Joint Legislative Oversight and Sunset Committee

Committee Members’ Orientation
Virtual Meeting via Zoom
Public Access via YouTube
Monday, January 25, 2021
2:00 p.m.

Agenda

1. Welcome
2. Approve Committee Rules
3. Approve Minutes
4. Approve 2020 Final Report
5. Presentation on Committee Process
6. Updates from Committee Analysts and Committee Attorney
   a. Proposed changes to Committee statute
7. Approve 2021 Meeting Dates
8. Adjournment
JLOSC Members

Senate

• Senator Kyle Evans Gay, Chair
• Senator Stephanie L. Hansen
• Senator Brian Pettyjohn
• Senator Marie Pinkney
• Senator Bryant L. Richardson

House

• Representative Sherry Dorsey Walker, Vice Chair
• Representative Krista Griffith
• Representative Kendra Johnson
• Representative Jeff N. Spiegelman
• Representative Lyndon D. Yearick
Staff & Office Location:
- Mark Brainard & Amanda McAtee, JLOSC Analysts
- Holly Vaughn Wagner, Deputy Director & Legislative Attorney
- Natalie White, Administrative Specialist
- Elliot Gray, Legislative Fellow (changes each year)

Services:
- Staff support is provided by the Division of Research.
  - Nonpartisan office serving the General Assembly.
- The Division provides research, report writing, legislative drafting, meeting support, and other staffing services.
- Provides applicable research analysis in response to questions about agencies, commissions, and boards.
- Note: public comment is always accepted via email: Sunset@Delaware.gov.
RULE 1. A quorum of the Joint Legislative Oversight and Sunset Committee (“Committee”) is 6 members.

RULE 2. A quorum of the Committee must be present in order to:
   1. Conduct sessions to draft the Committee’s Final Report.
   2. Conduct sessions to draft bills.
   3. Enter an executive session.
   4. Amend the Committee’s Rules.
   5. Make any motion.

RULE 3. A quorum of the Committee is not necessary to open and conduct public hearings in which an agency makes a presentation.

RULE 4. The Chair presides over all meetings of the Committee. The Vice Chair presides in the absence of the Chair. The Chair may designate a temporary chair.

RULE 5. In the interests of order and decorum, all questions and comments must be directed to and acknowledged by the Chair.
RULE 6. Following presentation by an agency at a public hearing, the Chair shall acknowledge all questions or comments in the following order:

1. Members of the Committee.
3. Other elected or appointed officials.
4. Any group, through its spokesperson, who may speak only to the subject at hand and, if the meeting is held in a physical location, is limited to 5 minutes. If the meeting is held virtually, the spokesperson is limited to 3 minutes.
5. Any Delaware citizen, who may speak only to the subject at hand and, if the meeting is held in a physical location, is limited to 3 minutes. If the meeting is held virtually, the spokesperson is limited to 2 minutes.

RULE 7. All questions or comments during a recommendation meeting, bill drafting session, or the Committee’s Final Report drafting session are acknowledged by the Chair, who must limit questions to the members of the Committee. Committee staff, however, may comment at the request of the Chair or Vice Chair. Comments from other sources are subject to the approval of the Chair and, in the absence of the Chair, the Vice Chair or the designated temporary chair.

RULE 8. Consistent with 29 Del C. § 10203(c), a motion is carried by an affirmative vote of the majority of the entire Committee, except that an affirmative vote by 7 members is required to do each of the following:

1. Approve the Committee’s Final Report.
2. Terminate an agency.
3. Rescind a vote to terminate an agency.
4. Adopt a recommendation.
RULE 9. The Committee’s schedule of meetings and public hearings must be made publically available on the General Assembly’s website and distributed to at least all of the following:
1. Members of the Committee.
3. Governor and Lieutenant Governor.
4. As appropriate, elected or appointed officials.
5. Agency under review.
6. Anyone requesting to be notified concerning hearings.

RULE 10. All Committee meetings and policies must conform to the applicable provisions of Delaware’s Freedom of Information Act.

RULE 11. The Committee shall post on the General Assembly’s website or the State of Delaware Public Meeting Calendar website at least 7 calendar days prior to a Committee meeting public notice with the date, time, place, and agenda for each meeting. If the agenda is not available at the time of posting notice, the agenda must be added to the notice at least 6 hours in advance of the meeting. The notice must contain the agenda as is known at the time of the posting; however, the agenda is subject to change upon affirmative vote of the majority of the entire Committee.

RULE 12. Minutes of Committee meetings must include all of the following:
1. A list of the members who are present.
2. A record, by individual member, of each vote taken and each action agreed upon.
RULE 13. The Division of Research is the custodian of the records for the Committee.

RULE 14. The latest edition of Mason’s Manual of Legislative Procedures governs the Committee in circumstances which may arise and are not covered by statute or by the Committee’s Rules.

RULE 15. The Committee shall assign bill drafting necessary to implement its recommendations either to a Legislative Council attorney or the Deputy Attorney General assigned to the agency under review with a review of the same by a Legislative Council attorney. The Committee may temporarily assign bill drafting duties necessary to implement its recommendations to other legislative attorneys, if a Legislative Council attorney is not available.

RULE 16. These Rules may be altered, amended, repealed, or added to at any meeting of the Committee, provided that a notice of 7 calendar days is given. The notice must describe, at least in general terms, the alterations, amendments, or changes which are proposed to be made in the Rules. Public notice must be provided in accordance with Rule 11. These Rules may be suspended upon a motion approved by a quorum of the Committee.

RULE 17. Virtual Meetings. The “Virtual Meeting Rules of Procedure for the General Assembly and Legislative Committees” provided in House Concurrent Resolution 1 of the 151st General Assembly are incorporated into the Committee’s rules.

For purposes of affixing signatures required under the Committee’s rules, a member may, in lieu of a wet signature, authorize, in writing or electronically, a Committee analyst or Legislative Council attorney to affix the member’s signature. The Committee analyst or Legislative Council attorney shall maintain records of authorizations made under this rule.
Chair Bentz called the meeting to order at 6:04 p.m. Committee members present included Vice-Chair Lockman; Representatives Dorsey Walker, Spiegelman, and Yearick; Senators Delcollo, Hansen, Lopez, and Walsh. Staff present included Mark Brainard Jr. & Amanda McAtee, JLOSC Analysts; Holly Vaughn Wagner, Legislative Attorney for the JLOSC and Deputy Director of the Division of Research; and Natalie White, Administrative Specialist. A quorum was met.

Chair Bentz welcomed everyone to the meeting for the Joint Legislative Oversight and Sunset Committee ("JLOSC") of the 150th General Assembly, Second Session and called for introductions. The meeting was a presentation meeting for the Delaware Health Resources Board.

Chair Bentz moved to item 2 on the agenda, the approval of the March 9, 2020 meeting minutes. Representative Spiegelman motioned to approve the March 9, 2020 minutes, and Representative Dorsey Walker seconded the motion. The motion carried 8-0, with Representatives Bentz, Dorsey Walker, Spiegelman, and Yearick, and Senators Lockman, Hansen, Lopez, and Walsh voting in favor, no opposed, 2 members not present at the time of vote, Representative Bennett and Senator Delcollo.

Chair Bentz moved to item 3 on the agenda, to discuss additional 2020 meeting dates and introduced Amanda McAtee to provide an overview. After discussion, additional meetings were scheduled for April 20 and May 5, 2020. Committee analysts would send out a Doodle poll to schedule additional meetings.

Chair Bentz moved to item 4 on the agenda, the presentation by the Delaware Health Resources Board. Chair Bentz introduced Elisabeth Massa, Executive Director of the Delaware Health Care Commission, who delivered the presentation. Those in attendance from the Delaware Health Care Commission were Executive Director Elisabeth Massa, Latoya Wright, Manager of Statistics and Research; and Delaware Health Care Commission Chair Dr. Nancy Fan.

After the presentation, Representatives Bentz, Dorsey Walker, Spiegelman, and Yearick, Senators Delcollo, Hansen, Lockman, Lopez, and Walsh, and JLOSC staff Holly Vaughn Wagner and Amanda McAtee asked questions. Elisabeth Massa, Latoya Wright, and Dr. Nancy Fan provided clarification.

Chair Bentz thanked the Delaware Health Care Commission for their presentation and assistance during the review process and called for public comment. Christina Bryan, Communications and Legislative Council/Division of Research • Legislative Hall • 411 Legislative Avenue • Dover, Delaware 19901
Mark Brainard, Research Analyst: 302-744-4275 • Fax: 302-739-7553 • Mark.Brainard@delaware.gov
Amanda McAtee, Research Analyst: 302-744-4021 • Fax: 302-739-7553 • Amanda.McAtee@delaware.gov
Website: www.legis.delaware.gov

Policy Director for the Delaware Healthcare Association and John Toedtman, Executive Director of the Caesar Rodney Institute provided public comment.

Chair Bentz thanked Committee members, staff, and the public for attending an informative and productive meeting and reminded the Committee of the next and final presentation meeting scheduled for Tuesday, March 17, 2020 at 12:00 p.m. in the JFC Hearing Room.

The meeting concluded at 7:54 p.m.

Respectfully prepared by:

Amanda McAtee and Mark Brainard, JLOSC Analysts, Joint Legislative Oversight and Sunset Committee.

Access to the audio recording of this proceeding is available upon request.
EXECUTIVE SUMMARY

June 30, 2020  Final Report

Background
Delaware’s Legislative Oversight and Sunset Law, enacted in 1979 in Chapter 102 of Title 29, provides for the periodic legislative review of state agencies, boards, and commissions (“entity” or, collectively, "entities"). The purpose of review is to determine if there is a public need for an entity and, if so, to determine if it is effectively performing to meet that need. Generally, an entity is not reviewed more than once every six years.

The Joint Legislative Oversight and Sunset Committee ("JLOSC" or "Committee") is responsible for guiding the review process. The Committee is a bipartisan committee comprised of ten legislators. The Senate President Pro Tempore appoints five senators and the Speaker of the House appoints five representatives to serve on the Committee.

In general, the conduct of reviews spans a ten- to twelve-month time period commencing in July. The Committee’s analysts compile a comprehensive review of each entity, based on the responses each entity provides on a questionnaire designed to meet statutory criteria, and then prepare a preliminary report for the use of committee members during public hearings held each year. Public hearings serve as a critical component of the review process because they provide the best opportunity for JLOSC to determine whether a genuine public need for the entity exists, and if the entity is beneficial to the public’s health, safety, and welfare.

At the conclusion of a review, JLOSC may recommend the continuance, consolidation, reorganization, transfer, or termination ("sunset") of an entity. Although the Committee has "sunset" authority over a small number of entities since its first reviews in 1980, the more common approach has been for the Committee to work with an entity under review to formalize specific statutory and non-statutory recommendations with an end goal of improving the entity’s overall performance and accountability.

Note for 2020 Review Cycle
On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amidst the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of JLOSC’s meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, JLOSC held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened JLOSC review cycle and modified legislative session, the JLOSC Chair issued a statement on May 22, 2020, explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.
Committee Members’ Orientation

Presentation on Committee Process

January 2021

Joint Legislative Oversight & Sunset Committee
PRESENTATION AGENDA

• Public Information
• Brief History of Sunset Review Process
• JLOSC “Sunset” Process Overview
  ➢ Types of Reports
  ➢ 3 Types of Public Meetings
  ➢ In Development: 4th Public Meeting Type
  ➢ Types of Recommendations
  ➢ Legislation
• Freedom of Information Act (FOIA)
  ➢ Purpose
  ➢ Records
  ➢ Requests
  ➢ Meetings
• Highlights from the 150th General Assembly
• Holdover Recap: Updates from Committee Analysts
• 2021 Review Timeline
• Setting the 2021 Schedule
Public Information

- Committee’s website: [https://legis.delaware.gov/Committee/Sunset](https://legis.delaware.gov/Committee/Sunset)

- Committee’s email: [Sunset@Delaware.gov](mailto:Sunset@Delaware.gov)
  - For all comments and inquiries.
  - Mailing list to join send a blank email with the subject “Join Mailing List”

- Public Meeting Announcements:
  - Public Meeting Calendar [https://publicmeetings.delaware.gov](https://publicmeetings.delaware.gov)
  - General Assembly website: [https://legis.delaware.gov/](https://legis.delaware.gov/)
Brief History of Sunset Review Process

• Promoted in the 1970s in effort to reform government.
• Colorado was the first state to est. & use in 1976.
  • 36 states adopted sunset legislation.
• Delaware’s Joint Sunset Committee est. in 1980.
  • Issued first report in 1981.
• Most common product of a sunset review is *improvement* not termination of an agency or board.
• January 2017: Delaware’s Joint Sunset Committee became the Joint Legislative Oversight and Sunset Committee (JLOSC).
• Sunset reviews or agency audits take different forms with each state using different methods.
  • Typically organized under a legislative, auditor, or research office.
  • Some focus on performance evaluation.
  • Florida abolished sunset laws & changed over to a dedicated office for program policy analysis and government accountability.
Quick note on the term “sunset”

**Sunset provisions/laws**
- Call for the automatic termination of a government program, agency, or law on a specified date, unless the legislature takes action to renew it.

**Sunset Committee / Sunset Review Process**
- JLOSC oversees and is responsible for guiding the sunset review process. In Delaware, the Committee selects entities for review.
- Sunset Review Process conducts a performance evaluation on the selected entity. Helps to determine if a need exists, and how well the entity is performing to satisfy that need.
- Each chamber has a Sunset Committee, but they are independent from JLOSC and discuss bills that are not from the JLOSC process.
**2021 REVIEW TIMELINE**

- **January – February**
  - Orientation for Committee Members.
  - Meeting dates selected; notices published.
  - Analysts distribute reports to Committee members & entities under review.
  - Holdover meeting for DVI (2019 review).
  - Presentation meetings for DIAA & DNHRQAC.
  - Due to volume, legislation will be reviewed as available.

- **March – April**
  - Recommendation meetings held (four 2020 entities).
  - Committee chooses 2022 review entities.

- **May – June**
  - Committee finalizes recommendations.
  - Analysts notify 2022 review entities, begin review process.
  - Analysts prepare final report for Committee review & approval.

**2021 TO-DO LIST**

**28 LEGISLATIVE BILLS NEEDED***

**2020 HOLDOVERS**
- Held presentations meeting with public comment, now need to schedule recommendation meeting:
  - Conservation District Operations Program: DNREC Division of Watershed Stewardship.
  - DE Health Resources Board.

**2019 HOLDOVERS**
- Need to schedule both presentation & recommendation meetings:
  - DE Interscholastic Athletic Association.
  - DE Nursing Home Resident Quality Assurance Commission.

**Recap: 2020 Holdovers**
- DACCTE released from review upon the submission of its annual report.
- Released upon enactment of legislation:
  - Adult Protective Services.
  - Delaware Health Information Network.
  - Council on Correction (held over from 2018).

**Recap: 2019 Holdovers**
- Division for the Visually Impaired (DVI) recommendations adopted by JLOSC in February 2020 after conclusion of task force meetings held in fall/winter 2019, held over to 2021. Progress reporting received in 2020, schedule agency for holdover meeting in February 2021.

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**3 TYPES OF MEETINGS**

**Presentation Meetings**
- Each entity provides an overview, includes functions, accomplishments, and areas for improvement.
- Committee members ask questions.
- Public comment is permitted.
- Most are scheduled in the evening.
- Intended for the entity to present information and answer questions.
- The Committee rarely makes any decisions at this meeting.

**Recommendation Meetings**
- Recommendations are finalized and voted on.
- Typically held in late February (evenings) & March (afternoons, prior to session).
- At least 2 entities are considered per meeting.
- Public comment is not taken but accepted via email.

**Holdover Meetings**
- Only for entities that were held over.
- Provide updates to the Committee.
- Typically, evening meetings held in February.
- Multiple entities per meeting, depending on the scope of the reporting required.
- Public comment is not taken but accepted via email.

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**JLOSC’s Declaration of Policy**

The overall goal is to use the review process to strengthen and support entities which are (1) meeting a recognized State need, and (2) accountable and responsible to public interests.

**TYPES OF RECOMMENDATIONS**

After thorough research, analysts present their recommendations for Committee consideration.

The Committee is statutorily-authorized to recommend 1 or more of the following:
- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.
- Consolidation, merger, or transfer of the entity’s functions to another entity.
- Termination of the entity unless certain conditions are met or modifications are made, by legislation or otherwise within a specified time period.
- Budget appropriation limits for the entity.
- Legislation which the Committee considers necessary to carry out its decision to continue or terminate the entity.

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**LEGISLATION**

- **Preparing for the Committee**
  - If the Committee adopts a recommendation requiring legislation, JLOSC attorney works with entity to draft a bill for consideration.
  - JLOSC attorney ensures the draft bill is legally sound, meets the Committee recommendation and conforms with the DE Legislative Drafting Manual standards.

- **Drafting**
  - Process almost always takes more time than expected or desired.
  - JLOSC analysts and attorney work closely with entity during the drafting process.
  - Completed drafts presented to Committee for introduction or further review.

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**Recap: 2020 Holdovers**
- DACCTE released from review upon the submission of its annual report.
- Released upon enactment of legislation:
  - Adult Protective Services.
  - Delaware Health Information Network.
  - Council on Correction (held over from 2018).

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**Recap: 2019 Holdovers**
- Division for the Visually Impaired (DVI) recommendations adopted by JLOSC in February 2020 after conclusion of task force meetings held in fall/winter 2019, held over to 2021. Progress reporting received in 2020, schedule agency for holdover meeting in February 2021.
**REVIEW TIMELINE**

151st GENERAL ASSEMBLY - 1st session, January 2021

**February**
- Orientation for Committee members.
- Set meeting schedule.
- Begin publishing meeting dates.
- Analysts distribute reports to Committee members & entities.

**May**
- Committee finalizes recommendations.
- Draft and review legislation.
- Analysts notify selected entities.
- Analysts begin review planning process; outlining scope, objectives, and methodology.

**June**
- Analysts prepare final report for Committee review & approval.
- Analysts continue review planning process and start fieldwork for new reviews.

**July**
- Entities submit self-report to analysts.
- Analysts publish self-reports to JLOSC website.

**August**
- Analysts continue review fieldwork; conduct interviews, launch public engagement initiatives.

**September**
- Analysts pull research together, writing process begins.

**October**
- Analysts send draft report to entities for review and comment.
- Analysts notify selected entities.
- Analysts begin review planning process; outlining scope, objectives, and methodology.

**November-December**
- Analysts send draft report to entities for review and comment.
- Analysts continue review fieldwork; conduct interviews, launch public engagement initiatives.

*Timeline provided is an estimate and is subject to change.*

**Types of Reports**

- **Self-Report:** Completed by entity under review, using a template received from analysts. Contains information required by statute.
- **Draft Report:** Completed by analysts; outlines the review’s scope, objectives, and methodology. Contains research, conclusions, and recommendations for Committee consideration.
- **Final Report:** Completed by analysts; approved by Committee, delivered to General Assembly & Governor. Contains review of Committee’s work and adopted recommendations.
Overview

• Performs periodic legislative review of agencies, commissions, or boards to determine if there is a genuine public need for the entity and, if so, if the entity is effectively performing to meet that need.

• JLOSC’s Declaration of Policy:
  • The overall goal is to use the review process to strengthen and support entities which are (1) meeting a recognized State need, and (2) accountable and responsible to public interests.

• 1 of the 4 joint committees of the General Assembly.
  • 10 members: 5 Pro Tempore & 5 Speaker appointments.
JLOSC Review Process
Sunset & Oversight Review

- Committee selects entities for review.
  - Focus on boards and commissions.
- Analysts contact entities & remain point of contact throughout review.
- Entities complete self-report, provide all requested documentation.
- Analysts' complete fieldwork and research, conducting a performance evaluation on entity.
  - Engage with the public.
  - Write a Draft Report containing key findings, conclusions, and recommendations for Committee consideration.
- Entity reviews report, comments.
- Committee receives report with entity response.
- Public meeting process begins.
3 Types of Public Meetings

**Presentation Meetings:**
- Each entity provides an overview, includes functions, accomplishments, and areas for improvement.
- Committee members ask questions.
- Public comment is permitted, JLOSSC Rule 6.
- Most are scheduled in the evening. Intended for the entity to present info & answer questions.
- Entity has the burden of showing there is a genuine public need and meeting the need.
- Decisions rarely made at this meeting by Committee.

**Recommendation Meetings:**
- Recommendations are finalized and voted on.
- Typically held in late February (evenings) & March (afternoons, prior to session).
- At least 2 entities are considered per meeting.
- Public comment is not taken but always accepted via email: Sunset@Delaware.gov.

**Holdover Meetings:**
- Not needed for every review.
- Each entity that was held over updates the Committee.
- Typically, evening meetings held in February.
- Multiple entities per meeting, depending on the scope of the reporting required.
- Public comment is not taken but always accepted via email: Sunset@Delaware.gov.
4th Type: Component Review Meeting

- Can be held at anytime, call of Chair.
  - Chair of any standing Committee can request in writing to the JLOSC chair.
- Abbreviated and focused review.
  - Currently in statute as a “Rules Review” & in proposed revisions as a Component Review.
  - Reviewing specific issue, rule, regulation, statute, or program component.
  - JLOSC staff conducts review which includes research, public outreach, interviews, and other necessary fieldwork.
    - Public outreach could include public input forums/workshops.
    - Division of Research permitted to hire per diem staff if necessary.
- Public meetings held by JLOSC to discuss Component Review selection, OSM (Objectives, Scope, Methodology), analyst’s final report, and JLOSC decision & recommendation process.
  - JLOSC has final say in all decisions & recommendations.
Types of Reports

**Component Review Report**
- Targeted & abbreviated review; specific rule, statute, program component, etc.
- OSM determined by Committee & Staff.
- Like Draft Report except will not include a performance evaluation.

**Self-Report**
- Formally the performance questionnaire.
- Covers statutory requirements.
- Completed by entity under review, sent to analysts, published on website.

**Draft Report**
- Performance evaluation highlights.
- OSM* determined by Statute.
- Analysts Conclusions & Recommendations.
- Written Response from the Entity.

**Final Report**
- Completed by analysts.
- Approved by Committee.
  - Delivered to General Assembly & Governor.
  - Review of Committee’s work & adopted recommendations.

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*OSM = Objectives, Scope, & Methodology; GAO Yellow Book, industry standard for performance audit/evaluations.

**Meeting Supplements**
- Provided at Orientation and Holdover meetings.
- Summarize meeting materials.
Recommendations: How they are formed.

- After presentation meetings, Analysts draft recommendations for Committee consideration using the information gathered through questionnaires, presentation meetings, and follow-up research.

- Process Change → After thorough research, analysts prepare Draft Reports which will contain overview of research, analyst conclusions and recommendations, and a written response from the entity under review.
  - Recommendations will be ready to go after the presentation meeting for quicker scheduling. Adjustments can always be made.

- Committee has final vote on all proposed recommendations.
  - Committee can disagree with analyst recommendations.
    - Part of the process and is common throughout similar sunset & oversight Committees.
    - Committee can modify or create new recommendations.

- At recommendation meetings:
  - Analysts present their recommendations for Committee consideration.
  - Committee discusses, considers, and votes whether to approve or decline each recommendation.
Types of Recommendations

The Committee is statutorily authorized to recommend & adopt 1 or more of the following:

- **Continuation** of the entity as is.
- **Termination** of the entity.
- **Termination of any program** within the entity.
- **Consolidation, merger, or transfer** of the entity or the entity’s functions to another entity.
- **Termination of the entity unless certain conditions are met or modifications are made**, by legislation or otherwise within a specified time period.
- **Budget appropriation limits** for the entity.
- **Legislation** which the Committee considers necessary to carry out its decision to continue or terminate the entity.

Affirmative vote of 7 members is required to adopt a recommendation, terminate an entity, or rescind a vote to terminate an entity.
Legislation

Preparing for the Committee

➢ If Committee adopts a recommendation requiring legislation, the JLOSC attorney works with entity to draft a bill for consideration.

➢ JLOSC attorney ensures the draft bill is legally sound, meets the Committee recommendation and conforms with the DE Legislative Drafting Manual standards.

Drafting

➢ Process almost always takes more time than expected or desired.

➢ JLOSC analysts and attorney work closely with entity during the drafting process.

➢ Completed drafts presented to Committee for introduction or further review.
Freedom of Information Act
What JLOSC Should Know About FOIA

FOIA’s Purpose:

• Public business be performed in an open and public manner.

• Give citizens easy access to public records.
  • Ensure citizens have an opportunity to observe the performance of public officials and monitor the officials’ decisions in formulating and executing public policy.
You’ve Received a Request; Who Can Help?

- Your Committee Staff – Amanda, Mark, or Holly
  - Already know how to respond or will quickly find out.
  - Work on Committee matters full-time during session and break; in best position to quickly understand whether a communication or document is subject to disclosure.

- Your FOIA Coordinator – Mark Cutrona, Director, Division of Research
  - Designated point of contact for all FOIA requests related to General Assembly and its committees.
  - Statutorily-required to keep tracking documents; coordinates the General Assembly’s responses.
Based on the exceptions, the following records of the General Assembly (and the Committee) are often not provided:

- Records specifically exempted from public disclosure by statute or common law.
- Emails received or sent by members of the General Assembly or their staff.
- Communications between member and constituent.
- Communications by member on behalf of constituent.
- Communications between members.
FOIA & Meetings

• FOIA requires all public body meetings be open to the public, unless closed for 1 of 9 statutory reasons.

• When public body gathers, it must determine whether:
  • The gathering is a “meeting” under FOIA.
  • The body has reason to enter an executive session.

• FOIA Miscellany:
  • Right to observe, not to participate.
  • Must provide notice and agenda.
  • Must keep minutes of all meetings.
Highlights from the 150th General Assembly

- 2 New Analysts
- 1 New Logo
- 9 Entities Reviewed
- 20 Public Meetings
- 13 Reports Released
- 67 Recommendations Adopted
- 13 Bills/Resolutions Passed
- 3 Task Forces Staffed

Looking Ahead → 151st General Assembly
40th Annual Sunset Report
Holdover Recap
Updates from Committee Analysts

2020 Holdovers
• Held presentation meetings w/ public comment in March 2020, schedule recommendation meeting:
  ➢ Conservation District Operations Program: DNREC Division of Watershed Stewardship.
  ➢ DE Health Resources Board.
• Need to schedule both presentation & recommendation meetings:
  ➢ DE Interscholastic Athletic Association.
  ➢ DE Nursing Home Resident Quality Assurance Commission.
• Will have legislation for almost all holdovers, entities can be released from review while legislation is in process.
  ➢ All legislation was halted due to pandemic.
  ➢ Holly continues drafting, working with entities.
• GOAL: Resuming unfinished business & moving forward with new work.
  ➢ Research is complete for all holdovers.

2021 TO-DO LIST

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<th>2020 HOLDOVERS</th>
<th>LEGISLATIVE BILLS NEEDED*</th>
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*estimate from 2019, additional legislation is likely needed for 2020 holdovers.
Holdover Recap
Updates from Committee Analysts

2019 Holdovers
• DACCTE released from review upon the submission of its annual report.
• Released upon enactment of legislation (tech. corrections):
  ➢ Adult Protective Services.
  ➢ Delaware Health Information Network.
• Division for the Visually Impaired (DVI) recommendations adopted by JLOSC in Feb. 2020, after conclusion of task force meetings held in fall/winter 2019, held over to 2021.
  ➢ Progress reporting received in 2020 as requested.
  ➢ Analysts prepare a meeting supplement with all pertinent information.
  ➢ Schedule agency for holdover meeting in Feb. 2021.
  ➢ DVI will present updates to JLOSC.
  ➢ JLOSC to review progress reporting and status of adopted recommendations, ask questions, and determine release or terms of additional monitoring.
• Council on Correction (2018-19).
  ➢ Pending bill to provide staffing support under CJC, JLOSC can then consider release.

2020 HOLDOVERS

LEGISLATIVE BILLS NEEDED* 28
2020 HOLDOVERS 4
2019 HOLDOVERS 5

*estimate from 2019, additional legislation is likely needed for 2020 holdovers.
2021 REVIEW TIMELINE
151st GA, 1st Session

**January – February**
- Orientation for Committee Members.
- Meeting dates selected; notices published.
- Analysts distribute reports to Committee members & entities under review.
- Holdover meeting for DVI (2019 holdover).
- Presentation meetings for DIAA & DNHRQAC (2020 holdover).

**March – April**
- Recommendation meetings held (all 4 2020 holdovers).
- Committee chooses 2022 review entities.
- Legislation is drafted, reviewed by Committee.
- Discussion/selection of Component Reviews.

**May – June**
- Committee finalizes recommendations.
- Legislation drafting & Committee review continues.
- Discussion/selection of Component Reviews.
- Analysts notify 2022 review entities, begin review process.
- Analysts prepare 2021 Final Report for Committee review & approval.
Setting the 2021 Schedule

February
➢ 1 holdover meeting for DVI (earliest week of 2/8).
➢ 2 presentation meetings for DIAA & DNHRQAC, public comment accepted.
➢ 1-2 Recommendation meetings.

March
➢ 2-3 additional Recommendation meetings.
➢ 1 meeting for legislation approval & 2022 entity selection.

April
➢ 1 meeting for legislation approval & 2022 entity selection.
➢ 1 meeting for legislation approval & Component Review discussion.

May / June
➢ 1 meeting for legislation approval & Component Review discussion, OSM development.
➢ 1 meeting for legislation & 2021 Final Report approval.
Stay Connected

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