

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1134.02 Brita Darling x2241

SENATE BILL 18-260

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

(None),

Senate Committees
Education

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 TO
13 DETERMINE WHETHER THE EDUCATIONAL CREDENTIALS OR EDUCATIONAL
14 SERVICES SHOULD BE REGULATED PURSUANT TO THE PROVISIONS OF THIS
15 ARTICLE 64. THE BOARD'S SUNRISE REVIEW PROCESS SHALL APPLY TO AN
16 APPLICATION FOR A CERTIFICATE OF APPROVAL FOR A NEW EDUCATIONAL
17 CREDENTIAL OR A NEW EDUCATIONAL SERVICE FOR WHICH THE EXECUTIVE
18 DIRECTOR HAS NOT PREVIOUSLY CONSIDERED AN APPLICATION FOR A
19 CERTIFICATE OF APPROVAL PRIOR TO JULY 1, 2018. NOTWITHSTANDING
20 ANY PROVISIONS OF THIS ARTICLE 64 TO THE CONTRARY, THE BOARD AND
21 DIVISION SHALL NOT ENFORCE THE PROVISIONS OF THIS ARTICLE 64 UNTIL
22 THE BOARD'S SUNRISE REVIEW IS COMPLETED AND THE GENERAL
23 ASSEMBLY HAS DETERMINED THAT REGULATION OF THE NEW
24 EDUCATIONAL CREDENTIAL OR NEW EDUCATIONAL SERVICE IS
25 APPROPRIATE. THE BOARD SHALL NOT CONDUCT A SUNRISE REVIEW FOR
26 ANY EDUCATIONAL CREDENTIALS AND EDUCATIONAL SERVICES THAT ARE
27 EXEMPTED PURSUANT TO SECTION 23-64-104.

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

10 (a) A DESCRIPTION OF THE NEW EDUCATIONAL CREDENTIALS OR
11 NEW EDUCATIONAL SERVICES TO BE REGULATED AND THE ESTIMATED
12 PROVIDERS AND AGENTS FOR THE EDUCATIONAL CREDENTIALS OR
13 EDUCATIONAL SERVICES;

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

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

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

25 (e) WHETHER THE UNREGULATED EDUCATIONAL CREDENTIALS OR
26 EDUCATIONAL SERVICES CLEARLY HARM OR ENDANGER THE HEALTH,
27 SAFETY, OR WELFARE OF THE PUBLIC AND WHETHER THE HARM IS EASILY

1 RECOGNIZABLE AND NOT REMOTE OR DEPENDENT UPON A TENUOUS
2 ARGUMENT;

3 (f) THE POTENTIAL HARM TO A STUDENT OR CONSUMER IF THE
4 STATE'S OBJECTIVES FOR REGULATION PURSUANT TO THIS ARTICLE 64, AS
5 PROVIDED IN SECTION 23-64-102, AND THE MINIMUM STANDARDS TO
6 WHICH THE BOARD SHALL REQUIRE COMPLIANCE, AS PROVIDED IN SECTION
7 23-64-112, ARE NOT MET WITH RESPECT TO THE NEW EDUCATIONAL
8 CREDENTIALS OR NEW EDUCATIONAL SERVICES;

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

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

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

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

1 A SUNRISE REPORT TO THE GENERAL ASSEMBLY PURSUANT TO THIS
2 SUBSECTION (5) CONTINUES INDEFINITELY.

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

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

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

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

17 (a) REQUIRING THE BOARD AND DIVISION TO EXERCISE SOME OR
18 ALL OF THE POWERS AND DUTIES SET FORTH IN THIS ARTICLE 64 WITH
19 RESPECT TO THE NEW EDUCATIONAL CREDENTIALS OR NEW EDUCATIONAL
20 SERVICES; OR

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

23 (8) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF
24 THIS SECTION TO THE CONTRARY, IF THE BOARD FINDS THAT A CHANGE IN
25 CIRCUMSTANCES EXISTS WITH RESPECT TO EDUCATIONAL CREDENTIALS OR
26 EDUCATIONAL SERVICES PREVIOUSLY EXEMPTED BY THE GENERAL
27 ASSEMBLY THAT MAKES IT NECESSARY OR APPROPRIATE IN THE

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

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

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

18 **23-64-115.5. Issuance of certificate of approval - on and after**
19 **July 1, 2018 - educational credentials and educational services.** NEW
20 EDUCATIONAL CREDENTIALS AND NEW EDUCATIONAL SERVICES FOR WHICH
21 THE EXECUTIVE DIRECTOR HAS NOT PREVIOUSLY CONSIDERED AN
22 APPLICATION FOR A CERTIFICATE OF APPROVAL PRIOR TO JULY 1, 2018,
23 ARE SUBJECT TO THE SUNRISE REVIEW PROCESS PURSUANT TO SECTION
24 23-64-108.5. IF THE GENERAL ASSEMBLY ENACTS LEGISLATION
25 AUTHORIZING THE BOARD AND DIVISION TO EXERCISE SOME OR ALL OF THE
26 POWERS AND DUTIES SET FORTH IN THIS ARTICLE 64 WITH RESPECT TO A
27 NEW EDUCATIONAL CREDENTIAL OR NEW EDUCATIONAL SERVICE, THE

1 BOARD MAY GRANT OR DENY A CERTIFICATE OF APPROVAL PURSUANT TO
2 THE PROVISIONS OF THIS ARTICLE 64.

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.