



LICENSING REFORM TASK FORCE

Sunset Subcommittee **Draft Final Report**

Sunset Subcommittee Report

I. Charge and Scope of the Sunset Subcommittee

The Sunset Subcommittee was tasked with evaluating whether Montana should adopt a more formal process for periodic review of occupational licensing boards, programs, and license requirements, and, if so, what that process should include.

From the outset, the subcommittee framed its work around questions of public protection, regulatory burden, review structure, and legislative oversight, including whether sunset should mean automatic termination or a regularly scheduled review process.

The subcommittee's scope was informed by the Governor's occupational licensing review initiatives, including whether unregulated practice creates a hazard to public health, safety, or welfare; whether licensure provides a public benefit; whether licensure increases costs; whether scope of practice is clear; whether qualifications are justified; whether public support exists for continued licensure; and whether the state should implement sunset review of licensing boards.

II. Overview of the Subcommittee's Work Process

The subcommittee proceeded in stages.

- It began with an organizational meeting in February 2026, where members identified key issues, requested information, and outlined an initial work sequence.
- In March 2026, the subcommittee reviewed and refined a formal work plan that organized its work into five broad phases: Montana history, other states' approaches, review criteria, options and recommendations, and final recommendations.
- In April, the subcommittee reviewed other states' sunset structures and heard from the Legislative Auditor regarding Montana's remaining Title 2 review statutes and the ongoing Data and Impact Commission work concerning outdated or redundant programs.
- In May, members reviewed survey results on possible review scope, burden of proof, structure, and frequency, and began discussing a more concrete review model.
- In June, the subcommittee compared recommendation models, discussed implementation details, and moved toward a draft recommendation structure favoring scheduled review rather than automatic termination.

III. Initial Questions Identified by the Subcommittee

At its first meeting, the subcommittee identified several core questions that guided its work. Members asked what should be reviewed, who should conduct the review, whether review should occur at the board level, the occupation level, or the specific requirement level, and whether Montana should use a hard automatic sunset or a recurring review model.

Members also discussed how to identify areas of concern within existing licensing structures. Some sought information on complaints or concerns from industries that felt overregulated, while others emphasized the need to avoid a complaint-driven process that could distort incentives or fail to provide a regular and systematic review of licensing policy.

IV. Montana's Historical Experience with Sunset and Licensing Review

The subcommittee devoted substantial attention to Montana's historical experience with agency review and occupational licensing oversight. Staff presented on executive reorganization beginning in 1969, the 1970 constitutional requirement to reduce the number of executive agencies, and the retention of professional and occupational licensing boards for quasi-legislative and quasi-judicial functions while shifting administrative duties to departments.

The subcommittee also studied Montana's 1977-1983 sunset laws, which created a structured review process with automatic termination dates unless agencies were reestablished by the Legislature. Those laws required performance audits to address statutory questions concerning public harm, relationship to police power, less restrictive alternatives, cost to consumers, and whether regulatory activity was primarily directed toward public protection.

The historical review further showed that Montana moved away from automatic sunset after 1983, replacing it with a more discretionary review framework under Title 2, Chapter 8, MCA, in which the Governor may identify programs for review, and the Legislative Audit Committee may evaluate them through performance audits. The Legislative Auditor explained to the subcommittee that in recent years no programs have been identified by successive governors for review through that permissive process.

V. Lessons from Prior Montana Licensing Board Reviews

The subcommittee relied heavily on prior Montana licensing-board review efforts, especially the interim committee study conducted under House Bill 525. That review required the Economic Affairs Interim Committee to evaluate whether boards should continue, be reorganized, or have duties reassigned, and it examined public protection, financial solvency, fee structures, scope of practice, national standards, complaints, and overlap among professions.

According to the HB 525 materials and the March historical presentation, all reviewed boards were ultimately supported for continuation, but the process identified recurring issues involving fees, financial stress on smaller boards, indirect administrative costs, scope-of-practice overlap, inconsistent enforcement, and the broader tension between public protection and unnecessary regulation.

The subcommittee also discussed earlier examples of board consolidation and termination from the 1977-1983 sunset cycle, including the termination and merger of smaller boards such as osteopathic physicians and podiatry examiners, and the historical role of low licensee counts, low revenue, constitutional issues, or changing industry conditions in those decisions.

VI. Other States' Approaches to Occupational Licensing Sunset Review

In April 2026, the subcommittee reviewed a presentation on sunset review models in other states. That research showed that states vary considerably in how they structure review systems. Some review all agencies, some focus on regulatory bodies, some target selected programs or professions, and some rely on individual statutory sunset clauses.

The subcommittee considered five design components highlighted by the other-states research:

- where the process is housed;
- what statutory criteria are used;
- how frequent reviews occur;
- what methods and data are used in the review; and
- how reports are presented to the Legislature.

Examples discussed included Colorado's robust executive-branch review model and Utah's staffed review structure, both of which rely on dedicated personnel and comprehensive analysis.

The comparative review also reinforced several principles that remained central to the subcommittee's work: sunset review is meant to test whether regulation remains necessary, whether the public benefit justifies the burden, whether qualifications are appropriately tailored, and whether less restrictive alternatives could provide adequate protection.

VII. Current Montana Review Authorities and Institutional Framework

The subcommittee considered the review authorities already present in Montana law. Staff explained that current statutes already allow the Economic Affairs Interim Committee to review boards, programs, and advisory councils within its jurisdiction, but that authority is currently optional rather than mandatory. The

subcommittee also examined the Title 2 legislative review statutes, under which performance audits may be conducted on agencies or programs recommended for review.

The Legislative Auditor confirmed that the Audit Division has broad authority to perform performance audits and stated that it could provide independent support or data collection if requested through an appropriate statutory structure, though its work remains subject to audit committee direction and budget prioritization.

The subcommittee also reviewed the Department of Labor and Industry's biennial licensing board report to the Governor as an example of the information already collected on board operations, including new licenses issued, revenues, expenditures, complaints, legislative changes, and board-level activity.

VIII. Member Survey on Sunset Review Design

To refine its work, the subcommittee distributed a member survey and reviewed the results in May 2026. Ten members responded.

The survey showed broad support for a comprehensive review process. The most commonly selected review topics were board practices and administration, whether the license as a whole should continue to exist, continuing education requirements, and reciprocity or interstate recognition issues.

The survey also revealed unresolved questions. No burden-of-proof option received majority support, though the most-selected answer was that the agency must prove the requirement is needed. No single review structure received majority support, though the most common response was an independent commission or outside reviewer. On frequency, member responses clustered between four and twelve years, with support spread across several options.

IX. Key Policy Questions Considered by the Subcommittee

Across its meetings, the subcommittee repeatedly returned to a small set of policy questions: whether review should be a hard sunset or a scheduled review process; whether review should focus on boards, licenses, or requirements; who should conduct the review; how often review should occur; what information should be collected; and how the process should be structured to preserve legislative authority while remaining workable in cost and scope.

These questions evolved from broad conceptual issues into specific implementation choices by the June meeting, when the subcommittee compared a more general options memorandum with a more detailed proposal model.

X. Scope of Review: What Should Be Evaluated

The subcommittee's discussion and survey results show support for a review that addresses both the existence of licensure and the operation of boards in practice. Members discussed whether the review should evaluate the license category as a whole, continuing education requirements, reciprocity and interstate recognition, administrative costs, entry requirements, and board practices and administration.

By May, members expressed interest in using a structured set of information and questions to determine whether licensure continues to protect public health, safety, and welfare, whether requirements remain justified, and whether the current regulatory approach remains relevant in light of technology, practice changes, and access concerns.

XI. Structure of Review: Who Should Conduct the Review

The subcommittee did not initially agree on a single review structure, but discussion gradually converged around a legislative review model supported by information gathering from other entities. Members considered possibilities including an independent reviewer, advisory committee, agency staff review, Legislative Audit, or direct legislative committee review.

Several members favored a tiered structure in which one entity gathers or audits baseline information and a legislative body then conducts the policy review. Others emphasized that legislators should retain final responsibility because they are ultimately accountable for changing law and overseeing boards.

XII. Sunset Versus Scheduled Review

One of the clearest themes in the subcommittee's work was movement away from a hard automatic sunset model and toward a scheduled review process. Members repeatedly expressed concern that an automatic termination system could allow important licenses to lapse through timing, legislative congestion, or unrelated political disputes.

By June, the subcommittee expressly discussed rejecting a hard automatic sunset model, and the comparison memorandum also identified agreement between the draft models on using a scheduled review process rather than automatic termination.

XIII. Review Frequency and Scheduling

The subcommittee considered various review frequencies, with member preferences ranging from four to twelve years. In June, after discussing the burden of review, sustainability, and the Legislature's ongoing authority to act outside the cycle if needed, the subcommittee voiced support for a ten-year review cycle for existing boards and licenses.

Members also discussed the need to determine an order of review and recognized that the first cycle may require more work than subsequent cycles. Staff suggested that boards with recent practice-act revisions could be reviewed later in the cycle, while those not recently reviewed could be placed earlier.

XIV. Treatment of Newly Created Licenses

The subcommittee also addressed the treatment of newly created licenses. Discussion in June used the recent doula license as an example of a new licensing program that received a sunset provision as part of the legislative compromise that created it.

Members expressed support for reviewing new licenses on a shorter timeline than existing ones in order to determine relatively early whether the Legislature's approach was working as intended. The June discussion reflected support for a four-year review for new licenses, while allowing existing licenses and boards to follow the broader review cycle.

XV. Data Collection, Reporting, and Use of Existing Board Information

A recurring issue in the subcommittee's work was how to gather baseline information without creating unnecessary burden. The Department's biennial report to the Governor was identified early as a useful starting point because it already collects board-level data on licenses, finances, complaints, legislation, and operations.

By June, the subcommittee favored using DLI data collection as the default first step, with standardized information supplied to the reviewing legislative body and the possibility of further audit or investigation if needed.

XVI. Role of the Economic Affairs Interim Committee

The subcommittee's discussion repeatedly identified the Economic Affairs Interim Committee as the logical legislative review body because it already has oversight authority over the Department of Labor and Industry and existing statutory authority to review boards, programs, and advisory councils within its jurisdiction.

By June, the more detailed proposal contemplated DLI and boards preparing materials for Economic Affairs Interim Committee review, with the committee empowered to continue a license unchanged, request an audit, recommend legal or rule changes, or recommend sunset of the license.

XVII. Role of the Department of Labor and Industry

The Department of Labor and Industry played an important support role throughout the subcommittee's work and was discussed as the likely source of initial review data in any future system. Staff explained that the Department already compiles substantial board information, including through the Governor's biennial report, and could use existing structures as the basis for recurring review materials.

At the same time, the subcommittee also recognized concerns about having the agency be the sole reviewer and therefore generally leaned toward an approach in which DLI compiles and presents information, but the policy review itself remains with a legislative body.

XVIII. Potential Role of Legislative Audit or Other Independent Review

The subcommittee gave substantial attention to whether Legislative Audit or another independent reviewer should participate in the process. The Legislative Auditor advised that the Audit Division could likely perform independent work or gather data if authorized and prioritized through the appropriate legislative framework.

Ultimately, discussion shifted toward using audit as an available second-step tool rather than as a mandatory first-stage requirement for every review. By June, the draft recommendation direction favored DLI baseline data collection with an audit available upon Economic Affairs Interim Committee request if deeper review was warranted.

XIX. Review Standards and Justification for Restrictive Requirements

The subcommittee discussed whether more restrictive licensing requirements should require stronger justification. This issue was connected to the burden-of-proof question from the member survey and to concerns about substantial equivalency, out-of-state mobility, and barriers to entry.

Examples discussed included experience-hour requirements and other qualifications that may differ from neighboring states. The June discussion suggested interest in a purpose statement or review principle under which the reviewing body would give closer scrutiny to licensing standards that are more restrictive than necessary to protect the public.

XX. Recommended Statutory Framework

By the end of the June meeting, the subcommittee had moved toward a draft framework in which a new review process would be established in the Montana Code, built on existing licensing oversight structures rather than a wholly new system.

Staff summarized the discussion as favoring a review process, not a hard sunset; a ten-year review cycle for established boards and licenses; a four-year review for new licenses; DLI as the default first step for data collection; Economic Affairs Interim Committee review; audit available when requested; and a more general statutory structure with detailed implementation through rulemaking or reporting practices.

The memoranda before the subcommittee likewise recommended using existing statutory anchors, such as board oversight authority, biennial board reporting, and legislative review authority, while preserving the Legislature's control over final policy decisions.

XXI. Implementation Considerations

Implementation considerations were a constant theme in the subcommittee's work. Members repeatedly emphasized that any review process must be sustainable in terms of staff time, cost, volume of materials, and legislative capacity.

The subcommittee considered the burden of requiring large reports, the possibility of needing dedicated staff if the process were too robust, and the fact that board operations are funded through license fees rather than the general fund. Concerns were also raised about the cost of audit involvement and about passing administrative costs through to boards and licensees.

XXII. Areas for Further Development

Although the subcommittee reached broad direction on several issues, some details remained for final refinement. These included the exact wording of a purpose statement concerning restrictive requirements, the level of detail that should appear in statute versus rule or reporting templates, the scheduling of the initial review cycle, and the precise statutory placement of a new review framework within the Montana Code.

Staff indicated that these items would be developed further for the final subcommittee meeting and for presentation to the full task force.

XXIII. Sunset Subcommittee Recommendations to the Licensing Reform Task Force

The subcommittee's work to date points toward a recommendation for a formal, periodic review process for occupational licensing in Montana rather than a hard automatic sunset. The main components discussed and supported in substance were a ten-year review cycle for existing boards and licenses, a shorter four-year review period for new licenses, baseline information collection by the Department of Labor and Industry, review by the Economic Affairs Interim Committee, optional audit support when needed, and a framework that preserves legislative authority while requiring more systematic and recurring review than exists under current discretionary practice.

More broadly, the subcommittee's work reflects a consistent effort to balance public protection, access to services, regulatory modernization, and administrative practicality. The documents and meeting record show a clear movement toward a structured Montana review model that is evidence-based, legislatively overseen, and focused on both the necessity of licensure and the effectiveness of board administration.