

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-1134.02 Brita Darling x2241

SENATE BILL 18-260

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

(None),

Senate Committees

Education
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING IMPLEMENTING A SUNRISE REVIEW OF NEW**
102 **EDUCATIONAL SERVICES UNDER THE PRIVATE OCCUPATIONAL**
103 **SCHOOL DIVISION IN THE DEPARTMENT OF HIGHER EDUCATION,**
104 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the private occupational school board (board), with the assistance of the private occupational school division within the department of higher education (division), to promulgate rules creating

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
May 1, 2018

a sunrise review process. The sunrise review process applies to an application for new educational credentials or new educational services for which the division has not previously granted an application for a certificate of approval to operate as a private occupational school prior to a date set forth in the bill. The purpose of the sunrise review is to determine whether the new educational credentials or new educational services should be regulated by the board and division pursuant to the provisions of the "Private Occupational Education Act of 1981" (Act). Until the sunrise review process is completed, the board and division shall not exercise the powers and duties under the Act with respect to the new educational credential or new educational service.

The bill requires the board to receive, investigate, and evaluate information, including stakeholder input, to determine, in part, whether students or citizens will be harmed if the new educational credentials or new educational services are not subject to the provisions of the Act. The board shall submit a report that includes its findings and recommendations to the applicant and the participants in the process, as well as to the general assembly.

Based on the recommendations in the report, the general assembly may enact legislation that requires the board and division to regulate the new educational credentials or new educational services under the Act.

The bill permits the board to submit an amended sunrise review report to the general assembly if a change of circumstances occurs after the board's submission of the initial report to the general assembly.

Nothing in the bill limits the board's or division's powers and duties under the Act with respect to educational credentials or educational services that are not subject to the sunrise review process.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 23-64-108.5 as
3 follows:

4 **23-64-108.5. Board duty - sunrise review of new educational**
5 **credentials or new educational services - legislative declaration - rules**
6 **- report.** (1) (a) THE GENERAL ASSEMBLY FINDS THAT:

7 (I) THE DIVISION PROVIDES NECESSARY PROTECTION FOR
8 CONSUMERS AND CITIZENS OF COLORADO AGAINST FRAUDULENT OR
9 SUBSTANDARD PRIVATE OCCUPATIONAL SCHOOLS; AND

10 (II) AT THE SAME TIME, REGULATION SHOULD BE IMPOSED ON

1 ENTITIES PROVIDING NEW EDUCATIONAL CREDENTIALS OR NEW
2 EDUCATIONAL SERVICES ONLY WHEN REGULATING THOSE EDUCATIONAL
3 CREDENTIALS OR EDUCATIONAL SERVICES IS NECESSARY FOR THE
4 PROTECTION OF THE PUBLIC INTEREST.

5 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
6 APPROPRIATE FOR THE BOARD TO CONDUCT A SUNRISE REVIEW OF NEW
7 EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL SERVICES TO
8 DETERMINE WHETHER THE EDUCATIONAL CREDENTIALS OR EDUCATIONAL
9 SERVICES SHOULD BE REGULATED PURSUANT TO THE PROVISIONS OF THIS
10 ARTICLE 64.

11 (2) ON AND AFTER SEPTEMBER 1, 2018, THE BOARD, WITH THE
12 ASSISTANCE OF THE DIVISION, SHALL CONDUCT A SUNRISE REVIEW OF NEW
13 EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL SERVICES, AS DEFINED
14 IN SECTION 23-64-103, TO DETERMINE WHETHER THE EDUCATIONAL
15 CREDENTIALS OR EDUCATIONAL SERVICES SHOULD BE REGULATED
16 PURSUANT TO THE PROVISIONS OF THIS ARTICLE 64. NOTWITHSTANDING
17 ANY PROVISIONS OF THIS ARTICLE 64 TO THE CONTRARY, THE BOARD AND
18 DIVISION SHALL NOT ENFORCE THE PROVISIONS OF THIS ARTICLE 64 UNTIL
19 THE BOARD'S SUNRISE REVIEW IS COMPLETED AND THE GENERAL
20 ASSEMBLY HAS DETERMINED THAT REGULATION OF THE NEW
21 EDUCATIONAL CREDENTIAL OR NEW EDUCATIONAL SERVICE IS
22 APPROPRIATE. THE BOARD SHALL NOT CONDUCT A SUNRISE REVIEW FOR
23 ANY EDUCATIONAL CREDENTIALS AND EDUCATIONAL SERVICES THAT ARE
24 EXEMPTED PURSUANT TO SECTION 23-64-104.

25 (3) THE BOARD SHALL RECEIVE, INVESTIGATE, AND EVALUATE
26 INFORMATION, INCLUDING STAKEHOLDER INPUT, CONCERNING THE NEW
27 EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL SERVICES THAT MAY

1 BE REGULATED BY THE BOARD AND SHALL PREPARE AND SUBMIT A REPORT
2 OF ITS SUNRISE REVIEW FINDINGS AND CONCLUSIONS PURSUANT TO
3 SUBSECTION (5) OF THIS SECTION. THE BOARD SHALL DETERMINE THE
4 RELEVANT INFORMATION FOR PURPOSES OF CONDUCTING THE SUNRISE
5 REVIEW, WHICH INFORMATION MAY INCLUDE BUT NEED NOT BE LIMITED
6 TO:

7 (a) A DESCRIPTION OF THE NEW EDUCATIONAL CREDENTIALS OR
8 NEW EDUCATIONAL SERVICES TO BE REGULATED, INCLUDING AN ESTIMATE
9 OF HOW MANY ENTITIES MAY OFFER THE EDUCATIONAL CREDENTIALS OR
10 EDUCATIONAL SERVICES;

11 (b) PROPONENTS' AND OPPONENTS' REASONS FOR AND AGAINST
12 EXEMPTING THE NEW EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL
13 SERVICES FROM THE PROVISIONS OF THIS ARTICLE 64;

14 (c) THE ESTIMATED DURATION AND COST OF THE NEW
15 EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL SERVICES AND THE
16 RISK TO A STUDENT'S TIME OR MONEY IF A PRIVATE OCCUPATIONAL
17 SCHOOL OFFERING THE NEW EDUCATIONAL CREDENTIAL OR NEW
18 EDUCATIONAL SERVICE IS FRAUDULENT OR SUBSTANDARD;

19 (d) THE REASONABLE EXPECTATION OF THE PUBLIC AND
20 CONSUMERS THAT THE PARTICULAR EDUCATIONAL CREDENTIALS OR
21 EDUCATIONAL SERVICES ARE REGULATED BY THE STATE;

22 (e) WHETHER THE UNREGULATED EDUCATIONAL CREDENTIALS OR
23 EDUCATIONAL SERVICES CLEARLY HARM OR ENDANGER THE HEALTH,
24 SAFETY, OR WELFARE OF THE PUBLIC AND WHETHER THE HARM IS EASILY
25 RECOGNIZABLE AND NOT REMOTE OR DEPENDENT UPON A TENUOUS
26 ARGUMENT;

27 (f) THE POTENTIAL HARM TO A STUDENT OR CONSUMER IF THE

1 STATE'S OBJECTIVES FOR REGULATION PURSUANT TO THIS ARTICLE 64, AS
2 PROVIDED IN SECTION 23-64-102, AND THE MINIMUM STANDARDS TO
3 WHICH THE BOARD SHALL REQUIRE COMPLIANCE, AS PROVIDED IN SECTION
4 23-64-112, ARE NOT MET WITH RESPECT TO THE NEW EDUCATIONAL
5 CREDENTIALS OR NEW EDUCATIONAL SERVICES;

6 (g) WHETHER AND HOW SIMILAR EDUCATIONAL CREDENTIALS AND
7 EDUCATIONAL SERVICES ARE REGULATED IN OTHER STATES, IF KNOWN;
8 AND

9 (h) HOW THE NEW EDUCATIONAL CREDENTIALS OR NEW
10 EDUCATIONAL SERVICES COMPARE TO OR DIFFER FROM THE OTHER
11 EDUCATIONAL CREDENTIALS AND EDUCATIONAL SERVICES THAT ARE
12 EXEMPT FROM THE PROVISIONS OF THIS ARTICLE 64.

13 (4) THE BOARD SHALL PROMULGATE RULES AND ADOPT
14 PROCEDURES NECESSARY FOR THE SUNRISE REVIEW OF NEW EDUCATIONAL
15 CREDENTIALS AND NEW EDUCATIONAL SERVICES PURSUANT TO THIS
16 SECTION. THE BOARD SHALL ENSURE THAT THE PROCESS IS AS QUICK AND
17 EFFICIENT AS POSSIBLE AND NOT UNDULY BURDENSOME TO THE
18 PARTICIPANTS.

19 (5) ONCE THE BOARD HAS COMPLETED THE SUNRISE REVIEW, THE
20 BOARD SHALL SUBMIT ITS REPORT TO THE APPLICANT, TO ANY ENTITIES OR
21 STAKEHOLDERS WHO PARTICIPATED IN THE SUNRISE REVIEW PROCESS OR
22 WHO PROVIDED INFORMATION TO THE BOARD, AND TO THE GENERAL
23 ASSEMBLY. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136
24 (11)(a)(I) TO THE CONTRARY, THE REQUIREMENT THAT THE BOARD SUBMIT
25 A SUNRISE REPORT TO THE GENERAL ASSEMBLY PURSUANT TO THIS
26 SUBSECTION (5) CONTINUES INDEFINITELY.

27 (6) THE BOARD SHALL INCLUDE ONE OF THE FOLLOWING

1 RECOMMENDATIONS IN ITS REPORT FOR CONSIDERATION BY THE GENERAL
2 ASSEMBLY:

3 (a) THAT, AS A RESULT OF THE SUNRISE REVIEW PURSUANT TO THIS
4 SECTION, THE BOARD RECOMMENDS THAT THE NEW EDUCATIONAL
5 CREDENTIALS OR NEW EDUCATIONAL SERVICES BE EXEMPTED FROM THE
6 PROVISIONS OF THIS ARTICLE 64; OR

7 (b) THAT, AS A RESULT OF THE SUNRISE REVIEW PURSUANT TO THIS
8 SECTION, THE BOARD RECOMMENDS THAT THE BOARD AND DIVISION
9 EXERCISE THE POWERS AND DUTIES SET FORTH IN THIS ARTICLE 64 WITH
10 RESPECT TO THE NEW EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL
11 SERVICES.

12 (7) BASED ON THE FINDINGS AND CONCLUSIONS SET FORTH IN THE
13 BOARD'S REPORT, THE GENERAL ASSEMBLY MAY ENACT LEGISLATION:

14 (a) REQUIRING THE BOARD AND DIVISION TO EXERCISE THE POWERS AND DUTIES SET FORTH IN THIS ARTICLE 64 WITH RESPECT TO THE
15 NEW EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL SERVICES; OR

16 (b) EXEMPTING THE NEW EDUCATIONAL CREDENTIALS OR NEW
17 EDUCATIONAL SERVICES FROM THE PROVISIONS OF THIS ARTICLE 64.

18 (8) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF
19 THIS SECTION TO THE CONTRARY, IF THE BOARD FINDS THAT A CHANGE IN
20 CIRCUMSTANCES EXISTS WITH RESPECT TO EDUCATIONAL CREDENTIALS OR
21 EDUCATIONAL SERVICES PREVIOUSLY EXEMPTED BY THE GENERAL
22 ASSEMBLY THAT MAKES IT NECESSARY OR APPROPRIATE IN THE
23 DISCRETION OF THE BOARD THAT THE EDUCATIONAL CREDENTIALS OR
24 EDUCATIONAL SERVICES BE REGULATED, THE BOARD MAY SUBMIT AN
25 AMENDED REPORT TO THE GENERAL ASSEMBLY PURSUANT TO THE
26 PROVISIONS OF SUBSECTION (5) OF THIS SECTION. THE REPORT MUST
27

1 DESCRIBE THE CHANGE IN CIRCUMSTANCES THAT HAS OCCURRED SINCE
2 THE INITIAL SUNRISE REVIEW WAS COMPLETED. THE GENERAL ASSEMBLY
3 MAY REQUEST THAT THE BOARD CONDUCT A SUBSEQUENT SUNRISE
4 REVIEW OR MAY ENACT LEGISLATION REGULATING THE EDUCATIONAL
5 CREDENTIALS OR EDUCATIONAL SERVICES WITHOUT FURTHER SUNRISE
6 REVIEW.

7 (9) NOTHING IN THIS SECTION LIMITS THE BOARD'S OR DIVISION'S
8 EXERCISE OF THE POWERS AND DUTIES SET FORTH IN THIS ARTICLE 64
9 OVER EDUCATIONAL CREDENTIALS AND EDUCATIONAL SERVICES FOR
10 WHICH THE BOARD GRANTED OR DENIED A CERTIFICATE OF APPROVAL
11 PRIOR TO JULY 1, 2018.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 23-64-115.5 as
13 follows:

14 **23-64-115.5. Issuance of certificate of approval - on and after**
15 **July 1, 2018 - educational credentials and educational services.** NEW
16 EDUCATIONAL CREDENTIALS AND NEW EDUCATIONAL SERVICES, AS
17 DEFINED IN SECTION 23-64-103, ARE SUBJECT TO THE SUNRISE REVIEW
18 PROCESS PURSUANT TO SECTION 23-64-108.5. IF THE GENERAL ASSEMBLY
19 ENACTS LEGISLATION AUTHORIZING THE BOARD AND DIVISION TO
20 EXERCISE SOME OR ALL OF THE POWERS AND DUTIES SET FORTH IN THIS
21 ARTICLE 64 WITH RESPECT TO A NEW EDUCATIONAL CREDENTIAL OR NEW
22 EDUCATIONAL SERVICE, THE BOARD MAY GRANT OR DENY A CERTIFICATE
23 OF APPROVAL PURSUANT TO THE PROVISIONS OF THIS ARTICLE 64.

24 **SECTION 3.** In Colorado Revised Statutes, 23-64-103, add
25 (15.5) as follows:

26 **23-64-103. Definitions.** As used in this article 64, unless the
27 context otherwise requires:

1 (15.5) "NEW EDUCATIONAL CREDENTIALS" AND "NEW
2 EDUCATIONAL SERVICES" MEANS EDUCATIONAL CREDENTIALS, AS DEFINED
3 IN THIS SECTION, AND EDUCATIONAL SERVICES, AS DEFINED IN THIS
4 SECTION, FOR WHICH THE BOARD HAS NOT GRANTED OR DENIED A
5 CERTIFICATE OF APPROVAL PRIOR TO JULY 1, 2018.

6 **SECTION 4. Appropriation.** (1) For the 2018-19 state fiscal
7 year, \$99,804 is appropriated to the department of higher education. This
8 appropriation is from the private occupational schools fund created in
9 section 12-59-116 (1), C.R.S. To implement this act, the department may
10 use this appropriation as follows:

11 (a) \$89,148 for use by the division of private occupational
12 schools, which amount is based on an assumption that the division will
13 require an additional 1.0 FTE; and

14 (b) \$10,656 for the purchase of legal services.

15 (2) For the 2018-19 state fiscal year, \$10,656 is appropriated to
16 the department of law. This appropriation is from reappropriated funds
17 received from the department of higher education under subsection (1)(b)
18 of this section. To implement this act, the department of law may use this
19 appropriation to provide legal services for the department of higher
20 education.

21 **SECTION 5. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.