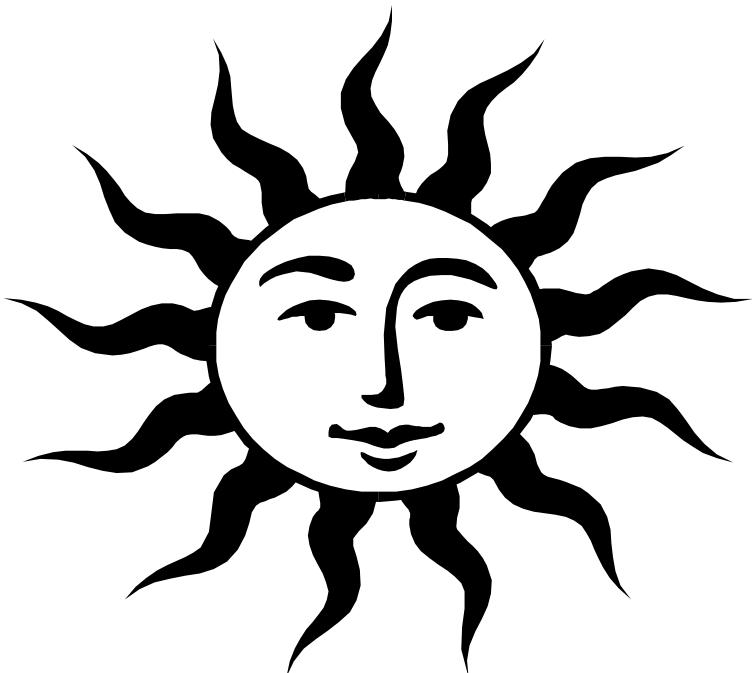


HANDBOOK
ON
ARIZONA'S
SUNSET & SUNRISE
REVIEW



Fifty-Fifth Legislature
2021 – 2022

TABLE OF CONTENTS

Introduction.....	1
Role of Participants	
Joint Legislative Audit Committee	2
Office of the Auditor General (OAG).....	5
Committees of Reference (CORs)	6
Agency Subject to Review.....	7
Legislative Committee Staff	7
Committees of Reference (Fifty-Fifth Legislature)	
Senate	9
House of Representatives	10
Sunset Review Process	
Description	12
Conducting a Sunset Review	
OAG Conducts Performance Audit	13
OAG Sunset Review Timetable.....	18
COR Conducts Performance Review.....	19
COR Sunset Review Timetable	22
Sunrise Review Process	
Description.....	23
Conducting a Sunrise Review	
Conducting a Sunrise Review.....	25
Sunrise Review Timetable	27

INTRODUCTION

The *Handbook on Arizona's Sunset and Sunrise Review* is a guide for parties involved in the sunset and sunrise review of state agencies, boards, commissions, institutions and programs (state agencies). Because statute prescribes both the sunset and sunrise processes, it is recommended that statute be consulted in conjunction with the use of this handbook.

Arizona's Sunset Review process requires the Legislature to periodically review the purpose and functions of state agencies to determine whether continuation, revision, consolidation or termination is warranted. Reviews are conducted by the Office of the Auditor General (OAG) or a committee of reference (COR). A public hearing is held by the COR to discuss the review and receive testimony from state agency officials and the public.

Arizona's Sunrise Review process provides a mechanism to request the regulation of health and nonhealth professions or an expansion in scope of practice for health professions. The Sunrise Review process begins with an applicant group presenting to the Speaker of the House of Representatives (Speaker) and the President of the Senate (President) with a report defining the need for regulation or scope of practice expansion. The Speaker and President assign the report to a COR for review and recommendation.

The handbook is divided into six sections. The first section provides a brief description of the entities that play an important role in the process. The second section identifies the legislative members assigned to each House and Senate COR. The third and fourth sections provide an overview of and details for conducting a Sunset Review. The fifth and sixth sections provide an overview and step-by-step guide of how to conduct a Sunrise Review.

This 2021-2022 edition replaces the 2019-2020 edition.

ROLE OF PARTICIPANTS

JOINT LEGISLATIVE AUDIT COMMITTEE

(Title 41, Chapter 7, Article 10.1, Arizona Revised Statutes)

MEMBERSHIP

The Joint Legislative Audit Committee (JLAC) consists of five members of the Senate appointed by the President and five members of the House appointed by the Speaker. Statute requires the appointment of one Appropriations Committee member from each chamber and stipulates no more than three appointees from each chamber may be members of the same political party. The President and Speaker serve as ex-officio members. The JLAC Chairperson alternates each year between the House and Senate. JLAC is required to meet quarterly or on the call of the chairperson ([A.R.S. § 41-1279](#)).

JLAC members for the Fifty-Fifth Legislature*:

Senate Members

Senator Barto (Chairperson 2021)
Senator Gabaldón
Senator Livingston
Senator Mendez
Senator Townsend
President Karen Fann, *Ex-officio*

House Members

Representative Osborne (Chairperson 2022)
Representative Dunn
Representative Kaiser
Representative Longdon
Representative Powers-Hannley
Speaker Russell Bowers, *Ex-officio*

* JLAC membership is subject to change. Contact the Senate and House Legislative Research Departments.

JLAC POWERS & DUTIES

JLAC oversees the audit functions of the Legislature and state agencies, including: sunset, performance, special and financial audits and special research requests. JLAC appoints the Auditor General, has legislative subpoena power and is authorized to require state agencies to comply with findings and directions of audits ([A.R.S. § 41-1279](#)).

JLAC, on recommendation from the President and Speaker, assigns all state agencies to the respective COR according to subject matter for review and directs either the OAG to conduct a performance audit or the COR to conduct a Sunset Review ([A.R.S. § 41-2952](#)).

OAG PERFORMANCE & SPECIAL AUDIT FOLLOW-UP PROCEDURES

In July 1997, JLAC adopted a process to follow-up on audit recommendations, which was subsequently expanded in 1999. The follow-up process is as follows:

- 1) In the written response to each audit recommendation in an OAG performance or special audit report, the auditee will make one of the following statements:
 - a) The finding of the OAG is agreed to and the audit recommendations will be implemented;
 - b) The finding of the OAG is agreed to and a different method of dealing with the finding will be implemented;
 - c) The finding of the OAG is not agreed to but the recommendations will be implemented; or
 - d) The finding of the OAG is not agreed to and the recommendations will not be implemented.
- 2) Following the release of each audit report, JLAC will ensure that each audit receives a public hearing by a legislative committee. JLAC may refer the audit to a COR if the audit is performed under the sunset law. However, JLAC may request other pertinent committees to hold a hearing on any audit or hold the hearing itself.
- 3) JLAC must request other committees holding a hearing on an audit to specifically address the nature of all report recommendations which the state agency does not agree with and will not implement and report that information back to JLAC.
- 4) Six months after the audit report is issued, the auditee must provide the OAG with a written explanation of the status of all audit recommendations. The OAG requires the auditee to provide data and information necessary to document its efforts at implementing the recommendations. The OAG will then issue a follow-up report to the JLAC Chairperson indicating the status of the state agency's efforts in implementing the audit recommendations. Specifically, the follow-up report will identify how many recommendations the state agency has implemented, how many recommendations it is in the process of implementing and how many recommendations have not been implemented. If the auditee has implemented all recommendations after six months, the OAG shall report this fact to the JLAC Chairperson and no further follow-up will be conducted.
 - If the auditee has not fully implemented all recommendations at 6 months, but appears to be making progress, then this process continues at 18-months. The follow-up process may be extended beyond that period, if necessary, to ensure the auditee is making sufficient progress toward implementing the recommendations.
 - At two years after the audit report is issued, JLAC may require the auditee to appear at a public hearing to review the status of any remaining recommendations and to determine whether continued reporting is warranted.

- The OAG has the authority to verify all information provided by the auditees and issue reports to JLAC and other relevant legislative committees.
- 5) The JLAC Chairperson may at any time following the release of an audit report convene a panel of JLAC members to meet with the OAG and the auditee to discuss recommendations with which the state agency disagrees and will not implement. The panel will hear from both parties and will recommend to the full committee that:
- a) There is no need for further action; or
 - b) Sufficient differences exist between the OAG and the auditee to warrant the attention of the full JLAC.
- 6) JLAC will determine the need for further review and may, as an option, convene a final meeting of the two parties.
- 7) If after final review JLAC determines it is warranted, JLAC will draft a memorandum summarizing the differences between the OAG and the auditee and will make the memorandum available, together with any recommendations, to all members of the Legislature.

OFFICE OF THE AUDITOR GENERAL
(Title 41, Chapter 7, Article 10.1, Arizona Revised Statutes)

REQUIREMENTS & TERM

The Auditor General is appointed by JLAC and approved by a concurrent resolution of the Legislature. The term of office is five years; however, the Auditor General is eligible for reappointment.

The Auditor General must be a certified public accountant licensed to practice in Arizona and is subject to the standards and ethics of the accounting profession as regulated by the Arizona Board of Accountancy ([A.R.S. § 41-1279.01](#)).

OAG POWERS & DUTIES

The OAG is responsible for providing independent financial, performance, compliance and special audits and special research requests in support of legislative oversight and public accountability regarding funds administered by the state and certain local governments. The OAG is authorized by statute to access agency correspondence, files and other records, bank accounts, criminal history record information, money and other property of any state agency.

Prior to conducting a performance or special audit, the OAG attempts to contact legislators and legislative committee staff to receive input and suggestions regarding areas of concern. The OAG staff also contacts legislators and staff following the publication of a performance or special audit to respond to any questions concerning audit findings.

The OAG performs the following duties relating to the Sunset Review process:

- 1) Prepares and submits to JLAC a list of all state agencies scheduled for sunset termination at least 20 months prior to agency termination;
- 2) Recommends to JLAC sunset reviews to be conducted by the OAG or a COR;
- 3) Conducts all performance audits assigned to the OAG by JLAC;
- 4) Provides e-mail notifications, with a link to the completed performance audit to JLAC members, COR members and JLAC staff; and
- 5) Testifies before the COR regarding performance audit findings ([A.R.S. § 41-1279.03](#)).

COMMITTEES OF REFERENCE

[\(A.R.S. § 41-2954\)](#)

COR MEMBERSHIP

[Laws 2018, Chapter 209 \(S.B. 1034\)](#) establishes a COR as the respective standing committee of the Senate or House. Previously, a COR was an appointed five-member subcommittee, from each standing committee of both legislative houses, acting as a proxy for a standing committee.

Although JLAC has the statutory authority to appoint COR chairpersons, tradition has given this task to standing committee chairpersons. Current COR membership is listed on pages 9-11 of this handbook. Remember, it is important to check the Interim Committee Inquiry option available via the A.L.I.S. Launcher to ensure committee membership has not changed.

COR POWERS & DUTIES

JLAC may assign responsibility for conducting the state agency's sunset review to a COR. A sunset review conducted by a COR is essentially a self-audit whereby the agency responds to statutorily prescribed questions and any questions developed by the COR. Legislative staff of the COR coordinate the sunset reviews assigned to the CORs.

When conducting a sunset hearing, the House and Senate CORs can either meet jointly or separately in a public hearing to review a sunset application. Please confirm with the chairpersons of each respective COR in each chamber as to their preferences in conducting either a joint or separate hearing.

When meeting jointly, a quorum for sunset and sunrise purposes consists of a majority of all COR members. A single, joint motion is necessary to recommend that the state agency be: 1) continued; 2) revised or consolidated; or 3) terminated. Additionally, each COR may make certain recommendations relating to agencies that administer an occupational regulation. Finally, all public hearings must be held during the interim or before the third Friday in January.

State agencies subject to sunset review are generally assigned to a COR that would most likely be responsible for hearing any legislation affecting that agency.

A COR has legislative subpoena power and is responsible for:

- 1) Conducting a sunset review of each agency assigned to it by JLAC;
- 2) Holding at least one public hearing upon receipt of the OAG performance audit or completion of the COR sunset review to receive testimony from the public and from the officials of the involved agency;
- 3) Evaluating and recommending agency continuance, revision, consolidation or termination based on statutory sunset factors;
- 4) Considering outlined factors relating to agencies that administer an occupational regulation;
- 5) Conducting sunrise reviews;
- 6) Submitting a final sunset report by the third Friday in January to the President, Speaker,

- Governor, OAG, JLAC and the agency that was the subject of the review; and
- 7) Preparing legislation to implement its recommendations. JLAC is statutorily required to oversee the preparation of such legislation, but traditionally the COR chairperson and staff have overseen this responsibility. The agency, however, is responsible for finding a sponsor for the legislation.

Laws 2021, Chapter 176 requires each COR that reviews an agency that administers an *occupational regulation* to consider the extent to which:

- 1) the occupational regulation meets the requirements of A.R.S. § 41-3501; and
- 2) the failure to regulate a profession or occupation will result in the loss of insurance, an impact to the ability to practice in other states or as required by federal law, an impact to the required licensure or registration with the federal government, and the loss of constitutionally afforded practices.

An *occupational regulation* is defined as a: 1) statute, rule, practice, policy or other state law that allows an individual to use an occupational title or work in a lawful occupation; and 2) government registration, government certification and occupational or professional license. An *occupational regulation* does not include a business license, facility license, building permit or zoning and land use regulation, except to the extent those state laws regulate an individual's personal qualification to perform a lawful occupation.

AGENCY SUBJECT TO REVIEW

A state agency subject to sunset review performs the following functions in the sunset review process:

- 1) The agency works with the OAG to provide any necessary information for a sunset audit. If the sunset review is conducted by a COR, the agency must provide all necessary information and respond to the sunset questions as requested by the COR.
- 2) Agency officials testify at public hearings, present agency responses to the required agency factors and provide justification for agency continuance, modification or creation and any additional information requested by COR members.
- 3) Agency officials should work with legislative committee staff and the COR chairperson to coordinate the drafting and introduction of legislation to continue, modify or create the agency pursuant to COR recommendations.

LEGISLATIVE COMMITTEE STAFF

Sunset and sunrise staffing responsibilities shift with legislative terms. Senate legislative committee staff is responsible for sunset hearings during even-numbered Legislatures, and House legislative committee staff is responsible during odd-numbered Legislatures. Regardless of who has primary responsibility, it is always a good idea to keep one's staff counterpart(s) and the OAG apprised of information and progress.

Legislative committee staff responsibilities vary slightly depending on whether the OAG or COR conducts the sunset review. These responsibilities include:

- 1) Coordinating with the Senate/House counterpart and the OAG (if the OAG is conducting the audit);
- 2) Communicating with the state agency being audited or reviewed;
- 3) Facilitating contact between the COR chairperson and the agency subject to sunset review;
- 4) Compiling background information;
- 5) Preparing information for COR members and other interested legislators;
- 6) Checking with the OAG on their availability to present prior to scheduling the sunset hearing (if the OAG is conducting the audit);
- 7) Scheduling the sunset and sunrise hearing(s);
- 8) Writing the final sunset and/or sunrise report; and
- 9) Facilitating the drafting of any legislative recommendations of the COR.

Arizona Senate Committees of Reference

(Fifty-Fifth Legislature)

Appropriations David Gowan (Chair) Vince Leach (Vice-Chair) Lela Alston Sean Bowie Sine Kerr David Livingston Lisa Otundo Kelly Townsend Michelle Ugenti-Rita	Commerce J.D. Mesnard (Chair) Michelle Ugenti-Rita (Vice-Chair) Sonny Borrelli Sean Bowie Rosanna Gabaldon David Livingston Tyler Pace Jamescita Peshlakai	Education Paul Boyer (Chair) T.J. Shope (Vice-Chair) Nancy Barto Sally Ann Gonzales Rick Gray Christine Marsh Tyler Pace Jamescita Peshlakai
Finance David Livingston (Chair) Vince Leach (Vice-Chair) Lela Alston Sean Bowie Paul Boyer Kristen Engel Juan Mendez J.D. Mesnard Warren Petersen Michelle Ugenti-Rita	Government Michelle Ugenti-Rita (Chair) Kelly Townsend (Vice-Chair) Sonny Borrelli Juan Mendez J.D. Mesnard Jamescita Peshlakai Warren Petersen Martin Quezada	Health & Human Services Nancy Barto (Chair) Tyler Pace (Vice-Chair) Rosanna Gabaldon Sally Ann Gonzales Wendy Rogers T.J. Shope Kelly Townsend
Judiciary Warren Petersen (Chair) Wendy Rogers (Vice-Chair) Nancy Barto Sonny Borrelli Lupe Contreras Kristen Engel Vince Leach Martin Quezada	Natural Resources, Energy & Water Sine Kerr (Chair) T.J. Shope (Vice-Chair) Kristen Engel David Gowan Rick Gray Juan Mendez Lisa Otundo Wendy Rogers Victoria Steele	Transportation & Technology Tyler Pace (Chair) T.J. Shope (Vice-Chair) Paul Boyer Rosanna Gabaldon Rick Gray Sine Kerr Christine Marsh Lisa Otundo Victoria Steele

Arizona House of Representatives Committees of Reference

(Fifty-Fifth Legislature)

<p>Appropriations</p> <p>Regina Cobb (Chair) John Kavanagh (Vice-Chair) César Chávez Charlene Fernandez Randall Fries Jake Hoffman Steve Kaiser Aaron Lieberman Quang Nguyen Becky Nutt Joanne Osborne Judy Schwiebert Michelle Udall</p>	<p>Commerce</p> <p>Jeff Weninger (Chair) Steve Kaiser (Vice-Chair) Joseph Chaplik David Cook Diego Espinoza Charlene Fernandez Robert Meza Becky Nutt Pamela Powers Hannley Bret Roberts Justin Wilmeth</p>	<p>Criminal Justice Reform</p> <p>Walter "Walt" Blackman (Chair) Shawnna Bolick (Vice-Chair) Reginald Bolding Alma Hernandez Joel John Bret Roberts Diego Rodriguez Raquel Terán Ben Toma</p>
<p>Education</p> <p>Michelle Udall (Chair) Beverly Pingerelli (Vice-Chair) Daniel Hernandez Joel John Quang Nguyen Jennifer Pawlik Bret Roberts Athena Salman Judy Schwiebert</p>	<p>Government & Elections</p> <p>John Kavanagh (Chair) Jake Hoffman (Vice-Chair) Judy Burges Kelli Butler Frank Carroll John Fillmore Jennifer Jermaine Jennifer Pawlik Kevin Payne Bret Roberts Athena Salman Stephanie Stahl Hamilton Raquel Terán</p>	<p>Health & Human Services</p> <p>Joanne Osborne (Chair) Regina Cobb (Vice Chair) Kelli Butler Joseph Chaplik Randall Fries Alma Hernandez Jacqueline Parker Amish Shah Justin Wilmeth</p>

Judiciary Frank Pratt (Chair) Jacqueline Parker (Vice-Chair) Walter "Walt" Blackman César Chávez Domingo DeGrazia Mark Finchem Melody Hernandez Quang Nguyen Diego Rodriguez Beverly Pingerelli	Land, Agriculture & Rural Affairs Timothy M. Dunn (Chair) Joel John (Vice-Chair) Brenda Barton Jasmine Blackwater-Nygren David Cook Mitzi Epstein Gail Griffin Frank Pratt Diego Rodriguez Lorenzo Sierra	Military Affairs & Public Safety Kevin Payne (Chair) Quang Nguyen (Vice-Chair) Richard Andrade Walter "Walt" Blackman Judy Burges John Fillmore Mark Finchem Daniel Hernandez Melody Hernandez Jennifer Jermaine John Kavanagh Jennifer Longdon Bret Roberts Myron Tsosie
Natural Resources, Energy & Water Gail Griffin (Chair) Judy Burges (Vice-Chair) Andres Cano Frank Carroll Andrea Dalessandro Timothy M. Dunn Mark Finchem Stephanie Stahl Hamilton Aaron Lieberman Jacqueline Parker	Transportation Frank Carroll (Chair) Justin Wilmeth (Vice-Chair) Richard Andrade Brenda Barton Leo Biasiucci Jasmine Blackwater-Nygren David Cook Robert Meza Kevin Payne Amish Shah Myron Tsosie	Ways & Means Shawnna Bolick (Chair) Brenda Barton (Vice-Chair) Andres Cano Regina Cobb Timothy M. Dunn Mitzi Epstein Travis Grantham Steve Kaiser Pamela Powers Hannley Lorenzo Sierra

SUNSET REVIEW PROCESS

([Title 41, Chapter 27, Arizona Revised Statutes](#))

DESCRIPTION

The sunset process dates to the 1970s and was one of the first government accountability tools. Although individual sunset processes differ from state to state, a key feature is the inclusion of an automatic termination (repeal) clause in the authorizing legislation for state agencies and programs. Agencies are reviewed by the Legislature prior to their termination at which time the Legislature may choose to reauthorize the agency. Established by Laws 1978, Chapter 210, Arizona's sunset laws provide a systematic process to evaluate an agency to determine if the merits of the agency justify its continuation, continuation with modification or termination. State agencies subject to sunset review automatically terminate (sunset) if legislation to continue the agency is not approved by the Legislature and Governor.

The entire sunset review process takes place, at a minimum, over a 20-month period. JLAC initiates the sunset review process by reviewing the list of agencies scheduled for termination and assigning the agencies to a COR. All agencies scheduled for sunset are assigned to a House and Senate COR. JLAC determines whether the OAG or COR will conduct the sunset review (called a performance audit if conducted by the OAG). This determination is based upon several factors including: 1) OAG resources; 2) the size and budget of the agency; 3) when the agency was last reviewed by the OAG; and 4) the number and seriousness of concerns and issues identified by Legislators or the OAG regarding the agency.

Each COR is required to hold at least one public hearing to discuss the sunset review and receive testimony from agency officials and the public ([A.R.S. § 41-2954](#)). The CORs may hold subsequent hearings as necessary. Upon completion of COR deliberations, which include a review of the 13 statutory sunset factors and the 4 agency factors, the CORs must submit a final sunset review report by the third Friday in January, containing its recommendations for continuation, revision, consolidation or termination of the agency. Statute prohibits continuation of an agency for a period greater than 10 years. Legislative committee staff typically facilitates, and the Legislative Council typically drafts, any recommended legislation.

Additionally, for state agencies that administer an occupational regulation as defined in A.R.S. 41-3501, each COR may recommend that the Legislature: 1) repeal the occupational or professional license; 2) convert the occupational or professional license to a less restrictive regulation; or 3) instruct the state agency to seek legislation or adopt rules to reflect the COR's recommendation to impose less restrictive regulations, change the requisite personal qualifications of an occupational or professional license or redefine the scope of practice of an occupation or professional license.

Historically, the COR chairperson has introduced the legislation necessary to continue, consolidate or revise a state agency during the following legislative session; however, the agency subject to sunset review has the responsibility of requesting the chairperson, or any other member of the Legislature, to sponsor the necessary legislation. Legislative committee staff should communicate this responsibility to the agency. If the COR recommends that the agency terminate, legislation is not necessary.

CONDUCTING A SUNSET REVIEW

A sunset review comprises either a performance audit conducted by the OAG or a COR review, which is essentially a self-audit conducted by the state agency and facilitated by the legislative committee staff assigned to the COR. The essential difference between an OAG performance audit and a COR review is the depth and scope. An OAG performance audit is usually conducted over a period of several months with the OAG staff going on-site to the agency to assess the agency's performance by reviewing files and records and conducting interviews. A COR review is typically a self-audit in that the agency is asked to respond to the sunset factors and legislative committee staff conducts minimal background and legal research.

The steps for conducting a sunset review when the OAG conducts a performance audit are very similar to the steps for conducting a sunset review when the COR conducts a review. The following is a brief discussion of legislative committee staff responsibilities under both scenarios.

WHAT TO DO IF OAG CONDUCTS THE AUDIT:

Step 1 - Assignment of Sunset Reviews (at least 20 months prior to the sunset hearing)

- The OAG submits a list of state agencies scheduled for termination to JLAC. This list includes all agencies statutorily scheduled for sunset and a recommendation of which agencies should receive a performance audit by the OAG and which agencies should be reviewed by a COR.
- JLAC establishes the sunset review schedule based on a review of the sunset schedule submitted by the OAG and approves the audit schedule. JLAC may delay an agency's sunset if it believes the OAG will not be able to complete the audit and subsequent review according to schedule. If JLAC delays termination, JLAC is responsible for introducing legislation to extend the agency's termination date so that the agency will not sunset pending review.
- JLAC determines who must perform the sunset review based on the sunset schedule submitted by the OAG. JLAC determines whether the OAG will conduct an audit or the COR will conduct a review. The larger and more complex agencies are generally assigned to the OAG for an agency-wide performance audit.

Tradition dictates that the President and Speaker recommend that a state agency be assigned to a specific COR. However, JLAC ultimately has the final decision to assign an agency to a COR to conduct a sunset review, hold a public hearing and make recommendations concerning a continuation of the agency. Legislative committee staff is provided a list of COR assignments by JLAC staff.

Step 2 - Performance Audit

- The OAG conducts the performance audit. Legislative committee staff and all JLAC and COR members receive an email notification with a link to the completed performance audits.

Step 3 - Pre-Sunset Hearing (three to four months prior to sunset hearing)

- Contact the COR chairperson and staff counterpart. Legislative committee staff should inform the COR chairperson of their respective body regarding the upcoming sunset hearing and discuss any potential issues/concerns.
- The COR chairperson contacts the state agency. Legislative committee staff facilitates the communication between the COR chairperson and agency by preparing a notification letter on behalf of the COR chairperson informing the agency of its upcoming hearing.
- Additionally, the letter should include a request of the agency's response to the four statutorily prescribed agency factors ([A.R.S. § 41-2954\(G\)](#)) and the 13th question of the sunset factors ([A.R.S. § 41-2954\(D\)](#)). The 13th question was added by [Laws 2011, Chapter 176](#), and is not addressed in the OAG audit.

Four Agency Factors

- 1) An identification of the problem or needs that the agency is intended to address.
- 2) A statement, to the extent practical, in qualitative and quantitative terms, of the objectives of such agency and its anticipated accomplishments.
- 3) An identification of any other agencies having similar, conflicting or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.
- 4) An assessment of the consequences of eliminating the agency or of consolidating it with another agency.

13th Question

- 5) The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the COR, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.
- These five questions are in addition to the 12 sunset factors that are addressed in the OAG performance audit ([A.R.S. § 41-2954\(D\)](#)).
 - For agencies that administer an occupational regulation, the letter should also include a request for the agency's response to two additional factors (A.R.S. § 41-2954(E)).

Two Additional Occupational Regulation Questions

- 1) The extent to which the occupational regulation meets the requirements of section 41-3502.
 - 2) The extent to which failure to regulate a profession or occupation will result in loss of insurance, an impact on the ability to practice in other states or as required by federal law, an impact on the required licensure or registration with the federal government and the loss of constitutionally afforded practices.
- Review the performance audit. Legislative committee staff should review the performance audit, which includes the 12 sunset factors. Legislative committee staff should also be sure the agency has fully responded to the additional questions outlined above.
 - Schedule a public hearing for the COR. When scheduling the public hearing, legislative committee staff should consult with agency staff and the OAG to ensure their attendance and ability to present at the hearing.
 - A sunset hearing agenda should include a presentation on the performance audit by the OAG, a presentation by the state agency and an opportunity for testimony from agency officials and the public. The agenda may also include adoption of the COR recommendations if additional COR meetings are not necessary.
 - Materials distributed by legislative committee staff to the COR may include a summary of the performance audit and agency response, the required agency factors, budget data, other relevant information and any draft recommendations.

Step 4 - Sunset Hearing

- Statute requires the CORs to hold a joint public hearing or separate public hearings to do the following:
 - 1) Determine the need of the agency to regulate or direct the particular activity;
 - 2) Determine the extent to which the statutory requirements of the agency are necessary and being met;
 - 3) Receive testimony from the public as to the relationship of the agency with the public; and
 - 4) Receive testimony from the executive director or other head of the agency as to reasons for the continuation of the agency ([A.R.S. § 41-2954\(C\)](#)).

Step 5 – Final Sunset Report

- Legislative committee staff prepares a final report pursuant to statutory guidelines containing the following information:
 - 1) A recommendation that the agency be continued, revised, consolidated or terminated; and
 - 2) A written statement prepared by the agency that contains the four required agency factors ([A.R.S. § 41-2954\(E\)&\(F\)](#)).

- For agencies that administer an occupational regulation, the COR recommendations may also include that the Legislature: 1) repeal the occupational or professional license; 2) convert the occupational or professional license to a less restrictive regulation; or 3) instruct the state agency to seek legislation or adopt rules to reflect the COR's recommendation to impose less restrictive regulations, change the requisite personal qualifications of an occupational or professional license or redefine the scope of practice of an occupation or professional license.
- To view an example of a final report of a sunset review conducted by the OAG visit: <http://azmemory.azlibrary.gov/digital/collection/statepubs/id/28783/rec/6>
- Distribute final sunset review report by **the third Friday in January** ([A.R.S. § 41-2954](#)); legislative committee staff should distribute the final sunset report, addressed to JLAC. In an effort to reduce paper, use the guide on page 17 for distribution.
- Legislative committee staff works with Legislative Council to draft any recommended legislation. Legislation is not necessary if the COR recommends agency termination.

Distribute to:	Paper Copy	Electronic Copy	Email:
Governor*		X	gmartinez@az.gov & kratlief@az.gov
President of the Senate*		X	aluth@azleg.gov & sbessler@azleg.gov
Speaker of the House of Representatives*		X	rbowers@azleg.gov
COR Members*		X	
Department/Agency Subject to Review or Applicant group*		X	
Office of the Auditor General*		X	dreinhard@azauditor.gov
Arizona State Library, Archives & Public Records	X	X	reports@azlibrary.gov
House Chief Clerk	X	X	jdrake@azleg.gov mrichards@azleg.gov
Senate Resource Center	X	X	dcortez@azleg.gov
Senate Research Staff		X	Applicable Research Staff & lmaher@azleg.gov
Senate Majority Staff		X	Applicable Policy Advisor
Senate Minority Staff		X	Applicable Policy Advisor & dramirez@azleg.gov
House Research Staff		X	Applicable Research Staff & dclay@azleg.gov
House Majority Staff		X	Applicable Policy Advisor
House Minority Staff		X	Applicable Policy Advisor

*Statutorily required

SUNSET REVIEW PROCESS TIMETABLE

(OAG Conducts the Performance Audit)

Deadline	Activity
(Occurs at least 20 months prior to termination of the agency)	
Typically, September/October	<p>The OAG submits a list of state agencies subject to sunset review to JLAC.</p> <p>JLAC determines that the OAG will conduct a sunset review of the agency.</p> <p>JLAC assigns the agency to CORs to hold a public hearing after sunset review/performance audit report is issued.</p>
(Occurs year the review is due)	
May/June	Legislative committee staff is notified of JLAC assignments.
June/July	COR chairperson initiates communication with the agency. Legislative committee staff prepares a letter notifying the agency that it must respond to four additional statutorily required agency factors (A.R.S. § 41-2954(G)) and the 13 th question of the sunset factors (A.R.S. § 41-2954(D)).
August/September	The agency submits responses to the statutorily required factors.
October 1 st	<p>The OAG issues performance audit reports as they are completed throughout the year.</p> <p>Legislative committee staff and all JLAC and COR members receive an email notification with a link to the completed performance audit.</p> <p>Legislative committee staff schedules sunset review hearing(s).</p>
September/October	Legislative committee staff schedules sunset review hearing(s).
Third Friday in January	Legislative committee staff prepares the final sunset review report and distributes.
January	Introduction of legislation to implement COR recommendations, if necessary.
July	Termination of state agency unless legislatively continued.

WHAT TO DO IF COR CONDUCTS THE REVIEW:

Step 1 - Assignment of Reviews (at least 20 months prior to the sunset hearing)

- This step is identical regardless of whether the CORs or OAG conducts the review. See page 13 for further details.

Step 2 - Initiate Agency Contact (three to four months prior to COR holding a sunset hearing)

- Contact the COR chairperson and staff counterpart. Legislative committee staff should inform the COR chairperson of their respective body of the upcoming sunset review.
- COR chairperson contacts the state agency. Legislative committee staff facilitates the communication between the COR chairperson and agency by preparing a notification letter on behalf of the COR chairperson informing the agency of its sunset review and upcoming hearing.
- The COR chairperson should request that the agency submit a required report containing the agency's response to the 13 sunset factors ([A.R.S. § 41-2954\(D\)](#)), a written statement addressing the four required agency factors ([A.R.S. § 41-2954\(G\)](#)) and the two occupational regulation questions, if applicable ([A.R.S. § 41-2954\(E\)](#)).
- The COR chairperson may request other relevant information, such as copies of the state agency's annual report or minutes from meetings and ask other relevant questions. The sunset review, when conducted by a COR, consists of the written response of the agency and other relevant information procured by the legislative committee staff.
- The chairperson's correspondence should direct the state agency to report on all the factors by a date certain, allowing enough time for legislative committee staff to review and distribute to COR members the materials received from the agency.
- The following are the 13 sunset factors ([A.R.S. § 41-2954\(D\)](#)) to be included in the agency response report:
 - 1) The objective and purpose in establishing (continuing) the agency and the extent to which the objective and purpose are met by private enterprises in other states;
 - 2) The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated;
 - 3) The extent to which the agency serves the entire state rather than specific interests;
 - 4) The extent to which rules adopted by the agency are consistent with the legislative mandate;
 - 5) The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public;
 - 6) The extent to which the agency has been able to investigate and resolve complaints within its jurisdiction;

- 7) The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation;
 - 8) The extent to which the agency has addressed deficiencies in its enabling statutes that prevent the agency from fulfilling its statutory mandate;
 - 9) The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection;
 - 10) The extent to which the termination of the agency would significantly affect the public health, safety or welfare;
 - 11) The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate;
 - 12) The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished; and
 - 13) The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the COR, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.
- The following are the 4 prescribed agency factors ([A.R.S. § 41-2954\(G\)](#)):
 - 1) An identification of the problem or needs that the agency is intended to address;
 - 2) A statement, to the extent practical, in qualitative or quantitative terms, of the objectives of the agency;
 - 3) Identification of any conflicting or overlapping duties with other agencies; and
 - 4) An analysis of the consequences of eliminating the agency.
 - The following are the 2 occupational regulation questions ([A.R.S. § 41-2954\(E\)](#)):
 - 1) The extent to which the occupational regulation meets the requirements of section 41-3502.
 - 2) The extent to which failure to regulate a profession or occupation will result in loss of insurance, an impact on the ability to practice in other states or as required by federal law, an impact on the required licensure or registration with the federal government and the loss of constitutionally afforded practices.

Step 3 - Pre-Sunset Meeting/Review Materials

- Legislative committee staff should review the agency's report to ensure that the agency fully responded to the required sunset and agency factors.
- The COR is required to hold at least one public hearing. The agenda should include a presentation from agency officials on the sunset factors and required agency factors and provide an opportunity for public input. The agenda may also include adoption of the COR recommendations if subsequent COR meetings are not necessary.

- Materials distributed by legislative committee staff may include a summary of the agency response, budget data and draft recommendations.

Step 4 - Sunset Hearing Held by COR

- This step is identical regardless of whether the COR or OAG conducts the review/audit. However, the OAG is not invited to the hearing for reviews the OAG did not conduct. See page 15 for further detail.

Step 5 - Follow-up

- This step is identical regardless of whether the COR or OAG conducts the audit. See pages 16-18 for further detail.
- To view an example of a final report of a sunset review conducted by the COR visit: <http://azmemory.azlibrary.gov/cdm/ref/collection/statepubs/id/22048>

SUNSET REVIEW PROCESS TIMETABLE

(COR Conducts the Performance Audit)

Deadline	Activity
(Occurs at least 20 months prior to termination of the agency.)	
Typically September/October	OAG submits a list of agencies subject to sunset review to JLAC. JLAC determines a COR will conduct a review and assigns agency to a COR.
(Occurs year of review.)	
May/June	Legislative committee staff is notified of JLAC assignments.
June/July	COR chairperson initiates communication with agency. Legislative committee staff prepares a letter requesting an agency to respond to the 13 sunset factors and 4 agency factors.
August/September/October	Agency submits responses to sunset and agency factors. Legislative committee staff schedules sunset review hearing(s). Legislative committee staff prepares agency responses for review by the CORs.
Third Friday in January	Legislative committee staff prepares final sunset review report and distributes.
January	Introduction of legislation to implement COR recommendations, if necessary.
July	Termination of agency, unless legislatively continued.

SUNRISE REVIEW PROCESS

([A.R.S. §§ 32-3101 through 32-3106](#) and [41-3501 through 41-3505](#))

DESCRIPTION

Established by Laws 1985, Chapter 352, and expanded by [Laws 2008, Chapter 132](#), [Laws 2018, Chapter 209](#) and [Laws 2021, Chapter 176](#), Arizona's sunrise review process provides a mechanism for both health professions and nonhealth professions to request regulation and expansion in scope of practice.

Health Profession Regulation

A health profession is defined as a profession regulated pursuant to [A.R.S. Title 32, Chapters 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41](#), and [Title 36, Chapter 6, Article 7, and Chapter 17](#). [A.R.S. § 32-3103](#) states that regulation shall not be imposed on any unregulated health profession except for the exclusive purpose of protecting the public interest. A health profession shall be regulated by this state only if:

- 1) There is credible evidence that the unregulated practice can clearly harm or endanger the public health, safety or welfare and the potential for harm is easily recognizable and not remote or dependent on tenuous agreement;
- 2) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- 3) The public cannot be effectively protected by other means in a more cost-beneficial manner.

[Laws 2018, Chapter 209 \(SB 1034\)](#) modified the sunrise process for health professions allowing an applicant to submit a written report to the President and the Speaker by November 1, instead of September 1. The application must address the factors prescribed in [A.R.S. § 32-3105](#) or [A.R.S. § 32-3106](#) for health professions.

The President and the Speaker must assign the written report to the Health and Human Services Committee of the Senate and the Health Committee of the House, or their respective successor committees. The legislative committees may hold informational hearings on the written report and take public comment before the legislative session begins, however a vote is prohibited at the informational hearing on whether to accept or reject the report.

Additionally, [A.R.S. § 32-3104](#) now permits a health professional group to request informational hearings to allow public comment and to seek to introduce legislation regardless of comments received at the hearing.

Finally, while the committees are required to study the written report, statute no longer requires the committee to submit a report of its recommendations to the Governor, President, Speaker and the regulatory board or entity.

Nonhealth Profession Regulation

A.R.S. § 41-3502 (as transferred and renumbered by Laws 2021, Chapter 176) states that a profession or occupation shall not be regulated except for the exclusive purpose of protecting the public interest and may not be imposed for the exclusive purpose of protecting the profession from economic competition. A profession or occupation shall be regulated by the state only if all the following apply:

- 1) There is credible evidence of harm that the unregulated practice threatens the public health, safety or welfare in the state;
- 2) The actual or anticipated public benefit of the regulation clearly exceeds the costs imposed on consumers, businesses and individuals;
- 3) The public needs and can reasonably be expected to benefit from government regulation; and
- 4) The public cannot be effectively protected by less restrictive regulations.

The COR may hold hearings to evaluate the above criteria and may seek information from state agencies and others with knowledge of the occupation or labor-market economics.

Although not required, the COR chairperson may introduce any legislation recommended to regulate a currently unregulated profession or request that the scope of practice of a currently regulated profession be expanded during the following legislative session. However, the sunrise applicant has the responsibility of requesting the chairperson, or any other member of the Legislature, to sponsor the legislation. Legislative committee staff should communicate this responsibility to the applicant.

The COR must provide its findings and recommendations to the standing committee to which the legislation is assigned. The standing committee must then address each of the following:

- 1) The type of regulations, if any, that are appropriate;
- 2) If applicable, the scope of practice and personal qualifications that are appropriate for a government certification or professional license;
- 3) The extent to which failure to regulate a profession or occupation will result in:
 - a) The loss of insurance;
 - b) An impact to the ability to practice in other states or as required by federal law;
 - c) An impact to the required licensure or registration with the federal government; and
 - d) The loss of constitutionally-afford practices.

CONDUCTING A SUNRISE REVIEW

Step 1 - Application Submitted

- An applicant seeking regulation or increase in scope of practice (sunrise) must submit a written report on or before **September 1 (for nonhealth professions)** or **November 1 (for health professions)** to the President and the Speaker.
- The report must define the problem, explain the need for regulation and discuss the costs, benefits and negative impact of regulation. The report lists the affected associations, organizations and other practitioner groups; summarizes efforts taken to address the problem; describes alternatives to regulation; and discusses the maintenance of professional standards. Health professionals should refer to [A.R.S. § 32-3104](#) and nonhealth professionals should refer to A.R.S. § 41-3502.
- The application should be delivered to the President and the Speaker:
1700 West Washington
Phoenix, Arizona 85007
- **Note:** It is strongly recommended that the applicant provide an electronic copy of the application to the Senate and House legislative committee staff assigned to JLAC.
- An applicant group seeking new regulation is required to explain, within their written report, the factors outlined in [A.R.S. § 32-3105](#) for health professionals and A.R.S. § 41-3504 for nonhealth professionals and occupations.
- A health applicant group seeking an increased scope of practice is required to explain, within their written report submitted to the President and the Speaker by November 1, the factors outlined in [A.R.S. § 32-3106](#). If a health professional group proposes to increase the scope of practice of its profession, copies of the written report must be submitted to the regulatory board of the health profession for review and comment. If applicable, the regulatory board shall make recommendations based on the submitted report to the extent requested by the COR.

Step 2 - Assignment of Review

- The President and the Speaker receive the applicant's report and assign it to a COR.

Step 3 - Pre-Sunrise Meeting

- Legislative committee staff must determine if the sunrise report is for new regulation or an increase in scope of practice, review the applicant's written report for completeness and distribute copies of the report to COR members.
- Legislative committee staff should inform the COR chairperson of the application for new regulation or expanded scope of practice.

- A public hearing is not required by law and is held at the discretion of the COR chairperson. If the COR chairperson decides to hold a public hearing, the agenda should include the presentation of the written report by the applicant and an opportunity for testimony from other officials and the public. The agenda may also include adoption of final recommendations if additional COR meetings are not necessary.
- The COR may make recommendations regarding the request for new regulation or the increased scope of practice. Statute stipulates that an unregulated health or nonhealth profession shall not be regulated unless the regulation is for the express purpose of protecting the public interest. All legislation proposed to regulate a health or nonhealth profession for the first time must be reviewed according to statutory criteria.

Step 4 – Final Sunrise Report

- While an informational hearing may be held to consider the written report for a health professional group, a final sunrise report from the COR is no longer required ([A.R.S. § 32-3104](#)).
- For nonhealth professionals, the COR must study the written report and deliver a final recommendation to the Speaker, President, Governor, and the regulatory entity if appropriate, by the third Friday in January (A.R.S. § 41-3503).
- Legislative committee staff should distribute the final sunset report, addressed to the President and the Speaker. For a complete list of those who must receive a copy of the final sunrise report see the table on page 17.
- Legislative committee staff works with Legislative Council to draft any recommended legislation.
- To view an example of a the final report of a sunrise review visit:
<http://azmemory.azlibrary.gov/cdm/ref/collection/statepubs/id/22049>

SUNRISE REVIEW TIMETABLE

Deadline	Activity
September 1 (nonhealth professions)	Applicant group submits a written report to the President and the Speaker detailing the reasons for regulation or an increase in the scope of practice.
November 1 (health professions)	<p>It is strongly recommended that the applicant group provide a copy of the application to the OAG and the Senate and House legislative committee staff assigned to JLAC.</p>
Not specified	The President and the Speaker assign agencies to a COR for review.
Not specified	Legislative committee staff schedules sunrise review hearing(s). <u>Statute does not require that a hearing be held.</u>
Third Friday in January	Final sunrise report is due for nonhealth professions
January	Introduction of legislation to implement COR recommendations, if necessary.