

# Licensing Reform Task Force

## Sunset Subcommittee

---

### Memorandum

**To:** Sunset Subcommittee, Montana Licensing Reform Task Force

**From:** Office of Legal Services / Policy Support

**Date:** June 19, 2026

**Re:** Comparison of Sunset Review Recommendation Options and Sunset Review Proposal

### Executive Summary

The two sunset review documents are substantially aligned on the core policy direction for occupational licensing review. Both support a scheduled review process, rather than a strict automatic sunset, and both would preserve final policy decisions for the Legislature. Both also contemplate a process in which the Department of Labor & Industry and licensing boards provide standardized information to the Economic Affairs Interim Committee for public discussion and possible legislative action.

The principal difference is the level of specificity. The **Sunset Review Recommendation Options** memorandum frames the broader legal and policy choices, including statutory anchors, alternative review cycles, and unresolved implementation questions. The **Sunset Review Proposal** offers a more concrete implementation model, including an 8-year review rotation, a specific EAIC decision path, and detailed metrics and questions for board-level and license-level review.

### Areas of Agreement

Both documents reflect the same general approach to occupational licensing review:

- 1.- Review model rather than automatic termination.** Both documents avoid a hard sunset model that would automatically terminate a license or board through inaction. Instead, each document preserves legislative action as the mechanism for any substantive change, including continuation, modification, repeal, or sunset.
- 2.- Legislative ownership of final decisions.** Both documents place final policy decisions with the Legislature. The Recommendation Options memorandum emphasizes that statutory changes should proceed through the ordinary legislative process. The Proposal similarly states that final determinations should remain with legislators and that the process should provide information to assist legislative decision-making.
- 3.- EAIC as the primary review forum.** Both documents identify the Economic Affairs Interim Committee as the likely default committee for review of DLI licensing boards and programs.
- 4.- DLI and board preparation of review materials.** Both documents contemplate that DLI and the boards would prepare or provide standardized review information. Both also recognize a potential role for audit or independent review if the committee determines that further validation is needed.

5.- **Review of both administration and licensure requirements.** Both documents would examine board practices and administration, as well as individual license requirements. Common topics include board meetings, vacancies, processing times, denials, complaints, discipline, revenues, expenditures, licensing fees, reciprocity, interstate compacts, and possible modernization of statutes or scope-of-practice provisions.

## Material Differences

### 1.- Review cycle

The Recommendation Options memorandum presents multiple review-cycle options, including 8-, 10-, and 12-year cycles, and identifies a working option of a **10-year base cycle with defined triggers for earlier review**. By contrast, the Proposal recommends an **8-year rotation** and calculates that, under that schedule, EAIC would review approximately 10 boards or 39 license types each interim.

**Issue for the Subcommittee:** Whether to recommend the more frequent 8-year cycle or the 10-year middle-ground cycle with risk-based triggers for earlier review.

### 2.- Structure of the recommendation

The Recommendation Options memorandum is designed as a policy-options document. It identifies several possible approaches, including review-only, review plus legislative response, soft escalation, and hybrid review involving DLI, legislative staff, or Legislative Audit Division assistance.

The Proposal is more definitive. It recommends DLI staff data collection, presentation to EAIC, and then one of four EAIC responses: continue with no changes, request audit, recommend changes to law or rule, or recommend sunset of a license.

**Issue for the Subcommittee:** Whether to adopt the Proposal's more concrete decision path or retain flexibility among the options identified in the Recommendation Options memorandum.

### 3.- Role of Legislative Audit

The Recommendation Options memorandum treats Legislative Audit Division involvement as an open implementation issue requiring further confirmation of authority, scope, staffing, and cost. The Proposal makes audit review optional and committee-driven: EAIC may request an audit if it is not confident in the data presented.

**Issue for the Subcommittee:** Whether audit involvement should be requested as part of the initial structure, reserved for flagged issues, or left for further study.

### 4.- Burden of proof / standard of review

The Recommendation Options memorandum recommends a middle-ground burden standard: more restrictive licensing requirements should receive closer scrutiny. The Proposal does not establish a formal burden standard. Instead, it relies on the legislative process and public participation to provide the framework for evaluation.

**Issue for the Subcommittee:** Whether the recommendation should include a stated review principle, such as requiring stronger justification for more restrictive licensing requirements.

### 5.- Statutory framework

The Recommendation Options memorandum includes a statutory framework and identifies possible legal anchors for the review process, including existing interim committee oversight, board review authority, biennial reporting, Legislative Audit authority, and Montana's periodic agency evaluation framework. The Proposal does not separately analyze statutory authority, but its recommended process appears generally consistent with using existing EAIC and DLI reporting structures.

**Issue for the Subcommittee:** Whether the final recommendation should expressly identify the statutory provisions that will support or require implementation.

## Recommended Discussion Points

For the next meeting, the Subcommittee may wish to focus on the following decisions:

- 1.- Should the final recommendation expressly reject a hard automatic sunset model?
- 2.- Should the recommendation select an **8-year cycle**, a **10-year cycle**, or another cycle?
- 3.- Should the review process include **risk-based triggers** for earlier or deeper review?
- 4.- Should DLI data collection be the default first step, with audit review available only upon EAIC request?
- 5.- Should the final recommendation include a stated review principle that more restrictive licensing requirements require stronger justification?
- 6.- Should the final product include a detailed list of required metrics and board questions, as outlined in the Proposal?
- 7.- Should the final recommendation identify statutory anchors for implementation, including existing EAIC oversight, board reporting, and board review authority?

## Bottom Line

The two documents are complementary. The Recommendation Options memorandum provides the policy architecture and legal framing, while the Proposal supplies a concrete operational model. A combined recommendation could adopt the Proposal's detailed review packet and EAIC workflow while incorporating the Recommendation Options memorandum's statutory framework, anti-hard-sunset language, and risk-based early-review triggers.