

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-1134.02 Brita Darling x2241

SENATE BILL 18-260

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

(None),

Senate Committees

Education
Finance

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.**

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 a sunrise review process. The sunrise review process applies to an application for new educational credentials or new educational services

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.

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
11 ENTITIES PROVIDING NEW EDUCATIONAL CREDENTIALS OR NEW

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

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

10 (2) ON AND AFTER SEPTEMBER 1, 2018, THE BOARD, WITH THE
11 ASSISTANCE OF THE DIVISION, SHALL CONDUCT A SUNRISE REVIEW OF NEW
12 EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL SERVICES, AS DEFINED
13 IN SECTION 23-64-103, TO DETERMINE WHETHER THE EDUCATIONAL
14 CREDENTIALS OR EDUCATIONAL SERVICES SHOULD BE REGULATED
15 PURSUANT TO THE PROVISIONS OF THIS ARTICLE 64. THE BOARD'S SUNRISE
16 REVIEW PROCESS SHALL APPLY TO NEW EDUCATIONAL CREDENTIALS AND
17 NEW EDUCATIONAL SERVICES. NOTWITHSTANDING ANY PROVISIONS OF
18 THIS ARTICLE 64 TO THE CONTRARY, THE BOARD AND DIVISION SHALL NOT
19 ENFORCE THE PROVISIONS OF THIS ARTICLE 64 UNTIL THE BOARD'S SUNRISE
20 REVIEW IS COMPLETED AND THE GENERAL ASSEMBLY HAS DETERMINED
21 THAT REGULATION OF THE NEW EDUCATIONAL CREDENTIAL OR NEW
22 EDUCATIONAL SERVICE IS APPROPRIATE. THE BOARD SHALL NOT CONDUCT
23 A SUNRISE REVIEW FOR ANY EDUCATIONAL CREDENTIALS AND
24 EDUCATIONAL SERVICES THAT ARE EXEMPTED PURSUANT TO SECTION
25 23-64-104.

26 (3) THE BOARD SHALL RECEIVE, INVESTIGATE, AND EVALUATE
27 INFORMATION, INCLUDING STAKEHOLDER INPUT, CONCERNING THE NEW

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

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

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

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

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

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

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

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

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

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

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

1 (6) THE BOARD SHALL INCLUDE ONE OF THE FOLLOWING
2 RECOMMENDATIONS IN ITS REPORT FOR CONSIDERATION BY THE GENERAL
3 ASSEMBLY:

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

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

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

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

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

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

1 PROVISIONS OF SUBSECTION (5) OF THIS SECTION. THE REPORT MUST
2 DESCRIBE THE CHANGE IN CIRCUMSTANCES THAT HAS OCCURRED SINCE
3 THE INITIAL SUNRISE REVIEW WAS COMPLETED. THE GENERAL ASSEMBLY
4 MAY REQUEST THAT THE BOARD CONDUCT A SUBSEQUENT SUNRISE
5 REVIEW OR MAY ENACT LEGISLATION REGULATING THE EDUCATIONAL
6 CREDENTIALS OR EDUCATIONAL SERVICES WITHOUT FURTHER SUNRISE
7 REVIEW.

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

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

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

25 **SECTION 3.** In Colorado Revised Statutes, 23-64-103, **add**
26 (15.5) as follows:

27 **23-64-103. Definitions.** As used in this article 64, unless the

1 context otherwise requires:

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

7 **SECTION 4. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.