

# SUNSET LEGISLATION: RESTORING PUBLIC CONFIDENCE IN GOVERNMENT

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Perhaps the single most critical issue that Congress will have to face this year is the need to make government more efficient, more effective and more productive. It could prove to be one of the most difficult tasks any of us – in Washington or out – has ever undertaken.

The task demands a diligent, unexciting scrutiny of the nuts and bolts operations of the Congress and the Executive Branch.

From the perspective of the Congress, meeting that task will require a much more careful examination of the federal programs it enacts into law. We can no longer be satisfied with merely creating a program. We must alter the way we operate so that we can keep each program, as it is implemented, under our watchful eye. We must be prepared to adjust every program to meet changing needs or eliminate it when the need for it goes away.

The Sunset Act of 1977 (S.2), which I introduced on January 10, 1977,<sup>1</sup> is in my judgment the best vehicle for Congress to apply this scrutiny to the operations of federal programs. With the support of the Carter administration, and broad-based, bipartisan support in both the House and the Senate, the bill has good prospects for enactment.<sup>2</sup>

The principal operative mechanism of the bill forces nearly all federal programs to be authorized, after a review, at least once every five years.<sup>3</sup> The bill also includes a parallel, though not identical, procedure for tax expenditures. Through this process, we can begin to close the gap between Congress and the results of the programs it creates.

The principal enforcement mechanism in the bill is a legal prohibition against funds being expended for a program which has not been specifically reauthorized by Congress. S.2 would further make it out of order for either House to consider a bill reauthorizing a program unless the appropriate legislative committee had reviewed the program.

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1. S. 2, 95th Cong., 1st Sess. (1977); see: 123 Cong. Rec. S. 144-50 (daily ed., Jan. 10, 1977).

2. At the time this article was written, S. 2 had 53 cosponsors, with 130 cosponsors of companion legislation in the House of Representatives.

3. The sunset bill does not attempt to define "program," in recognition of the fact that no single definition can satisfy all uses. However, S. 2 provides a process for developing a comprehensive list of the programs of the federal government.

In its simplest sense, sunset establishes nothing more than a process through which Congress can begin to exercise greater control over the results of the program it creates.

In its most far-reaching sense, sunset proposes nothing less than a revolution in the way the Congress does business, by forcing improvements in the way it judges government programs and the quality of services these programs provide.

By forcing elected representatives regularly to review and reauthorize programs, sunset will make them publicly accountable for the operations of these programs.

### WHY SUNSET?

A number of factors have led me -- and a majority of my Senate colleagues -- to push for enactment of such a revolutionary idea as sunset.

First, it is not difficult for those of us in national office to see that our people are not satisfied with the performance of their government.

Public opinion polls tell us that the American people have lost faith in their government -- that they do not think they are getting their money's worth for their tax dollars -- that they do not believe government cares what they think anymore.

In fact, this "confidence crisis" has been around for some time. Back in 1973, the Senate Government Operations Subcommittee on Intergovernmental Relations contracted with the public opinion polling firm, Louis Harris and Associates, Inc., to measure public perception of the responsiveness and effectiveness of government.

In that survey, no more than 28% said they had a great deal of confidence in any level of government, with local government rating the highest on the confidence scale (28%) and the federal government rating the lowest (19%).<sup>4</sup>

Even more striking was the study's finding that 67% believed that lack of trust in government and 61% believed the inability of government to solve problems were serious national problems. In fact, the public felt only high food prices and corruption (at the height of Watergate) were more serious national problems.<sup>5</sup>

More recent surveys by Harris and others have found similar results.

There are a number of reasons for this discontent. Some, like the divisive experience of Vietnam and the trauma of scandal that led to the resignation of a President and a Vice President, are clear enough. But underlying it all is what I sense to be a pervasive feeling among the people that the government cannot perform even the simplest tasks very well. People see spending by government at all levels increasing by leaps and bounds -- they see inflation and higher taxes eating up their paychecks -- and they wonder what we are buying at this enormous cost.

The answer to their question is not easy. During the 1960's -- which was an extraordinary period of social progress and change in America -- we enacted

4. *Hearings before the Senate Government Operations Subcommittee on Intergovernmental Relations on Confidence and Concern, Citizens View America -- A Survey of Public Attitudes*, 93rd Cong., Dec. 3, 1973, at 37, 38 [hereinafter cited as *Hearings - Confidence and Concern*].

5. *Hearings - Confidence and Concern*, *supra* note 4 at 50.

hundreds of new government programs.

Today, as many of those programs are a decade old, we still do not have a fundamental assessment of their performance.

Let me say that I voted for nearly every program Congress enacted during the 1960's. But after every period of far-reaching government innovation, with new ideas and initiatives, it is necessary to have a period where we step back, assess what we have achieved and where we have gone wrong, and redirect and strengthen our efforts to achieve our goals.

But despite all the pessimism about government today, I think there are many reasons to be optimistic.

The great majority of Americans share a common aspiration -- they want to achieve human progress without needless waste and mismanagement. In many ways, their lack of confidence comes not from government attempting to solve human problems, but rather in not solving them well enough.

Even the Subcommittee's Harris survey gave substantial reason for optimism. Eight out of every ten Americans said they are convinced that government can work well. "The prescription of the American people themselves," Harris said, "is for government to abandon policies of secrecy and open up a dialogue of shared responsibility . . . between all levels of government and the people themselves."<sup>6</sup>

So it is on this optimistic note -- that with innovative approaches we can improve the performance of our government and restore confidence in it -- that my colleagues have joined me in offering the sunset bill.

Sunset, after all, is not the first attempt by Congress to assert tighter control over federal spending. In 1974, Congress enacted the landmark Congressional Budget and Impoundment Control Act,<sup>7</sup> which many of us, including former Senator Sam J. Ervin, believe was the most important law passed by Congress during our legislative lifetime. That bill arrested the trend that had existed for half a century of Congress relinquishing control over the budget to the Executive Branch, and restored to Congress its constitutional control over federal spending. It has given the Congress the means to reassert its control over the federal budget -- the most important statement of national priorities that we have.

But for all its virtues, the new Congressional budget process also has its limitations. The budget process alone is not self-executing: it is one thing to establish spending priorities by establishing a series of spending ceilings in the Congressional budget, quite another to implement these priorities in specific program decisions. Unless we take a closer look at all the component parts of that budget, the new congressional budget process could, in the not too distant future, become little more than the arithmetic sum of predetermined spending levels.

During the last ten years, spending on so-called "uncontrollables" -- spending that is subject to little review or control by Congress, has increased from 59% to more than 75% of the federal budget.

According to Dr. Allen Schick of the Library of Congress, uncontrollable spending is "bleeding" controllables. "If we compare the 1966 and 1976 budgets,

6. Hearings - Confidence and Concern, *supra* note 4 at 25.

7. Congressional Budget and Impoundment Control Act of 1974, Sec. 402, 31 U.S.C. Sec. 1352 (1974).

we would find dozens of programs which were funded then, but aren't now," Dr. Schick states. "We would find dozens more which have grown less than inflation, and we would find dozens in which there is a growing and significant gap between the amount authorized and the amount actually appropriated."<sup>8</sup>

Moreover, programs with permanent appropriations, or funds spent without any review by Congress, have become the fastest growing component of the federal budget.

Programs with permanent authorizations have also proliferated. These are programs enacted with provisions to authorize "such sums as may be necessary" and which contain no termination date. Neither of these two program categories undergo any regular review by the legislative committees of Congress.

Because of this predicament, which will only get worse in the future unless corrective action is taken, I have come to the conclusion that no matter how successful the new budget process really is, the statement of national priorities embodied in the federal budget will not be a genuine expression of legislative policy until Congress has better control over the individual parts -- the thousand or more programs that make up the budget.

Until we can bring current activities -- now costing more than \$400 billion a year -- under more effective control, we simply may not have the reserves we need, either in the federal budget or in the public's trust, to pursue new legislative solutions to pressing national problems.

The sunset approach embodied in S. 2 provides a sensible and responsible procedure for appraising our use of scarce resources and redirects them to programs most in need.

A third factor that led to my support for sunset is the incredible proliferation of federal programs that has occurred over the last decade and a half. Besides putting a strain on the federal budget, the rapid growth of federal programs over the last 15 years has resulted in a complex, cumbersome system. The programs were designed to solve some truly serious national problems -- hunger, poverty, ignorance and disease. But today, the government system that emerged with them is so unwieldy and unresponsive that many of the goals which I have worked for and which those programs were intended to achieve are being thwarted.

A recent General Accounting Office study of health clinics in the District of Columbia illustrates this point. The study revealed that there were eight clinics in one neighborhood in the District, funded under several different programs. The administrators of the programs were obviously unaware of what each other was doing. In several of these clinics, doctors were seeing only a handful of patients a day while, in many parts of the country, the shortage of health care is critical.<sup>9</sup>

I do not know if this story is typical or not. I do know that as one who has strongly supported an increased federal role in improving the quality of health care available to all Americans, I am outraged by the waste this example demonstrates.

8. *Report of the Committee on Government Operations*, United States Senate, Sept. 20, 1976, at 30 (GPO Doc. 75-401).

9. General Accounting Office, *Study of Programs for Health Services in Outpatient Health Centers in District of Columbia*, July 31, 1973 (GAO Doc. B-118638).

I also know that the budget realities of today and tomorrow do not leave room for wasting scarce resources. Our ability to establish national health insurance will be compromised by wasteful and duplicative health programs.

Moreover, the fact that we do not know whether this story is typical or not is a good indication of the predicament we are now in. We need to find out. But we will not be able to find out with the business-as-usual practices of the past.

The size and complexity of federal programs is illustrated in the *1976 Catalog of Federal Domestic Assistance*. The catalog lists 1,030 federal programs, administered by 52 federal agencies.

In the health field alone, there are 302 different programs, administered by 11 separate agencies. A total of 259 programs are listed under the category of community development.

The multiplicity of federal programs becomes no less mind-boggling as the program categories are narrowed. The catalog lists 39 different programs under the Veterans category, with another 28 under the heading of Veterans Medical Facilities and Services.

The category of Vocational Education has 27 programs listed, with a reference to the Job Training subcategory of the Employment Labor and Training category for more programs in the same area. Under the heading of Transportation, 45 programs are listed.

A General Accounting Office study of the use of military maintenance facilities found extensive duplication and underutilization of these facilities because of the emphasis placed on developing separate rather than shared facilities.<sup>10</sup>

A study by the Department of Health, Education, and Welfare found over 50 federal programs providing services to handicapped youth. The programs were administered by 14 separate units within HEW.<sup>11</sup>

What do these numbers mean? They invite the obvious response of consolidating programs. Frankly, I do not think this is a sufficient remedy. I am less concerned with the numbers than I am with the questions they raise: How did we get to where we are today? What have we gotten in return?

The answer to the first question is relatively clear. We have arrived at our present situation by enacting individual laws in piecemeal fashion. The fact that we have 302 health programs may not necessarily be bad. What I am suggesting is that we should have arrived at that number by design, not by default. If Congress determines that we need all 302 health programs to best serve the public need, then so be it. At least then we will have a positive, comprehensive statement of federal health policy.

The answer to the second question is more difficult. Clearly, we have provided health care to many Americans who were previously unable to afford it. But we still have not cracked the fundamental problem of providing high quality health care at a cost all Americans can afford.

10. General Accounting Office, *Potential for Greater Consolidation of the Maintenance Workload in the Military Services*, July 6, 1973 (GAO Doc. B-178736).

11. General Accounting Office, *Federal Programs for Education of the Handicapped: Issues and Problems*, Dec. 5, 1974 (GAO Doc. B-164031(1)).

There may have been a time when we could afford nearly a thousand different legislative solutions to a few dozen national problems, when we did not have to worry about which programs were working and which ones were not. Today, we no longer have those options.

In my view, we have reached the point where government reform – the more effective use of each tax dollar – is a social good in itself. For every dollar that is wasted, either for health care or for fighter bombers, there is that much less available to meet human needs.

This leads me to my final and most compelling reason for introducing sunset legislation. No one really knows what we have bought through all of these programs.

Over the past several years, there have been several legislative attempts to organize the chaotic federal grant system. In 1968, Congress enacted the Intergovernmental Cooperation Act,<sup>12</sup> which took several important steps to smooth the administration of federal grants. Grant consolidation schemes have been considered by both Houses on numerous occasions. In 1974, Congress enacted the Joint Funding Simplification Act<sup>13</sup> in an attempt to cut red tape of applicants for federal assistance. This year, we will again consider legislation Senators Roth, Kennedy and I have introduced to make available to state and local officials a complete list of federal grant programs.

All of these are worthy legislative efforts. But they are all based on the assumption that we have to take certain steps to make a complex, burdensome, unwieldy government system a little more palatable. In other words, they seem to accept the current system as inevitable and say, in essence, we need to put bandages on its worst hurts.

### THE SUNSET PROCESS

S. 2 is substantially the same as the Government Economy and Spending Reform Act of 1976 (S. 2925), which I introduced on February 3, 1976<sup>14</sup> – and which was unanimously approved by the Senate Committee on Government Operations on May 4, 1976.

The principal provisions of the bill are as follows:

Title I sets out a five-year schedule for the mandatory review of all federal programs. Where no such authorization is enacted, no funds can be expended to carry out the programs. The only exceptions to these provisions are interest on the national debt, and programs into which individuals pay with the expectation of later compensation – programs such as Social Security, railroad retirement, and civil service retirement.

Title IV requires the House Ways and Means Committee and the Senate Committee on Finance to set out a similar schedule for the re-enactment of tax expenditures.

12. Intergovernmental Cooperation Act of 1968, 42 U.S.C. Sec. 4201 (1970).

13. Joint Funding Simplification Act of 1974, 42 U.S.C. Sec. 4251 (1974).

14. S. 2925, 94th Cong., 2d Sess. (1976). *See also*: 122 Cong. Rec. S. 1133-36 (daily ed., Feb. 3, 1976).

Authorizations for federal programs are grouped for reauthorization by budget function and subfunction so that Congress will be forced to review all programs in a given area during the same session, rather than in piecemeal fashion. By requiring review by budget function, we have tried to insure that the potential for duplication and overlap will be minimized, with the expectation that tax dollars will be used more effectively.

Title II requires a thorough review of all programs by the appropriate authorizing committee before they are reauthorized. As part of the review, authorizing committees are required to explore the potential consequences of cutting into the base of a program's funding, rather than simply reviewing incremental funding increases, as is the practice now.

## **MAJOR CONCEPTUAL STRENGTHS OF THE SUNSET BILL**

### **Congressional Commitment**

I and other cosponsors of S. 2 have proposed a legislative initiative, as embodied in the bill, rather than reliance solely upon administrative action, because we believe there is a real need for congressional approval of and commitment to such a process. We have seen with the early success of the new budget process that a congressional commitment to this kind of reform is an essential ingredient in making the reform work. Budget reform addressed a fundamental congressional problem. S. 2 does the same.

Sunset can function in tandem with the zero base budgeting system implemented by the Executive Branch. But zero base budgeting is no substitute for sunset. Under our Constitution, only Congress enacts programs and appropriates funds for them. In order for program review to work, Congress has to be a full and active participant in the process.

### **Linkage to the Authorization Process**

Under the rules of the House and Senate, both an authorization and an appropriation are generally needed to finance federal programs. In S. 2, the sunset mechanism has been tied to the congressional authorization process for two principal reasons.

In the first place, the authorization process is the principal means available to Congress for making substantive federal policy. Since a fundamental purpose of S. 2 is to force the regular review of congressionally determined policies as implemented through federal programs, it is both appropriate and logical that the process be tied to authorizations which are the responsibility of the legislative committees of Congress.

Second, it is my opinion that certain trends in federal spending patterns have weakened the authorization process and threaten to undermine recent congressional efforts to reassert control over federal budget and spending policies.

These trends – which include the dramatic growth in programs with permanent appropriations – bode ill not only for the new congressional budget process, but also for the all important role of Congress as the policy developing arm of the federal government as well. S. 2 has been proposed, therefore, as a mechanism for strengthening the authorization process and thereby bringing Congress closer to the results of its legislative work.

**Mandatory Reauthorization Provision**

The fact that under S. 2 individual programs must justify their existence or else not be reauthorized is the strongest incentive in the legislation for the new process to be taken seriously – one which operates on both program managers in the Executive Branch and on congressional supporters of particular programs.

S. 2 provides that no funds can be spent on any program which has not been specifically reauthorized by Congress according to the review schedule. It further requires that a reauthorization measure will be out of order unless the required "sunset" review by the authorizing committee has been completed. These two provisions, taken together, are very strong incentives for all participants in the process to do the job well.

**Review by Budget Function**

Under the schedule set out in Title I, programs are grouped by budget function or subfunction. The purpose of this approach is to encourage the Congress to examine the federal effort in an entire policy area – across the jurisdictional boundaries of agencies and committees – rather than in an unrelated program-by-program fashion in order to avoid conflicts or duplication between programs.

Because the current classification of budget functions may need to be changed from time to time, S. 2 provides for changes in the schedule to conform to improvements and revisions in the categories of budget functions as they occur.

In reviewing programs by function or subfunction, Congress will be taking a more comprehensive look at the broad policy area than it does now.

**Neutrality of the Process**

One of the major strengths in S. 2 lies in the absolute neutrality of the process. That process does not attempt to judge the merits of any one program, or of the priorities of federal spending as a whole. It only suggests that Congress should arrive at the decision to maintain every federal program – military, foreign or domestic – through positive action.

Through the process proposed in S. 2, Congress will have better information with which to make the important policy decisions which go into determining those priorities.

**MAJOR CHANGES**

There have been some important modifications in S. 2, which have been made in response to criticisms of S. 2925 by a number of Senators in the 94th Congress.

The principal modification concerns the termination provision itself. Section 101 (b) (1) of S. 2925 would have actually terminated provisions of law – all provisions which authorize appropriations.

The corresponding section of S. 2 does not terminate provisions of law. Rather, S. 2 states that no money can be expended or obligated without being reauthorized by Congress. This change, although it has the same effect as the provision in S. 2925, leaves existing law untouched.

This modification was made to insure that in no case would substantive



law be terminated. In the case of some older programs, a generic statute creating an agency or department has served as its authorization. Therefore, it was difficult under the old version to make absolutely certain that the substantive law in that generic statute was not terminated at the same time that the authorization was terminated. The version in S. 2 eliminates that problem because it terminates no provision of law.

A second modification is the inclusion of a one-year grace period for programs that terminate unintentionally rather than by design, either through scheduling problems on the floor of the House or Senate or through a filibuster. (See section 504 of S. 2.) In such a case, a privileged resolution would be in order to extend the program for one year to allow the program to go through the review and reauthorization process.

With this change, we believe we have responded adequately to the concerns that there may be contingencies which we cannot now foresee when mandatory reauthorization according to the schedule would not be possible.

The most controversial section of the last year's bill was in Title II, which set out the requirements and guidelines for the authorizing committees to follow in their review of programs scheduled for reauthorization. The requirements were singled out as being too burdensome on the legislative committees.

In response to that criticism, we have substantially simplified the requirements, in effect reducing the review process from four steps to one. Reporting requirements have been correspondingly reduced. In doing so, we have given the authorizing committees more flexibility to set their own priorities and methods for program review.

In addition, Title II of S. 2925 relied heavily on evaluation by executive agencies. S. 2 leaves up to the authorizing committees how much they want to rely on the agencies. With this modification, what we have now is clearly a congressional bill.

We have retained without change the sunset provision, which is the principal operative mechanism of the bill. Of all the provisions of the bill, it is the sunset idea which garnered the broadest political support because it is totally neutral and can therefore be supported by Members of Congress with diverse political views.

### **SUNSET AND ZERO BASE BUDGETING**

A frequent misconception about the sunset bill is that it is also a zero base budgeting bill. Confusion over this point results from the fact that the original bill offered last year did combine the two concepts. However, hearings on that bill convinced me and other principal sponsors of the legislation that while the two ideas are complementary, they address different problems.

Zero base budgeting is basically a management oriented tool which can be used by a chief executive – in government or in private industry – to analyze and make budget decisions. It is a process which includes very specific steps intended to give a chief executive more budget options than he might otherwise have under an incremental budget approach.

There are undoubtedly many benefits to be gained from such a system. In introducing the sunset legislation, however, it was our intention to propose a

*congressional* reform in the way Congress conducts its program review functions. In this context, zero base budgeting is not the most appropriate tool. For while zero base budgeting may assist the President in preparing his own budget, the President's budget is not self-executing and it may not have any impact whatsoever on the Congressional authorization process.

Sunset, on the other hand, takes direct aim at that authorization process – one which is, in reality, the principal driving force behind the federal budget.

Sunset and zero base budgeting both have as their ultimate purpose the application of greater scrutiny to line-item budget decisions across the board. Both challenge some basic assumptions about the normal, incremental budgeting approach. But they address these purposes differently through equally important perspectives – that of the President and the Executive Branch on the one hand, and Congress on the other.

Thus, while they may be complementary, neither is an adequate substitute for the other.

## S. 2 AND REGULATORY REFORM

Another misconception about sunset is its confusion with regulatory reform. Although there is frequent confusion on this point, the sunset bill which I have introduced is *not* a regulatory reform bill.

There are, however, other proposals before the Congress which would apply the sunset concept to federal regulation, such as S. 600, the Regulatory Reform Act of 1977, introduced by Senators Charles Percy and Robert Byrd.<sup>15</sup>

Although S. 600 contains a "sunset" mechanism that would apply as a last resort to regulatory agencies, the two bills are designed to address very different problems.

S. 2 would terminate the authority to expand or obligate funds unless a program is reauthorized. It would not terminate substantive provisions of law – such as those guaranteeing rights or bestowing benefits – unless deliberately intended by Congress.

Nor would S. 2 invalidate regulations previously promulgated under a program or agency allowed to terminate.

S. 600 is intended to affect substantive regulation – statutory and administrative. Under that legislation, the President would propose regulatory reform plans according to a two-year schedule. It would limit the promulgation or enforcement of regulations if Congress does not act on the reform measure in time. And it would terminate regulatory agencies themselves as a final penalty for the inaction. In other words, regulatory reform proposals have as a principal purpose modifying or terminating substantive regulation.

The penalty for failure to act on programs under S. 2 is simply the termination of authority to expend or obligate funds for that program. Under S. 600, the penalty for inaction on regulatory reform proposals is the termination of substantive regulation – whether statutory or administrative.

15. S. 600, 95th Cong., 1st Sess. (1977). *See also*: 123 Cong. Rec. S. 2136-37 (daily ed., Feb. 3, 1977).

We have deliberately devised a procedure which avoids automatic or wholesale termination of provisions of substantive law. It would be unwise under sunset to require the re-enactment of the United States Code every five years, or engage in a periodic battle over the basic rights of Americans.

### CONCERNS ABOUT THE SUNSET PROCESS

Thus far, the opposition to sunset legislation has been relatively diffuse and indirect. To the extent that we have been able to detect it, there seem to be three principal areas of concern.

Most commonly mentioned of these concerns has been the workload question.<sup>16</sup> As I have noted earlier, this is a concern to which we have tried to respond. In my opinion, the additional workload resulting from S. 2 will be reasonable and manageable.

Another area of concern relates to the perceived impact of sunset on the balance of power between Congress and the Executive Branch. Some critics of sunset have argued that the process would actually strengthen the hand of the President, by giving him the opportunity to block or veto the re-enactment of larger numbers of programs than under current practice. Some have argued, only half facetiously I suspect, that under sunset, the President would have the opportunity to veto one-fifth of all federal programs every year.

The obvious flaw in this argument is that even today, an obstructionist President could veto much of the federal budget – if Congress would let him get away with it – by vetoing every appropriations measure.

Sunset would actually strengthen, not weaken, the policy-making arm of Congress – both in the public relations sense of improving the credibility of Congress' oversight efforts as well as in the substantive sense of bringing Congress into closer touch with all the programs it has enacted over the years.

A final area of concern lies in the murky but volatile area of committee prerogatives, and the perception that sunset might possibly impinge on them. Here again, I do not find the concern justified.

To the extent that sunset does compel committees to meet certain deadlines which do not now exist, and to file certain reports which are not now required, the process would impose new outside pressures on Congressional committees. But beyond these procedural restrictions, the substantive prerogatives of the Congressional committees would remain untouched. Indeed, these prerogatives should logically be strengthened, by improving the effectiveness of the oversight efforts of the authorizing committees of Congress.

### CONCLUSION

In an essay discussion about termination as a political process, Prof. Robert Biller of the University of California's Graduate School of Public Policy wrote: "[W]ith our primary dependence. . . on administered bureaucratic organi-

16. See: *Hearings before Senate Committee on Rules and Administration on S. 2925*, Sept. 8, 1976, 94th Cong., 2d Sess. (1976), at 31, 33, 36 (GPO Doc. 76-182).

zations, it is really unremarkable that we have come to assume a basic persistence and perpetuity rather than termination to be used in dealing with most public policies and organization."<sup>17</sup>

Over the years, legislators have found the task of program review tedious and unrewarding. Too many programs have been enacted on the assumption that they would last forever.

As a result of our past attitudes, we find ourselves amidst a complex system of programs and a maze of bureaucratic red tape. The federal budget is being strained to support programs that no one knows for sure are working properly, while leaving no room for new solutions to new national problems.

It is clear that Congress needs the action-forcing mechanism that sunset provides to change its old habits and to assume its responsibility of making sure the programs it creates are accomplishing their intended goals. It will provide Congress with the incentive to undertake the responsibility it is not exercising now, just as the new budget process has provided Congress with the incentive to reassert its control over the federal budget.

The legislation I have introduced is not primarily a "termination" bill. The sunset bill does not attempt to judge the worth of individual programs or program areas. Rather, it provides Congress with the incentive to judge programs, perhaps improve them along the way, or end them if they are no longer needed.

There is nothing now -- in any legislation or in any rules of the Congress or the Executive Branch -- which prevents us from undertaking the kind of program review that sunset mandates. But the responsibility is so scattered, and the job so massive, that there has been no way to get started.

I think sunset provides that starting point.

As Bruce Adams of Common Cause writes, "Sunset could foster a stronger legislative branch, overseeing a more accountable executive branch. If a lean, strong government results, it could help restore public confidence and undercut the anti-government feeling that is sweeping the nation today."<sup>18</sup>

17. Biller, *On Tolerating Policy and Organizational Termination: Some Design Considerations*, 7 Policy Sciences 136 (June, 1976).

18. Adams, *Proposal for Accountable Government*, 28 Admin. L. Rev. 542 (1976).