



**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**S2588**

**INTRODUCED BILL S2588 (INCLUDES SPONSOR'S STATEMENT):** Yes  
**COMMITTEE STATEMENT S2588: SENATE:** Yes Higher Ed.

**S2660**

**INTRODUCED BILL S2660 (INCLUDES SPONSOR'S STATEMENT):** Yes  
**COMMITTEE STATEMENT S2660: SENATE:** Yes Higher Ed.

**A4409 (ACS/1R) A1066**

**INTRODUCED BILL A4409 (INCLUDES SPONSOR'S STATEMENT):** Yes  
**INTRODUCED BILL A1066 (INCLUDES SPONSOR'S STATEMENT):** Yes  
**COMMITTEE STATEMENT: ASSEMBLY:** Yes Higher Ed. Appropriations  
**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"N.J. Gov. Murphy Takes Action on Legislation." Targeted News Service (USA) , March 2, 2021.

\*indicates synopsis was amended

RH/CL

§§6-13 -  
C.18A:3B-90 to  
18A:3B-97  
§§14-20 -  
C.34:15C-10.3 to  
34:15C-10.9

P.L. 2021, CHAPTER 27, *approved March 1, 2021*  
Senate Committee Substitute (*First Reprint*) for  
Senate, Nos. 1271, 2588, and 2660

1 AN ACT concerning postsecondary education, amending various  
2 parts of the statutory law, and supplementing Title 18A of the  
3 New Jersey Statutes and P.L.1989, c.293 (C.34:15C-1 et seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 8 of P.L.1994, c.48 (C.18A:3B-8) is amended to  
9 read as follows:

10 8. The council shall have the responsibility, consistent with  
11 State and federal law, to:

12 a. provide public information and research on higher education  
13 issues;

14 b. review and make recommendations to the **[commission]**  
15 Secretary of Higher Education concerning proposals for new  
16 programs that exceed the programmatic mission of an institution or  
17 that change the programmatic mission of an institution;

18 c. review **[and comment on]** proposals for new programs that  
19 **[demand significant added resources or raise significant issues of**  
20 **duplication but]** do not exceed the programmatic mission of the  
21 institution or require a change in the programmatic mission,  
22 according to standards established by the secretary through  
23 regulations promulgated pursuant to the “Administrative Procedure  
24 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), for the following:

25 (1) sufficient academic quality;

26 (2) sufficient evidence of labor market demand for the program;

27 (3) duplication with comparable programs of study in the State;

28 and

29 (4) whether the proposed new program will require significant  
30 additional State resources.

31 If the council determines according to the review standards set by  
32 the secretary that a proposed new program **[is]** may be of  
33 insufficient academic quality, may lack sufficient evidence of labor  
34 market demand, may be duplicative of comparable programs of  
35 study, or may be unduly expensive **[or unduly duplicative]** to the

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted November 12, 2020.

1 State, the council shall refer that proposal to the **[commission]**  
2 secretary for review**];** however, unless the commission disapproves  
3 of that program within 60 days of its referral, the program shall be  
4 deemed approved**]** pursuant to subsection f. of section 14 of  
5 P.L.1994, c.48 (C.18A:3B-14);

6 d. encourage the formation of regional or other alliances among  
7 institutions including interinstitutional transfers, program  
8 articulation, cooperative programs and shared resources and  
9 develop criteria for "full faith and credit" transfer agreements  
10 between county colleges and other institutions of higher education.  
11 The council shall also keep institutions apprised of the  
12 discontinuance of programs at other institutions and each president  
13 shall notify the council of any such action;

14 e. advise and assist the **[commission]** secretary in developing  
15 and updating a plan for higher education in the State including, but  
16 not limited to, the establishment of new institutions, closure of  
17 existing institutions and consolidation of institutions;

18 f. provide policy recommendations on Statewide higher  
19 education issues;

20 g. recommend to the Governor, Legislature and **[commission]**  
21 secretary on policy and overall levels of funding for student aid  
22 programs necessary to ensure accessibility to higher education;

23 h. transmit to the Governor, Legislature and **[commission]**  
24 secretary a general budget policy statement regarding overall State  
25 funding levels;

26 i. upon referral from the **[commission]** secretary pursuant to  
27 this act provide recommendations concerning institutional licensure  
28 and university status;

29 j. appoint subcommittees consisting of the presidents of the  
30 institutions of the various higher education sectors to decide  
31 matters, within the authority of the council. The presidents of the  
32 independent institutions shall develop a unified request for State  
33 support under chapter 72B of Title 18A of the New Jersey Statutes.  
34 The presidents of the county college sector shall develop a unified  
35 request for State support under chapter 64A of Title 18A of the New  
36 Jersey Statutes; and

37 k. consult with the Higher Education Student Assistance  
38 Authority concerning student assistance matters.

39 (cf: P.L.1999, c.46, s.29)

40

41 2. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to  
42 read as follows:

43 14. The Secretary of Higher Education shall be responsible for:

44 a. Statewide planning for higher education including research  
45 on higher education issues and the development of a comprehensive  
46 master plan, including, but not limited to, the establishment of new  
47 institutions, closure of existing institutions, and consolidation of

- 1 institutions, which plan shall be long-range in nature. Within 180  
2 days of the effective date of P.L.2015, c.91 and, at a minimum,  
3 every seven years thereafter, the secretary shall adopt a new  
4 comprehensive master plan. The council may request the secretary  
5 to conduct a study of a particular issue. The secretary may require  
6 from institutions of higher education such reports or other  
7 information as may be necessary to enable the secretary to perform  
8 his duties;
- 9 b. advocacy on behalf of higher education including informing  
10 the public of the needs and accomplishments of higher education in  
11 New Jersey;
- 12 c. making recommendations to the Governor and Legislature  
13 on higher education initiatives and incentive programs of Statewide  
14 significance;
- 15 d. final administrative decisions over institutional licensure and  
16 university status giving due consideration to the accreditation status  
17 of the institution. The secretary shall furnish the Presidents' Council  
18 with any pertinent information compiled on behalf of the subject  
19 institution and the council shall then make recommendations to the  
20 secretary concerning the licensure of the institution or university  
21 status within sixty days of receipt of the information;
- 22 e. adopting a code of ethics applicable to institutions of higher  
23 education;
- 24 f. final administrative decisions over new academic programs  
25 that go beyond the programmatic mission of the institution and final  
26 administrative decisions over a change in the programmatic mission  
27 of an institution. In addition, within 60 days of referral of a  
28 proposed new program **【determined to be unduly expensive or**  
29 **duplicative】** by the council, the secretary may deny approval of  
30 programs proposed by <sup>1</sup>【public】<sup>1</sup> institutions of higher education  
31 which do not exceed the programmatic mission of the institution,  
32 but which **【are】** may be of insufficient academic quality, may lack  
33 sufficient evidence of labor market demand, may be duplicative of  
34 comparable programs of study, or may be unduly expensive to the  
35 State as determined by the New Jersey Presidents' Council **【to be**  
36 unduly duplicative or expensive】 according to the review standards  
37 set by the secretary <sup>1</sup>【, and review and comment on proposed new  
38 programs submitted by independent institutions of higher education,  
39 within 60 days of referral by the council】<sup>1</sup>;
- 40 g. reviewing requests for State support from the institutions in  
41 relation to the mission of the institution and Statewide goals and  
42 proposing a coordinated budget policy statement to the Governor  
43 and Legislature;
- 44 h. communicating with the State Board of Education and  
45 Commissioner of Education to advance public education at all  
46 levels including articulation between the public schools and higher  
47 education community;

- 1 i. applying for and accepting grants from the federal  
2 government, or any agency thereof, or grants, gifts or other  
3 contributions from any foundation, corporation, association or  
4 individual, and complying with the terms, conditions and  
5 limitations thereof, for the purpose of advancing higher education.  
6 Any money so received may be expended by the secretary upon  
7 warrant of the director of the Office of Management and Budget in  
8 the Department of the Treasury on vouchers certified by the  
9 secretary;
- 10 j. acting as the lead agent of communication with the federal  
11 government concerning higher education issues, except that the  
12 Higher Education Student Assistance Authority shall act, in  
13 cooperation with the secretary, as the lead agency on issues of  
14 student assistance;
- 15 k. exercising all of the powers and duties previously exercised  
16 by the Board of Higher Education, the Department of Higher  
17 Education, and the Chancellor of Higher Education, under the "New  
18 Jersey Higher Education Building Construction Bond Act of 1971,"  
19 P.L.1971, c.164, the "New Jersey Medical Education Facilities  
20 Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and  
21 Technology Bond Act of 1984," P.L.1984, c.99, the "Jobs,  
22 Education and Competitiveness Bond Act of 1988," P.L.1988, c.78,  
23 the "Higher Education Equipment Leasing Fund Act," P.L.1993,  
24 c.136, and the "Higher Education Facilities Trust Fund Act,"  
25 P.L.1993, c.375;
- 26 l. exercising any other power or responsibility necessary in  
27 order to carry out the provisions of this act;
- 28 m. consulting with the Higher Education Student Assistance  
29 Authority on student assistance matters;
- 30 n. advising and making recommendations for consideration to  
31 the Governor and the governing board of a public research  
32 university or a State college for members of that governing board  
33 appointed by the Governor; and
- 34 o. examining and recommending to institutions of higher  
35 education opportunities for joint purchasing and other joint  
36 arrangements that would be advantageous to the institutions.  
37 (cf: P.L.2015, c.91, s.1)
- 38
- 39 3. Section 15 of P.L.1994, c.48 (C.18A:3B-15) is amended to  
40 read as follows:
- 41 15. The **【commission】** secretary shall adopt rules and  
42 regulations, pursuant to the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the  
44 provisions of this act. **【Regulations adopted by the State Board of**  
45 **Higher Education pertaining to:**
- 46 a. licensing of institutions and university status;

- 1       b. outside employment for employees of public institutions and  
2 State agencies and Code of Ethics;
- 3       c. residency requirements for tuition purposes;
- 4       d. personnel policies which affect the terms and conditions of  
5 employment including classification and compensation plans  
6 adopted pursuant thereto;
- 7       e. tenure and multi-year contracts;
- 8       f. rights and procedures in a reduction in force;
- 9       g. student trustee policies; and
- 10      h. regulations concerning early retirement programs and length  
11 of the academic year shall continue with full force and effect under  
12 the authority of the commission for a period of one year from the  
13 effective date of this act or until amended, continued or repealed by  
14 the commission pursuant to law. **】**

15 (cf: P.L.1994, c.48, s.15)

16

17       4. Section 20 of P.L.2009, c.308 (C.18A:3B-65) is amended to  
18 read as follows:

19       20. a. Subject to the approval of the Secretary of Higher  
20 Education, the governing board of a public research university or a  
21 State college may establish a branch campus. The governing board  
22 shall submit the plan for the branch campus to the secretary for  
23 review and approval. The plan shall be developed and reviewed  
24 according to standards established by the secretary through  
25 regulations promulgated pursuant to the “Administrative Procedure  
26 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

27       b. When the governing board **【**of a public research university or  
28 a State college**】**, after study and investigation, determines that it is  
29 advisable for the institution to establish a branch campus or  
30 additional location out-of-State or out-of-country that will serve at  
31 least **【500】** 100 students of the institution, the board shall **【submit】**  
32 include in the plan for the branch campus or additional location  
33 submitted to the **【commission】** secretary **【**for its review and  
34 recommendations. The plan shall include**】**:

35       (1) a description of the higher educational needs of the country  
36 or region in which the branch campus or additional location shall be  
37 located;

38       (2) a description of the proposed branch campus or additional  
39 location and its proposed programs and curriculum; **【and】**

40       (3) an estimate of the cost of establishing and maintaining the  
41 branch campus or additional location including the cost of any  
42 planned acquisition or construction of facilities;

43       (4) a commitment that the branch campus or additional location  
44 will comply with the provisions of P.L.1963, c.73 (C.47:1A-1 et  
45 seq.), commonly known as the open public records act; and

46       (5) any other information or data deemed necessary by the  
47 **【commission】** secretary.

1       **[b.] c.** In developing **[its]** a response to the plan, the  
2 **[commission]** secretary shall consider whether there is a need for  
3 the institution to acquire a branch campus or additional location and  
4 whether the institution has the financial capacity to support the  
5 campus or additional location.

6       d. The secretary may approve the establishment of an out-of-  
7 State or out-of-country branch campus or additional location if the  
8 secretary determines that the branch campus or additional location:

- 9       (1) serves a compelling State interest;  
10       (2) does not impose excessive costs or reputational risk to the  
11 State;  
12       (3) does not impose a risk to the security interests of the State or  
13 federal government; and  
14       (4) does not conflict with existing State or federal laws or  
15 regulations.

16       In making the determination, the secretary may utilize the  
17 assistance of an external consultant team, solicit comments from  
18 interested parties including faculty and members of professional  
19 staff not holding faculty rank at the public research university or  
20 State college, and conduct a site visit at the proposed site of the  
21 branch campus or additional location.

22       e. The governing board of a public research university or a  
23 State college shall fix the salary of all faculty and members of the  
24 professional staff not holding faculty rank performing services at  
25 '[a] an out-of-State or out-of-country' branch campus or additional  
26 location, and the faculty and members shall be paid and provided  
27 benefits in the same manner as all other employees of the public  
28 research university or State college performing services on behalf  
29 of the public research university or State college within the State.

30       f. The cost for consultants utilized by the secretary and other  
31 out-of-pocket expenses incurred by the secretary for branch campus  
32 and related reviews shall be paid by the institution seeking to  
33 establish a branch campus or additional location.

34       g. The secretary shall adopt rules and regulations, pursuant to  
35 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
36 seq.), necessary to carry out the provisions of this section.

37       h. <sup>1</sup>When the governing board of an independent institution of  
38 higher education, after study and investigation, determines that it is  
39 advisable for the institution to establish a branch campus or  
40 additional location in the State that will serve at least 100 students  
41 of the institution, the board shall submit the plan for the branch  
42 campus or additional location to the secretary for review and  
43 comment. The plan shall be developed and reviewed according to  
44 standards established by the secretary through rules and regulations  
45 promulgated pursuant to the "Administrative Procedure Act,"  
46 P.L.1968, c.410 (C.52:14B-1 et seq.).

47       i.<sup>1</sup> As used in this section:



1       “Additional location” means a location, other than a branch  
2 campus, that is geographically apart from the main campus and at  
3 which the institution offers at least 50 percent of an educational  
4 program.

5       “Branch campus” means a physical facility located at a place  
6 other than the institution’s principal campus offering one or more  
7 complete programs leading to a degree.

8 (cf: P.L.2009, c.308, s.20)

9

10       5. N.J.S.18A:68-3 is amended to read as follows:

11       18A:68-3. a. No corporation shall furnish instruction or learning  
12 in the arts, sciences, or professions for the purposes of admitting  
13 any person to the grade of a degree, or shall confer or participate in  
14 conferring a degree, giving to any person a diploma of graduation  
15 or of proficiency in a course of study, in learning, or in scientific  
16 arts or methods, within this State, until it shall have filed a certified  
17 copy of its certificate of incorporation with the **【Commission on】**  
18 **Secretary of Higher Education** and obtained from the **【commission】**  
19 **secretary** a license to carry on the business under such rules as the  
20 **【commission】 secretary** may prescribe.

21       b. The secretary shall prepare a fee schedule to cover the  
22 reasonable administrative costs associated with licensing  
23 procedures and submit the initial fee schedule to the Legislature for  
24 review. The secretary shall subsequently adopt, pursuant to the  
25 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
26 seq.), the fee schedule. Fees collected shall be deposited in the  
27 State Treasury.

28       c. The cost for consultants utilized by the **【Commission on】**  
29 **Secretary of Higher Education** and other out-of-pocket expenses  
30 incurred by the **【commission】 secretary** for licensure and related  
31 reviews shall be paid by the institution seeking a license or license  
32 renewal.

33 (cf: P.L.1999, c.46, s.44)

34

35       6. (New section) As used in sections 6 through 12 of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill):

37       “Closure” means the cessation of operations by an institution of  
38 higher education or a proprietary institution licensed to offer  
39 academic degrees.

40       “Secretary” means the Secretary of Higher Education.

41       “Disorderly closure” means a closure that does not meet the  
42 requirements of P.L. , c. (C. ) (pending before the Legislature as  
43 this bill).

44       “Eligible transfer institution” means an institution of higher  
45 education or a proprietary institution licensed to offer academic  
46 degrees that has been approved by the secretary pursuant to section  
47 10 of P.L. , c. (C. ) (pending before the Legislature as this bill).

1 "Institutional debt" means:

2 (1) the amount outstanding on any credit, including unpaid  
3 charges, extended by or on behalf of an institution of higher  
4 education or a proprietary institution licensed to offer academic  
5 degrees that a student is obligated to repay, whether the amount has  
6 been reduced to a judgment or the institution classifies it as a loan;  
7 or

8 (2) a nonfederal loan or debt agreement that is issued expressly  
9 for postsecondary education expenses and that is guaranteed by an  
10 institution of higher education or a proprietary institution or a  
11 private educational lender that is affiliated with an institution of  
12 higher education or a proprietary institution.

13 "Institutional financial aid agreement" means any contract,  
14 promissory note, part of an enrollment agreement, or other  
15 agreement in which a student agrees to pay an institutional debt.

16 "Orderly closure" means a closure that meets the requirements of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill).

18 "Student" means an individual enrolled at an institution of higher  
19 education or a proprietary institution licensed to offer academic  
20 degrees in New Jersey, or a New Jersey resident enrolled at an  
21 institution of higher education or proprietary institution located  
22 outside of this State.

23 "Teach-out agreement" means a written agreement between  
24 institutions that provides for the equitable treatment of students and  
25 a reasonable opportunity for students to complete their program of  
26 study if an institution, or an institutional location that provides 100  
27 percent of at least one program offered, ceases to operate before all  
28 enrolled students have completed their program of study.

29 "Teach-out plan" means a written plan developed by the  
30 institution that provides for the equitable treatment of students if an  
31 institution, or an institutional location, ceases to operate before all  
32 students have completed their program of study, and may include, if  
33 required by the institution's accrediting agency, a teach-out  
34 agreement between institutions.

35  
36 7. (New section) a. An independent institution of higher  
37 education and a proprietary institution licensed to offer academic  
38 degrees shall immediately notify the secretary of any known  
39 financial liabilities or risks that are reasonably likely to result in the  
40 imminent closure of the institution or otherwise negatively affect  
41 the institution's ability to fulfill its obligations to current and  
42 admitted students.

43 b. All independent institutions and proprietary institutions  
44 licensed to offer academic degrees shall submit an annual fiscal  
45 monitoring report to the secretary according to a schedule  
46 established by the secretary and in a format developed by the  
47 secretary.

1 c. The secretary shall establish a process to annually assess  
2 each independent institution's and proprietary institution's financial  
3 information to identify whether an institution is at risk of imminent  
4 closure. The assessment shall be based on a review of information  
5 received through the annual fiscal monitoring report. In addition to  
6 the annual report, the secretary may also conduct additional  
7 assessments at the secretary's discretion to identify whether an  
8 institution is at risk of imminent closure.

9 d. If the secretary determines there is a risk of imminent  
10 closure, the determination and a summary of the basis for the  
11 determination shall be provided to the institution. Upon receipt of  
12 the determination and summary the institution shall immediately:

13 (1) notify the secretary of any known liabilities, risks, or  
14 financial issues;

15 (2) provide to the secretary any information necessary to  
16 accurately and fairly determine the institution's financial status and  
17 likelihood of imminent closure and to monitor its condition;

18 (3) prepare and submit to the secretary a contingency plan for  
19 closure, which shall include:

20 (a) a process to notify relevant stakeholders, as determined by  
21 the secretary including, but not limited to, enrolled students,  
22 candidates who have submitted applications, recent graduates,  
23 faculty, staff, and host communities;

24 (b) arrangements for the continued education of currently  
25 enrolled students via teach-out agreement or other practical  
26 solution;

27 (c) a plan for the transfer to and long-term maintenance of  
28 records, particularly student academic records, by a third-party if  
29 the institution closes;

30 (d) information about the rights and responsibilities of student  
31 loan borrowers;

32 (e) information about the institution's financial condition,  
33 accreditation status, and any outstanding compliance issues  
34 regarding federal and State student aid programs; and

35 (f) confirmation that the institution has obtained either a surety  
36 bond or letter of credit to refund student enrollment deposits and for  
37 the cost to maintain student records by a third-party.

38 e. Upon a finding by the secretary that an institution has failed  
39 to comply with the requirements of this section, the secretary shall  
40 have the authority to order:

41 (1) a fine not to exceed \$1,000 per day of non-compliance with  
42 the requirements of this section;

43 (2) the suspension of any State funding designated for the  
44 institution; and

45 (3) the suspension or revocation of any degree-granting  
46 authority previously conferred on the institution.

47 f. Any information submitted to, or developed by, the secretary  
48 in furtherance of this section shall not be a public record and shall

1 be exempt from disclosure under provisions of P.L.1963, c.73  
2 (C.47:1A-1 et seq.), commonly known as the open public records  
3 act.

4

5 8. (New section) a. This section shall apply to a proprietary  
6 institution licensed to offer academic degrees that operates in this  
7 State.

8 b. A proprietary institution licensed to offer academic degrees  
9 shall provide the secretary a teach-out plan that addresses a  
10 potential closure of the institution. The teach-out plan shall be  
11 updated as required by the secretary.

12 c. A teach-out plan shall include any information required by  
13 the secretary and shall state that:

14 (1) the institution shall make all reasonable efforts to ensure that  
15 any closure of the institution complies with the requirements of  
16 sections 9 through 12 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill);

18 (2) the chief executive officer and the members of the governing  
19 body of the institution were not in an executive position or a  
20 member of a governing body of an institution in which a disorderly  
21 closure occurred; and

22 (3) any institutional financial aid agreement offered to a student  
23 shall contain language stating that, in the event of a disorderly  
24 closure, the institutional debt shall be void and shall not be  
25 recovered, collected, or enforced.

26 d. The Office of the Attorney General shall seek an injunction  
27 or other judicial remedy against a proprietary institution licensed to  
28 offer academic degrees that fails to comply with the requirements of  
29 this section, including requiring the institution to refund all tuition  
30 and fees paid by any student.

31

32 9. (New section) a. Sections 9 through 12 of P.L. , c. (C. )  
33 (pending before the Legislature as this bill) shall apply to an  
34 institution of higher education or a proprietary institution licensed  
35 to offer academic degrees that operates in this State.

36 b. An institution of higher education or a proprietary institution  
37 licensed to offer academic degrees shall enter into a school-to-  
38 school teach-out agreement at least 120 days prior to the cessation  
39 of institution operations.

40 c. In order to satisfy the requirements of this section, a school-  
41 to-school teach-out agreement shall:

42 (1) be arranged by the closing institution;

43 (2) be agreed to by an eligible transfer institution, the closing  
44 institution, and the secretary;

45 (3) unless waived for good cause by the secretary, specify that  
46 the eligible transfer institution shall:

- 1 (a) be located within a reasonable distance of the closing  
2 institution, if the closing institution has a physical presence in the  
3 State;
- 4 (b) accept the transfer of all completed credits from students  
5 affected by the closure; and
- 6 (c) allow a student affected by the closure to complete the  
7 student's program with substantially the same number of credit  
8 hours as was required by the closing institution;
- 9 (4) specify that, on request by a student affected by the closure,  
10 the closing institution shall provide a complete academic record and  
11 an official transcript to the student at no cost to the student; and
- 12 (5) meet any other standards as deemed appropriate by the  
13 secretary.

14

15 10. (New section) a. The Secretary of Higher Education shall  
16 approve an institution of higher education or a proprietary  
17 institution licensed to offer academic degrees to act as an eligible  
18 transfer institution if the institution:

- 19 (1) is in good standing with its accreditor and, if applicable, its  
20 licensing body;
- 21 (2) if applicable, has not been sanctioned by the United States  
22 Department of Education due to having a high cohort loan default  
23 rate;
- 24 (3) has not been placed on Heightened Cash Monitoring  
25 Payment Method Level 2 by the United States Department of  
26 Education;
- 27 (4) within the previous five years has not had any judgments  
28 related to a consumer protection law entered against it in favor of a  
29 law enforcement agency; and
- 30 (5) meets the requirements provided in section 9 of P.L. , c.  
31 (C. ) (pending before the Legislature as this bill), and any  
32 additional standards provided pursuant to subsection b. of this  
33 section.

34 b. The secretary may establish additional standards on a case-  
35 by-case basis for approving an eligible transfer institution.

36

37 11. (New section) a. Before any institution of higher education  
38 or proprietary institution licensed to offer academic degrees ceases  
39 educational instruction or administrative operation, the institution  
40 shall file with the eligible transfer institution or a third-party  
41 approved by the secretary copies of all essential records of the  
42 current or former students of the institution. The obligation of an  
43 institution under this section shall not be discharged in bankruptcy.

44 b. If an institution of higher education or a proprietary  
45 institution licensed to offer academic degrees does not file all  
46 essential records in accordance with this section, the Office of the  
47 Attorney General may:

1 (1) require the institution to refund all tuition and fees paid by a  
2 student whose records are not filed in accordance with this section;  
3 and

4 (2) seek an injunction or other judicial remedy against the  
5 institution or school.  
6

7 12. (New section) a. It shall be an unlawful practice and a  
8 violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any institution of  
9 higher education, proprietary institution licensed to offer academic  
10 degrees, person, or entity to collect on a student's institutional debt  
11 if the institutional financial aid agreement does not contain the  
12 language required under paragraph (3) of subsection c. of section 8  
13 of P.L. , c. (C. ) (pending before the Legislature as this bill).

14 b. It shall be an unlawful practice and a violation of P.L.1960,  
15 c.39 (C.56:8-1 et seq.) for an institution of higher education or  
16 proprietary institution licensed to offer academic degrees to collect  
17 on the institutional debt of a student who attended a program in  
18 which a disorderly closure occurred.  
19

20 13. (New section) The Secretary of Higher Education shall  
21 adopt rules and regulations pursuant to the "Administrative  
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
23 the purposes of sections 6 through 12 of P.L. , c. (C. ) (pending  
24 before the Legislature as this bill).  
25

26 14. (New section) As used in sections 14 through 20 of P.L. ,  
27 c. (C. ) (pending before the Legislature as this bill):

28 "Closure" means the cessation of operations by a private career  
29 school.

30 "Commissioner" means the Commissioner of Labor and  
31 Workforce Development.

32 "Disorderly closure" means a closure that does not meet the  
33 requirements of P.L. , c. (C. ) (pending before the Legislature as  
34 this bill).

35 "Eligible transfer institution" means a private career school that  
36 has been approved by the commissioner pursuant to section 17 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill).

38 "Institutional debt" means:

39 (1) the amount outstanding on any credit, including unpaid  
40 charges, extended by or on behalf of a private career school that a  
41 student is obligated to repay, whether the amount has been reduced  
42 to a judgment or the school classifies it as a loan; or

43 (2) a nonfederal loan or debt agreement that is issued expressly  
44 for postsecondary education expenses and that is guaranteed by a  
45 private career school or a private educational lender that is affiliated  
46 with a private career school.

1 "Institutional financial aid agreement" means any contract,  
2 promissory note, part of an enrollment agreement, or other  
3 agreement in which a student agrees to pay an institutional debt.

4 "Orderly closure" means a closure that meets the requirements of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill).

6 "Private career school" means a privately owned and privately  
7 operated postsecondary school, other than an institution of higher  
8 education or proprietary institution licensed to offer academic  
9 degrees, that furnishes or offers to furnish programs, whether or not  
10 requiring a payment of tuition or fee, for the purpose of training,  
11 retraining, or upgrading individuals for gainful employment as  
12 workers in recognized or emerging occupations.

13 "Student" means an individual enrolled at a private career school  
14 in New Jersey, or a New Jersey resident enrolled at a private career  
15 school located outside of this State.

16 "Teach-out agreement" means a written agreement between  
17 schools that provides for the equitable treatment of students and a  
18 reasonable opportunity for students to complete their program of  
19 study if a school, or a school location that provides 100 percent of  
20 at least one program offered, ceases to operate before all enrolled  
21 students have completed their program of study.

22 "Teach-out plan" means a written plan developed by the school  
23 that provides for the equitable treatment of students if a school, or a  
24 school location, ceases to operate before all students have  
25 completed their program of study, and may include, if required by  
26 the school's accrediting agency, a teach-out agreement between  
27 schools.

28  
29 15. (New section) a. Sections 14 through 20 of P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill) shall apply to  
31 a private career school that operates in this State.

32 b. A private career school shall provide the commissioner a  
33 teach-out plan that addresses a potential closure of the school. The  
34 teach-out plan shall be updated as required by the commissioner.

35 c. A teach-out plan shall include any information required by  
36 the commissioner and shall state that:

37 (1) the school shall make all reasonable efforts to ensure that  
38 any closure of a school complies with the requirements of P.L. , c.  
39 (C. ) (pending before the Legislature as this bill);

40 (2) the chief executive officer and the members of the governing  
41 body of the school were not in an executive position or a member of  
42 a governing body of a school in which a disorderly closure  
43 occurred; and

44 (3) any institutional financial aid agreement offered to a student  
45 shall contain language stating that, in the event of a disorderly  
46 closure, the institutional debt shall be void and shall not be  
47 recovered, collected, or enforced.

1 d. The commissioner shall seek an injunction or other judicial  
2 remedy against a private career school that fails to comply with the  
3 requirements of this section, including requiring the school to  
4 refund all tuition and fees paid by any student.  
5

6 16. (New section) a. A private career school shall enter into a  
7 school-to-school teach-out agreement at least 120 days prior to the  
8 cessation of school operations.

9 b. In order to satisfy the requirements of this section, a school-  
10 to-school teach-out agreement shall:

11 (1) be arranged by the closing private career school;

12 (2) be agreed to by an eligible transfer institution, the closing  
13 private career school, and the commissioner; and

14 (3) unless waived for good cause by the commissioner, specify  
15 that the eligible transfer institution shall:

16 (a) be located within a reasonable distance of the closing school,  
17 if the closing school has a physical presence in the State;

18 (b) accept the transfer of all completed credits from students  
19 affected by the closure; and

20 (c) allow a student affected by the closure to complete the  
21 student's program with substantially the same number of credit  
22 hours as was required by the closing school; and

23 (4) not charge a student tuition or fees in excess of the lesser of:

24 (a) the remaining amount that a student affected by the closure  
25 would have paid to the closing school to complete the program; or

26 (b) the transfer institution's applicable tuition and fees; and

27 (5) specify that, on request by a student affected by the closure,  
28 the closing school shall provide a complete academic record and an  
29 official transcript to the student at no cost to the student.  
30

31 17. (New section) a. The Commissioner of Labor and  
32 Workforce Development shall approve a private career school to act  
33 as an eligible transfer institution if the school:

34 (1) is in good standing with its accreditor and, if applicable, its  
35 licensing body;

36 (2) if applicable, has not been sanctioned by the United States  
37 Department of Education due to having a high cohort loan default  
38 rate;

39 (3) has not been placed on Heightened Cash Monitoring  
40 Payment Method Level 2 by the United States Department of  
41 Education;

42 (4) within the previous five years, has not entered into any  
43 settlement agreements related to a consumer protection law with a  
44 law enforcement agency, or had any judgments related to a  
45 consumer protection law entered against it in favor of a law  
46 enforcement agency; and

47 (5) meets the requirements provided in section 16 of P.L. ,

48 c. (C. ) (pending before the Legislature as this bill), and any



1 additional standards provided pursuant to subsection b. of this  
2 section.

3 b. The commissioner may establish additional standards on a  
4 case-by-case basis for approving an eligible transfer institution.

5  
6 18. (New section) a. Before any private career school ceases  
7 operations, the school shall file with the commissioner copies of all  
8 essential records of the current or former students of the school.  
9 The obligation of a school under this section shall not be discharged  
10 in bankruptcy.

11 b. The records shall present, as separate documents:

12 (1) the official academic transcript of each student;

13 (2) any other academic information usually required by private  
14 career schools when considering students for transfer or advanced  
15 study; and

16 (3) if requested by the commissioner, the financial aid and  
17 financial account information of each student.

18 c. The records shall be accompanied by an affidavit as to the  
19 accuracy and completeness of the records on behalf of the school's  
20 board of trustees, bursar, chief administrative officer, chief  
21 executive officer, chief financial officer, or registrar.

22 d. The commissioner shall maintain a permanent file of all  
23 records filed with the commissioner under this section.

24 e. (1) If a student who attended a private career school that  
25 closed in accordance with P.L. , c. (C. ) (pending before the  
26 Legislature as this bill) requests a copy of the student's official  
27 academic transcript from the commissioner and the commissioner  
28 determines that the requested transcript is missing, incomplete, or in  
29 a format inaccessible to the student, the commissioner may issue a  
30 replacement transcript for the student based solely on the most  
31 recent information provided by the school that the student attended.

32 (2) A replacement transcript issued in accordance with  
33 paragraph (1) of this subsection shall be signed by a designee of the  
34 commissioner, contain an explanation of the closure of the school,  
35 and contain an explanation of the source of all information  
36 contained in the replacement transcript.

37 f. (1) Except as provided in paragraph (2) of this subsection, a  
38 replacement transcript issued in accordance with this section shall  
39 be accepted as an official transcript by any private career school  
40 operating in the State.

41 (2) For purposes of student transfer, a private career school may  
42 consider, instead of or in addition to a replacement transcript, an  
43 unofficial transcript or other transcript information provided by the  
44 student that the receiving institution or program deems relevant.

45 g. (1) The commissioner shall adopt regulations necessary to  
46 carry out the provisions of this section, which shall include the  
47 manner and format in which student records are to be filed with the

1 commissioner, and a description of the circumstances under which a  
2 private career school may cease operation.

3 h. If a private career school does not file all essential records  
4 with the commissioner in accordance with this section, the  
5 commissioner may:

6 (1) require the school to refund all tuition and fees paid by a  
7 student whose records are not filed in accordance with this section;  
8 and

9 (2) seek an injunction or other judicial remedy against the  
10 private career school.

11

12 19. (New section) a. It shall be an unlawful practice and a  
13 violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any private career  
14 school, person, or entity to collect on a student's institutional debt  
15 if the institutional financial aid agreement does not contain the  
16 language required under paragraph (3) of subsection c. of section 15  
17 of P.L. , c. (C. ) (pending before the Legislature as this bill).

18 b. It shall be an unlawful practice and a violation of P.L.1960,  
19 c.39 (C.56:8-1 et seq.) for a private career school to collect on the  
20 institutional debt of a student who attended a program in which a  
21 disorderly closure occurred.

22

23 20. (New section) The Commissioner of Labor and Workforce  
24 Development, in consultation with the Commissioner of Education,  
25 shall adopt rules and regulations pursuant to the "Administrative  
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
27 the purposes of sections 14 through 19 of P.L. , c. (C. ) (pending  
28 before the Legislature as this bill).

29

30 21. This act shall take effect on <sup>1</sup>【the 120th day next following  
31 enactment】 September 1, 2021<sup>1</sup>.

32

33

34

35

36 \_\_\_\_\_  
37 Establishes requirements for closures of private career schools  
38 and institutions of higher education, modifies review process of  
new academic programs, and requires approval of branch campuses.

# SENATE, No. 1271

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**SYNOPSIS**

Requires governing board of public institution of higher education to gain approval of Secretary of Higher Education prior to establishing branch campus or additional location.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 8/25/2020)

1 AN ACT concerning public institutions of higher education and  
2 amending P.L.2009, c.308.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 20 of P.L.2009, c. 308 (C. 18A:3B-65) is amended  
8 to read as follows:

9 20. a. Subject to the approval of the Secretary of Higher  
10 Education, the governing board of a public research university or a  
11 State college may establish a branch campus or additional location  
12 out-of-State or out-of-country. When the governing board **[of a**  
13 **public research university or a State college]**, after study and  
14 investigation, determines that it is advisable for the institution to  
15 establish a branch campus or additional location out-of-State or out-  
16 of-country that will serve at least **[500]** 100 students of the  
17 institution, the board shall submit the plan for the branch campus or  
18 additional location to the **[commission]** secretary for **[its]** review  
19 and **[recommendations]** approval . The plan shall include:

20 (1) a description of the higher educational needs of the country  
21 or region in which the branch campus or additional location shall be  
22 located;

23 (2) a description of the proposed branch campus or additional  
24 location and its proposed programs and curriculum; **[and]**

25 (3) an estimate of the cost of establishing and maintaining the  
26 branch campus or additional location including the cost of any  
27 planned acquisition or construction of facilities;

28 (4) a commitment that the branch campus or additional location  
29 will comply with the provisions of P.L.1963, c.73 (C.47:1A-1 et  
30 seq.), known commonly as the open public records act; and

31 (5) any other information or data deemed necessary by the  
32 **[commission]** secretary.

33 b. In developing its response to the plan, the **[commission]**  
34 secretary shall consider whether there is a need for the institution to  
35 acquire a branch campus or additional location and whether the  
36 institution has the financial capacity to support the campus or  
37 location .

38 c. The secretary may approve the establishment of a branch  
39 campus or additional location if the secretary determines that the  
40 branch campus or additional location:

41 (1) serves a compelling State interest;

42 (2) does not impose excessive costs or reputational risk to the  
43 State;

44 (3) does not impose a risk to the security interests of the State or  
45 federal government; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       (4) does not conflict with existing State or federal laws or  
2 regulations.

3       In making the determination, the secretary may utilize the  
4 assistance of an external consultant team, solicit comments from  
5 interested parties including faculty and members of professional  
6 staff not holding faculty rank at the public research university or  
7 State college, and conduct a site visit at the proposed site of the  
8 branch campus or additional location.

9       d. The governing board of a public research university or a  
10 State college shall fix the salary of all faculty and members of the  
11 professional staff not holding faculty rank performing services at a  
12 branch campus or additional location, and the faculty and members  
13 shall be paid and provided benefits in the same manner as all other  
14 employees of the public research university or State college  
15 performing services on behalf of the public research university or  
16 State college within the State.

17       e. As used in this section:

18       “Additional location” means a location, other than a branch  
19 campus, that is geographically apart from the main campus and at  
20 which the institution offers at least 50 percent of an educational  
21 program.

22       “Branch campus” means a campus which: offers courses in  
23 educational programs leading to a degree, certificate, or other  
24 recognized educational credentials; has its own faculty and  
25 administrative or supervisory organization; and has its own  
26 budgetary and hiring authority.

27 (cf: P.L.2009, c.308, s.20)

28

29       2. This act shall take effect immediately.

30

31

32

## STATEMENT

33

34       Under current law, when the governing board of a public  
35 research university or a State college determines that it is advisable  
36 for the institution to establish a branch campus out-of-State or out-  
37 of-country that will serve at least 500 students of the institution, the  
38 board must submit the plan for the branch campus to the Secretary  
39 of Higher Education for its review and recommendations.

40       This bill amends the law to:

- 41       • clarify that the provisions of the bill also apply to additional  
42       locations, not just branch campuses;
- 43       • specify that the board must first gain the approval of the  
44       secretary prior to establishing a branch campus or additional  
45       location;
- 46       • provide that secretary approval is required for a branch  
47       campus or additional location that serves at least 100  
48       students instead of at least 500 students;

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4

- 1       • require the board’s plan to specify a commitment that the  
2       branch campus or additional location will comply with the  
3       provisions of the open public records act; and  
4       • provide that the secretary may approve the establishment of  
5       a branch campus or additional location if the secretary  
6       determines that the branch campus or additional location:  
7       serves a compelling State interest; does not impose  
8       excessive costs or reputational risk to the State; does not  
9       impose a risk to the security interests of the State or federal  
10      government; and does not conflict with existing State or  
11      federal laws or regulations.

12      The bill specifies that, in making a determination to approve a  
13      branch campus or additional location, the secretary may utilize the  
14      assistance of an external consultant team, solicit comments from  
15      interested parties including faculty and members of professional  
16      staff not holding faculty rank at the public research university or a  
17      State college, and conduct a site visit at the proposed site of the  
18      branch campus or additional location.

19      The bill also specifies that faculty and members of the  
20      professional staff not holding faculty rank will receive the same  
21      salary and benefits as the employees of the institution within the  
22      State.

# ASSEMBLY HIGHER EDUCATION COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR SENATE, Nos. 1271, 2588, and 2660

# STATE OF NEW JERSEY

DATED: OCTOBER 8, 2020

The Assembly Higher Education Committee reports favorably the Senate Committee Substitute for Senate Bill Nos. 1271, 2588, and 2660.

Current law requires the New Jersey Presidents' Council to review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. The committee substitute requires the council to review proposals for new programs that do not exceed the programmatic mission or require a change in the programmatic mission according to standards set forth in regulation by the Secretary of Higher Education for the following:

- (1) sufficient academic quality;
  - (2) sufficient evidence of labor market demand for the program;
  - (3) duplication with comparable programs of study in the State;
- and
- (4) whether the proposed new program will require significant additional State resources.

Under the substitute, if the council determines according to the review standards that a proposed new program may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study, or may be unduly expensive to the State, the council must refer that proposal to the secretary for review.

Within 60 days of the referral from the council, the secretary, using the same review standards, may deny approval of these programs proposed by public institutions. In the case of independent institutions, the secretary may review and comment on proposed new programs submitted by those institutions. The secretary would continue to have the authority to make final administrative decisions over new academic programs that go beyond the programmatic mission of the institution and final administrative decisions over a change in the programmatic mission of an institution.

Current law provides that when the governing board of a public research university or a State college determines that it is advisable to establish a branch campus out-of-State or out-of-country that will

serve at least 500 students, the board must submit the plan to the secretary for review and recommendations. The substitute requires these institutions to receive approval from the secretary to establish a branch campus or additional location that will serve at least 100 students out-of-State or out-of-country and establishes criteria for such approval. The substitute also provides that a plan for the establishment of an in-State branch campus is subject to the secretary's review and approval.

The substitute directs the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with licensing procedures and submit the initial fee schedule to the Legislature for review. Subsequent fee schedules will be established by the secretary through regulations. Fees collected will be deposited in the State Treasury.

The substitute also provides that an independent institution of higher education and a proprietary institution licensed to offer academic degrees are to immediately notify the secretary of any financial liabilities or risks that are reasonably likely to result in the imminent closure of the institution, or otherwise negatively affect the institution's ability to fulfill its obligations to students. The independent and proprietary institutions are to submit an annual fiscal monitoring report to the secretary in a format, and according to a schedule, developed by the secretary. The secretary will establish a process to annually assess each independent institution and proprietary institution to identify whether an institution is at risk of closure. The substitute specifies actions that such an institution must take in the event that the secretary makes such a determination.

The substitute provides that a proprietary institution licensed to offer academic degrees is to provide the secretary with a teach-out plan that addresses the potential closure of the institution. A teach-out plan is defined as a written plan developed by the institution that provides for the equitable treatment of students if an institution, or certain institutional locations, cease to operate before all students have completed their program.

Under the substitute an institution of higher education and a proprietary institution licensed to offer academic degrees are required to enter into a school-to-school teach-out agreement at least 120 days prior to the cessation of institution operations. A teach-out agreement is a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study at a transfer institution. The secretary will approve an institution of higher education or a proprietary institution to act as an eligible transfer institution in accordance with standards established under the substitute.



Under the substitute, before any institution of higher education or proprietary institution licensed to offer academic degrees ceases operations, the institution must file with the eligible transfer institution or a third party approved by the secretary copies of all essential records of current or former students.

The substitute also establishes certain requirements for the closure of private career schools that operate in the State. Under the substitute, the closure of private career schools is overseen by Commissioner of the Department of Labor and Workforce Development. Private career schools will also be required to provide the commissioner with a teach-out plan that addresses potential school closure and a teach-out agreement at least 120 days prior to the closure. The commissioner will approve a private career school as an eligible transfer institution.

Under the substitute, before any private career school ceases operations, the school must file with the commissioner copies of all essential records of current or former students. The commissioner will maintain a permanent file of all records, and may provide a student with a replacement transcript if necessary.

The substitute provides that it is an unlawful practice and a violation of the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any institution or school, person, or entity to collect on a student's institutional debt if the institutional financial aid agreement does not contain the language required by the substitute, or for an institution or school to collect on an institutional debt of a student who attended an institution or school in which a disorderly closure occurred.

As reported by the committee, this substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 4409, which also was reported by the committee on this same date.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1271, 2588, and 2660**

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 12, 2020

The Assembly Appropriations Committee reports favorably Senate Bill No. 1271/2588/2660 SCS, with committee amendments.

Current law requires the New Jersey Presidents' Council to review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. As amended, this bill requires the council to review proposals for new programs that do not exceed the programmatic mission or require a change in the programmatic mission according to standards set forth in regulation by the Secretary of Higher Education for the following:

- (1) sufficient academic quality;
  - (2) sufficient evidence of labor market demand for the program;
  - (3) duplication with comparable programs of study in the State;
- and
- (4) whether the proposed new program will require significant additional State resources.

Under the bill, if the council determines according to the review standards that a proposed new program may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study, or may require significant additional State resources, the council must refer that proposal to the secretary for review.

Within 60 days of the referral from the council, the secretary, using the same review standards, may deny approval of these programs proposed by all institutions of higher education.

Current law provides that when the governing board of a public research university or a State college determines that it is advisable to establish a branch campus out-of-State or out-of-country that will serve at least 500 students, the board must submit the plan to the secretary for review and recommendations. This bill requires these institutions to receive approval from the secretary to establish a branch campus or additional location that will serve at least 100 students out-of-State or out-of-country and establishes criteria for such approval.

The bill directs the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with licensing procedures and submit the initial fee schedule to the Legislature for review. Subsequent fee schedules will be established by the secretary through regulations. Fees collected will be deposited in the State Treasury.

The bill also provides that an institution of higher education and a proprietary institution licensed to offer academic degrees are to immediately notify the secretary of any financial liabilities or risks that are reasonably likely to result in the imminent closure of the institution, or otherwise negatively affect the institution's ability to fulfill its obligations to students. Under the bill, the secretary will establish and disseminate guidelines for the implementation of the notification. The independent and proprietary institutions, as well as any institution of higher education that has notified the secretary of known financial liabilities or risks, are to submit an annual fiscal monitoring report to the secretary in a format, and according to a schedule, developed by the secretary. The secretary will establish a process to annually assess each independent institution, proprietary institution, or institution that has notified the secretary of known financial liabilities or risks, to identify whether an institution is at risk of closure. The bill specifies actions that such an institution must take in the event that the secretary makes such a determination.

The bill provides that a proprietary institution licensed to offer academic degrees is to provide the secretary with a teach-out plan that addresses the potential closure of the institution. A teach-out plan is defined as a written plan developed by the institution that provides for the equitable treatment of students if an institution, or certain institutional locations, cease to operate before all students have completed their program.

Under the bill an institution of higher education and a proprietary institution licensed to offer academic degrees are required to enter into a school-to-school teach-out agreement at least 120 days prior to the cessation of institution operations. A teach-out agreement is a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study at a transfer institution. The secretary will approve an institution of higher education or a proprietary institution to act as an eligible transfer institution in accordance with standards established under the bill.

Under the bill, before any institution of higher education or proprietary institution licensed to offer academic degrees ceases operations, the institution must file with the eligible transfer institution or a third party approved by the secretary copies of all essential records of current or former students.

The bill also establishes certain requirements for the closure of private career schools that operate in the State. Under the bill, the closure of private career schools is overseen by the Commissioner of the Department of Labor and Workforce Development. Private career schools will also be required to provide the commissioner with a teach-out plan that addresses potential school closure and a teach-out agreement at least 120 days prior to the closure. The commissioner will approve a private career school as an eligible transfer institution.

Under the bill, before any private career school ceases operations, the school must file with the commissioner copies of all essential records of current or former students. The commissioner will maintain a permanent file of all records, and may provide a student with a replacement transcript if necessary.

The bill provides that it is an unlawful practice and a violation of the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any institution or school, person, or entity to collect on a student's institutional debt if the institutional financial aid agreement does not contain the language required by the bill, or for an institution or school to collect on an institutional debt of a student who attended an institution or school in which a disorderly closure occurred.

As amended and reported by the committee, this bill is identical to the Assembly Committee Substitute for Assembly Bill No. 4409, which also was amended and reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) add that the Secretary of Higher Education may deny approval of programs proposed by all institutions of higher education which do not exceed the programmatic mission of the institution;

(2) clarify that the governing board of a public research university or a State college is required to fix the salary of all faculty performing services at an out-of-State or out-of-country branch campus or additional location;

(3) specify that when the governing board of an independent institution of higher education, after study and investigation, determines that it is advisable for the institution to establish a branch campus or additional location in the State that will serve at least 100 students of the institution, the board must submit the plan to the secretary for review and comment; and

(4) change the bill's effective date from the 120th day next following enactment to September 1, 2021.

**FISCAL IMPACT:**

The Office of Legislative Services determines that the bill may cause an indeterminate increase in annual State expenditures for administrative and staffing costs associated with changes in the Secretary of Higher Education's role in the approval of new academic programs, branch campuses, and additional locations for institutions of higher education. Some of these costs may be defrayed by the institutions seeking the approval.

The bill may further increase annual costs to the Office of the Secretary of Higher Education and the Department of Labor and Workforce Development to the extent that additional resources are needed to monitor the closures of institutions of higher education, proprietary institutions licensed to offer academic degrees, and private career schools.

The bill will also lead to an indeterminate annual State revenue increase due to provisions that require the OSHE to collect new fees to cover administrative costs associated with current licensing procedures and permit the OSHE to collect new fines from certain institutions of higher education.

# SENATE HIGHER EDUCATION COMMITTEE

## STATEMENT TO

### SENATE, No. 1271

# STATE OF NEW JERSEY

DATED: AUGUST 17, 2020

The Senate Higher Education Committee reports favorably Senate Bill No. 1271.

Under current law, when the governing board of a public research university or a State college determines that it is advisable for the institution to establish a branch campus out-of-State or out-of-country that will serve at least 500 students of the institution, the board must submit the plan for the branch campus to the Secretary of Higher Education for review and recommendations.

This bill amends the law to:

- clarify that the provisions of the bill also apply to additional locations, not just branch campuses;
- specify that the board must first gain the approval of the secretary prior to establishing a branch campus or additional location;
- provide that secretary approval is required for a branch campus or additional location that serves at least 100 students instead of at least 500 students;
- require the board's plan to specify a commitment that the branch campus or additional location will comply with the provisions of the open public records act; and
- provide that the secretary may approve the establishment of a branch campus or additional location if the secretary determines that the branch campus or additional location: serves a compelling State interest; does not impose excessive costs or reputational risk to the State; does not impose a risk to the security interests of the State or federal government; and does not conflict with existing State or federal laws or regulations.

The bill specifies that, in making a determination to approve a branch campus or additional location, the secretary may utilize the assistance of an external consultant team, solicit comments from interested parties including faculty and members of professional staff not holding faculty rank at the public research university or a State college, and conduct a site visit at the proposed site of the branch campus or additional location.

The bill also specifies that faculty and members of the professional staff not holding faculty rank will receive the same salary and benefits as the employees of the institution within the State.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1271, 2588, and 2660**

# **STATE OF NEW JERSEY**

DATED: AUGUST 24, 2020

The Senate Budget and Appropriations Committee reports favorably a committee substitute for Senate Bill No. 1271, Senate Bill No. 2588, and Senate Bill No. 2660.

Current law requires the New Jersey Presidents' Council to review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. The committee substitute requires the council to review proposals for new programs that do not exceed the programmatic mission or require a change in the programmatic mission according to standards set forth in regulation by the Secretary of Higher Education for the following:

- (1) sufficient academic quality;
  - (2) sufficient evidence of labor market demand for the program;
  - (3) duplication with comparable programs of study in the State;
- and
- (4) whether the proposed new program will require significant additional State resources.

Under the substitute, if the council determines according to the review standards that a proposed new program may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study, or may be unduly expensive to the State, the council must refer that proposal to the secretary for review.

Within 60 days of the referral from the council, the secretary, using the same review standards, may deny approval of these programs proposed by public institutions. In the case of independent institutions, the secretary may review and comment on proposed new programs submitted by those institutions. The secretary would continue to have the authority to make final administrative decisions over new academic programs that go beyond the programmatic mission of the institution and final administrative decisions over a change in the programmatic mission of an institution.

Current law provides that when the governing board of a public research university or a State college determines that it is advisable to establish a branch campus out-of-State or out-of-country that will

serve at least 500 students, the board must submit the plan to the secretary for review and recommendations. The substitute requires these institutions to receive approval from the secretary to establish a branch campus or additional location that will serve at least 100 students out-of-State or out-of-country and establishes criteria for such approval. The substitute also provides that a plan for the establishment of an in-State branch campus is subject to the secretary's review and approval.

The substitute directs the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with licensing procedures and submit the initial fee schedule to the Legislature for review. Subsequent fee schedules will be established by the secretary through regulations. Fees collected will be deposited in the State Treasury.

The substitute also provides that an independent institution of higher education and a proprietary institution licensed to offer academic degrees are to immediately notify the secretary of any financial liabilities or risks that are reasonably likely to result in the imminent closure of the institution, or otherwise negatively affect the institution's ability to fulfill its obligations to students. The independent and proprietary institutions are to submit an annual fiscal monitoring report to the secretary in a format, and according to a schedule, developed by the secretary. The secretary will establish a process to annually assess each independent institution and proprietary institution to identify whether an institution is at risk of closure. The substitute specifies actions that such an institution must take in the event that the secretary makes such a determination.

The substitute provides that a proprietary institution licensed to offer academic degrees is to provide the secretary with a teach-out plan that addresses the potential closure of the institution. A teach-out plan is defined as a written plan developed by the institution that provides for the equitable treatment of students if an institution, or certain institutional locations, cease to operate before all students have completed their program.

Under the substitute an institution of higher education and a proprietary institution licensed to offer academic degrees are required to enter into a school-to-school teach-out agreement at least 120 days prior to the cessation of institution operations. A teach-out agreement is a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study at a transfer institution. The secretary will approve an institution of higher education or a proprietary institution to act as an eligible transfer institution in accordance with standards established under the substitute.



Under the substitute, before any institution of higher education or proprietary institution licensed to offer academic degrees ceases operations, the institution must file with the eligible transfer institution or a third party approved by the secretary copies of all essential records of current or former students.

The substitute also establishes certain requirements for the closure of private career schools that operate in the State. Under the substitute, the closure of private career schools is overseen by Commissioner of the Department of Labor and Workforce Development. Private career schools will also be required to provide the commissioner with a teach-out plan that addresses potential school closure and a teach-out agreement at least 120 days prior to the closure. The commissioner will approve a private career school as an eligible transfer institution.

Under the substitute, before any private career school ceases operations, the school must file with the commissioner copies of all essential records of current or former students. The commissioner will maintain a permanent file of all records, and may provide a student with a replacement transcript if necessary.

The substitute provides that it is an unlawful practice and a violation of the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any institution or school, person, or entity to collect on a student's institutional debt if the institutional financial aid agreement does not contain the language required by the substitute, or for an institution or school to collect on an institutional debt of a student who attended an institution or school in which a disorderly closure occurred.

#### FISCAL IMPACT

The Office of Legislative Services (OLS) determines that the changes made in the committee substitute to current State law regarding the Secretary of Higher Education's role in the approval of certain new initiatives developed by institutions of higher education, may cause an indeterminate increase in State costs to the Office of the Secretary of Higher Education (OSHE) to the extent that the changes would necessitate additional administrative and staffing costs.

The committee substitute will also lead to a State revenue increase due to provisions of the substitute that require the OSHE to collect new fees to cover administrative cost associated with current licensing procedures, and permit the OSHE to collect new fines from certain independent institutions of higher education.

The committee substitute may also increase costs to the OSHE and the Department of Labor and Workforce Development to the extent that additional resources are needed to fulfill the secretary's and commissioner's respective duties related to monitoring the closures of institutions of higher education, proprietary institutions licensed to offer academic degrees, and private career schools.

**LEGISLATIVE FISCAL ESTIMATE**  
 [First Reprint]  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, Nos. 1271, 2588, and 2660**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: NOVEMBER 19, 2020

**SUMMARY**

**Synopsis:** Establishes requirements for closures of private career schools and institutions of higher education, modifies review process of new academic programs, and requires approval of branch campuses.

**Type of Impact:** Annual State expenditure increase; annual State revenue increase; periodic cost increase to public institutions of Higher Education

**Agencies Affected:** Office of the Secretary of Higher Education; Department of Labor and Workforce Development; Public Institutions of Higher Education

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost Increase</b>		Indeterminate	
<b>State Revenue Increase</b>		Indeterminate	
<b>Periodic Cost Increase for Public Institutions of Higher Education</b>		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill may cause an indeterminate increase in annual State costs to the Office of the Secretary of Higher Education (OSHE) to the extent that the changes to the Secretary of Higher Education’s role in the approval of new academic programs, branch campuses, and additional locations would necessitate additional administrative and staffing costs.
- The bill may also increase costs to the OSHE and the Department of Labor and Workforce Development (DLWD) to the extent that additional resources are needed to fulfill the secretary’s and commissioner’s duties related to monitoring the closures of institutions of higher education, proprietary institutions licensed to offer academic degrees, and private career schools.
- The bill will also lead to an indeterminate annual State revenue increase due to provisions that require the OSHE to collect new fees to cover administrative costs associated with current



licensing procedures and permit the OSHE to collect new fines from certain institutions of higher education.

- Public institutions of higher education will incur additional expenditures to pay for costs incurred by the OSHE to review plans for new branch campuses or additional locations. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish a branch campus or additional location.

## **BILL DESCRIPTION**

This bill makes various changes to current State law concerning the Secretary of Higher Education's role in several areas regarding new initiatives proposed by institutions of higher education. For one, the bill requires the secretary to establish new standards for the review and approval of certain proposed academic programs developed by institutions of higher education. These programs would be initially reviewed by the New Jersey Presidents' Council and forwarded to the secretary if a program does not meet the new standards. The standards will concern: the academic quality of a new program; evidence of labor market demand for a program; duplication of comparable programs of study in the State; and whether or not the new program will require significant State resources.

Secondly, the bill amends current law concerning the establishment of branch campuses by public research universities and State colleges. The bill allows that a public research university or State college may establish a branch campus. The plan for the establishment of the branch campus will be subject to the review and approval of the secretary. In addition, the bill would give the secretary the authority to approve the establishment of out-of-State or out-of-country branch campuses and additional locations that will serve at least 100 students, as long as the branch campuses or additional locations meet certain criteria. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish a branch campus or additional location.

The bill also provides that an independent institution of higher education seeking to establish a branch campus or additional location in the State that will serve at least 100 students will submit a plan for the establishment of the branch campus or additional location to the secretary for review and comment.

Thirdly, the bill amends a section of current State law to require the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with current higher education licensing procedures. The fee schedule is to be reviewed by the Legislature.

The bill also requires proprietary institutions licensed to offer academic degrees and private career schools to develop teach-out plans that address an institution or school's plans for potential closure. Private career schools are defined as privately owned and operated postsecondary schools, other than institutions of higher education or proprietary institutions licensed to offer academic degrees, that offer programs for the purpose of training, retraining, or upgrading individuals for gainful employment. Under the bill, proprietary institutions would submit their plans to the Secretary of Higher Education, while private career schools would submit their plans to the Commissioner of the DLWD.

Under the bill, institutions of higher education, proprietary institutions, and private career schools would be required to enter into a school-to-school teach-out agreement and provide written notice to the secretary or commissioner, as applicable, 120 days prior to cessation of operations. The school-to-school agreements would address plans for transitioning students attending institutions and schools that are closing operations, to eligible transfer institutions or schools,

which are required to be approved by the secretary or commissioner, as applicable. In addition, the bill requires submittal and retention of certain student records and transcripts by transfer institutions and third party entities approved by the secretary, as well as by the commissioner in the case of private career school closures.

The bill also requires independent institutions of higher education and proprietary institutions licensed to offer academic degrees, as well as institutions of higher education that have notified the secretary of known financial liabilities or risks that are reasonably likely to result in imminent closure of the institution, to annually submit fiscal monitoring reports. The bill further lays out the process that an institution of higher education or proprietary institution would be required to undergo if the secretary finds that the institution is at risk of imminent closure.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive Branch did not submit a formal fiscal note on this bill. However, in response to a Legislative Budget Question during the FY 2021 Revised Budget Proposal process, the OSHE indicated that a total \$300,000 increase in the office's salaries and wages appropriation for the combined 12-month period from July 1, 2020 through June30, 2021 was being used to support an increase in staff necessary to carry out the provisions of Assembly Bill No. 4409, which was substantially similar to this bill in its current form. The OLS notes that the OSHE's FY 2020 adjusted appropriation for salaries and wages was \$1.768 million, while the appropriation for the combined 12-month period totals \$2.068 million.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that this bill may lead to indeterminate annual cost increases to the OSHE and the DLWD, and periodic cost increases to public institutions of higher education, in order for those entities to fulfill the requirements prescribed to them. Under the bill, the OSHE will also experience an increase in annual fee revenue related to administering licenses to confer degrees to certain institutions of higher education and fine revenue from certain noncompliant institutions of higher education.

**Potential Costs to the OSHE:** This bill makes various changes to the Secretary of Higher Education's role in approval of new academic programs, branch campuses, and additional locations. These changes may cause an indeterminate increase in annual State costs to the OSHE to the extent that the changes made to current law would necessitate additional administrative and staffing costs.

Regarding the approval of new academic programs proposed by an institution of higher education, current law permits the Secretary of Higher Education to deny approval of new academic programs that are referred to the secretary by the New Jersey Presidents' Council and: 1) exceed an institution's programmatic mission, defined as the level of academic degrees that an institution has been authorized to offer, or require a change in the institution's programmatic mission; or 2) do not exceed or change an institution's programmatic mission but are determined by the Presidents' Council to be unduly duplicative or expensive. Since the bill modifies the scope of new academic programs that would be reviewed and approved by the secretary, it may increase administrative costs to the OSHE to the extent that program reviews may be increased over current levels.

Current law requires the secretary to review and provide recommendations on plans made by public research universities and State colleges to establish an out-of-State or out-of-country branch campus that will serve at least 500 students of the institution. The bill amends the law to require the secretary's approval for a public research university or State college to establish any branch campus and for those institutions to establish out-of-State or out-of-country branch campuses and additional locations that will serve at least 100 students. It also requires the secretary to review and comment on plans made by independent institutions of higher education to establish a branch campus or additional location that will serve at least 100 students of the institution. This broadened authority over the review of branch campuses and additional locations may necessitate additional staffing and administrative costs to the OSHE to accommodate possible increases in workload.

The OSHE may incur additional increases in workload, which may in turn increase administrative and staffing costs, due to the provisions of the bill that require the secretary to review institutions' fiscal monitoring reports and make determinations as to whether or not an institution is at risk of imminent closure.

**Revenue Increases to the OSHE:** While the heightened authority provided to the secretary may increase workloads and administrative and staffing costs to the OSHE, the bill also provides that institutions submitting plans for branch campuses and additional locations must pay the costs for consultants and other out-of-pocket costs incurred by the secretary in reviewing the plans. The costs that may be incurred by the OSHE, and inevitably reimbursed to the OSHE, for these functions are indeterminate as the expenses associated with each review may vary. By way of example, the Texas Higher Education Coordinating Board (THECB), as noted in a summary of procedures for the establishment of branch campuses by certain private institutions of higher education, has set the application fee for initial review of a branch campus at \$5,000. The summary indicates that the fee covers the average cost of application reviews, including consultant fees for the review team. In addition, the THECB has set the fee for a branch campus site visit at \$2,500.

The OLS also notes that the OSHE will experience a revenue increase under the bill due to the provision that requires the office to prepare a fee schedule to cover the reasonable administrative costs associated with current licensing procedures. The OSHE will also experience increased revenue due to a provision of the bill which permits the secretary to order fines of no more than \$1,000 per day for an institution of higher education or proprietary institution that does not comply with the requirements under the bill to submit fiscal monitoring reports and to submit certain information to the secretary upon a finding that the institution is at risk of imminent closure.

**Potential Cost Increase to OSHE and DLWD:** Under the bill, the OSHE and the DLWD may experience increases in staffing and administrative costs to establish processes and regulations for: reviewing teach-out plans and approving transfer institutions or schools in accordance with the criteria provided in the bill. The DLWD may incur additional costs to retain certain records of students affected by private career school closures.

**Periodic Cost Increase to Public Institutions of Higher Education:** Public institutions of higher education will incur periodic additional expenditures to pay for costs incurred by the OSHE to review plans for new branch campuses or additional locations. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish these new locations.

*Section: Education*

*Analyst: Christopher Myles  
Associate Fiscal Analyst*

*Approved: Thomas Koenig  
Assistant Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**SENATE, No. 2588**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED JUNE 22, 2020

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Establishes certain requirements for closures of institutions of postsecondary education.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning institutions of postsecondary education and  
2 supplementing P.L.1989, c.293 (C.34:15C-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 "Closure" means the cessation of an educational instruction in at  
9 least one program by a private career school or institute of  
10 postsecondary education that causes a student to be unable to  
11 complete the program prior to the cessation of educational  
12 instruction.

13 "Commissioner" means the Commissioner of Labor and  
14 Workforce Development.

15 "Disorderly closure" means a closure that does not meet the  
16 requirements of this act.

17 "Eligible transfer institution" means a private career school or an  
18 institution of postsecondary education that has been approved by  
19 the commissioner pursuant to section 4 of this act.

20 "Institution of postsecondary education" means a government  
21 unit, person, association, firm, corporation, private organization, or  
22 any entity doing business or maintaining facilities within the State,  
23 whether operating on a for profit or not for profit basis, which:

24 (1) offers or maintains a course of instruction or instructional  
25 program utilized to prepare individuals for future education or the  
26 workplace, including instruction in literacy or basic skills, or  
27 provides supplemental instruction in recognized occupational skills,  
28 pre-employment skills or literacy skills;

29 (2) offers instruction by any method including, but not limited  
30 to, classroom, shop, laboratory experience, correspondence, Internet  
31 and other distance learning media, or any combination thereof;

32 (3) offers instruction to the general public or in conjunction with  
33 New Jersey's workforce investment system; and

34 (4) charges tuition or other fees or costs, or receives public  
35 funding for the delivery of any of the above types of instruction.

36 "Institution of postsecondary education" shall not include:

37 (1) employers offering instruction to their employees directly or  
38 through a contract instructor, where there is no cost to the employee  
39 and no profit to the employer; or

40 (2) schools offering instruction which is avocational, cultural or  
41 recreational in nature.

42 "Institutional debt" means:

43 (1) the amount outstanding on any credit, including unpaid  
44 charges, extended by or on behalf of a private career school or an  
45 institution of postsecondary education that a student is obligated to  
46 repay, whether the amount has been reduced to a judgment or the  
47 school classifies it as a loan; or



1 (2) a nonfederal loan or debt agreement that is issued expressly  
2 for postsecondary education expenses and that is guaranteed by a  
3 private career school or an institution of postsecondary education or  
4 a private educational lender that is affiliated with a private career  
5 school or an institution of postsecondary education.

6 "Institutional financial aid agreement" means any contract,  
7 promissory note, part of an enrollment agreement, or other  
8 agreement in which a student agrees to pay an institutional debt.

9 "Private career school" means a privately owned and privately  
10 operated institution of postsecondary education, other than an  
11 institution of higher education, that furnishes or offers to furnish  
12 programs, whether or not requiring a payment of tuition or fee, for  
13 the purpose of training, retraining, or upgrading individuals for  
14 gainful employment as workers in recognized or emerging  
15 occupations.

16 "Student" means an individual enrolled at a private career school  
17 or an institution of postsecondary education in New Jersey, or a  
18 New Jersey resident enrolled at a private career school or an  
19 institution located outside of this State.

20

21 2. a. This act shall apply to a private career school or an  
22 institution of postsecondary education that operates in this State.

23 b. A private career school or an institution of postsecondary  
24 education shall provide the commissioner a close-out plan. The  
25 close-out plan shall be updated as required by the commissioner.

26 c. A close-out plan shall include any information required by  
27 the commissioner and shall state that:

28 (1) the school or institution shall make all reasonable efforts to  
29 ensure that any closure of a program complies with the  
30 requirements of this act;

31 (2) the chief executive officer and the members of the governing  
32 body of the school or institution were not in an executive position  
33 or a member of a governing body of a school in which a disorderly  
34 closure occurred;

35 (3) the chief executive officer and the members of the governing  
36 body agree to be jointly and severally personally liable for an  
37 amount determined by the commissioner, not to exceed \$1,000 for  
38 each student who is enrolled at the time of a disorderly closure; and

39 (4) any institutional financial aid agreement offered to a student  
40 shall contain language stating that, in the event of a disorderly  
41 closure, the institutional debt shall be void and shall not be  
42 recovered, collected, or enforced.

43 d. A private career school or an institution of postsecondary  
44 education shall furnish a performance bond or irrevocable letter of  
45 credit in an amount equal to the school's gross tuition and fees for  
46 the prior academic year. The commissioner shall waive this  
47 requirement for any institution of postsecondary education that is

**S2588 CUNNINGHAM**

1 operated by the State. The commissioner shall adopt regulations to  
2 carry out the requirements of this subsection.

3 e. The commissioner shall seek an injunction or other judicial  
4 remedy against a private career school or an institution of  
5 postsecondary education that fails to comply with the requirements  
6 of this section, including requiring the school to refund all tuition  
7 and fees paid by any student.

8

9 3. a. A private career school or an institution of postsecondary  
10 education shall enter into a school-to-school teach-out agreement  
11 prior to the closure of any program of educational instruction.

12 b. In order to satisfy the requirements of this section, a school-  
13 to-school teach-out agreement shall:

14 (1) be arranged by the closing private career school or  
15 institution of postsecondary education;

16 (2) be agreed to by an eligible transfer institution, the closing  
17 private career school or institution of postsecondary education, and  
18 the commissioner; and

19 (3) unless waived for good cause by the commissioner, specify  
20 that the eligible transfer institution shall:

21 (a) be located within a reasonable distance of the closing school  
22 or institution, if the closing school or institution has a physical  
23 presence in the State;

24 (b) accept the transfer of all completed credits from students  
25 affected by the closure; and

26 (c) allow a student affected by the closure to complete the  
27 student's program with substantially the same number of credit  
28 hours as was required by the school or institution operating the  
29 closing program; and

30 (4) not charge a student tuition or fees in excess of the lesser of:

31 (a) the remaining amount that a student affected by the closure  
32 would have paid to the closing school or institution to complete the  
33 program; or

34 (b) the transfer institution's applicable tuition and fees; and

35 (5) specify that, on request by a student affected by the closure,  
36 the closing school or institution shall provide a complete academic  
37 record and an official transcript to the student at no cost to the  
38 student.

39 c. A student enrolled at a private career school or an institution  
40 of postsecondary education within 120 days of a disorderly closure  
41 shall be entitled to reimbursement from the school's bond or letter  
42 of credit of all tuition and fees paid to the school.

43

44 4. a. The Commissioner of Labor and Workforce Development  
45 shall approve a private career school or an institution of  
46 postsecondary education to act as an eligible transfer institution if  
47 the school or institution:

1 (1) is in good standing with its accreditor and, if applicable, its  
2 licensing body;

3 (2) if applicable, has cohort loan default rates, as most recently  
4 reported by the U.S. Department of Education, that are less than or  
5 equal to the cohort loan default rates of the closing institution;

6 (3) is not currently under financial aid restrictions by the U.S.  
7 Department of Education;

8 (4) within the previous five years, has not entered into any  
9 settlement agreements related to a consumer protection law with a  
10 law enforcement agency, or had any judgments related to a  
11 consumer protection law entered against it in favor of a law  
12 enforcement agency; and

13 (5) meets the requirements provided in section 3 of this act, and  
14 any additional standards provided pursuant to subsection b. of this  
15 section.

16 b. The commissioner may establish additional standards on a  
17 case-by-case basis for approving an eligible transfer institution.

18

19 5. a. Before any private career school or an institution of  
20 postsecondary education ceases educational instruction or  
21 administrative operation, the school shall file with the  
22 commissioner copies of all essential records of the current or former  
23 students of the school. The obligation of a school or institution  
24 under this subsection shall not be discharged in bankruptcy.

25 b. The records shall present, as separate documents:

26 (1) the official academic transcript of each student;

27 (2) any other academic information usually required by  
28 institutions of postsecondary education when considering students  
29 for transfer or advanced study; and

30 (3) if requested by the commissioner, the financial aid and  
31 financial account information of each student.

32 c. The records shall be accompanied by an affidavit as to the  
33 accuracy and completeness of the records on behalf of the school's  
34 or institution's board of trustees, bursar, chief administrative  
35 officer, chief executive officer, chief financial officer, or registrar.

36 d. The commissioner shall maintain a permanent file of all  
37 records filed with the commissioner under this section.

38 e. (1) If a student who attended a private career school or an  
39 institution of postsecondary education that closed in accordance  
40 with this act requests a copy of the student's official academic  
41 transcript from the commissioner and the commissioner determines  
42 that the requested transcript is missing, incomplete, or in a format  
43 inaccessible to the student, the commissioner may issue a  
44 replacement transcript for the student based solely on the most  
45 recent information provided by the school that the student attended.

46 (2) A replacement transcript issued in accordance with  
47 paragraph (1) of this subsection shall be signed by a designee of the  
48 commissioner, contain an explanation of the closure of the

1 institution, and contain an explanation of the source of all  
2 information contained in the replacement transcript.

3 f. (1) Except as provided in paragraph (2) of this subsection, a  
4 replacement transcript issued in accordance with this section shall  
5 be accepted as an official transcript by any institution of  
6 postsecondary education operating in the State.

7 (2) For purposes of student transfer, an institution of  
8 postsecondary education may consider, instead of or in addition to a  
9 replacement transcript, an unofficial transcript or other transcript  
10 information provided by the student that the receiving institution or  
11 program deems relevant.

12 g. (1) The commissioner shall adopt regulations necessary to  
13 carry out the provisions of this section, which shall include the  
14 manner and format in which student records are to be filed with the  
15 commissioner, and a description of the circumstances under which a  
16 private career school or an institution of postsecondary education  
17 may cease educational instruction or administrative operation.

18 h. If a private career school or an institution of postsecondary  
19 education does not file all essential records with the commissioner  
20 in accordance with this section, the commissioner may:

21 (1) require the school or institution to refund all tuition and fees  
22 paid by a student whose records are not filed in accordance with  
23 this section; and

24 (2) seek an injunction or other judicial remedy against the  
25 private career school or institution of postsecondary education.

26

27 6. a. It shall be an unlawful practice and a violation of  
28 P.L.1960, c.39 (C.56:8-1 et seq.) for any private career school,  
29 institution of postsecondary education, person, or entity to collect  
30 on a student's institutional debt if the institutional financial aid  
31 agreement does not contain the language required under paragraph  
32 (4) of subsection c. of section 2 of this act.

33 b. It shall be an unlawful practice and a violation of P.L.1960,  
34 c.39 (C.56:8-1 et seq.) for a private career school or institution of  
35 postsecondary education to collect on the institutional debt of a  
36 student who attended a program in which a disorderly closure  
37 occurred.

38

39 7. The Commissioner of Labor and Workforce Development, in  
40 consultation with the Commissioner of Education, shall adopt rules  
41 and regulations pursuant to the "Administrative Procedure Act,"  
42 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of  
43 this act.

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45 8. This act shall take effect on the 120th day next following  
46 enactment.

STATEMENT

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This bill establishes certain requirements for the closure of private career schools and institutions of postsecondary education.

Under the bill, a private career school is a privately owned and privately operated institution of postsecondary education, other than an institution of higher education, that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as workers in recognized or emerging occupations.

The bill applies to private career schools and institutions of postsecondary education that operate in this State.

The bill requires private career schools and institutions of postsecondary education to provide the Commissioner of Labor and Workforce Development with a close-out plan, which must be updated as required by the commissioner.

The close-out plan must include any information required by the commissioner and must state that:

- (1) the school or institution shall make all reasonable efforts to ensure that any closure of a program complies with the requirements of the bill;
- (2) the chief executive officer and the members of the governing body of the school or institution were not in an executive position or a member of a governing body of a school or institution in which a disorderly closure occurred;
- (3) the chief executive officer and the members of the governing body agree to be jointly and severally personally liable for an amount determined by the commissioner, not to exceed \$1,000 for each student who is enrolled at the time of a disorderly closure and
- (4) any institutional financial aid agreement offered to a student shall contain language stating that, in the event of a disorderly closure, the institutional debt shall be void and shall not be recovered, collected, or enforced. A disorderly closure is a closure that fails to meet the closure requirements of the bill.

The bill requires private career schools and institutions of postsecondary education to furnish a performance bond or irrevocable letter of credit in an amount equal to the school gross tuition and fees for the prior academic year for the school or institution. This requirement shall be waived for institutions of postsecondary education that are operated by the State.

The bill requires private career schools and institutions of postsecondary education to enter into a school-to-school teach-out agreement if the school or institution ceases educational instruction in at least one program, and a student is unable to complete the program prior to the cessation of educational instruction.

In order to satisfy the requirements of the bill, a school-to-school teach-out agreement must be arranged by the closing private career

1 school or institution of postsecondary education and be agreed to by  
2 an eligible transfer institution, the closing school or institution, and  
3 the commissioner.

4 The bill specifies that, unless waived for good cause by the  
5 commissioner, a teach-out agreement must specify that the eligible  
6 transfer institution shall:

7 (1) be located within a reasonable distance of the closing school  
8 or institution, if the closing school or institution has a physical  
9 presence in the State;

10 (2) accept the transfer of all completed credits from students  
11 affected by the closure; and

12 (3) allow a student affected by the closure to complete the  
13 student's program with substantially the same number of credit  
14 hours as was required by the school or institution operating the  
15 closing program.

16 Under a teach-out agreement, a student may not be charged  
17 tuition or fees in excess of the lesser of:

18 (1) the remaining amount that a student affected by the closure  
19 would have paid to the closing school or institution to complete the  
20 program; or

21 (2) the transfer institution's applicable tuition and fees.

22 A teach-out agreement must also specify that, on request by a  
23 student affected by the closure, the closing school or institution  
24 shall provide a complete academic record and an official transcript  
25 to the student at no cost to the student.

26 A student enrolled at a private career school within 120 days of a  
27 closure that does not satisfy the teach-out agreement requirements  
28 is entitled to reimbursement from the school's bond or letter of  
29 credit of all tuition and fees paid to the school.

30 The bill provides that the commissioner shall approve a private  
31 career school or an institution of postsecondary education to act as  
32 an eligible transfer institution if the school or institution:

33 (1) is in good standing with its accreditor and, if applicable, its  
34 licensing body;

35 (2) if applicable, has cohort loan default rates, as most recently  
36 reported by the U.S. Department of Education, that are less than or  
37 equal to the cohort loan default rates of the closing institution;

38 (3) is not currently under financial aid restrictions by the U.S.  
39 Department of Education; and

40 (4) within the previous five years, has not entered into any  
41 settlement agreements related to a consumer protection law with a  
42 law enforcement agency, or had any judgments related to a  
43 consumer protection law entered against it in favor of a law  
44 enforcement agency.

45 The bill allows the commissioner to establish additional  
46 standards on a case-by-case basis for approving an eligible transfer  
47 institution.

1 Before any private career school or institution of postsecondary  
2 education ceases educational instruction or administrative  
3 operation, the school is required to file with the commissioner  
4 copies of all essential records of the current or former students of  
5 the school. This obligation of a school or institution may not be  
6 discharged in bankruptcy.

7 The bill requires that the records present, as separate documents:

8 (1) the official academic transcript of each student;

9 (2) any other academic information usually required by  
10 institutions of postsecondary education when considering students  
11 for transfer or advanced study; and

12 (3) if requested by the commissioner, the financial aid and  
13 financial account information of each student.

14 The bill requires the records to be accompanied by an affidavit as  
15 to the accuracy and completeness of the records on behalf of the  
16 school's board of trustees, bursar, chief administrative officer, chief  
17 executive officer, chief financial officer, or registrar.

18 The commissioner is required to maintain a permanent file of all  
19 records filed with the commissioner.

20 If a private career school or an institution of postsecondary  
21 education does not file all essential records with the commissioner  
22 in accordance with the bill, the commissioner may require the  
23 school or institution to refund all tuition and fees paid by a student  
24 whose records are not filed, and seek an injunction or other judicial  
25 remedy against the school or institution.

26 The bill provides that it is an unlawful practice and a violation of  
27 the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for  
28 any private career school, institution of postsecondary education,  
29 person, or entity to collect on a student's institutional debt if the  
30 institutional financial aid agreement does not contain the language  
31 required by the bill, or for a private career school or an institution  
32 of postsecondary education to collect on an institutional debt of a  
33 student who attended a program in which a disorderly closure  
34 occurred.

# SENATE HIGHER EDUCATION COMMITTEE

## STATEMENT TO

### SENATE, No. 2588

# STATE OF NEW JERSEY

DATED: JUNE 23, 2020

The Senate Higher Education Committee reports favorably Senate Bill No. 2588.

This bill establishes certain requirements for the closure of private career schools and institutions of postsecondary education that operate in this State.

Under the bill, a private career school is a privately owned and privately operated institution of postsecondary education, other than an institution of higher education, that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as workers in recognized or emerging occupations.

The bill requires private career schools and institutions of postsecondary education to provide the Commissioner of Labor and Workforce Development with a close-out plan, which must be updated as required by the commissioner.

The bill requires private career schools and institutions of postsecondary education to furnish a performance bond or irrevocable letter of credit in an amount equal to the school gross tuition and fees for the prior academic year for the school or institution. This requirement is waived for institutions of postsecondary education that are operated by the State.

The bill requires private career schools and institutions of postsecondary education to enter into a school-to-school teach-out agreement if the school or institution ceases educational instruction in at least one program, and a student is unable to complete the program prior to the cessation of educational instruction.

In order to satisfy the requirements of the bill, a school-to-school teach-out agreement must be arranged by the closing private career school or institution of postsecondary education and be agreed to by an eligible transfer institution, the closing school or institution, and the commissioner.

Under a teach-out agreement, a student may not be charged tuition or fees in excess of the lesser of:

(1) the remaining amount that a student affected by the closure would have paid to the closing school or institution to complete the program; or



(2) the transfer institution's applicable tuition and fees.

A teach-out agreement must also specify that, on request by a student affected by the closure, the closing school or institution will provide a complete academic record and an official transcript to the student at no cost to the student.

A student enrolled at a private career school within 120 days of a closure that does not satisfy the teach-out agreement requirements is entitled to reimbursement from the school's bond or letter of credit of all tuition and fees paid to the school.

The bill provides that the commissioner will approve a private career school or an institution of postsecondary education to act as an eligible transfer institution if the school or institution:

(1) is in good standing with its accreditor and, if applicable, its licensing body;

(2) if applicable, has cohort loan default rates, as most recently reported by the U.S. Department of Education, that are less than or equal to the cohort loan default rates of the closing institution;

(3) is not currently under financial aid restrictions by the U.S. Department of Education; and

(4) within the previous five years, has not entered into any settlement agreements related to a consumer protection law with a law enforcement agency, or had any judgments related to a consumer protection law entered against it in favor of a law enforcement agency.

Before any private career school or institution of postsecondary education ceases educational instruction or administrative operation, the school is required to file with the commissioner copies of all essential records of the current or former students of the school. This obligation of a school or institution may not be discharged in bankruptcy.

If a private career school or an institution of postsecondary education does not file all essential records with the commissioner in accordance with the bill, the commissioner may require the school or institution to refund all tuition and fees paid by a student whose records are not filed, and seek an injunction or other judicial remedy against the school or institution.

The bill provides that it is an unlawful practice and a violation of the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any private career school, institution of postsecondary education, person, or entity to collect on a student's institutional debt if the institutional financial aid agreement does not contain the language required by the bill, or for a private career school or an institution of postsecondary education to collect on an institutional debt of a student who attended a program in which a disorderly closure occurred.

# SENATE, No. 2660

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 2, 2020

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Requires Secretary of Higher Education's approval for certain branch campuses; establishes fiscal monitoring and closure policies for independent institutions of higher education; modifies review process for new higher education academic programs.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 7/9/2020)

1 AN ACT concerning the Office of the Secretary of Higher Education  
2 and amending and supplementing various sections of Title 18A  
3 of the New Jersey Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 3 of P.L.1994, c.48 (C.18A:3B-3) is amended to read  
9 as follows:

10 3. For the purposes of this act, unless the context clearly  
11 requires a different meaning:

12 "Authority" means the Higher Education Student Assistance  
13 Authority established pursuant to N.J.S.18A:71A-3;

14 "Commission" means the New Jersey Commission on Higher  
15 Education established by this act;

16 "Council" means the New Jersey Presidents' Council established  
17 by this act;

18 "Council of County Colleges" means the New Jersey Council of  
19 County Colleges established pursuant to N.J.S.18A:64A-26;

20 "County college" means an educational institution established by  
21 one or more counties, pursuant to chapter 64A of Title 18A of the  
22 New Jersey Statutes;

23 "Educational research and services corporation" means a  
24 nonprofit corporation whose voting members are public research  
25 universities, State colleges, county colleges, public institutions of  
26 higher education primarily located in the State of New Jersey, and  
27 nonprofit independent institutions of higher education that receive  
28 direct State aid;

29 "Independent institution" means an independent institution of  
30 higher education in the State licensed by the Secretary of Higher  
31 Education;

32 "Programmatic Mission" means all program offerings consistent  
33 within those levels of academic degrees or certificates that the  
34 institution has been authorized to grant by the State Board of  
35 Higher Education prior to the effective date of this act or approved  
36 thereafter by the commission;

37 "Public Research University" means Rutgers, The State  
38 University of New Jersey, Rowan University, the New Jersey  
39 Institute of Technology, and Montclair State University;

40 "Secretary" means "Secretary of Higher Education;"

41 "State college" means any of the State colleges or universities  
42 established pursuant to chapter 64 of Title 18A of the New Jersey  
43 Statutes including any State college designated as a teaching  
44 university.

45 (cf: P.L. 2017, c.178, s.36)

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       2. Section 8 of P.L.1994, c.48 (C.18A:3B-8) is amended to read  
2 as follows:

3       8. The council shall have the responsibility, consistent with  
4 State and federal law, to:

5       a. provide public information and research on higher education  
6 issues;

7       b. review and make recommendations to the **[commission]**  
8 Secretary of Higher Education concerning proposals for new  
9 programs that exceed the programmatic mission of an institution or  
10 that change the programmatic mission of an institution;

11       c. review **[and comment on]** proposals for new programs **[that**  
12 demand significant added resources or raise significant issues of  
13 duplication but do not exceed the programmatic mission of the  
14 institution or require a change in the programmatic mission **]** ,  
15 according to standards established by the secretary through  
16 regulations promulgated pursuant to the "Administrative Procedure  
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for the following:

18       (1) sufficient academic quality;

19       (2) sufficient evidence of labor market demand for the program;

20       (3) duplication with comparable programs of study in the State;

21 and

22       (4) whether the proposed new program will require significant  
23 additional State resources.

24 If the council determines according to the review standards set by  
25 the secretary [deleted space underline] that a proposed new program  
26 **[is]** may be of insufficient academic quality, may lack sufficient  
27 evidence of labor market demand, may be duplicative of  
28 comparable programs of study or may be unduly expensive [or  
29 unduly duplicative] to the State, the council shall refer that proposal  
30 to the **[commission]** secretary for review[; however, unless the  
31 commission disapproves of that program within 60 days of its  
32 referral, the program shall be deemed approved] pursuant to  
33 subsection f. of section 14 of P.L.1994, c.48 (C.18A:3B-14);

34       d. encourage the formation of regional or other alliances among  
35 institutions including interinstitutional transfers, program  
36 articulation, cooperative programs and shared resources and  
37 develop criteria for "full faith and credit" transfer agreements  
38 between county colleges and other institutions of higher education.  
39 The council shall also keep institutions apprised of the  
40 discontinuance of programs at other institutions and each president  
41 shall notify the council of any such action;

42       e. advise and assist the **[commission]** secretary in developing  
43 and updating a plan for higher education in the State including, but  
44 not limited to, the establishment of new institutions, closure of  
45 existing institutions and consolidation of institutions;

46       f. provide policy recommendations on Statewide higher  
47 education issues;

- 1 g. recommend to the Governor, Legislature and [commission]  
2 secretary on policy and overall levels of funding for student aid  
3 programs necessary to ensure accessibility to higher education;
- 4 h. transmit to the Governor, Legislature and [commission]  
5 secretary a general budget policy statement regarding overall State  
6 funding levels;
- 7 i. upon referral from the [commission] secretary pursuant to  
8 this act provide recommendations concerning institutional licensure  
9 and university status;
- 10 j. appoint subcommittees consisting of the presidents of the  
11 institutions of the various higher education sectors to decide  
12 matters, within the authority of the council. The presidents of the  
13 independent institutions shall develop a unified request for State  
14 support under chapter 72B of Title 18A of the New Jersey Statutes.  
15 The presidents of the county college sector shall develop a unified  
16 request for State support under chapter 64A of Title 18A of the New  
17 Jersey Statutes; and
- 18 k. consult with the Higher Education Student Assistance  
19 Authority concerning student assistance matters.  
20 (cf: P.L.1999, c.46, s.29)
- 21
- 22 3. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to  
23 read as follows:
- 24 14. The Secretary of Higher Education shall be responsible for:
- 25 a. Statewide planning for higher education including research  
26 on higher education issues and the development of a comprehensive  
27 master plan, including, but not limited to, the establishment of new  
28 institutions, closure of existing institutions, and consolidation of  
29 institutions, which plan shall be long-range in nature. Within 180  
30 days of the effective date of P.L.2015, c.91 and, at a minimum,  
31 every seven years thereafter, the secretary shall adopt a new  
32 comprehensive master plan. The council may request the secretary  
33 to conduct a study of a particular issue. The secretary may require  
34 from institutions of higher education such reports or other  
35 information as may be necessary to enable the secretary to perform  
36 his duties;
- 37 b. advocacy on behalf of higher education including informing  
38 the public of the needs and accomplishments of higher education in  
39 New Jersey;
- 40 c. making recommendations to the Governor and Legislature  
41 on higher education initiatives and incentive programs of Statewide  
42 significance;
- 43 d. final administrative decisions over institutional licensure and  
44 university status giving due consideration to the accreditation status  
45 of the institution. The secretary shall furnish the Presidents' Council  
46 with any pertinent information compiled on behalf of the subject  
47 institution and the council shall then make recommendations to the

- 1 secretary concerning the licensure of the institution or university  
2 status within sixty days of receipt of the information;
- 3 e. adopting a code of ethics applicable to institutions of higher  
4 education;
- 5 f. final administrative decisions over new academic programs  
6 that go beyond the programmatic mission of the institution and final  
7 administrative decisions over a change in the programmatic mission  
8 of an institution. In addition, within 60 days of referral of a  
9 proposed new program **【determined to be unduly expensive or  
10 duplicative】** by the council, the secretary may deny approval of  
11 programs proposed by public institutions of higher education which  
12 do not exceed the programmatic mission of the institution, but  
13 which **【are】** may be of insufficient academic quality, may lack  
14 sufficient evidence of labor market demand, may be duplicative of  
15 comparable programs of study, or may be unduly expensive to the  
16 State as determined by the New Jersey Presidents' Council **【to be  
17 unduly duplicative or expensive】** according to the review standards  
18 set by the secretary, and review and comment on proposed new  
19 programs submitted by independent institutions of higher education,  
20 within 60 days of referral by the council;
- 21 g. reviewing requests for State support from the institutions in  
22 relation to the mission of the institution and Statewide goals and  
23 proposing a coordinated budget policy statement to the Governor  
24 and Legislature;
- 25 h. communicating with the State Board of Education and  
26 Commissioner of Education to advance public education at all  
27 levels including articulation between the public schools and higher  
28 education community;
- 29 i. applying for and accepting grants from the federal  
30 government, or any agency thereof, or grants, gifts or other  
31 contributions from any foundation, corporation, association or  
32 individual, and complying with the terms, conditions and  
33 limitations thereof, for the purpose of advancing higher education.  
34 Any money so received may be expended by the secretary upon  
35 warrant of the director of the Office of Management and Budget in  
36 the Department of the Treasury on vouchers certified by the  
37 secretary;
- 38 j. acting as the lead agent of communication with the federal  
39 government concerning higher education issues, except that the  
40 Higher Education Student Assistance Authority shall act, in  
41 cooperation with the secretary, as the lead agency on issues of  
42 student assistance;
- 43 k. exercising all of the powers and duties previously exercised  
44 by the Board of Higher Education, the Department of Higher  
45 Education, and the Chancellor of Higher Education, under the "New  
46 Jersey Higher Education Building Construction Bond Act of 1971,"  
47 P.L.1971, c.164, the "New Jersey Medical Education Facilities

1 Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and  
2 Technology Bond Act of 1984," P.L.1984, c.99, the "Jobs,  
3 Education and Competitiveness Bond Act of 1988," P.L.1988, c.78,  
4 the "Higher Education Equipment Leasing Fund Act," P.L.1993,  
5 c.136, and the "Higher Education Facilities Trust Fund Act,"  
6 P.L.1993, c.375;

7 l. exercising any other power or responsibility necessary in  
8 order to carry out the provisions of this act;

9 m. consulting with the Higher Education Student Assistance  
10 Authority on student assistance matters;

11 n. advising and making recommendations for consideration to  
12 the Governor and the governing board of a public research  
13 university or a State college for members of that governing board  
14 appointed by the Governor; and

15 o. examining and recommending to institutions of higher  
16 education opportunities for joint purchasing and other joint  
17 arrangements that would be advantageous to the institutions.

18 (cf: P.L. 2015, c.91, s.1)

19

20 4. Section 15 of P.L.1994, c.48 (C.18A:3B-15) is amended to  
21 read as follows:

22 15. The **【commission】** secretary shall adopt rules and  
23 regulations, pursuant to the "Administrative Procedure Act,"  
24 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the  
25 provisions of this act. **【Regulations adopted by the State Board of**  
26 **Higher Education pertaining to:**

27 a. licensing of institutions and university status;

28 b. outside employment for employees of public institutions and  
29 State agencies and Code of Ethics;

30 c. residency requirements for tuition purposes;

31 d. personnel policies which affect the terms and conditions of  
32 employment including classification and compensation plans  
33 adopted pursuant thereto;

34 e. tenure and multi-year contracts;

35 f. rights and procedures in a reduction in force;

36 g. student trustee policies; and

37 h. regulations concerning early retirement programs and length  
38 of the academic year shall continue with full force and effect under  
39 the authority of the commission for a period of one year from the  
40 effective date of this act or until amended, continued or repealed by  
41 the commission pursuant to law. **】**

42 (cf: P.L.1994, c.48, s.15)

43

44 5. Section 20 of P.L.2009, c.308 (C.18A:3B-65) is amended to  
45 read as follows:

46 20. a. Subject to the approval of the Secretary of Higher  
47 Education, the governing board of a public research university or a  
48 State college may establish a branch campus. The governing board

1 shall submit the plan for the branch campus to the secretary for  
2 review and approval. The plan shall be developed and reviewed  
3 according to standards established by the secretary through  
4 regulations promulgated pursuant to the “Administrative Procedure  
5 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

6 b. When the governing board [of a public research university or  
7 a State college], after study and investigation, determines that it is  
8 advisable for the institution to establish a branch campus or  
9 additional location out-of-State or out-of-country that will serve at  
10 least **[500]** 100 students of the institution, the board shall **[submit]**  
11 include in the plan for the branch campus or additional location  
12 submitted to the **[commission]** secretary **[for its review and**  
13 **recommendations. The plan shall include]**:

14 (1) a description of the higher educational needs of the country  
15 or region in which the branch campus or additional location shall be  
16 located;

17 (2) a description of the proposed branch campus or additional  
18 location and its proposed programs and curriculum; **[and]**

19 (3) an estimate of the cost of establishing and maintaining the  
20 branch campus or additional location including the cost of any  
21 planned acquisition or construction of facilities;

22 (4) a commitment that the branch campus or additional location  
23 will comply with the provisions of P.L.1963, c.73 (C.47:1A-1 et  
24 seq.), commonly known as the open public records act; and

25 (5) any other information or data deemed necessary by the  
26 **[commission]** secretary.

27 **[b.] c.** In developing **[its]** a response to the plan, the  
28 **[commission]** secretary shall consider whether there is a need for  
29 the institution to acquire a branch campus or additional location and  
30 whether the institution has the financial capacity to support the  
31 campus or additional location.

32 d. The secretary may approve the establishment of an out-of-  
33 State or out-of-country branch campus or additional location if the  
34 secretary determines that the branch campus or additional location:

35 (1) serves a compelling State interest;

36 (2) does not impose excessive costs or reputational risk to the  
37 State;

38 (3) does not impose a risk to the security interests of the State or  
39 federal government; and

40 (4) does not conflict with existing State or federal laws or  
41 regulations.

42 In making the determination, the secretary may utilize the  
43 assistance of an external consultant team, solicit comments from  
44 interested parties including faculty and members of professional  
45 staff not holding faculty rank at the public research university or  
46 State college, and conduct a site visit at the proposed site of the  
47 branch campus or additional location.



1       e. The governing board of a public research university or a State  
2 college shall fix the salary of all faculty and members of the  
3 professional staff not holding faculty rank performing services at a  
4 branch campus or additional location, and the faculty and members  
5 shall be paid and provided benefits in the same manner as all other  
6 employees of the public research university or State college  
7 performing services on behalf of the public research university or  
8 State college within the State.

9       f. The cost for consultants utilized by the secretary and other  
10 out-of-pocket expenses incurred by the secretary for branch campus  
11 and related reviews shall be paid by the institution seeking to  
12 establish a branch campus.

13       g. The secretary shall adopt rules and regulations, pursuant to  
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
15 seq.), necessary to carry out the provisions of this section.

16       h. As used in this section:

17       "Additional location" means a location, other than a branch  
18 campus, that is geographically apart from the main campus and at  
19 which the institution offers at least 50 percent of an educational  
20 program.

21       "Branch campus" means a physical facility located at a place  
22 other than the institution's principal campus offering one or more  
23 complete programs leading to a degree.

24 (cf: P.L.2009, c.308, s.20)

25

26       6. N.J.S.18A:68-3 is amended to read as follows:

27       18A:68-3. a. No corporation shall furnish instruction or learning  
28 in the arts, sciences, or professions for the purposes of admitting  
29 any person to the grade of a degree, or shall confer or participate in  
30 conferring a degree, giving to any person a diploma of graduation  
31 or of proficiency in a course of study, in learning, or in scientific  
32 arts or methods, within this State, until it shall have filed a certified  
33 copy of its certificate of incorporation with the **【Commission on】**  
34 **Secretary of Higher Education** and obtained from the **【commission】**  
35 **secretary** a license to carry on the business under such rules as the  
36 **【commission】 secretary** may prescribe.

37       b. The secretary shall prepare a fee schedule to cover the  
38 reasonable administrative costs associated with licensing  
39 procedures and submit the initial fee schedule to the Legislature for  
40 review. The secretary shall subsequently adopt, pursuant to the  
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
42 seq.), the fee schedule. Fees collected shall be deposited in the  
43 State Treasury.

44       c. The cost for consultants utilized by the **【Commission on】**  
45 **Secretary of Higher Education** and other out-of-pocket expenses  
46 incurred by the **【commission】 secretary** for licensure and related

1 reviews shall be paid by the institution seeking a license or license  
2 renewal.

3 (cf: P.L.1999, c.46, s.44)

4

5 7. (New section) a. An independent institution shall  
6 immediately notify the secretary of any known financial liabilities  
7 or risks that are reasonably likely to result in the imminent closure  
8 of the institution or otherwise negatively affect the institution's  
9 ability to fulfill its obligations to current and admitted students.

10 b. All independent institutions shall submit an annual fiscal  
11 monitoring report to the secretary according to a schedule  
12 established by the secretary and in a format developed by the  
13 secretary.

14 c. The secretary shall establish a process to annually assess each  
15 independent institution's financial information to identify whether  
16 an institution is at risk of imminent closure. The assessment shall be  
17 based on a review of information received through the annual fiscal  
18 monitoring report. In addition to the annual report, the secretary  
19 may also conduct additional assessments at the secretary's  
20 discretion to identify whether an institution is at risk of imminent  
21 closure.

22 d. If the secretary determines there is a risk of imminent closure,  
23 the determination and a summary of the basis for the determination  
24 shall be provided to the institution. Upon receipt of the  
25 determination and summary the institution shall immediately:

26 (1) notify the secretary of any known liabilities, risks, or  
27 financial issues;

28 (2) provide to the secretary any information necessary to  
29 accurately and fairly determine the institution's financial status and  
30 likelihood of imminent closure and to monitor its condition;

31 (3) prepare and submit to the secretary a contingency plan  
32 for closure, which shall include:

33 i. a process to notify relevant stakeholders, as determined by  
34 the secretary including, but not limited to, enrolled students,  
35 candidates who have submitted applications, recent graduates,  
36 faculty, staff, and host communities;

37 ii. arrangements for the continued education of currently  
38 enrolled students via teach-out agreement or other practical  
39 solution;

40 iii. a plan for the transfer to and long-term maintenance of  
41 records, particularly student academic records, by a third-party if  
42 the institution closes;

43 iv. information about the rights and responsibilities of  
44 student loan borrowers;

45 v. information about the institution's financial condition,  
46 accreditation status, and any outstanding compliance issues  
47 regarding federal and State student aid programs; and

1 vi. confirmation that the institution has obtained either a  
2 surety bond or letter of credit to refund student enrollment deposits  
3 and for the cost to maintain student records by a third-party.

4 e. Upon a finding by the secretary that an institution has failed to  
5 comply with the requirements of this section, the secretary shall  
6 have the authority to order:

7 (1) a fine not to exceed \$1,000 per day of non-compliance with  
8 the requirements of this section;

9 (2) the suspension of any State funding designated for the  
10 institution; and

11 (3) the suspension or revocation of any degree-granting  
12 authority previously conferred on the institution.

13 f. Any information submitted to, or developed by, the secretary  
14 in furtherance of this section shall not be a public record and shall  
15 be exempt from disclosure under provisions of P.L.1963, c.73  
16 (C.47:1A-1 et seq.), commonly known as the open public records  
17 act; and

18 g. The secretary shall adopt rules and regulations, pursuant to  
19 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
20 seq.), necessary to carry out the provisions of this section.

21  
22 8. This act shall take effect immediately.  
23  
24

#### 25 STATEMENT

26  
27 Current law requires the New Jersey Presidents' Council to  
28 review and comment on proposals for new programs that demand  
29 significant added resources or raise significant issues of duplication  
30 but do not exceed the programmatic mission of the institution or  
31 require a change in the programmatic mission. The bill requires the  
32 council to review proposals according to standards as set forth in  
33 regulation by the Secretary of Higher Education for the following:

34 (1) sufficient academic quality;

35 (2) sufficient evidence of labor market demand for the program;

36 (3) duplication with comparable programs of study in the State;  
37 and

38 (4) whether the proposed new program will require significant  
39 additional State resources .

40 Under the bill, if the council determines according to the review  
41 standards that a proposed new program may be of insufficient  
42 academic quality, may lack sufficient evidence of labor market  
43 demand, may be duplicative of comparable programs of study or  
44 may be unduly expensive to the State, the council must refer that  
45 proposal to the secretary for review.

46 Within 60 days of the referral from the council, the secretary,  
47 using the same review standards, may deny approval of programs  
48 proposed by public institutions which do not exceed the

1 programmatic mission of the institutions. In the case of  
2 independent institutions, the secretary may review and comment on  
3 proposed new programs submitted by those institutions. The  
4 secretary would continue to have the authority to make final  
5 administrative decisions over new academic programs that go  
6 beyond the programmatic mission of the institution and final  
7 administrative decisions over a change in the programmatic mission  
8 of an institution.

9 The bill defines “independent institution” to mean an  
10 independent institution of higher education in the State licensed by  
11 the Secretary of Higher Education;

12 Current law provides that when the governing board of a public  
13 research university or a State college determines that it is advisable  
14 to establish a branch campus out-of-State or out-of-country that will  
15 serve at least 500 students, the board must submit the plan to the  
16 secretary for review and recommendations. The bill requires a  
17 these institutions to receive approval from the secretary to establish  
18 a branch campus or additional location that will serve at least 100  
19 students out-of-State or out-of-country. The bill establishes criteria  
20 for such approval and includes definitions of “branch campus” and  
21 “additional location.” The bill also provides that a plan for the  
22 establishment of an in-State branch campus is subject to the  
23 secretary’s review and approval

24 The bill directs the secretary to prepare a fee schedule to cover  
25 the reasonable administrative costs associated with licensing  
26 procedures and submit the initial fee schedule to the Legislature for  
27 review. Subsequent fee schedules will be established by the  
28 secretary through regulations. Fees collected will be deposited in  
29 the State Treasury.

30 The bill establishes a process for the secretary to monitor the  
31 financial stability of independent institutions of higher education.  
32 Under the bill, an independent institution must immediately notify  
33 the secretary of any known financial liabilities or risks that are  
34 reasonably likely to result in the imminent closure of the institution  
35 or otherwise negatively affect the institution’s ability to fulfill its  
36 obligations to current and admitted students. All independent  
37 institutions must submit an annual fiscal monitoring report to the  
38 secretary. The bill also requires the secretary to establish a process  
39 to annually assess each independent institution’s financial  
40 information to identify whether an institution is at risk of imminent  
41 closure. The assessment must be based on a review of information  
42 received through the annual fiscal monitoring report.

43 Under the bill, if the secretary determines there is a risk of  
44 imminent closure, the determination and a summary of the basis for  
45 the determination must be provided to the institution. Upon receipt  
46 of the determination and summary, the institution must  
47 immediately:

**S2660 GOPAL, CUNNINGHAM**

12

1           (1) notify the secretary of any known liabilities, risks or  
2 financial issues;

3           (2) provide to the secretary any information necessary to  
4 accurately and fairly determine the institution's financial status and  
5 likelihood of imminent closure and to monitor its condition; and

6           (3) prepare and submit to the secretary a contingency plan  
7 for closure.

8           The bill provides that, upon a finding by the secretary that an  
9 independent institution has failed to comply with the bill's  
10 requirements concerning fiscal monitoring, the secretary has the  
11 authority to order:

12           (1) a fine not to exceed \$1,000 per day of non-compliance;

13           (2) the suspension of any state funding designated for the  
14 institution; and

15           (3) the suspension or revocation of any degree granting  
16 authority previously conferred on the institution.

# SENATE HIGHER EDUCATION COMMITTEE

## STATEMENT TO

### SENATE, No. 2660

# STATE OF NEW JERSEY

DATED: AUGUST 17, 2020

The Senate Higher Education Committee reports favorably Senate Bill No. 2660.

Current law requires the New Jersey Presidents' Council to review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. The bill requires the council to review proposals according to standards as set forth in regulation by the Secretary of Higher Education for the following:

- (1) sufficient academic quality;
- (2) sufficient evidence of labor market demand for the program;
- (3) duplication with comparable programs of study in the State;

and

(4) whether the proposed new program will require significant additional State resources .

Under the bill, if the council determines according to the review standards that a proposed new program may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study or may be unduly expensive to the State, the council must refer that proposal to the secretary for review.

Within 60 days of the referral from the council, the secretary, using the same review standards, may deny approval of programs proposed by public institutions which do not exceed the programmatic mission of the institutions. In the case of independent institutions, the secretary may review and comment on proposed new programs submitted by those institutions. The secretary would continue to have the authority to make final administrative decisions over new academic programs that go beyond the programmatic mission of the institution and final administrative decisions over a change in the programmatic mission of an institution.

The bill defines "independent institution" to mean an independent institution of higher education in the State licensed by the Secretary of Higher Education;

Current law provides that when the governing board of a public research university or a State college determines that it is advisable to establish a branch campus out-of-State or out-of-country that will serve at least 500 students, the board must submit the plan to the

secretary for review and recommendations. The bill requires these institutions to receive approval from the secretary to establish a branch campus or additional location that will serve at least 100 students out-of-State or out-of-country. The bill establishes criteria for such approval and includes definitions of “branch campus” and “additional location.” The bill also provides that a plan for the establishment of an in-State branch campus is subject to the secretary’s review and approval

The bill directs the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with licensing procedures and submit the initial fee schedule to the Legislature for review. Subsequent fee schedules will be established by the secretary through regulations. Fees collected will be deposited in the State Treasury.

The bill establishes a process for the secretary to monitor the financial stability of independent institutions of higher education. Under the bill, an independent institution must immediately notify the secretary of any known financial liabilities or risks that are reasonably likely to result in the imminent closure of the institution or otherwise negatively affect the institution’s ability to fulfill its obligations to current and admitted students. All independent institutions must submit an annual fiscal monitoring report to the secretary. The bill also requires the secretary to establish a process to annually assess each independent institution’s financial information to identify whether an institution is at risk of imminent closure. The assessment must be based on a review of information received through the annual fiscal monitoring report.

Under the bill, if the secretary determines there is a risk of imminent closure, the determination and a summary of the basis for the determination must be provided to the institution. Upon receipt of the determination and summary, the institution must immediately:

- (1) notify the secretary of any known liabilities, risks or financial issues;
- (2) provide to the secretary any information necessary to accurately and fairly determine the institution’s financial status and likelihood of imminent closure and to monitor its condition; and
- (3) prepare and submit to the secretary a contingency plan for closure.

The bill provides that, upon a finding by the secretary that an independent institution has failed to comply with the bill’s requirements concerning fiscal monitoring, the secretary has the authority to order:

- (1) a fine not to exceed \$1,000 per day of non-compliance;
- (2) the suspension of any state funding designated for the institution; and
- (3) the suspension or revocation of any degree granting authority previously conferred on the institution.

# ASSEMBLY, No. 4409

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 16, 2020

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Requires Secretary of Higher Education's approval for certain branch campuses; establishes fiscal monitoring and closure policies for independent institutions of higher education; modifies review process for new higher education academic programs.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 10/8/2020)



A4409 JASEY, DOWNEY

2

1 AN ACT concerning the Office of the Secretary of Higher Education  
2 and amending and supplementing various sections of Title 18A  
3 of the New Jersey Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 3 of P.L.1994, c.48 (C.18A:3B-3) is amended to  
9 read as follows:

10 3. For the purposes of this act, unless the context clearly  
11 requires a different meaning:

12 "Authority" means the Higher Education Student Assistance  
13 Authority established pursuant to N.J.S.18A:71A-3;

14 "Commission" means the New Jersey Commission on Higher  
15 Education established by this act;

16 "Council" means the New Jersey Presidents' Council established  
17 by this act;

18 "Council of County Colleges" means the New Jersey Council of  
19 County Colleges established pursuant to N.J.S.18A:64A-26;

20 "County college" means an educational institution established by  
21 one or more counties, pursuant to chapter 64A of Title 18A of the  
22 New Jersey Statutes;

23 "Educational research and services corporation" means a  
24 nonprofit corporation whose voting members are public research  
25 universities, State colleges, county colleges, public institutions of  
26 higher education primarily located in the State of New Jersey, and  
27 nonprofit independent institutions of higher education that receive  
28 direct State aid;

29 "Independent institution" means an independent institution of  
30 higher education in the State licensed by the Secretary of Higher  
31 Education;

32 "Programmatic Mission" means all program offerings consistent  
33 within those levels of academic degrees or certificates that the  
34 institution has been authorized to grant by the State Board of  
35 Higher Education prior to the effective date of this act or approved  
36 thereafter by the commission;

37 "Public Research University" means Rutgers, The State  
38 University of New Jersey, Rowan University, the New Jersey  
39 Institute of Technology, and Montclair State University;

40 "Secretary" means "Secretary of Higher Education;"

41 "State college" means any of the State colleges or universities  
42 established pursuant to chapter 64 of Title 18A of the New Jersey  
43 Statutes including any State college designated as a teaching  
44 university.

45 (cf: P.L.2017, c.178, s.36)

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       2. Section 8 of P.L.1994, c.48 (C.18A:3B-8) is amended to  
2 read as follows:

3       8. The council shall have the responsibility, consistent with  
4 State and federal law, to:

5       a. provide public information and research on higher education  
6 issues;

7       b. review and make recommendations to the **【commission】**  
8 Secretary of Higher Education concerning proposals for new  
9 programs that exceed the programmatic mission of an institution or  
10 that change the programmatic mission of an institution;

11       c. review **【and comment on】** proposals for new programs **【that**  
12 demand significant added resources or raise significant issues of  
13 duplication but do not exceed the programmatic mission of the  
14 institution or require a change in the programmatic mission **】** ,  
15 according to standards established by the secretary through  
16 regulations promulgated pursuant to the “Administrative Procedure  
17 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), for the following:

18       (1) sufficient academic quality;

19       (2) sufficient evidence of labor market demand for the program;

20       (3) duplication with comparable programs of study in the State;

21 and

22       (4) whether the proposed new program will require significant  
23 additional State resources .

24 If the council determines according to the review standards set by  
25 the secretary **【deleted space underline】** that a proposed new  
26 program **【is】** may be of insufficient academic quality, may lack  
27 sufficient evidence of labor market demand, may be duplicative of  
28 comparable programs of study or may be unduly expensive **【or**  
29 unduly duplicative **】** to the State, the council shall refer that  
30 proposal to the **【commission】** secretary for review**【;** however,  
31 unless the commission disapproves of that program within 60 days  
32 of its referral, the program shall be deemed approved **】** pursuant to  
33 subsection f. of section 14 of P.L.1994, c.48 (C.18A:3B-14);

34       d. encourage the formation of regional or other alliances among  
35 institutions including interinstitutional transfers, program  
36 articulation, cooperative programs and shared resources and  
37 develop criteria for "full faith and credit" transfer agreements  
38 between county colleges and other institutions of higher education.  
39 The council shall also keep institutions apprised of the  
40 discontinuance of programs at other institutions and each president  
41 shall notify the council of any such action;

42       e. advise and assist the **【commission】** secretary in developing  
43 and updating a plan for higher education in the State including, but  
44 not limited to, the establishment of new institutions, closure of  
45 existing institutions and consolidation of institutions;

46       f. provide policy recommendations on Statewide higher  
47 education issues;

- 1 g. recommend to the Governor, Legislature and [commission]  
2 secretary on policy and overall levels of funding for student aid  
3 programs necessary to ensure accessibility to higher education;
- 4 h. transmit to the Governor, Legislature and [commission]  
5 secretary a general budget policy statement regarding overall State  
6 funding levels;
- 7 i. upon referral from the [commission] secretary pursuant to  
8 this act provide recommendations concerning institutional licensure  
9 and university status;
- 10 j. appoint subcommittees consisting of the presidents of the  
11 institutions of the various higher education sectors to decide  
12 matters, within the authority of the council. The presidents of the  
13 independent institutions shall develop a unified request for State  
14 support under chapter 72B of Title 18A of the New Jersey Statutes.  
15 The presidents of the county college sector shall develop a unified  
16 request for State support under chapter 64A of Title 18A of the New  
17 Jersey Statutes; and
- 18 k. consult with the Higher Education Student Assistance  
19 Authority concerning student assistance matters.  
20 (cf: P.L.1999, c.46, s.29)  
21
- 22 3. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to  
23 read as follows:
- 24 14. The Secretary of Higher Education shall be responsible for:
- 25 a. Statewide planning for higher education including research  
26 on higher education issues and the development of a comprehensive  
27 master plan, including, but not limited to, the establishment of new  
28 institutions, closure of existing institutions, and consolidation of  
29 institutions, which plan shall be long-range in nature. Within 180  
30 days of the effective date of P.L.2015, c.91 and, at a minimum,  
31 every seven years thereafter, the secretary shall adopt a new  
32 comprehensive master plan. The council may request the secretary  
33 to conduct a study of a particular issue. The secretary may require  
34 from institutions of higher education such reports or other  
35 information as may be necessary to enable the secretary to perform  
36 his duties;
- 37 b. advocacy on behalf of higher education including informing  
38 the public of the needs and accomplishments of higher education in  
39 New Jersey;
- 40 c. making recommendations to the Governor and Legislature  
41 on higher education initiatives and incentive programs of Statewide  
42 significance;
- 43 d. final administrative decisions over institutional licensure and  
44 university status giving due consideration to the accreditation status  
45 of the institution. The secretary shall furnish the Presidents' Council  
46 with any pertinent information compiled on behalf of the subject  
47 institution and the council shall then make recommendations to the

- 1 secretary concerning the licensure of the institution or university  
2 status within sixty days of receipt of the information;
- 3 e. adopting a code of ethics applicable to institutions of higher  
4 education;
- 5 f. final administrative decisions over new academic programs  
6 that go beyond the programmatic mission of the institution and final  
7 administrative decisions over a change in the programmatic mission  
8 of an institution. In addition, within 60 days of referral of a  
9 proposed new program **【determined to be unduly expensive or  
10 duplicative】** by the council, the secretary may deny approval of  
11 programs proposed by public institutions of higher education which  
12 do not exceed the programmatic mission of the institution, but  
13 which **【are】** may be of insufficient academic quality, may lack  
14 sufficient evidence of labor market demand, may be duplicative of  
15 comparable programs of study, or may be unduly expensive to the  
16 State as determined by the New Jersey Presidents' Council **【to be  
17 unduly duplicative or expensive】** according to the review standards  
18 set by the secretary, and review and comment on proposed new  
19 programs submitted by independent institutions of higher education,  
20 within 60 days of referral by the council;
- 21 g. reviewing requests for State support from the institutions in  
22 relation to the mission of the institution and Statewide goals and  
23 proposing a coordinated budget policy statement to the Governor  
24 and Legislature;
- 25 h. communicating with the State Board of Education and  
26 Commissioner of Education to advance public education at all  
27 levels including articulation between the public schools and higher  
28 education community;
- 29 i. applying for and accepting grants from the federal  
30 government, or any agency thereof, or grants, gifts or other  
31 contributions from any foundation, corporation, association or  
32 individual, and complying with the terms, conditions and  
33 limitations thereof, for the purpose of advancing higher education.  
34 Any money so received may be expended by the secretary upon  
35 warrant of the director of the Office of Management and Budget in  
36 the Department of the Treasury on vouchers certified by the  
37 secretary;
- 38 j. acting as the lead agent of communication with the federal  
39 government concerning higher education issues, except that the  
40 Higher Education Student Assistance Authority shall act, in  
41 cooperation with the secretary, as the lead agency on issues of  
42 student assistance;
- 43 k. exercising all of the powers and duties previously exercised  
44 by the Board of Higher Education, the Department of Higher  
45 Education, and the Chancellor of Higher Education, under the "New  
46 Jersey Higher Education Building Construction Bond Act of 1971,"  
47 P.L.1971, c.164, the "New Jersey Medical Education Facilities

1 Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and  
2 Technology Bond Act of 1984," P.L.1984, c.99, the "Jobs,  
3 Education and Competitiveness Bond Act of 1988," P.L.1988, c.78,  
4 the "Higher Education Equipment Leasing Fund Act,"  
5 P.L.1993, c.136, and the "Higher Education Facilities Trust Fund  
6 Act," P.L.1993, c.375;

7 l. exercising any other power or responsibility necessary in  
8 order to carry out the provisions of this act;

9 m. consulting with the Higher Education Student Assistance  
10 Authority on student assistance matters;

11 n. advising and making recommendations for consideration to  
12 the Governor and the governing board of a public research  
13 university or a State college for members of that governing board  
14 appointed by the Governor; and

15 o. examining and recommending to institutions of higher  
16 education opportunities for joint purchasing and other joint  
17 arrangements that would be advantageous to the institutions.

18 (cf: P.L.2015, c.91, s.1)

19

20 4. Section 15 of P.L.1994, c.48 (C.18A:3B-15) is amended to  
21 read as follows:

22 15. The **【commission】** secretary shall adopt rules and  
23 regulations, pursuant to the "Administrative Procedure Act,"  
24 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the  
25 provisions of this act. **【Regulations adopted by the State Board of  
26 Higher Education pertaining to:**

27 a. licensing of institutions and university status;

28 b. outside employment for employees of public institutions and  
29 State agencies and Code of Ethics;

30 c. residency requirements for tuition purposes;

31 d. personnel policies which affect the terms and conditions of  
32 employment including classification and compensation plans  
33 adopted pursuant thereto;

34 e. tenure and multi-year contracts;

35 f. rights and procedures in a reduction in force;

36 g. student trustee policies; and

37 h. regulations concerning early retirement programs and length  
38 of the academic year shall continue with full force and effect under  
39 the authority of the commission for a period of one year from the  
40 effective date of this act or until amended, continued or repealed by  
41 the commission pursuant to law. **】**

42 (cf: P.L.1994, c.48, s.15)

43

44 5. Section 20 of P.L.2009, c.308 (C.18A:3B-65) is amended to  
45 read as follows:

46 20. a. Subject to the approval of the Secretary of Higher  
47 Education, the governing board of a public research university or a  
48 State college may establish a branch campus. The governing board

1 shall submit the plan for the branch campus to the secretary for  
2 review and approval. The plan shall be developed and reviewed  
3 according to standards established by the secretary through  
4 regulations promulgated pursuant to the “Administrative Procedure  
5 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

6 b. When the governing board [of a public research university or  
7 a State college], after study and investigation, determines that it is  
8 advisable for the institution to establish a branch campus or  
9 additional location out-of-State or out-of-country that will serve at  
10 least **[500]** 100 students of the institution, the board shall **[submit]**  
11 include in the plan for the branch campus or additional location  
12 submitted to the **[commission]** secretary **[for its review and**  
13 **recommendations. The plan shall include]**:

14 (1) a description of the higher educational needs of the country  
15 or region in which the branch campus or additional location shall be  
16 located;

17 (2) a description of the proposed branch campus or additional  
18 location and its proposed programs and curriculum; **[and]**

19 (3) an estimate of the cost of establishing and maintaining the  
20 branch campus or additional location including the cost of any  
21 planned acquisition or construction of facilities;

22 (4) a commitment that the branch campus or additional location  
23 will comply with the provisions of P.L.1963, c.73 (C.47:1A-1 et  
24 seq.), commonly known as the open public records act; and

25 (5) any other information or data deemed necessary by the  
26 **[commission]** secretary.

27 **[b.] c.** In developing **[its]** a response to the plan, the  
28 **[commission]** secretary shall consider whether there is a need for  
29 the institution to acquire a branch campus or additional location and  
30 whether the institution has the financial capacity to support the  
31 campus or additional location.

32 d. The secretary may approve the establishment of an out-of-  
33 State or out-of-country branch campus or additional location if the  
34 secretary determines that the branch campus or additional location:

35 (1) serves a compelling State interest;

36 (2) does not impose excessive costs or reputational risk to the  
37 State;

38 (3) does not impose a risk to the security interests of the State or  
39 federal government; and

40 (4) does not conflict with existing State or federal laws or  
41 regulations.

42 In making the determination, the secretary may utilize the  
43 assistance of an external consultant team, solicit comments from  
44 interested parties including faculty and members of professional  
45 staff not holding faculty rank at the public research university or  
46 State college, and conduct a site visit at the proposed site of the  
47 branch campus or additional location.

1     e. The governing board of a public research university or a  
2 State college shall fix the salary of all faculty and members of the  
3 professional staff not holding faculty rank performing services at a  
4 branch campus or additional location, and the faculty and members  
5 shall be paid and provided benefits in the same manner as all other  
6 employees of the public research university or State college  
7 performing services on behalf of the public research university or  
8 State college within the State.

9     f. The cost for consultants utilized by the secretary and other  
10 out-of-pocket expenses incurred by the secretary for branch campus  
11 and related reviews shall be paid by the institution seeking to  
12 establish a branch campus.

13     g. The secretary shall adopt rules and regulations, pursuant to  
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
15 seq.), necessary to carry out the provisions of this section.

16     h. As used in this section:

17     "Additional location" means a location, other than a branch  
18 campus, that is geographically apart from the main campus and at  
19 which the institution offers at least 50 percent of an educational  
20 program.

21     "Branch campus" means a physical facility located at a place  
22 other than the institution's principal campus offering one or more  
23 complete programs leading to a degree.

24 (cf: P.L.2009, c.308, s.20)

25  
26     6. N.J.S.18A:68-3 is amended to read as follows:

27     18A:68-3. a. No corporation shall furnish instruction or  
28 learning in the arts, sciences, or professions for the purposes of  
29 admitting any person to the grade of a degree, or shall confer or  
30 participate in conferring a degree, giving to any person a diploma of  
31 graduation or of proficiency in a course of study, in learning, or in  
32 scientific arts or methods, within this State, until it shall have filed  
33 a certified copy of its certificate of incorporation with the  
34 **【Commission on】** Secretary of Higher Education and obtained from  
35 the **【commission】** secretary a license to carry on the business under  
36 such rules as the **【commission】** secretary may prescribe.

37     b. The secretary shall prepare a fee schedule to cover the  
38 reasonable administrative costs associated with licensing  
39 procedures and submit the initial fee schedule to the Legislature for  
40 review. The secretary shall subsequently adopt, pursuant to the  
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
42 seq.), the fee schedule. Fees collected shall be deposited in the  
43 State Treasury.

44     c. The cost for consultants utilized by the **【Commission on】**  
45 Secretary of Higher Education and other out-of-pocket expenses  
46 incurred by the **【commission】** secretary for licensure and related

1 reviews shall be paid by the institution seeking a license or license  
2 renewal.

3 (cf: P.L.1999, c.46, s.44)

4

5 7. (New section) a. An independent institution shall  
6 immediately notify the secretary of any known financial liabilities  
7 or risks that are reasonably likely to result in the imminent closure  
8 of the institution or otherwise negatively affect the institution's  
9 ability to fulfill its obligations to current and admitted students.

10 b. All independent institutions shall submit an annual fiscal  
11 monitoring report to the secretary according to a schedule  
12 established by the secretary and in a format developed by the  
13 secretary.

14 c. The secretary shall establish a process to annually assess  
15 each independent institution's financial information to identify  
16 whether an institution is at risk of imminent closure. The  
17 assessment shall be based on a review of information received  
18 through the annual fiscal monitoring report. In addition to the  
19 annual report, the secretary may also conduct additional  
20 assessments at the secretary's discretion to identify whether an  
21 institution is at risk of imminent closure.

22 d. If the secretary determines there is a risk of imminent  
23 closure, the determination and a summary of the basis for the  
24 determination shall be provided to the institution. Upon receipt of  
25 the determination and summary the institution shall immediately:

26 (1) notify the secretary of any known liabilities, risks, or  
27 financial issues;

28 (2) provide to the secretary any information necessary to  
29 accurately and fairly determine the institution's financial status and  
30 likelihood of imminent closure and to monitor its condition;

31 (3) prepare and submit to the secretary a contingency  
32 plan for closure, which shall include:

33 i. a process to notify relevant stakeholders, as determined  
34 by the secretary including, but not limited to, enrolled students,  
35 candidates who have submitted applications, recent graduates,  
36 faculty, staff, and host communities;

37 ii. arrangements for the continued education of currently  
38 enrolled students via teach-out agreement or other practical  
39 solution;

40 iii. a plan for the transfer to and long-term maintenance of  
41 records, particularly student academic records, by a third-party if  
42 the institution closes;

43 iv. information about the rights and responsibilities of  
44 student loan borrowers;

45 v. information about the institution's financial condition,  
46 accreditation status, and any outstanding compliance issues  
47 regarding federal and State student aid programs; and



1 vi. confirmation that the institution has obtained either a  
2 surety bond or letter of credit to refund student enrollment deposits  
3 and for the cost to maintain student records by a third-party.

4 e. Upon a finding by the secretary that an institution has failed  
5 to comply with the requirements of this section, the secretary shall  
6 have the authority to order:

7 (1) a fine not to exceed \$1,000 per day of non-compliance with  
8 the requirements of this section;

9 (2) the suspension of any State funding designated for the  
10 institution; and

11 (3) the suspension or revocation of any degree-granting  
12 authority previously conferred on the institution.

13 f. Any information submitted to, or developed by, the secretary  
14 in furtherance of this section shall not be a public record and shall  
15 be exempt from disclosure under provisions of P.L.1963, c.73  
16 (C.47:1A-1 et seq.), commonly known as the open public records  
17 act; and

18 g. The secretary shall adopt rules and regulations, pursuant to  
19 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
20 seq.), necessary to carry out the provisions of this section.

21  
22 8. This act shall take effect immediately.  
23  
24

25 STATEMENT  
26

27 Current law requires the New Jersey Presidents' Council to  
28 review and comment on proposals for new programs that demand  
29 significant added resources or raise significant issues of duplication  
30 but do not exceed the programmatic mission of the institution or  
31 require a change in the programmatic mission. The bill requires the  
32 council to review proposals according to standards as set forth in  
33 regulation by the Secretary of Higher Education for the following:

34 (1) sufficient academic quality;

35 (2) sufficient evidence of labor market demand for the program;

36 (3) duplication with comparable programs of study in the State;  
37 and

38 (4) whether the proposed new program will require significant  
39 additional State resources .

40 Under the bill, if the council determines according to the review  
41 standards that a proposed new program may be of insufficient  
42 academic quality, may lack sufficient evidence of labor market  
43 demand, may be duplicative of comparable programs of study or  
44 may be unduly expensive to the State, the council must refer that  
45 proposal to the secretary for review.

46 Within 60 days of the referral from the council, the secretary,  
47 using the same review standards, may deny approval of programs  
48 proposed by public institutions which do not exceed the

1 programmatic mission of the institutions. In the case of  
2 independent institutions, the secretary may review and comment on  
3 proposed new programs submitted by those institutions. The  
4 secretary would continue to have the authority to make final  
5 administrative decisions over new academic programs that go  
6 beyond the programmatic mission of the institution and final  
7 administrative decisions over a change in the programmatic mission  
8 of an institution.

9 The bill defines “independent institution” to mean an  
10 independent institution of higher education in the State licensed by  
11 the Secretary of Higher Education;

12 Current law provides that when the governing board of a public  
13 research university or a State college determines that it is advisable  
14 to establish a branch campus out-of-State or out-of-country that will  
15 serve at least 500 students, the board must submit the plan to the  
16 secretary for review and recommendations. The bill requires a  
17 these institutions to receive approval from the secretary to establish  
18 a branch campus or additional location that will serve at least 100  
19 students out-of-State or out-of-country. The bill establishes criteria  
20 for such approval and includes definitions of “branch campus” and  
21 “additional location.” The bill also provides that a plan for the  
22 establishment of an in-State branch campus is subject to the  
23 secretary’s review and approval

24 The bill directs the secretary to prepare a fee schedule to cover  
25 the reasonable administrative costs associated with licensing  
26 procedures and submit the initial fee schedule to the Legislature for  
27 review. Subsequent fee schedules will be established by the  
28 secretary through regulations. Fees collected will be deposited in  
29 the State Treasury.

30 The bill establishes a process for the secretary to monitor the  
31 financial stability of independent institutions of higher education.  
32 Under the bill, an independent institution must immediately notify  
33 the secretary of any known financial liabilities or risks that are  
34 reasonably likely to result in the imminent closure of the institution  
35 or otherwise negatively affect the institution’s ability to fulfill its  
36 obligations to current and admitted students. All independent  
37 institutions must submit an annual fiscal monitoring report to the  
38 secretary. The bill also requires the secretary to establish a process  
39 to annually assess each independent institution’s financial  
40 information to identify whether an institution is at risk of imminent  
41 closure. The assessment must be based on a review of information  
42 received through the annual fiscal monitoring report.

43 Under the bill, if the secretary determines there is a risk of  
44 imminent closure, the determination and a summary of the basis for  
45 the determination must be provided to the institution. Upon receipt  
46 of the determination and summary, the institution must  
47 immediately:

1           (1) notify the secretary of any known liabilities, risks or  
2 financial issues;

3           (2) provide to the secretary any information necessary to  
4 accurately and fairly determine the institution's financial status and  
5 likelihood of imminent closure and to monitor its condition; and

6           (3) prepare and submit to the secretary a contingency plan  
7 for closure.

8       The bill provides that, upon a finding by the secretary that an  
9 independent institution has failed to comply with the bill's  
10 requirements concerning fiscal monitoring, the secretary has the  
11 authority to order:

12       (1) a fine not to exceed \$1,000 per day of non-compliance;

13       (2) the suspension of any state funding designated for the  
14 institution; and

15       (3) the suspension or revocation of any degree granting  
16 authority previously conferred on the institution.

**ASSEMBLY, No. 1066**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**SYNOPSIS**

Requires governing board of public institution of higher education to gain approval of Secretary of Higher Education prior to establishing branch campus or additional location.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A1066 JASEY

2

1 AN ACT concerning public institutions of higher education and  
2 amending P.L.2009, c.308.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 20 of P.L.2009, c. 308 (C. 18A:3B-65) is amended  
8 to read as follows:

9 20. a. Subject to the approval of the Secretary of Higher  
10 Education, the governing board of a public research university or a  
11 State college may establish a branch campus or additional location  
12 out-of-State or out-of-country. When the governing board **[of a**  
13 **public research university or a State college]**, after study and  
14 investigation, determines that it is advisable for the institution to  
15 establish a branch campus or additional location out-of-State or out-  
16 of-country that will serve at least **[500]** 100 students of the  
17 institution, the board shall submit the plan for the branch campus or  
18 additional location to the **[commission]** secretary for **[its]** review  
19 and **[recommendations]** approval . The plan shall include:

20 (1) a description of the higher educational needs of the country  
21 or region in which the branch campus or additional location shall be  
22 located;

23 (2) a description of the proposed branch campus or additional  
24 location and its proposed programs and curriculum; **[and]**

25 (3) an estimate of the cost of establishing and maintaining the  
26 branch campus or additional location including the cost of any  
27 planned acquisition or construction of facilities;

28 (4) a commitment that the branch campus or additional location  
29 will comply with the provisions of P.L.1963, c.73 (C.47:1A-1 et  
30 seq.), known commonly as the open public records act; and

31 (5) any other information or data deemed necessary by the  
32 **[commission]** secretary.

33 b. In developing its response to the plan, the **[commission]**  
34 secretary shall consider whether there is a need for the institution to  
35 acquire a branch campus or additional location and whether the  
36 institution has the financial capacity to support the campus or  
37 location .

38 c. The secretary may approve the establishment of a branch  
39 campus or additional location if the secretary determines that the  
40 branch campus or additional location:

41 (1) serves a compelling State interest;

42 (2) does not impose excessive costs or reputational risk to the  
43 State;

44 (3) does not impose a risk to the security interests of the State or  
45 federal government; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       (4) does not conflict with existing State or federal laws or  
2 regulations.

3       In making the determination, the secretary may utilize the  
4 assistance of an external consultant team, solicit comments from  
5 interested parties including faculty and members of professional  
6 staff not holding faculty rank at the public research university or  
7 State college, and conduct a site visit at the proposed site of the  
8 branch campus or additional location.

9       d. The governing board of a public research university or a  
10 State college shall fix the salary of all faculty and members of the  
11 professional staff not holding faculty rank performing services at a  
12 branch campus or additional location, and the faculty and members  
13 shall be paid and provided benefits in the same manner as all other  
14 employees of the public research university or State college  
15 performing services on behalf of the public research university or  
16 State college within the State.

17       e. As used in this section:

18       “Additional location” means a location, other than a branch  
19 campus, that is geographically apart from the main campus and at  
20 which the institution offers at least 50 percent of an educational  
21 program.

22       “Branch campus” means a campus which: offers courses in  
23 educational programs leading to a degree, certificate, or other  
24 recognized educational credentials; has its own faculty and  
25 administrative or supervisory organization; and has its own  
26 budgetary and hiring authority.

27 (cf: P.L.2009, c.308, s.20)

28

29       2. This act shall take effect immediately.

30

31

32

STATEMENT

33

34       Under current law, when the governing board of a public  
35 research university or a State college determines that it is advisable  
36 for the institution to establish a branch campus out-of-State or out-  
37 of-country that will serve at least 500 students of the institution, the  
38 board must submit the plan for the branch campus to the Secretary  
39 of Higher Education for its review and recommendations.

40       This bill amends the law to:

- 41       • clarify that the provisions of the bill also apply to additional  
42       locations, not just branch campuses;
- 43       • specify that the board must first gain the approval of the  
44       secretary prior to establishing a branch campus or additional  
45       location;
- 46       • provide that secretary approval is required for a branch  
47       campus or additional location that serves at least 100  
48       students instead of at least 500 students;

**A1066 JASEY**

- 1       • require the board’s plan to specify a commitment that the  
2       branch campus or additional location will comply with the  
3       provisions of the open public records act; and
- 4       • provide that the secretary may approve the establishment of  
5       a branch campus or additional location if the secretary  
6       determines that the branch campus or additional location:  
7       serves a compelling State interest; does not impose  
8       excessive costs or reputational risk to the State; does not  
9       impose a risk to the security interests of the State or federal  
10      government; and does not conflict with existing State or  
11      federal laws or regulations.

12      The bill specifies that, in making a determination to approve a  
13      branch campus or additional location, the secretary may utilize the  
14      assistance of an external consultant team, solicit comments from  
15      interested parties including faculty and members of professional  
16      staff not holding faculty rank at the public research university or a  
17      State college, and conduct a site visit at the proposed site of the  
18      branch campus or additional location.

19      The bill also specifies that faculty and members of the  
20      professional staff not holding faculty rank will receive the same  
21      salary and benefits as the employees of the institution within the  
22      State.

# ASSEMBLY HIGHER EDUCATION COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 4409

# STATE OF NEW JERSEY

DATED: OCTOBER 8, 2020

The Assembly Higher Education Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4409.

Current law requires the New Jersey Presidents' Council to review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. The committee substitute requires the council to review proposals for new programs that do not exceed the programmatic mission or require a change in the programmatic mission according to standards set forth in regulation by the Secretary of Higher Education for the following:

- (1) sufficient academic quality;
  - (2) sufficient evidence of labor market demand for the program;
  - (3) duplication with comparable programs of study in the State;
- and
- (4) whether the proposed new program will require significant additional State resources.

Under the substitute, if the council determines according to the review standards that a proposed new program may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study, or may be unduly expensive to the State, the council must refer that proposal to the secretary for review.

Within 60 days of the referral from the council, the secretary, using the same review standards, may deny approval of these programs proposed by public institutions. In the case of independent institutions, the secretary may review and comment on proposed new programs submitted by those institutions. The secretary would continue to have the authority to make final administrative decisions over new academic programs that go beyond the programmatic mission of the institution and final administrative decisions over a change in the programmatic mission of an institution.

Current law provides that when the governing board of a public research university or a State college determines that it is advisable to establish a branch campus out-of-State or out-of-country that will serve at least 500 students, the board must submit the plan to the



secretary for review and recommendations. The substitute requires these institutions to receive approval from the secretary to establish a branch campus or additional location that will serve at least 100 students out-of-State or out-of-country and establishes criteria for such approval. The substitute also provides that a plan for the establishment of an in-State branch campus is subject to the secretary's review and approval.

The substitute directs the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with licensing procedures and submit the initial fee schedule to the Legislature for review. Subsequent fee schedules will be established by the secretary through regulations. Fees collected will be deposited in the State Treasury.

The substitute also provides that an independent institution of higher education and a proprietary institution licensed to offer academic degrees are to immediately notify the secretary of any financial liabilities or risks that are reasonably likely to result in the imminent closure of the institution, or otherwise negatively affect the institution's ability to fulfill its obligations to students. The independent and proprietary institutions are to submit an annual fiscal monitoring report to the secretary in a format, and according to a schedule, developed by the secretary. The secretary will establish a process to annually assess each independent institution and proprietary institution to identify whether an institution is at risk of closure. The substitute specifies actions that such an institution must take in the event that the secretary makes such a determination.

The substitute provides that a proprietary institution licensed to offer academic degrees is to provide the secretary with a teach-out plan that addresses the potential closure of the institution. A teach-out plan is defined as a written plan developed by the institution that provides for the equitable treatment of students if an institution, or certain institutional locations, cease to operate before all students have completed their program.

Under the substitute an institution of higher education and a proprietary institution licensed to offer academic degrees are required to enter into a school-to-school teach-out agreement at least 120 days prior to the cessation of institution operations. A teach-out agreement is a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study at a transfer institution. The secretary will approve an institution of higher education or a proprietary institution to act as an eligible transfer institution in accordance with standards established under the substitute.

Under the substitute, before any institution of higher education or proprietary institution licensed to offer academic degrees ceases

operations, the institution must file with the eligible transfer institution or a third party approved by the secretary copies of all essential records of current or former students.

The substitute also establishes certain requirements for the closure of private career schools that operate in the State. Under the substitute, the closure of private career schools is overseen by Commissioner of the Department of Labor and Workforce Development. Private career schools will also be required to provide the commissioner with a teach-out plan that addresses potential school closure and a teach-out agreement at least 120 days prior to the closure. The commissioner will approve a private career school as an eligible transfer institution.

Under the substitute, before any private career school ceases operations, the school must file with the commissioner copies of all essential records of current or former students. The commissioner will maintain a permanent file of all records, and may provide a student with a replacement transcript if necessary.

The substitute provides that it is an unlawful practice and a violation of the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any institution or school, person, or entity to collect on a student's institutional debt if the institutional financial aid agreement does not contain the language required by the substitute, or for an institution or school to collect on an institutional debt of a student who attended an institution or school in which a disorderly closure occurred.

As reported by the committee, this substitute is identical to the Senate Committee Substitute for Senate Bill Nos. 1271, 2588, and 2660, which also was reported by the committee on this same date.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 4409**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 12, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4409 ACS, with committee amendments.

Current law requires the New Jersey Presidents' Council to review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. As amended, this bill requires the council to review proposals for new programs that do not exceed the programmatic mission or require a change in the programmatic mission according to standards set forth in regulation by the Secretary of Higher Education for the following:

- (1) sufficient academic quality;
  - (2) sufficient evidence of labor market demand for the program;
  - (3) duplication with comparable programs of study in the State;
- and
- (4) whether the proposed new program will require significant additional State resources.

Under the bill, if the council determines according to the review standards that a proposed new program may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study, or may require significant additional State resources, the council must refer that proposal to the secretary for review.

Within 60 days of the referral from the council, the secretary, using the same review standards, may deny approval of these programs proposed by all institutions of higher education.

Current law provides that when the governing board of a public research university or a State college determines that it is advisable to establish a branch campus out-of-State or out-of-country that will serve at least 500 students, the board must submit the plan to the secretary for review and recommendations. This bill requires these institutions to receive approval from the secretary to establish a branch campus or additional location that will serve at least 100 students out-of-State or out-of-country and establishes criteria for such approval.

The bill directs the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with licensing procedures and submit the initial fee schedule to the Legislature for review. Subsequent fee schedules will be established by the secretary through regulations. Fees collected will be deposited in the State Treasury.

The bill also provides that an institution of higher education and a proprietary institution licensed to offer academic degrees are to immediately notify the secretary of any financial liabilities or risks that are reasonably likely to result in the imminent closure of the institution, or otherwise negatively affect the institution's ability to fulfill its obligations to students. Under the bill, the secretary will establish and disseminate guidelines for the implementation of the notification. The independent and proprietary institutions, as well as any institution of higher education that has notified the secretary of known financial liabilities or risks, are to submit an annual fiscal monitoring report to the secretary in a format, and according to a schedule, developed by the secretary. The secretary will establish a process to annually assess each independent institution, proprietary institution, or institution that has notified the secretary of known financial liabilities or risks, to identify whether an institution is at risk of closure. The bill specifies actions that such an institution must take in the event that the secretary makes such a determination.

The bill provides that a proprietary institution licensed to offer academic degrees is to provide the secretary with a teach-out plan that addresses the potential closure of the institution. A teach-out plan is defined as a written plan developed by the institution that provides for the equitable treatment of students if an institution, or certain institutional locations, cease to operate before all students have completed their program.

Under the bill an institution of higher education and a proprietary institution licensed to offer academic degrees are required to enter into a school-to-school teach-out agreement at least 120 days prior to the cessation of institution operations. A teach-out agreement is a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study at a transfer institution. The secretary will approve an institution of higher education or a proprietary institution to act as an eligible transfer institution in accordance with standards established under the bill.

Under the bill, before any institution of higher education or proprietary institution licensed to offer academic degrees ceases operations, the institution must file with the eligible transfer institution or a third party approved by the secretary copies of all essential records of current or former students.

The bill also establishes certain requirements for the closure of private career schools that operate in the State. Under the bill, the closure of private career schools is overseen by the Commissioner of the Department of Labor and Workforce Development. Private career schools will also be required to provide the commissioner with a teach-out plan that addresses potential school closure and a teach-out agreement at least 120 days prior to the closure. The commissioner will approve a private career school as an eligible transfer institution.

Under the bill, before any private career school ceases operations, the school must file with the commissioner copies of all essential records of current or former students. The commissioner will maintain a permanent file of all records, and may provide a student with a replacement transcript if necessary.

The bill provides that it is an unlawful practice and a violation of the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any institution or school, person, or entity to collect on a student's institutional debt if the institutional financial aid agreement does not contain the language required by the bill, or for an institution or school to collect on an institutional debt of a student who attended an institution or school in which a disorderly closure occurred.

As amended and reported by the committee, this bill is identical to the Senate Committee Substitute for Senate Bill Nos. 1271, 2588, and 2660, which also was amended and reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) add that the Secretary of Higher Education may deny approval of programs proposed by all institutions of higher education which do not exceed the programmatic mission of the institution;

(2) clarify that the governing board of a public research university or a State college is required to fix the salary of all faculty performing services at an out-of-State or out-of-country branch campus or additional location;

(3) specify that when the governing board of an independent institution of higher education, after study and investigation, determines that it is advisable for the institution to establish a branch campus or additional location in the State that will serve at least 100 students of the institution, the board must submit the plan to the secretary for review and comment; and

(4) change the bill's effective date from the 120th day next following enactment to September 1, 2021.

**FISCAL IMPACT:**

The Office of Legislative Services determines that the bill may cause an indeterminate increase in annual State expenditures for administrative and staffing costs associated with changes in the Secretary of Higher Education's role in the approval of new academic programs, branch campuses, and additional locations for institutions of higher education. Some of these costs may be defrayed by the institutions seeking the approval.

The bill may further increase annual costs to the Office of the Secretary of Higher Education and the Department of Labor and Workforce Development to the extent that additional resources are needed to monitor the closures of institutions of higher education, proprietary institutions licensed to offer academic degrees, and private career schools.

The bill will also lead to an indeterminate annual State revenue increase due to provisions that require the OSHE to collect new fees to cover administrative costs associated with current licensing procedures and permit the OSHE to collect new fines from certain institutions of higher education.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 4409**

**STATE OF NEW JERSEY**

**219th LEGISLATURE**

DATED: NOVEMBER 19, 2020

## SUMMARY

- Synopsis:** Establishes requirements for closures of private career schools and institutions of higher education, modifies review process of new academic programs, and requires approval of branch campuses.
- Type of Impact:** Annual State expenditure increase; annual State revenue increase; periodic cost increase to public institutions of Higher Education
- Agencies Affected:** Office of the Secretary of Higher Education; Department of Labor and Workforce Development; Public Institutions of Higher Education

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost Increase</b>		Indeterminate	
<b>State Revenue Increase</b>		Indeterminate	
<b>Periodic Cost Increase for Public Institutions of Higher Education</b>		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill may cause an indeterminate increase in annual State costs to the Office of the Secretary of Higher Education (OSHE) to the extent that the changes to the Secretary of Higher Education's role in the approval of new academic programs, branch campuses, and additional locations would necessitate additional administrative and staffing costs.
- The bill may also increase costs to the OSHE and the Department of Labor and Workforce Development (DLWD) to the extent that additional resources are needed to fulfill the secretary's and commissioner's duties related to monitoring the closures of institutions of higher education, proprietary institutions licensed to offer academic degrees, and private career schools.
- The bill will also lead to an indeterminate annual State revenue increase due to provisions that require the OSHE to collect new fees to cover administrative costs associated with current

licensing procedures and permit the OSHE to collect new fines from certain institutions of higher education.

- Public institutions of higher education will incur additional expenditures to pay for costs incurred by the OSHE to review plans for new branch campuses or additional locations. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish a branch campus or additional location.

## **BILL DESCRIPTION**

This bill makes various changes to current State law concerning the Secretary of Higher Education's role in several areas regarding new initiatives proposed by institutions of higher education. For one, the bill requires the secretary to establish new standards for the review and approval of certain proposed academic programs developed by institutions of higher education. These programs would be initially reviewed by the New Jersey Presidents' Council and forwarded to the secretary if a program does not meet the new standards. The standards will concern: the academic quality of a new program; evidence of labor market demand for a program; duplication of comparable programs of study in the State; and whether or not the new program will require significant State resources.

Secondly, the bill amends current law concerning the establishment of branch campuses by public research universities and State colleges. The bill allows that a public research university or State college may establish a branch campus. The plan for the establishment of the branch campus will be subject to the review and approval of the secretary. In addition, the bill would give the secretary the authority to approve the establishment of out-of-State or out-of-country branch campuses and additional locations that will serve at least 100 students, as long as the branch campuses or additional locations meet certain criteria. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish a branch campus or additional location.

The bill also provides that an independent institution of higher education seeking to establish a branch campus or additional location in the State that will serve at least 100 students will submit a plan for the establishment of the branch campus or additional location to the secretary for review and comment.

Thirdly, the bill amends a section of current State law to require the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with current higher education licensing procedures. The fee schedule is to be reviewed by the Legislature.

The bill also requires proprietary institutions licensed to offer academic degrees and private career schools to develop teach-out plans that address an institution or school's plans for potential closure. Private career schools are defined as privately owned and operated postsecondary schools, other than institutions of higher education or proprietary institutions licensed to offer academic degrees, that offer programs for the purpose of training, retraining, or upgrading individuals for gainful employment. Under the bill, proprietary institutions would submit their plans to the Secretary of Higher Education, while private career schools would submit their plans to the Commissioner of the DLWD.

Under the bill, institutions of higher education, proprietary institutions, and private career schools would be required to enter into a school-to-school teach-out agreement and provide written notice to the secretary or commissioner, as applicable, 120 days prior to cessation of operations. The school-to-school agreements would address plans for transitioning students attending institutions and schools that are closing operations, to eligible transfer institutions or schools,



which are required to be approved by the secretary or commissioner, as applicable. In addition, the bill requires submittal and retention of certain student records and transcripts by transfer institutions and third party entities approved by the secretary, as well as by the commissioner in the case of private career school closures.

The bill also requires independent institutions of higher education and proprietary institutions licensed to offer academic degrees, as well as institutions of higher education that have notified the secretary of known financial liabilities or risks that are reasonably likely to result in imminent closure of the institution, to annually submit fiscal monitoring reports. The bill further lays out the process that an institution of higher education or proprietary institution would be required to undergo if the secretary finds that the institution is at risk of imminent closure.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive Branch did not submit a formal fiscal note on this bill. However, in response to a Legislative Budget Question during the FY 2021 Revised Budget Proposal process, the OSHE indicated that a total \$300,000 increase in the office's salaries and wages appropriation for the combined 12-month period from July 1, 2020 through June30, 2021 was being used to support an increase in staff necessary to carry out the provisions of Assembly Bill No. 4409, which was substantially similar to this bill in its current form. The OLS notes that the OSHE's FY 2020 adjusted appropriation for salaries and wages was \$1.768 million, while the appropriation for the combined 12-month period totals \$2.068 million.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that this bill may lead to indeterminate annual cost increases to the OSHE and the DLWD, and periodic cost increases to public institutions of higher education, in order for those entities to fulfill the requirements prescribed to them. Under the bill, the OSHE will also experience an increase in annual fee revenue related to administering licenses to confer degrees to certain institutions of higher education and fine revenue from certain noncompliant institutions of higher education.

**Potential Costs to the OSHE:** This bill makes various changes to the Secretary of Higher Education's role in approval of new academic programs, branch campuses, and additional locations. These changes may cause an indeterminate increase in annual State costs to the OSHE to the extent that the changes made to current law would necessitate additional administrative and staffing costs.

Regarding the approval of new academic programs proposed by an institution of higher education, current law permits the Secretary of Higher Education to deny approval of new academic programs that are referred to the secretary by the New Jersey Presidents' Council and: 1) exceed an institution's programmatic mission, defined as the level of academic degrees that an institution has been authorized to offer, or require a change in the institution's programmatic mission; or 2) do not exceed or change an institution's programmatic mission but are determined by the Presidents' Council to be unduly duplicative or expensive. Since the bill modifies the scope of new academic programs that would be reviewed and approved by the secretary, it may increase administrative costs to the OSHE to the extent that program reviews may be increased over current levels.

Current law requires the secretary to review and provide recommendations on plans made by public research universities and State colleges to establish an out-of-State or out-of-country branch campus that will serve at least 500 students of the institution. The bill amends the law to require the secretary's approval for a public research university or State college to establish any branch campus and for those institutions to establish out-of-State or out-of-country branch campuses and additional locations that will serve at least 100 students. It also requires the secretary to review and comment on plans made by independent institutions of higher education to establish a branch campus or additional location that will serve at least 100 students of the institution. This broadened authority over the review of branch campuses and additional locations may necessitate additional staffing and administrative costs to the OSHE to accommodate possible increases in workload.

The OSHE may incur additional increases in workload, which may in turn increase administrative and staffing costs, due to the provisions of the bill that require the secretary to review institutions' fiscal monitoring reports and make determinations as to whether or not an institution is at risk of imminent closure.

**Revenue Increases to the OSHE:** While the heightened authority provided to the secretary may increase workloads and administrative and staffing costs to the OSHE, the bill also provides that institutions submitting plans for branch campuses and additional locations must pay the costs for consultants and other out-of-pocket costs incurred by the secretary in reviewing the plans. The costs that may be incurred by the OSHE, and inevitably reimbursed to the OSHE, for these functions are indeterminate as the expenses associated with each review may vary. By way of example, the Texas Higher Education Coordinating Board (THECB), as noted in a summary of procedures for the establishment of branch campuses by certain private institutions of higher education, has set the application fee for initial review of a branch campus at \$5,000. The summary indicates that the fee covers the average cost of application reviews, including consultant fees for the review team. In addition, the THECB has set the fee for a branch campus site visit at \$2,500.

The OLS also notes that the OSHE will experience a revenue increase under the bill due to the provision that requires the office to prepare a fee schedule to cover the reasonable administrative costs associated with current licensing procedures. The OSHE will also experience increased revenue due to a provision of the bill which permits the secretary to order fines of no more than \$1,000 per day for an institution of higher education or proprietary institution that does not comply with the requirements under the bill to submit fiscal monitoring reports and to submit certain information to the secretary upon a finding that the institution is at risk of imminent closure.

**Potential Cost Increase to OSHE and DLWD:** Under the bill, the OSHE and the DLWD may experience increases in staffing and administrative costs to establish processes and regulations for: reviewing teach-out plans and approving transfer institutions or schools in accordance with the criteria provided in the bill. The DLWD may incur additional costs to retain certain records of students affected by private career school closures.

**Periodic Cost Increase to Public Institutions of Higher Education:** Public institutions of higher education will incur periodic additional expenditures to pay for costs incurred by the OSHE to review plans for new branch campuses or additional locations. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish these new locations.

*Section: Education*

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*Approved: Thomas Koenig  
Assistant Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

03/1/2021

**TRENTON** - Today, Governor Murphy signed the following bills into law:

**S-1271, 2588, 2660/ A-4409 (Cunningham, Gopal/Jasey, Downey, Reynolds-Jackson)** – Establishes requirements for closures of private career schools and institutions of higher education, modifies review process of new academic programs, and requires approval of branch campuses

**S-2713/A-4631 (Sarlo, Codey/Burzichelli)** – Allows for cashless payment at certain sports and entertainment venues

**A-1226/S-265 (Schaer, Jimenez, Wimberly, Mukherji, Benson, Quijano/T. Kean, Pou)** – Requires electric public utilities to provide priority power restoration to certain medical facilities, assisted living facilities, and nursing homes

**A-1537/S-2217 (Spearman, Moen/Cruz-Perez)** – Extends economic recovery term under “Municipal Rehabilitation and Economic Recovery Act”; bars appeal of certain property assessments by Garden State Growth Zone Development Entity

**A-2280/S-1763 (Armato, Murphy, Vainieri Huttel/Gopal, Cryan)** – Criminalizes certain payments for referral of patients to substance use disorder treatment facilities

[Copy of Statement](#)

**A-4454/S-2781 (Murphy, Reynolds-Jackson, Verrelli/Codey, Smith, Ruiz)** – Requires school districts to include instruction on diversity and inclusion as part of implementation of New Jersey Student Learning Standards