Termination, Innovation and the American States: Testing Sunset Legislation

Mark R. Daniels, *University of Memphis*

This article provides the first empirical assessment of a theory which links policy termination and policy innovation. This theory, advanced in 1983 by Garry Brewer and Peter deLeon, states that a government's capacity for adopting innovative policies is dependent upon its ability to terminate outdated organizations, policies and programs. Several hypotheses relating to the general policy innovativeness of the American states and the adoption of Sunset legislation are tested. The results reveal an unexpected inverse relationship between termination and innovation. Although only sparse supporting evidence is obtained for the theory tested, additional insight is obtained about how some states regard Sunset review as a method of strengthening legislative oversight.

Termination is the ultimate adjustment of people, policies, programs, systems and institutions that have ceased to work well. Death, divorce, bankruptcy, election recall, the repeal of legislation, and even revolution can be seen as examples of termination. But even as life continues through birth, so too are people remarried, businesses re-capitalized, freshman representatives elected, new laws passed and sovereignty established for new governments. The sense of finality which coincides with termination gives way to a spirit of rebirth and creation. As authors Garry Brewer and Peter deLeon theorize: "Termination signals a beginning of the policy process as much as it does its end" (Brewer and deLeon 1983, 385).

As policies mature and grow old over time, they continue to address public problems that already may have been resolved, have changed drastically in nature or intensity, or possibly have been surpassed in importance by new problems perceived to possess greater social importance and priority. Ending outdated policies releases economic and administrative resources that can be applied to new problems through innovative policies. As Brewer and deLeon observe, a current challenge facing most modern societies is how to adapt policy making attitudes and habits developed during periods of high and sustained economic growth to the changing political and social demands resulting from the current period of economic stagnation (Brewer and deLeon 1983, 387). Stated in theoretical terms, a government's capacity for pursuing innovative policies during periods of economic stagnation may be most dependent upon its capacity for terminating outdated government

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MARK R. DANIELS is Associate Professor of Political Science at the University of Memphis.

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organizations, policies and programs. Although Brewer and deLeon refer to case studies in an attempt to support this theory, there has been no empirical test of this theory. While anecdotal evidence has led to the development of this theory, to date there has been no quantitative, comparative analysis linking policy termination with policy innovation.

Sunset legislation is an example of a policy termination strategy (deLeon 1978, 293). Initiated in 1976 by the Colorado state legislature, Sunset is designed to automatically terminate agencies and boards of state government. Its intent was not so much to provide an immediate end to state agencies but rather to require state legislators to conduct comprehensive program evaluation of existing boards and agencies (Common Cause 1982, 3). Nonetheless, six years after the first state adopted Sunset legislation, a total of 271 boards and agencies were terminated, and numerous others were reorganized, recreated, or consolidated (Common Cause 1982, 42). As of January 1989, a grand total of 325 state government entities had been terminated (Kearney 1990, 52). As an early attempt to integrate termination and policymaking, Sunset legislation is a "first generation" example of policy termination: for the better part of two decades, states have had the opportunity to experiment with Sunset review in order to evaluate and possibly terminate public programs.

This paper will conduct the first empirical test of Brewer and deLeon's theory that a government's capacity for adopting innovative policies is dependent upon its ability to terminate outdated organizations, policies and programs. Related hypotheses will be tested focusing on the governments of the continental American states, the adoption and application of Sunset legislation, and the associated policy innovativeness of the states. A review of the literature of policy termination and sunset legislation precedes the analysis.

Terminating Public Policy

The study of public policy has traditionally focused on formation, implementation and evaluation. Surprisingly absent in the study of public policy is the phenomenon of termination. Charles O. Jones has observed that "we know much more about how to get government going than we do about how to get it stopped" (Jones 1984, 236). In this respect, much more research and investigation into termination is needed, especially in times of budget deficits, tax base shrinkage, and demands for more limited, streamlined government services.

Public sector termination can be defined as "the deliberate conclusion or cessation of specific government functions, programs, policies, or organizations" (Brewer and deLeon 1983, 385). This definition of policy termination does not include changes in policy emphasis or jurisdiction, which may be organizational attempts to redirect activities and to justify existence. That termination is deliberate implies that it is rational: termination is premeditated behavior, with the intent of ending a particular public organization or policy.

Policy making is best described as a continuing process moving from the perception of problems needing a government response, to formulating, implementing, and evaluating the adopted policies (Brewer 1978, 339; Jones 1984, ch. 2). As part of the policy process, termination occurs at the very end, as a last step. Brewer and deLeon (1983) identify six steps in the policy making process: initiation; estimation; selection; implementation; evaluation; and, finally, termination. Jones (1984) similarly identifies seven steps in the policymaking process: getting problems to government; formulating proposals; legitimating programs; budgeting programs; implementing programs; evaluating programs; and lastly, conclusion/resolution/termination. In both cases, termination is seen as the final outcome of a political, but highly rational, policy process. Seen this way, termination is an integral part of the American political process.

Peter deLeon examined numerous termination experiences and concluded that there are three main criteria, or reasons, leading to termination decisions (1983, 634-635): financial imperatives; governmental efficiencies; and political ideology. Huge budget deficits and tax revenue shrinkage leads to financial imperatives: programs are reduced wherever such cuts are deemed politically possible. Governmental efficiencies also revolve around cost and performance issues: is a program too costly in terms of services delivered? For example, the Comprehensive Employment and Training Act (CETA) was terminated when the excessive cost of training employable personnel was discovered. Lastly, some programs are terminated solely on the basis of political ideology, without regard for financial imperatives or efficiencies. For example, President Nixon's opposition to the Office of Economic Opportunity and President Reagan's opposition to the Departments of Energy and Education were based upon ideological reasons.

In addition to the reasons advanced by deLeon, a fourth reason also can be suggested: a change in behavioral theory about how administrative, human or social services should be delivered. For example, health research conducted during the 1950s demonstrated the behavioral benefits that deinstitutionalization gave to mental patients. Opponents of institutionalization often dramatized abuses in mental institutions in order to rally the public behind reform efforts and create health services more appropriate and effective for treating mental illness. Other health care reforms have also stressed organizational and policy termination (Behn 1976; Daniels 1992).

A fifth reason for termination also exists. Robert Biller suggests that termination is "critical to learning" (1976, 136-139). That is, given the change and uncertainty that characterizes modern post-industrial societies, and given policy makers' limited ability to forecast the future appropriateness or success of current policies, terminating policies that do not work is one way for policy makers to learn from their mistakes. Biller suggests that policy making initially should be carried out on a trial basis, with "short time and money tethers," and that policies should be corrected and adjusted acording to feedback mechanisms. Although there are few examples of trial-type policy making, the social experiments of the 1960s conform to this type of termination. For example, the New Jersey Negative Income Tax experiment tested an innovative approach to public assistance, representing a reform of the U.S. welfare system. The program was implemented on a sample population, ended after only a few years, and provided economists and social scientists with valuable data about welfare system alternatives (Daniels and Wirth 1985, 37-39).

Sunset legislation presents a final reason for policy termination: it requires the periodic review of state agencies under the threat of automatic termination unless recreated through law. A review of Sunset's history is discussed in the next section.

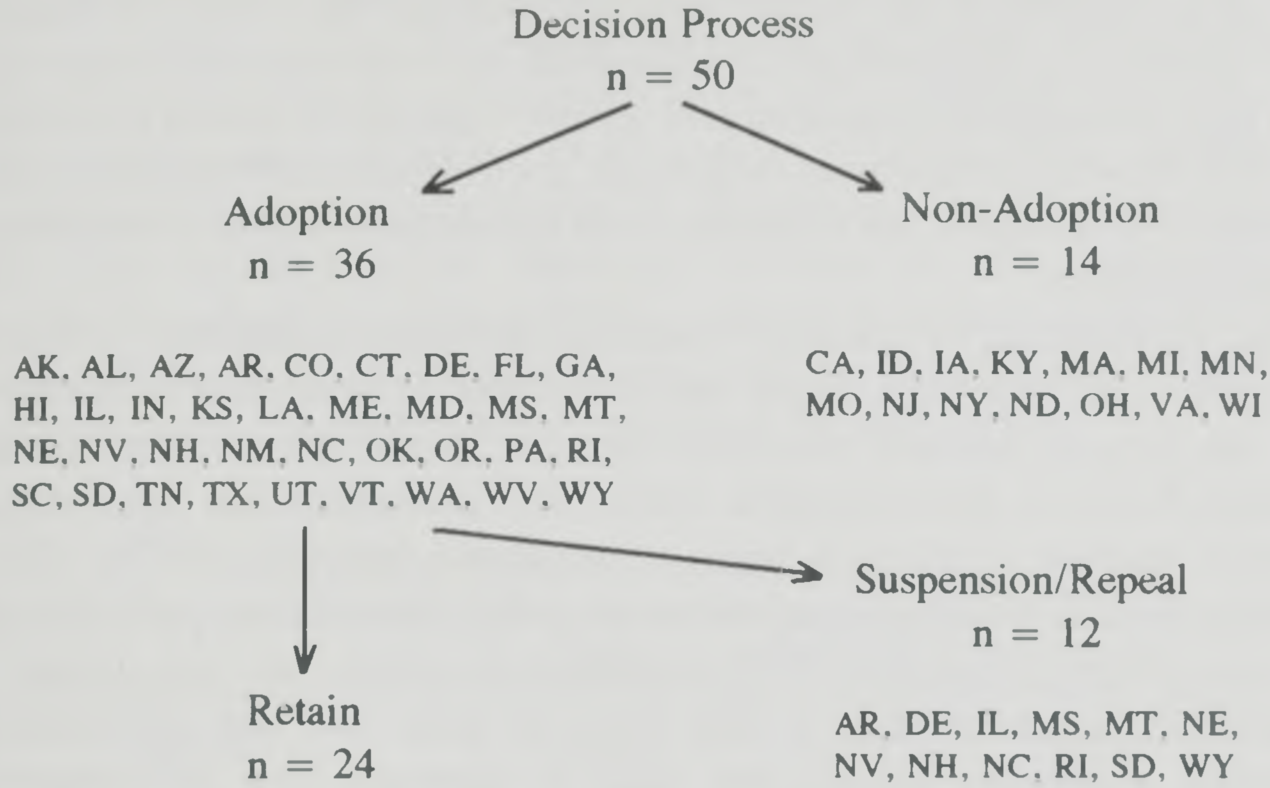
Sunset Legislation and Policy Termination

Since the enactment of the first Sunset law by Colorado in 1976, a total of 36 states have adopted Sunset laws (see Figure 1). The review cycle of state agencies and boards is specified by some Sunset laws, and can range from every 4 to every 12 years.

Common Cause conducted the first comprehensive survey of the impact of Sunset legislation in 1982, and found that the benefits of Sunset included: improvements in government performance through increased agency efficiency and public accountability; financial savings, with one-sixth of Sunset states reporting sizable savings; and legislative experience in conducting oversight, especially in linking oversight to the normal legislative process (Common Cause 1982, 12-24).

The first comparative, empirical analysis of Sunset adopting states was conducted by Keith E. Hamm and Roby D. Robertson (1981). Hamm and Robertson's study of legislative oversight included a discriminant analysis of Sunset adoption and a number of independent variables which measured legislative professionalism.[1] These researchers found that low legislative

Figure 1. Decision Process of Sunset Legislation Adoption



Source: Common Cause (1982); Kearney (1990).

professionalism, little party conflict, and a large administrative structure are most related to the adoption of Sunset laws. These findings suggest that Sunset review is most attractive to those state legislatures needing the greatest assistance with oversight. Adopting Sunset is a strategy of a weak legislature to exert power over the state bureaucracy, and perhaps the Governor.

The most recent survey and analysis of the American states' experience with Sunset was conducted by Richard Kearney (1990, 49-57), who reported that such legislation had accounted for termination of more than 325 government entities. "[S]tate executive branches have been cleaned up through the deletion of nonfunctional, redundant, or unnecessary entities" (Kearney 1990, 53). Ironically, however, Sunset also has given rise to the creation of new government agencies. For example, Florida has terminated 90 agencies under Sunset since 1978, but has created 104 new agencies (Kearney 1990, 53).

Kearney also reports that twelve states have repealed or suspended the enabling legislation (Kearney 1990, 55; also see Figure 1). Some of the states which eliminated Sunset review had relatively successful experiences with the process. For example, Montana terminated five agencies, Connecticut 29, Arkansas 28, Rhode Island 17, New Hampshire 15, and Illinois terminated 50 agencies (Kearney 1990, 55). Kearney hypothesizes that the states repealing or suspending Sunset may have developed alternative legislative oversight procedures, or have not been able to maintain Sunset review due to low levels of legislative professionalism. Subsequent quantitative, comparative analysis of the Sunset dropouts confirms that, with the exception of Illinois, the dropouts are characterized by weak legislative capacity for the type of intensive evaluation and review required by Sunset (Kearney 1990, 55). Part-time legislators with weak professional staff assistance are hard pressed to complete the evaluation and review involved in oversight of the Sunset process.

One shortcoming of research conducted on policy termination is that it usually takes the form of a single case study that in some way is idiosyncratic. As Eugene Bardach observes, because "social science—and social scientists—thrive on generalizations rather than idiosyncracies, termination has never become 'hot' as a topic of academic interest" (1976, 123). Bardach's ground-breaking symposium on policy termination published in the journal *Policy Sciences* in 1976 contained six essays, all case studies. It is difficult for researchers to find cases of more than one government terminating a specific policy, and thus to compare how governments terminate similar policies or to make generalizations from similar studies. Sunset is a relatively early attempt at policy termination which all states have had an opportunity to adopt. Those states that have adopted Sunset generally have followed the model Sunset legislation developed by Common Cause (1977). Sunset legislation provides a unique opportunity to compare similar termination efforts by state governments, and to conduct the analysis in an empirical rather than a case method.

Sunset Legislation as Innovation

An innovation is defined as an idea perceived as new by an individual (Gray 1973, 1174-1185). It is an idea that is new to the individual adopting it, no matter how old the idea may be or how many other individuals may have adopted it (Walker 1969, 881). In this respect, Sunset legislation is an innovation for each state that considers its ratification, no mater how many states previously have adopted it.

Innovativeness is the adoption proneness of an entity that has the capacity of decision making. Jack L. Walker (1969) explores the general tendency toward innovativeness of state governments and concludes, after examining 88 policies, that states have relative levels of innovativeness, and that it is possible to attribute general innovative tendencies to state legislatures. Virginia Gray examines twelve policies and finds that state innovativeness often depends upon on the issue and time period characterizing the policy (1973). And Robert Savage, in the most comprehensive study, finds that innovativeness is a pervasive factor among the states, and that it is somewhat issue and time specific (Savage 1978, 212-224).

Innovation scores have been calculated by several researchers. Jack Walker calculated innovation scores for the 48 continental American states[2] based on the adoption pattern of 88 policies (Walker 1969), Virginia Gray calculated innovation scores based on 12 policies, and Robert Savage based his scores on 69 policies[3]. Ranking the states on each innovation index results in ordinal level data. Table 1 shows a correlation matrix for the ranks of the three innovation scores, and the high, positive correlations indicate strong internal validity among the separate indices.

Table 1. Correlations Among Innovation Scores

	GRAY	SAVAGE	WALKER
GRAY	1.000	.6045 $P<.000$	.7358 $P<.000$
SAVAGE		1.000	.5888 $P<.000$
WALKER			1.000

Spearman's Rho Coefficients
N = 48

The first states adopted Sunset in 1976, and the highest number of states adopted in 1977 (see Table 2). In order to score the innovativeness of states on Sunset, ranks can be assigned based on the year in which Sunset was adopted (see Table 1). For example, states that adopted Sunset in 1976, the first year of adoption, are ranked 1, states that adopted in 1977 are ranked 2, and so forth until the last year of adoption, 1981, which results in a rank of 6. Jack Walker assigned states that did not adopt a particular innovation the same score as states that were last to adopt the innovation. Robert Savage, however, assigned a rank to non-adopting states based on the year after the last state had adopted an innovation. This means that states not adopting Sunset as of 1982 are given the rank of 7.

Termination and Innovation: Three Hypotheses

According to Brewer and deLeon's theory, if a government's capacity for adopting innovative policies is dependent upon its ability to terminate

Table 2. Adoption of Sunset Legislation by Year

Year	States Adopting	Rank
1976	AL, CO, FL, LA	1
1977	AK, AR, CT, GA, HI, ME, MT, NE, NH, NM, OK, OR, RI, SD, TN, TX, UT, VT, WA	2
1978	AZ, IN, KS, MD, SC	3
1979	IL, MS, NV, WV, WY	4
1980	DE	5
1981	NC, PA	6
	All other states	7

Source: Common Cause (1982).

outdated policies then the most innovative states should be most active in policy termination. States that adopt Sunset legislation, and are reviewing, revising and often terminating previously enacted agencies and policies, should also be the most active in adopting new replacement policies. Three hypotheses will be tested to explore the relationship between Sunset review and policy innovation.

First, states that adopt Sunset are more innovative than states that have not adopted Sunset. In order to test this hypothesis, the rank of states on the three innovation indices will be compared statistically for adoption and non-adoption states. Second, states most innovative in adopting Sunset—those with lower adoption ranks—also are most innovative in adopting other policies. That is, the desire to embrace an automatic approach to termination is associated with an inclination to quickly adopt new policies. In order to test this hypothesis, the ranks of states on the innovation scores will be correlated with the rank of the states on Sunset adoption. Third, states repealing or suspending Sunset after initial adoption are less innovative than states retaining Sunset. In order to test this hypothesis, the ranks on the innovation indices of states that have repealed/suspended Sunset will be statistically compared with those of states that have retained Sunset.

Table 3 reports the results of testing the first hypothesis. There is a statistically significant relationship between general policy innovativeness and the adoption of Sunset legislation on two of the three innovation indices.[4] This falls short of demonstrating a causal relationship between the willingness to adopt a legislative termination mechanism and the tendency

Table 3. Relationship Between General Policy Innovativeness and Sunset Legislation Adoption/Non-Adoption

Rank on Policy Innovation Index	States on Sunset (Mean Score) Adoption Mean	Non-Adoption	
GRAY	16.57	27.76	P<.0118
SAVAGE	18.82	26.84	P<.0713
WALKER	15.71	28.12	P<.0083
	n = 34	n = 14	

Mann Whitney U Statistic
Two-tailed test
N = 48

to quickly embrace new public policies. The results only show that Sunset-adopting states have a greater tendency toward policy innovativeness than non-adopting states. While this can be seen as a connection between termination and innovativeness, it also can be seen as further evidence that a state's general policy innovativeness reveals a willingness to adopt all new policies, including the policy of Sunset review. In this sense, Sunset adoption may not be so much an enactment of termination as it is an adoption of yet another new policy, another innovation.[5]

Table 4 reports the results of testing the second hypothesis. There is a statistically significant relationship between general policy innovativeness and the speed of Sunset legislation adoption. Unexpectedly, however, the

Table 4. Relationship Between General Policy Innovativeness and the Adoption order of Sunset Legislation

Rank on Policy Innovation Index	Sunset Adoption Innovation Rank	
GRAY	-.3563	P<.013
SAVAGE	-.0941	P<.525
WALKER	-.3195	P<.027

Spearman's Rho Coefficients
N = 48

relationship is inverse. The speed of Sunset adoption is measured by a state's adoption rank: the speed of adoption and the order of adoption are the same. States which usually are slow in adopting other policies were among the early adopters of Sunset. Those states that quickly adopt other innovations are most reluctant to adopt Sunset, and those that are usually slow in adopting other innovations—the "laggard states"—are most innovative when it comes to adopting Sunset.

Referring back to Walker's ground breaking study of policy innovation, the innovation scores of states correlated strongly with measures of party competition, legislative turnover, and legislative professionalism (Walker 1969, 886). Walker's research provides evidence linking state innovativeness with legislative professionalism and suggests one possible explanation for the inverse relationship between policy innovativeness and the speed of Sunset adoption: innovative states have highly professional legislatures, do not need to increase their capacity to conduct legislative oversight, and therefore are less inclined to quickly adopt Sunset review.

Regarding the third hypothesis, data analysis reveals no relationship between general policy innovativeness and repeal/suspension or retention of Sunset. Although Kearney found that weak legislatures have a tendency to repeal or suspend Sunset review, there is no evidence that these states are generally less innovative than states that retain Sunset.

Discussion and Conclusion

Is a government's capacity for adopting innovative policies dependent upon its ability to terminate outdated organizations, policies and programs? The preceding analysis has been the first empirical, comparative analysis of Brewer and deLeon's theory linking termination and innovation. After testing several hypotheses involving the relationship between states' adoption of Sunset legislation and states' general policy innovativeness, little empirical evidence for this theory has been uncovered. Nonetheless, the results of this study both have confirmed prior research findings and have provided additional insights into the nature of Sunset legislation.

Sunset legislation is an innovation for each adopting state. And, as an innovation, states that generally are innovative and adopt other new policies are prone to adopt Sunset legislation. However, "laggard" states that are usually reluctant to quickly adopt other new policies are among the first on the Sunset bandwagon. Supporting research by Hamm and Robertson (1981) and Walker (1969) suggests that the relatively low legislative professionalism of these states, and the inability of these legislatures to conduct effective oversight of public programs and agencies, leads these legislatures to adopt

Sunset as a means of strengthening their oversight function and of obtaining greater power over the administrative bureaucracy and the Governor.

Ironically, it is also this low legislative professionalism that has led some of the Sunset adopting states to repeal or suspend Sunset. Research by Kearny (1990) suggests that the substantial workload involved in reviewing agencies of state government is too much for part-time legislatures with little staff assistance.

While this empirical "first test" of Brewer and DeLeon's theory resulted in quantitative findings that did not lend support for the theory, additional research on other policy termination manifestations may obtain the supporting evidence that this study was unable to find. During this current period of economic stagnation, the termination of outdated policies can unshackle economic resources that can be used to create new policies which are more consistent with a recession economy. President Clinton's welfare reduction proposals coupled with new welfare initiatives, the closing of military bases coupled with job training programs for former defense employees—these are examples of how policy termination signals a beginning of the policy process as well as its end. Perhaps future testing of the relationship between termination and innovation should focus on a systematic assessment of cases on a national basis, or on a comparison of termination and innovation activity in a particular policy area or on a problem shared by all states.

NOTES

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[1]In this discriminant analysis, Hamm and Robertson's dichotomous dependent variable was adoption/non-adoption of Sunset legislation. Their independent variables were estimated legislative compensation, 1971-1978; percent legislators returned to office between 1971 and 1976; the mean number of appointments the legislature had control over during 1968-1978; an indicator of existing program review; an occupational licensing score; the mean number of full time state employees; a veto index; and a divided party control score. See Hamm and Robertson (1981) for further reference.

[2]Given the relatively recent admission of Alaska and Hawaii into the federal union, it is not possible to score these two states on a variety of policies which were adopted during the last century, or the early twentieth century.

[3]Walker's rankings of states is based on the mean innovation scores of states on 88 policies, each one of which may be expressed as:

$$I = 1 - \frac{\overset{n}{\underset{i=1}{Y}}}{T}$$

where I = innovativeness score, Y = the number of years that have elapsed from the first adoption to a particular state's adoption, and T = the number of years elapsed for the diffusion of the policy to be complete. Savage's rankings are based on scores weighted for standard deviations, and Gray's rankings are the mean order of states adopting 12 policies.

[4]The statistic used on dichotomous dependent variables in this paper is the Mann-Whitney U. This is computed as the number of times a score from group 1 precedes a score from group 2, controlling for tied ranks. A non-random pattern is indicated by an extreme U. The area under the curve is computed by transforming U into the normally distributed Z. For further explanation, see Siegal (1956).

[5]For further discussion of Sunset legislation as an innovation, see Adams and Sherman (1978, 78) and Pearson and Wigginton (1978, 328).

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