes to the policies carried out by state agencies.”⁹

Key Aspects of Sunset Laws

Sunset laws differ among the states. The presence of an automatic termination date, requiring affirmative legislative action to override, is the hallmark of a sunset review law - an “action-forcing mechanism, carrying the ultimate threat of elimination.” A related core sunset component is that prior to the termination date, there is a mandatory review of the entity or program using established criteria to conduct the review.

Indeed, a few states that are counted among those that have repealed or not enacted sunset laws have created “quasi-sunset” systems, whereby they have established the mandatory review of entities and programs scheduled at certain, pre-set times, but do not include the “action-forcing mechanism of an automatic termination date (i.e., Maine, Vermont, Virginia, and West Virginia).

The key areas of variation include selection of entities and program to be covered by a sunset provision, review criteria, length of time between reviews, staffing, and responsibility for overseeing the conduct of the reviews and preparing recommendations. However, the literature suggests that some states that have continued with sunset have modified their processes by: lengthening the time between reviews; reviewing larger agencies; and building in flexibility in terms of what gets reviewed and at what level.¹⁰

Selection/Coverage. In terms of selecting the type of entities and programs covered, state sunset laws can be divided into four types. Included are those:

- limiting coverage primarily to regulatory agencies and programs (*regulatory*);
- covering virtually all state agencies and programs (*comprehensive*);
- specifying selected agencies and programs based on factors other than size or purpose (*selective*); and
- allowing the review authorities some discretion in selecting the agencies and programs to be reviewed (*discretionary*).

Further, some states focus on new programs versus existing programs.

Review criteria. While the exact wording of the criteria used to evaluate entities and programs under sunset laws varies among the states, two broad categories can be identified. The first deals with criteria aimed at assessing the need for the state to be involved in the area under review and the appropriate level of involvement. The second category concerns matters relating

⁹ Sunset Advisory Commission, *Guide to the Texas Sunset Process*, p. 11 (January 2006)

¹⁰ Richard Kearney, “Sunset: A Survey and Analysis of the State Experience”, *Public Administration Review*, Vol. 50, Jan/Feb 1990

to performance, including the extent to which goals have been met and resources efficiently used.

Timing of Reviews. Another significant difference between states is the timing of their schedule of sunset reviews. Review cycles range between as low as four years, and as high as 15 years.

Staffing. Staff for conducting sunset reviews have generally come from one of four basic sources including:

- legislative program evaluation or performance auditing operations;
- legislative research offices;
- special units created for the purpose; and
- state agencies.

Responsibility for conducting reviews. In many states, special legislative sunset committees have been established to make the policy choices mandated under their respective sunset laws. Several states have assigned this responsibility to standing committees, especially those committees with jurisdiction over budget matters.

Existing oversight committees have also been a popular choice for this task. A few states have created special commissions composed of legislators and citizens to oversee the process and make sunset recommendations.

Table III-1 shows the breakout of states with active sunset processes by topic coverage.

Table III-1. Active Sunset States By Type of Agencies/Programs Under Sunset Review		
Type	Number	States
Regulatory	5	Alabama, Colorado, Georgia, Hawaii, Maryland
Comprehensive	9	Alaska, Arizona, Delaware, Florida, Louisiana, Ohio, Tennessee, Utah, Texas
Selective	4	California, Missouri*, New Mexico, Oklahoma
Discretionary	1	Washington
<p>*The Missouri sunset law, enacted in 2003, requires all new programs after August 2003 to be terminated no later than six years, so in a way it is “Comprehensive” in that any new program must come under sunset.</p> <p>Source: PRI staff analysis drawn from statutory research based on The Council of State Governments (2007), The Book of the States; U.S. Congress. House. Committee on Rules. Subcommittee on the Legislative Process. 1983. A Compilation of State Sunset Statutes with Background Information on State Sunset Laws. Staff Report, issued as subcommittee print, 98th Cong., 1st sess. Washington, D.C.: Government Printing Office.</p>		

Sunset in Connecticut: 30 Years Later

The sunset law and process that is the subject of this study was enacted 30 years ago. Twenty-five years have passed since the end of the first and only cycle of completed sunset reviews, with six subsequent postponements. *A central question to the discussion of continuing the sunset law is whether the landscape of legislative oversight has changed in Connecticut in those 30 years in a way that alters views on the value of using sunset as an oversight tool.* Specifically, the view that matters most is that of legislators, who need to feel that sunset is a meaningful tool for them.

One of the attractions to sunset in the 1970s was that it provided a tangible mechanism to strengthen legislative oversight at a time when state legislatures had little to no resources of their own available to them to assess what happened to the laws they passed. Instead, legislatures were more dependent on the executive branch for implementation information. That balance has shifted since then as legislatures developed increased independent research and evaluation capacity, primarily through increased professional staff.

This section provides a brief overview of the sources of oversight in Connecticut, with emphasis on two aspects: 1) the function and experience of the program review committee in carrying out its “program review” charge, and comparing that to the sunset function and experience, which also involves the committee; and 2) the growing interest and use in Connecticut of performance, or results-based, measures as a tool for legislative oversight, particularly demonstrated by the activities of the Appropriations Committee in the last two years. *Program review committee staff believes that comparing the scope and nature of the oversight work the program review committee does currently with Connecticut’s sunset process and experience, and considering how current program review work could be augmented in the future with an orientation toward the results-based accountability approach that is starting to be used in the budget process, the usefulness of returning to sunset seems extremely limited.*

Legislative Oversight and Where It Happens

The legislative oversight function is usually distinguished from enacting laws, appropriating funds, and representing constituents, although legislative oversight can occur through all those activities. For purposes of this report, the focus is on formal (vs. informal) oversight, where the purpose of an activity is to find out about and evaluate how an agency or program is operating. The definition of “program review” in the program review committee statute offers a definition of formal legislative oversight:

“Program review” means an examination [by a legislative body (such as the case of the program review committee assisting the General Assembly)] of state government programs and their administration to ascertain whether such programs are effective, continue to serve their intended purposes, are conducted in an efficient and effective manner, or require modification or elimination. (C.G.S. Sec. 2-53d)

In Connecticut, formal oversight may be exercised by several different entities:

- the program review and investigations committee, whose singular charge is to conduct reviews for oversight purposes in all areas of state government (assisted by program review staff);
- the appropriations committee and its subcommittees through the budget process, which has begun to use a structured, results-based measurement initiative known as Results-Based Accountability (RBA) on a selective basis (assisted by Office of Fiscal Analysis (OFA) staff);
- the 22 standing and select committees within their specific subject matter jurisdictions, through either standard committee work on legislation, informational forums, or specific factfinding investigations (assisted by Office of Legislative Research (OLR) staff and as needed, OFA staff);
- the executive nominations committee through the advice and consent process (assisted by OLR staff);
- the regulations review committee through its review and approval role in regard to proposed agency regulations to implement statutes (assisted by OLR staff and the Office of Legislative Commissioners' (LCO) staff);
- ad hoc task forces and interim committees (assisted in multiple ways); and
- the auditors of public accounts, specifically through their performance review function (assisted by audit staff).

Deciding how much oversight is enough and in what form is a policy decision for a legislature, with multiple considerations in play. On the one hand, at least one observer believes Connecticut legislators are not interested in doing the work of oversight. In *Under the Gold Dome An Insider's Look At the Connecticut Legislature*, Judge Robert Satter wrote in 2004:

...the ardor for legislative oversight of governmental functions, intense in the 1970s, has since diminished and lost its momentum. The [Connecticut] legislature now seems more inclined to write new laws than to patiently evaluate whether those that exist are working well or being administered properly by the executive branch.¹¹

On the other hand, the National Council of State Legislatures, in a 2005 briefing paper on legislative oversight in the states, noted the increasing need for legislative oversight.

Legislatures face several challenges in conducting oversight, including the never-ending tug of war that characterizes the separation of powers between the legislative and executive branches. It can be difficult to obtain valid data from agencies, governors can resist oversight as "micromanagement" and demands for studies can overwhelm the capacity of legislative evaluation offices. It can also be difficult to structure processes that effectively use oversight information in the committee and budget processes. Nonetheless, given the increasing scope of

¹¹ Judge Robert Satter, *Under the Gold Dome*, Connecticut Conference of Municipalities, p. 196 (2004)

*policy challenges facing legislatures under federal devolution and ever-growing budget constraints, the need for effective legislative oversight will continue to grow.*¹²

Sunset Reviews and Program Reviews: A Comparison

The sunset law has been dormant for almost 25 years, meaning the program review committee has not been conducting any sunset reviews. However, the program review committee has been active in examining state government programs and agencies to assist the legislature. This point is made because a review of the House and Senate floor debates over the years on the sunset postponement bills could leave the impression that people believe the sunset law is the only vehicle for legislative oversight and, without sunset, no oversight is occurring in Connecticut. Underlying that impression, although not quantified by program review staff, may be a misconception of what the Connecticut sunset law entails or what the actual experience was (which would be understandable as a generation has gone by since the last sunset study).

Thus in deliberating about what to do about sunset, it is useful to understand the differences and similarities between the sunset process and experience and the “regular” program review process and experience, governed by C.G.S. Secs. 2-53d to 2-53j. The differences and similarities can be categorized as those based in statute and those based on practice. The statutory differences between sunset reviews and program reviews involve: 1) how study topics are determined; 2) the type of study topic; 3) evaluation criteria; and 4) the nature of post-study legislative activity. Table IV-1 sets out the statutory differences, and also discusses relevant committee practice. *In practical effect, as the sunset experience turned out in Connecticut, there is not much substantive difference between the process of either a sunset review or a program review, or between the results of each type of review.*

In regard to post-legislative activity — particularly mandatory voting to re-establish an entity — it is hard to say based on the actual sunset experience what ultimate difference that made, given that most entities were re-established. The only legislation the General Assembly is *required* to enact is the budget. A key question is how beneficial it is to the General Assembly to be required to enact legislation to continue entities that are not unimportant, but are narrowly focused.

In summary:

- The reality of sunset never matched the vision of sunset in Connecticut as a process that would result in the large-scale termination of state entities.
- Half of the states that at one time conducted sunset reviews have repealed sunset as a distinct oversight mechanism.
- The many postponements of Connecticut’s sunset law during the past 25 years indicate legislative reluctance to return to sunset and the formal re-establishment process it requires.
- Even without the statutory directive of sunset, the program review committee has reviewed aspects of 16 of the entities on the deferred sunset lists and used portions of the sunset criteria in several other reviews.

¹² National Conference of State Legislators, *Legislative Oversight in the States*, Legisbrief, Vol. 13, No. 45

- Returning to sunset would reduce the amount of in-depth studies the program review committee could perform in the future.

The program review committee recommends that the sunset law be repealed.

Table IV-1. Comparison of Statutes and Operations of Sunset Reviews and Program Reviews

		Sunset	Program Review
How Study Topics Determined		<p>Per Statute:</p> <ul style="list-style-type: none"> ▪ 1977 legislation specifically listed 94 entities or programs to be reviewed on a set schedule over a five-year period. ▪ Re-established entities required legislative provision to be reviewed again every five years. ▪ The year in the five-year cycle that an entity or program fell in set by legislation. ▪ All subsequent additions and deletions are also made through legislation. 	<p>Per Statute:</p> <ul style="list-style-type: none"> ▪ The 12-member bi-partisan program review committee, equally representative of both chambers, makes the final decisions on study topics. ▪ Consider and act on requests by legislators, legislative committees, elected officials of state governments, and state department and agency heads for program reviews. ▪ Study decisions require affirmative vote of at least 7 members. <p>In Practice:</p> <ul style="list-style-type: none"> ▪ The PRI committee typically selects topics at the beginning of a calendar year, assisted by its staff, screening topics in terms of potential study impact (e.g., how much state control involved, how many people affected, any recent changes that would make a review not timely, any overlap with another similar effort). ▪ The number of program reviews conducted each year depends on the size and/or complexity of the entity/program/question under review, with the total number varying from 5 to 8 each year. ▪ Typically, the study year tracks the calendar year, so that the results of any study will be available for a legislative session.
Type of Study Topic		<p>Per Statute:</p> <ul style="list-style-type: none"> ▪ Set by legislation as noted above. <p>(In the general context of state government, the programs are relatively small and narrow. Virtually every state entity with the word “board” or “commission” in its title was selected for inclusion in the sunset list, along with a few other entities. The largest number of sunset programs regulated individuals practicing in occupations and professions.)</p>	<p>Per Statute:</p> <ul style="list-style-type: none"> ▪ No limits <p>In Practice:</p> <ul style="list-style-type: none"> ▪ Over the years, the program review committee has done work in virtually every area of government, from large agencies/programs to smaller agencies/programs. ▪ Appendix A shows the studies arranged by the government function categories used in the state budget. ▪ The committee has over the years studied things that are on the sunset list. Appendix B sets out the sunset lists marked to show the sunset programs that have been reviewed in some way by a program review.
Evaluation Criteria		<p>Per Statute:</p> <ul style="list-style-type: none"> ▪ Section 1 of this report sets out the statutory criteria established for the sunset review process, which are not exclusive and are also directed to the General Assembly. 	<p>Per statute:</p> <ul style="list-style-type: none"> ▪ Definition of program review sets out criteria for review. <p>In Practice:</p> <ul style="list-style-type: none"> ▪ In a program review, review elements are approved by the committee at the beginning of a study in a document known as the study scope, which sets out the “study focus” and “areas of analysis.” These will vary depending on the topic and the questions desired to be answered. ▪ There have been program reviews that take sunset-like approaches, and some sunset reviews of programs that were not regulatory looked at questions very similar to program reviews. ▪ The statutory definition of “program review” includes “elimination” as an outcome of a program review.

Table IV-1. Comparison of Statutes and Operations of Sunset Reviews and Program Reviews

Sunset		Program Review
<p>Post-Study Legislative Activity</p>	<p>Per Statute:</p> <ul style="list-style-type: none"> ▪ The main feature of the sunset law is that every entity or program on the list automatically terminates on a date certain unless the legislature specifically reestablishes it by legislation. Legislation has to pass to even maintain the status quo; inaction results in termination. <p>In Practice:</p> <ul style="list-style-type: none"> ▪ The point of the mechanism is to force the attention of the legislative body on a program if it wants to retain it, accompanied by the practical need for program supporters to work to prove the program's merits. ▪ As noted in Section II, overall, the program review committee proposed terminating 32 entities. Seventeen of these recommendations were acted upon favorably by the General Assembly; the other 15 were reversed. A closer examination of the 17 committee termination proposals agreed with by the full General Assembly reveals these decisions were not as significant as might first be thought. ▪ Six of the 17 agreeing actions -- including three of the four agreeing actions in the enforcement of state standards class -- involved consolidation of boards and commissions. In five instances, the authority for the regulatory or service function underlying the terminated entity was transferred to another state agency. The activity level of three of the remaining six entities terminated was virtually nonexistent. ▪ As the key outcomes listed at the beginning of this section indicate, there was more to the sunset process in Connecticut than terminating entities and programs. <i>Indeed, nearly three out of every four sunset-related recommendations made by the program review committee involved issues other than the continuation or termination of an entity or program.</i> Included were recommendations to limit matters subject to regulation, change the level of regulation, streamline and standardize procedures, fine tune the 1977 reorganization by transferring functions from one state agency to another, and enact a host of reporting requirements designed to increase accountability by making information available to the legislature and public. <i>However, there was no requirement that those recommendations stay in the bills that had to pass to keep an entity alive, which is just like a regular program review bill.</i> 	<p>Per Statute:</p> <ul style="list-style-type: none"> ▪ None <p>In Practice:</p> <ul style="list-style-type: none"> ▪ Bills to implement recommendations from program review studies requiring statutory change are subject to the same process as all other bills. While not all PRI bills are successful, many are. ▪ Many program review findings and recommendations relate to functions that are within the administrative control of the agencies responsible for the programs examined; these recommendations are called "administrative." The committee through its staff follows up with agencies generally for three years after a study to see what changes have resulted from the committee work. Many administrative recommendations are implemented.

In regard to topic selection and the type of entities reviewed, if there is interest from any quarter in reviewing the operations or even the continued need for a regulatory agency, which is the focus of the sunset law, the program review committee could decide at any time to study those entities or programs, like it has already in some instances. In regard to the statutory evaluation criteria, as they are all reasonable points to consider especially when reviewing a regulatory body, they could be incorporated into the program review statute to be used when the committee deemed them relevant.

Therefore, the program review committee recommends that the program review statute be amended to incorporate the review criteria currently set out for sunset reviews, to be used whenever the committee deems it appropriate.

Other Information on Program Review Process

Even without sunset being reactivated, there are additional ways the work of the program review committee can be integrated into the overall work of the Connecticut General Assembly. In addition to encouraging committees of cognizance to participate more fully in committee studies and increasing the level of the coordination with the other legislative offices that already occurs, there may be additional steps the committee could take to further enhance its usefulness.

Encourage study participation by committees of cognizance. The program review committee has a long-standing tradition of inviting the co-chairs and ranking members of the committees of cognizance over the subject matter under review by the program review committee to participate in the program review process¹³. In some studies, this can involve multiple committees as the topics under review cross agency (and thus committee) boundaries.

A primary reason for this tradition is because every study that the program review committee undertakes necessarily involves a matter under at least one subject matter committee's jurisdiction. It is important to keep those committees informed along the way as it is likely they will ultimately have before them legislation resulting from the program review studies. The committee wants to make sure the subject matter committee members have the benefit of the committee's non-partisan long-term research and evaluation work, regardless of the ultimate outcome of any legislation.

Coordination with other legislative offices. When thinking about and/or conducting a program review, PRI staff will work with staff from the Office of Legislative Research, the Office of Fiscal Analysis, the Legislative Commissioners' Office, and the Office of the State Auditors to utilize any expertise and background they may have on a particular topic at hand. Likewise, program review staff receives inquiries from those offices when questions arise on topics program review has studied. If program review staff is aware that an issue has arisen that one of the other offices will likely need to deal with and PRI has possible relevant information, the practice is to make sure the offices are aware of that information.

¹³ The program review statute provides that "the co-chairpersons and ranking minority members of the joint standing committee requesting an investigation shall serve as nonvoting, ex officio members of the Legislative Program Review and Investigations Committee during the course of the investigation." C.G.S. Sec. 2-53e

These interactions can occur in the context of practically all the sources of legislative oversight listed above – the program review process, the budget and fiscal note work of OFA for the appropriations committee, the work OLR does for the standing committees in responding to all their requests for information as well as those from individual legislators and staffing ad hoc task forces and interim committees, and the audits done by the Office of State Auditors.

Legislative Oversight and Performance Measurement

Perhaps the biggest change impacting legislative oversight over the last several years in Connecticut and elsewhere is the growth of interest in obtaining information on the performance of state government programs, as opposed to just the activities of those programs. Two critical and difficult elements of performance measurement in government are: 1) determining outcome measures; and 2) having consistent and reliable information for the measures.

Examples of activities to promote performance measurement are: performance based budgeting, benchmarking, and results-based accountability. These initiatives have arisen out of both the executive branch of government as ways to enhance management, and the legislative branch of government, as ways to be able to do more effective oversight. Connecticut has attempted to create a structured approach to performance measurement over the years, but for a variety of reasons, it has never taken hold. (See 1999 PRI report on performance measurement).

In 2005, the appropriations committee leadership became interested in the results-based accountability concept developed by Mark Friedman, author of a book on the subject, *Trying Hard is Not Good Enough*. As described in an Office of Fiscal Analysis summary:

The RBA approach brings a simple, disciplined language to the budgeting process. It uses budget and performance baseline techniques to evaluate quality of life indicators and program performance measures. RBA forces decisionmakers to inquire about outcomes, not process. It provides an easy-to-understand approach to framing discussions about desired results for the citizens of Connecticut.

RBA supports two primary levels of discussion: how the constellation of efforts across programs affects a particular quality of life result, and then, through the reporting of key performance measures for each program, how each program is performing for its customers, the citizens of Connecticut. Programs share a common goal, and RBA allows decisionmakers to determine each program's contribution to the larger goal. RBA provides a critical tool for determining whether and how the public is better off because of the expenditures that have been made and where future appropriations may have the most positive impact.

In the 2007 legislative session, two pilot programs went through the RBA process: 1) the Early Childhood Initiative, which involves multiple agencies; and 2) public park access. Funding decisions for the early childhood initiative were based on RBA activities. Also, a new appropriations subcommittee was established to focus on RBA. Further indicating the level of interest in RBA, the 2007 budget bill (P.A. 07-1, June Special Session) included a provision that:

- requires a new or expanded program, designated by OFA in conjunction with OPM, to submit to the Appropriations Committee:
 - a report on its purpose by September 1, 2007; and
 - a progress report by July 1, 2008, containing: 1) the population results to which the program makes a significant contribution; 2) indicators for such population results; and 3) measures of quality and client outcomes for such program, according to results based accountability provisions approved by OFA.

OPM and OFA are currently in the process of designating the new or expanded programs.

The question that RBA and other performance-based concepts asks about whether anyone is better off because of government programs is a major element of legislative oversight—implicit is finding out how a program is working is what difference it is making. If there is interest within the appropriations committee, it is possible the program review committee with its background might be able to assist in the RBA process. The nature and scope of this assistance could be arranged so that the level of other program review activity would not have to decrease.

The program review committee recommends that the leadership of the program review committee enter into a discussion with the leadership of the appropriations committee to determine if the program review committee might be of assistance in the performance of future RBA activities.

APPENDIX A

Table A. All Program Reviews (179) By Function of Government (Primary)	
1. Regulation and Protection of Persons and Property: 39 Studies (22%)	
State Environmental Conservation Police	2006
Binding Arbitration for Municipal and School Employees	2005
Mental Health Parity: Insurance Coverage and Utilization	2005
Liquor Permits	2004
Pharmacy Regulation in Connecticut	2004
Medical Malpractice Insurance Costs	2003
Connecticut Resources Recovery Authority and Other Quasi-Public Agencies	2002
Commission on Human Rights and Opportunities	1999
Office of Victim Services	1998
Mediation and Arbitration, State Board of	1997
Prevailing Wage Laws in Connecticut	1996
Job Training Programs, State Sponsored	1996
Substance Abuse Policies for Juveniles and Youth	1996
Consumer Representation in Public Utility Matters	1996
Managed Care, Regulation and Oversight of	1996
Workers' Compensation: Impact of the Reform Legislation	1995
Motor Vehicles, Department of, Review of Summary Process Final Report	1994
Municipal Police Training Council	1994
State Police Employment Practice Impact on Protected Groups	1994
Unemployment Compensation in Connecticut	1994
Second Injury Fund	1993
Banking, Department of	1992
Workers' Compensation Insurance Rate Making	1992
Protective Services, State	1991
Dental Commission, State, Performance Evaluation of	1990
Workers' Compensation System	1990
Criminal Justice System, An Investigation of Selected Aspects of the	1988
Lemon Law, Connecticut	1988
Motor Vehicle Related Complaint Processing Systems	1988
Insurance Regulation in Connecticut	1987
Motor Vehicles, Department of: Dealers and Repairers	1985
Motor Vehicles, Department of: Management and Central Operations	1985
Motor Vehicles, Department of: Summary	1985
Motor Vehicles, Department of: Title Operations	1985
Motor Vehicles, Department of: Branch Operations	1985
Public Utility Control, Department of	1984
Truck Regulation and Enforcement	1982
Fire and Codes Services in Connecticut	1981
Unemployment Compensation Program, Connecticut State, Report on	1975

2. Human Services: 34 Studies (19%)	
Welfare Reform Initiative	2006
Soldiers, Sailors and Marines Fund	2005
Medicaid Eligibility Determination Process	2004
Consolidation of Rehabilitative Services	2003
Department of Mental Retardation: Client Health and Safety	2002
Medicaid Rate Setting for Nursing Homes	2001
Staffing in Nursing Homes	2000
Children and Families, Department of	1999
Contract Processes, Department of Social Services	1996
Elderly, Services for, to Support Daily Living	1996
Birth to Three Program: Early Intervention Services	1995
Child Day Care Services in Connecticut	1995
Foster Care, Department of Children and Families	1995
Medicaid Health Services in Connecticut	1994
Child Support Enforcement System Performance	1993
Entitlement Programs	1992
Family Care Homes for the Mentally Ill	1991
Human Services Agencies, Consolidation of	1991
Children and Youth Services, Department of: Child Protective Services	1990
Mental Retardation, Management Audit of the Department of	1989
Psychiatric Hospital Services for Children and Adolescents	1986
Human Resources, Department of	1985
Connecticut Alcohol and Drug Abuse Commission	1984
Income Maintenance, Department of: Error Detection and Prevention	1984
Income Maintenance, Department of: General Assistance Program	1984
Income Maintenance, Department of: Management	1984
Child Day Care in Connecticut	1981
Elderly Home Care in Connecticut	1981
Family Day Care Homes in Connecticut	1980
Weatherization Assistance for Low Income Persons	1980
Children and Youth Services, Department of: A Program Review	1978
Connecticut Assistance and Medical Aid Program for the Disabled: Phasing Out CAMAD	1978
Medicaid Costs in Connecticut, Containing	1976
3. General Government: 31 Studies (17%)	
Connecticut's Tax System	2005
Budget Process in Connecticut	2003
Energy Management by State Government	2002
Department of Public Works: Space Acquisition and Disposition	2001
Privacy in State Government	2001
Department of Public Works Facilities Management	2000
Performance Measurement	1999
Binding Arbitration: State Employee Contract	1995
Contract Management, State	1995
Secretary of the State, Office of	1994
Public/Private Provision of Selected Services	1993
Legalized Gambling, Regulation and Operation of	1992
Performance Monitoring In State Government	1992

Personal Service Agreements	1992
Personnel Services in State Government	1991
Siting Controversial Land Uses	1991
Retirement Division/State Employees Retirement Commission	1990
Revenue Forecasting in Connecticut	1990
Investment Practices of the State Treasurer, Performance Audit of the	1989
Purchasing, Bureau of, Department of Administrative Services	1989
Consultants, Use of Professional, by State Agencies	1988
Properties Review Board, State: Performance Audit	1988
Space Acquisition, Department of Administrative Services	1987
Absentee Voting in Connecticut	1986
Affirmative Action in State Government	1986
Building Maintenance, Department of Administrative Services	1986
Energy Management in State Buildings	1981
Bonding and Capital Budgeting in Connecticut	1977
Civil Rights Statutes, Compliance With Selected, by the Departments of Transportation, Education and Labor: An Investigation	1977
State Grants-in-Aid To Municipalities, Report on	1974
Land Acquisition by the State of Connecticut	1973
4. Conservation and Protection of Persons and Property: 24 Studies (13%)	
Mixing Populations in State Elderly Housing Projects	2004
Stream Flow in Connecticut	2003
Energy Availability in Connecticut	2001
Connecticut Siting Council	2000
Vehicle Emissions Testing Program	1999
Brownfields in Connecticut	1998
Environmental Protection, Department of: Enforcement Policy and Practices	1998
MTBE Use in Connecticut, Efficacy of	1998
Open Space Acquisition	1998
Underground Storage Tanks, Regulation of	1998
Enterprise Zones	1997
Tourism	1997
Housing Programs, Major Publicly Assisted	1997
Resources Recovery Facility Determination-of-Need Process, DEP	1994
Economic Development	1993
Solid Waste Management Services, CRRA Fees for	1993
Water Companies, Regulation of	1993
Air Management, Bureau of, Department of Environmental Protection	1989
Quasi-Public Agencies in Connecticut	1987
Hazardous Waste Management in Connecticut	1987
Vehicle Emissions Control Program in Connecticut	1986
Water Pollution Control Program	1986
Solid Waste Management	1979
Environmental Protection, Department of: An Investigation	1976
5. Education, Libraries, and Museums: 18 Studies (10%)	

Coordination of Adult Literacy Programs	2006
School Paraprofessionals	2006
Board of Education and Services for the Blind Vending Machine Operations	2002
Regional School District Governance	2002
UConn 2000 Construction Management	2002
Connecticut's Public School Finance System	2001
Educational Services for Children Who Are Blind or Visually Impaired	2000
Regional Vocational-Technical School System	2000
State Board of Trustees for the Hartford Public Schools	1999
Student Suspension and Expulsion	1997
Higher Education: Performance Monitoring	1993
Binding Arbitration for Teachers, An Evaluation of	1989
Housing Payment Practices at the University of Connecticut, An Evaluation of	1989
Vocational-Technical Schools, State Secondary	1987
Higher Education in Connecticut, Strengthening	1977
Community Colleges in the State of Connecticut	1974
Vocational Education in Connecticut, Secondary	1973
Special Education in Connecticut	1972
6. Health and Hospitals: 11 Studies (6%)	
Funding of Hospital Care	2006
Preparedness for Public Health Emergencies	2004
Pharmacy Benefits and Regulation	2003
Department of Public Health: Consultative Services to Child Care Providers	2001
Emergency Medical Services, Regulation of: Phase One (May)	1999
Emergency Medical Services, Regulation of: Phase Two - (December)	1999
Lead Abatement, Residential	1999
Emergency Medical Services, Office of	1997
Health Care Cost Containment	1993
Mental Health in Connecticut: Services in Transition	1979
University of Connecticut Health Center, Report on the	1974
7. Judicial: 9 Studies (5%)	
Probate Court System	2005
Mandatory Minimum Sentences	2005
Diversions and Alternative Sanctions	2004
Bail Services in Connecticut	2003
Sheriffs System, Connecticut	2000
Sheriffs	1993
Judicial Review Council	1992
Juvenile Justice in Connecticut	1988

Juvenile Justice in Connecticut	1978
8. Corrections: 7 Studies (4%)	
P.A. 04-234 Implementation Monitoring Project	2005
Correction Officer Staffing	2003
Recidivism in Connecticut	2001
Factors Impacting Prison Overcrowding	2000
Correction, Department of: Management Services	1993
Parole, Board of, and Parole Services	1992
Correction, Department of: Inmate Privileges and Programs	1991
9. Legislative: 2 Studies (1%)	
Judicial Selection	2000
Sunset Review Process	1998
10. Transportation: 5 Studies (3%)	
Bradley International Airport	2000
Economic Development Considerations in Transportation Planning	2000
Elderly Transportation Services	1998
Transportation Infrastructure Renewal Program	1997
Transportation, Department of	1984

Appendix B. Entities and Programs Subject to Current CT Sunset Law

Red means program review done pretty directly on topic; **blue** means program review done that considered topic in some way.

FIRST YEAR

15 Regulatory Boards/Commissions

- Homeopathic
- Naturopathic
- Electrologists
- Nursing
- Veterinary Medicine
- Optometrists
- Psychologists
- Barbers, Hairdressers, and Cosmeticians
- Embalmers and Funeral Directors
- Opticians
- **Medical**
- Podiatry
- Chiropractic
- **Dental**
- **Liquor Control**

Regulation of:

- Hearing aid dealers
- Speech pathologists and audiologists
- Nursing Home Administrators

Other

- Agricultural lands preservation program
- Nursing Home Ombudsman
- Mobile Manufactured Home
- **Child Day Care Council**
- Advisory Council on Intergovernmental Relations
- Commission on Children
- Task force on development of incentives for conserving energy in state buildings
- Estuarine embayment improvement program
- CT Economic Information Steering Committee
- Registry of former DMR workers with abuse histories

28 Reviews

SECOND YEAR

1 Regulatory Board

- Physical Therapists

Regulation of:

- Sanitarians
- Subsurface sewage disposal system installers and cleaners
- Bedding and upholstered furniture

Other

- Regional mental health boards
- All advisory boards for state hospitals and facilities
- Commission on Medicolegal Investigations
- Board of Mental Health and Addiction Services
- Residential energy conservation program
- Commission on Prison and Jail Overcrowding

10 Reviews

THIRD YEAR

5 Regulatory Boards/Commissions

- Landscape Architects
- Professional Engineers and Land Surveyors
- Occupational licensing

- **Pharmacy Commission**
- Real Estate Commission

Regulation of:

- Building demolition

Other

- State Codes and Standards Committee
- Fire Prevention and Control Commission
- CT Food Policy Council
- Firearms Permit Examiners

- **Police Officer Standards and Training Council**

11 Reviews

FOURTH YEAR

2 Regulatory Boards

- State Board of Accountancy
- Architectural Licensing Board

Regulation of:

- Occupational therapists

Other

- State Insurance and Risk Management Board
- CT Marketing Authority
- Occupational Safety and Health Review Commission
- **CT Siting Council**
- CT Public Transportation Commission
- State Milk Regulation Board
- Council on Environmental Quality

- **Employment Security Board of Review**
- **CT Energy Advisory Board**

- CT Solid Waste Management Advisory Board
- Investment Advisory Council
- **State Properties Review Board**
- **Commission on Human Rights and Opportunities**
- Coastal management program
- **Dept. of Economic and Community Development**
- Family support program (DSS)
- **CT Transportation Strategy Board**

20 Reviews

FIFTH YEAR

1 Regulatory Board

- Crane Operators

Other

- **Area advisory councils for children and youth center facilities**
- **Advisory Council on Children and Families**
- **Board of Education and Services for the Blind**
- **Commission on the Deaf and Hearing Impaired**
- Advisory and planning councils for regional centers for the mentally retarded
- State Library Board
- Advisory Council for Special Education
- Commission on Capitol Preservation and Restoration

9 Reviews

“Regulatory Boards/Commissions” refers to entities that have the authority to discipline an individual for occupational license violations. “Regulation of” refers to state regulated occupations in which all regulation is performed by a state agency vs. a specific board