

[First Reprint]

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

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED AUGUST 25, 2020

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Senator VIN GOPAL

District 11 (Monmouth)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Senator Turner

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.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on November 12, 2020, with amendments.

(Sponsorship Updated As Of: 1/11/2021)

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

41 d. encourage the formation of regional or other alliances among
42 institutions including interinstitutional transfers, program
43 articulation, cooperative programs and shared resources and
44 develop criteria for "full faith and credit" transfer agreements

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:

¹Assembly AAP committee amendments adopted November 12, 2020.

- 1 between county colleges and other institutions of higher education.
2 The council shall also keep institutions apprised of the
3 discontinuance of programs at other institutions and each president
4 shall notify the council of any such action;
- 5 e. advise and assist the **[commission]** secretary in developing
6 and updating a plan for higher education in the State including, but
7 not limited to, the establishment of new institutions, closure of
8 existing institutions and consolidation of institutions;
- 9 f. provide policy recommendations on Statewide higher
10 education issues;
- 11 g. recommend to the Governor, Legislature and **[commission]**
12 secretary on policy and overall levels of funding for student aid
13 programs necessary to ensure accessibility to higher education;
- 14 h. transmit to the Governor, Legislature and **[commission]**
15 secretary a general budget policy statement regarding overall State
16 funding levels;
- 17 i. upon referral from the **[commission]** secretary pursuant to
18 this act provide recommendations concerning institutional licensure
19 and university status;
- 20 j. appoint subcommittees consisting of the presidents of the
21 institutions of the various higher education sectors to decide
22 matters, within the authority of the council. The presidents of the
23 independent institutions shall develop a unified request for State
24 support under chapter 72B of Title 18A of the New Jersey Statutes.
25 The presidents of the county college sector shall develop a unified
26 request for State support under chapter 64A of Title 18A of the New
27 Jersey Statutes; and
- 28 k. consult with the Higher Education Student Assistance
29 Authority concerning student assistance matters.
30 (cf: P.L.1999, c.46, s.29)

31
32 2. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to
33 read as follows:

- 34 14. The Secretary of Higher Education shall be responsible for:
- 35 a. Statewide planning for higher education including research
36 on higher education issues and the development of a comprehensive
37 master plan, including, but not limited to, the establishment of new
38 institutions, closure of existing institutions, and consolidation of
39 institutions, which plan shall be long-range in nature. Within 180
40 days of the effective date of P.L.2015, c.91 and, at a minimum,
41 every seven years thereafter, the secretary shall adopt a new
42 comprehensive master plan. The council may request the secretary
43 to conduct a study of a particular issue. The secretary may require
44 from institutions of higher education such reports or other
45 information as may be necessary to enable the secretary to perform
46 his duties;

1 b. advocacy on behalf of higher education including informing
2 the public of the needs and accomplishments of higher education in
3 New Jersey;

4 c. making recommendations to the Governor and Legislature
5 on higher education initiatives and incentive programs of Statewide
6 significance;

7 d. final administrative decisions over institutional licensure and
8 university status giving due consideration to the accreditation status
9 of the institution. The secretary shall furnish the Presidents' Council
10 with any pertinent information compiled on behalf of the subject
11 institution and the council shall then make recommendations to the
12 secretary concerning the licensure of the institution or university
13 status within sixty days of receipt of the information;

14 e. adopting a code of ethics applicable to institutions of higher
15 education;

16 f. final administrative decisions over new academic programs
17 that go beyond the programmatic mission of the institution and final
18 administrative decisions over a change in the programmatic mission
19 of an institution. In addition, within 60 days of referral of a
20 proposed new program **【determined to be unduly expensive or**
21 **duplicative】** by the council, the secretary may deny approval of
22 programs proposed by ¹**【public】** institutions of higher education
23 which do not exceed the programmatic mission of the institution,
24 but which **【are】** may be of insufficient academic quality, may lack
25 sufficient evidence of labor market demand, may be duplicative of
26 comparable programs of study, or may be unduly expensive to the
27 State as determined by the New Jersey Presidents' Council **【to be**
28 unduly duplicative or expensive】 according to the review standards
29 set by the secretary ¹**【**, and review and comment on proposed new
30 programs submitted by independent institutions of higher education,
31 within 60 days of referral by the council**】**¹;

32 g. reviewing requests for State support from the institutions in
33 relation to the mission of the institution and Statewide goals and
34 proposing a coordinated budget policy statement to the Governor
35 and Legislature;

36 h. communicating with the State Board of Education and
37 Commissioner of Education to advance public education at all
38 levels including articulation between the public schools and higher
39 education community;

40 i. applying for and accepting grants from the federal
41 government, or any agency thereof, or grants, gifts or other
42 contributions from any foundation, corporation, association or
43 individual, and complying with the terms, conditions and
44 limitations thereof, for the purpose of advancing higher education.
45 Any money so received may be expended by the secretary upon
46 warrant of the director of the Office of Management and Budget in
47 the Department of the Treasury on vouchers certified by the
48 secretary;

1 j. acting as the lead agent of communication with the federal
2 government concerning higher education issues, except that the
3 Higher Education Student Assistance Authority shall act, in
4 cooperation with the secretary, as the lead agency on issues of
5 student assistance;

6 k. exercising all of the powers and duties previously exercised
7 by the Board of Higher Education, the Department of Higher
8 Education, and the Chancellor of Higher Education, under the "New
9 Jersey Higher Education Building Construction Bond Act of 1971,"
10 P.L.1971, c.164, the "New Jersey Medical Education Facilities
11 Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and
12 Technology Bond Act of 1984," P.L.1984, c.99, the "Jobs,
13 Education and Competitiveness Bond Act of 1988," P.L.1988, c.78,
14 the "Higher Education Equipment Leasing Fund Act," P.L.1993,
15 c.136, and the "Higher Education Facilities Trust Fund Act,"
16 P.L.1993, c.375;

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

19 m. consulting with the Higher Education Student Assistance
20 Authority on student assistance matters;

21 n. advising and making recommendations for consideration to
22 the Governor and the governing board of a public research
23 university or a State college for members of that governing board
24 appointed by the Governor; and

25 o. examining and recommending to institutions of higher
26 education opportunities for joint purchasing and other joint
27 arrangements that would be advantageous to the institutions.

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

29
30 3. Section 15 of P.L.1994, c.48 (C.18A:3B-15) is amended to
31 read as follows:

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

37 a. licensing of institutions and university status;

38 b. outside employment for employees of public institutions and
39 State agencies and Code of Ethics;

40 c. residency requirements for tuition purposes;

41 d. personnel policies which affect the terms and conditions of
42 employment including classification and compensation plans
43 adopted pursuant thereto;

44 e. tenure and multi-year contracts;

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

46 g. student trustee policies; and

47 h. regulations concerning early retirement programs and length
48 of the academic year shall continue with full force and effect under

1 the authority of the commission for a period of one year from the
2 effective date of this act or until amended, continued or repealed by
3 the commission pursuant to law.】

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

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

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

16 b. When the governing board 【of a public research university or
17 a State college】, after study and investigation, determines that it is
18 advisable for the institution to establish a branch campus or
19 additional location out-of-State or out-of-country that will serve at
20 least 【500】 100 students of the institution, the board shall 【submit】
21 include in the plan for the branch campus or additional location
22 submitted to the 【commission】 secretary 【for its review and
23 recommendations. The plan shall include】:

24 (1) a description of the higher educational needs of the country
25 or region in which the branch campus or additional location shall be
26 located;

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

29 (3) an estimate of the cost of establishing and maintaining the
30 branch campus or additional location including the cost of any
31 planned acquisition or construction of facilities;

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

35 (5) any other information or data deemed necessary by the
36 【commission】 secretary.

37 【b.】 c. In developing 【its】 a response to the plan, the
38 【commission】 secretary shall consider whether there is a need for
39 the institution to acquire a branch campus or additional location and
40 whether the institution has the financial capacity to support the
41 campus or additional location.

42 d. The secretary may approve the establishment of an out-of-
43 State or out-of-country branch campus or additional location if the
44 secretary determines that the branch campus or additional location:

45 (1) serves a compelling State interest;

46 (2) does not impose excessive costs or reputational risk to the
47 State;

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

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

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

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

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

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

26 h. 'When the governing board of an independent institution of
27 higher education, after study and investigation, determines that it is
28 advisable for the institution to establish a branch campus or
29 additional location in the State that will serve at least 100 students
30 of the institution, the board shall submit the plan for the branch
31 campus or additional location to the secretary for review and
32 comment. The plan shall be developed and reviewed according to
33 standards established by the secretary through rules and regulations
34 promulgated pursuant to the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.).

36 i. ¹ As used in this section:

37 "Additional location" means a location, other than a branch
38 campus, that is geographically apart from the main campus and at
39 which the institution offers at least 50 percent of an educational
40 program.

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

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

45
46 5. N.J.S.18A:68-3 is amended to read as follows:

47 18A:68-3. a. No corporation shall furnish instruction or learning
48 in the arts, sciences, or professions for the purposes of admitting

1 any person to the grade of a degree, or shall confer or participate in
2 conferring a degree, giving to any person a diploma of graduation
3 or of proficiency in a course of study, in learning, or in scientific
4 arts or methods, within this State, until it shall have filed a certified
5 copy of its certificate of incorporation with the **【Commission on】**
6 Secretary of Higher Education and obtained from the **【commission】**
7 secretary a license to carry on the business under such rules as the
8 **【commission】** secretary may prescribe.

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

16 c. The cost for consultants utilized by the **【Commission on】**
17 Secretary of Higher Education and other out-of-pocket expenses
18 incurred by the **【commission】** secretary for licensure and related
19 reviews shall be paid by the institution seeking a license or license
20 renewal.

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

22
23 6. (New section) As used in sections 6 through 12 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill):

25 “Closure” means the cessation of operations by an institution of
26 higher education or a proprietary institution licensed to offer
27 academic degrees.

28 “Secretary” means the Secretary of Higher Education.

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

32 "Eligible transfer institution" means an institution of higher
33 education or a proprietary institution licensed to offer academic
34 degrees that has been approved by the secretary pursuant to section
35 10 of P.L. , c. (C.) (pending before the Legislature as this bill).

36 "Institutional debt" means:

37 (1) the amount outstanding on any credit, including unpaid
38 charges, extended by or on behalf of an institution of higher
39 education or a proprietary institution licensed to offer academic
40 degrees that a student is obligated to repay, whether the amount has
41 been reduced to a judgment or the institution classifies it as a loan;
42 or

43 (2) a nonfederal loan or debt agreement that is issued expressly
44 for postsecondary education expenses and that is guaranteed by an
45 institution of higher education or a proprietary institution or a
46 private educational lender that is affiliated with an institution of
47 higher education or a proprietary institution.

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 "Student" means an individual enrolled at an institution of higher
7 education or a proprietary institution licensed to offer academic
8 degrees in New Jersey, or a New Jersey resident enrolled at an
9 institution of higher education or proprietary institution located
10 outside of this State.

11 "Teach-out agreement" means a written agreement between
12 institutions that provides for the equitable treatment of students and
13 a reasonable opportunity for students to complete their program of
14 study if an institution, or an institutional location that provides 100
15 percent of at least one program offered, ceases to operate before all
16 enrolled students have completed their program of study.

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

23

24 7. (New section) a. An independent institution of higher
25 education and a proprietary institution licensed to offer academic
26 degrees shall immediately notify the secretary of any known
27 financial liabilities or risks that are reasonably likely to result in the
28 imminent closure of the institution or otherwise negatively affect
29 the institution's ability to fulfill its obligations to current and
30 admitted students.

31 b. All independent institutions and proprietary institutions
32 licensed to offer academic degrees shall submit an annual fiscal
33 monitoring report to the secretary according to a schedule
34 established by the secretary and in a format developed by the
35 secretary.

36 c. The secretary shall establish a process to annually assess
37 each independent institution's and proprietary institution's financial
38 information to identify whether an institution is at risk of imminent
39 closure. The assessment shall be based on a review of information
40 received through the annual fiscal monitoring report. In addition to
41 the annual report, the secretary may also conduct additional
42 assessments at the secretary's discretion to identify whether an
43 institution is at risk of imminent closure.

44 d. If the secretary determines there is a risk of imminent
45 closure, the determination and a summary of the basis for the
46 determination shall be provided to the institution. Upon receipt of
47 the determination and summary the institution shall immediately:

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

- 1 (2) provide to the secretary any information necessary to
- 2 accurately and fairly determine the institution's financial status and
- 3 likelihood of imminent closure and to monitor its condition;
- 4 (3) prepare and submit to the secretary a contingency plan for
- 5 closure, which shall include:
- 6 (a) a process to notify relevant stakeholders, as determined by
- 7 the secretary including, but not limited to, enrolled students,
- 8 candidates who have submitted applications, recent graduates,
- 9 faculty, staff, and host communities;
- 10 (b) arrangements for the continued education of currently
- 11 enrolled students via teach-out agreement or other practical
- 12 solution;
- 13 (c) a plan for the transfer to and long-term maintenance of
- 14 records, particularly student academic records, by a third-party if
- 15 the institution closes;
- 16 (d) information about the rights and responsibilities of student
- 17 loan borrowers;
- 18 (e) information about the institution's financial condition,
- 19 accreditation status, and any outstanding compliance issues
- 20 regarding federal and State student aid programs; and
- 21 (f) confirmation that the institution has obtained either a surety
- 22 bond or letter of credit to refund student enrollment deposits and for
- 23 the cost to maintain student records by a third-party.
- 24 e. Upon a finding by the secretary that an institution has failed
- 25 to comply with the requirements of this section, the secretary shall
- 26 have the authority to order:
- 27 (1) a fine not to exceed \$1,000 per day of non-compliance with
- 28 the requirements of this section;
- 29 (2) the suspension of any State funding designated for the
- 30 institution; and
- 31 (3) the suspension or revocation of any degree-granting
- 32 authority previously conferred on the institution.
- 33 f. Any information submitted to, or developed by, the secretary
- 34 in furtherance of this section shall not be a public record and shall
- 35 be exempt from disclosure under provisions of P.L.1963, c.73
- 36 (C.47:1A-1 et seq.), commonly known as the open public records
- 37 act.
- 38
- 39 8. (New section) a. This section shall apply to a proprietary
- 40 institution licensed to offer academic degrees that operates in this
- 41 State.
- 42 b. A proprietary institution licensed to offer academic degrees
- 43 shall provide the secretary a teach-out plan that addresses a
- 44 potential closure of the institution. The teach-out plan shall be
- 45 updated as required by the secretary.
- 46 c. A teach-out plan shall include any information required by
- 47 the secretary and shall state that:
- 48 (1) the institution shall make all reasonable efforts to ensure that
- 49 any closure of the institution complies with the requirements of

1 sections 9 through 12 of P.L. , c. (C.) (pending before the
2 Legislature as this bill);

3 (2) the chief executive officer and the members of the governing
4 body of the institution were not in an executive position or a
5 member of a governing body of an institution in which a disorderly
6 closure occurred; and

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

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

16

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

21 b. An institution of higher education or a proprietary institution
22 licensed to offer academic degrees shall enter into a school-to-
23 school teach-out agreement at least 120 days prior to the cessation
24 of institution operations.

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

27 (1) be arranged by the closing institution;

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

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

32 (a) be located within a reasonable distance of the closing
33 institution, if the closing institution has a physical presence in the
34 State;

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

37 (c) allow a student affected by the closure to complete the
38 student's program with substantially the same number of credit
39 hours as was required by the closing institution;

40 (4) specify that, on request by a student affected by the closure,
41 the closing institution shall provide a complete academic record and
42 an official transcript to the student at no cost to the student; and

43 (5) meet any other standards as deemed appropriate by the
44 secretary.

45

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

1 (1) is in good standing with its accreditor and, if applicable, its
2 licensing body;
3 (2) if applicable, has not been sanctioned by the United States
4 Department of Education due to having a high cohort loan default
5 rate;
6 (3) has not been placed on Heightened Cash Monitoring
7 Payment Method Level 2 by the United States Department of
8 Education;
9 (4) within the previous five years has not had any judgments
10 related to a consumer protection law entered against it in favor of a
11 law enforcement agency; and
12 (5) meets the requirements provided in section 9 of P.L. , c.
13 (C.) (pending before the Legislature as this bill), and any
14 additional standards provided pursuant to subsection b. of this
15 section.
16 b. The secretary may establish additional standards on a case-
17 by-case basis for approving an eligible transfer institution.
18
19 11. (New section) a. Before any institution of higher education
20 or proprietary institution licensed to offer academic degrees ceases
21 educational instruction or administrative operation, the institution
22 shall file with the eligible transfer institution or a third-party
23 approved by the secretary copies of all essential records of the
24 current or former students of the institution. The obligation of an
25 institution under this section shall not be discharged in bankruptcy.
26 b. If an institution of higher education or a proprietary
27 institution licensed to offer academic degrees does not file all
28 essential records in accordance with this section, the Office of the
29 Attorney General may:
30 (1) require the institution to refund all tuition and fees paid by a
31 student whose records are not filed in accordance with this section;
32 and
33 (2) seek an injunction or other judicial remedy against the
34 institution or school.
35
36 12. (New section) a. It shall be an unlawful practice and a
37 violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any institution of
38 higher education, proprietary institution licensed to offer academic
39 degrees, person, or entity to collect on a student's institutional debt
40 if the institutional financial aid agreement does not contain the
41 language required under paragraph (3) of subsection c. of section 8
42 of P.L. , c. (C.) (pending before the Legislature as this bill).
43 b. It shall be an unlawful practice and a violation of P.L.1960,
44 c.39 (C.56:8-1 et seq.) for an institution of higher education or
45 proprietary institution licensed to offer academic degrees to collect
46 on the institutional debt of a student who attended a program in
47 which a disorderly closure occurred.

1 13. (New section) The Secretary of Higher Education shall
2 adopt rules and regulations pursuant to the “Administrative
3 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
4 the purposes of sections 6 through 12 of P.L. , c. (C.) (pending
5 before the Legislature as this bill).

6
7 14. (New section) As used in sections 14 through 20 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill):

9 “Closure” means the cessation of operations by a private career
10 school.

11 “Commissioner” means the Commissioner of Labor and
12 Workforce Development.

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

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

19 “Institutional debt” means:

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

24 (2) a nonfederal loan or debt agreement that is issued expressly
25 for postsecondary education expenses and that is guaranteed by a
26 private career school or a private educational lender that is affiliated
27 with a private career school.

28 “Institutional financial aid agreement” means any contract,
29 promissory note, part of an enrollment agreement, or other
30 agreement in which a student agrees to pay an institutional debt.

31 “Orderly closure” means a closure that meets the requirements of
32 P.L. , c. (C.) (pending before the Legislature as this bill).

33 “Private career school” means a privately owned and privately
34 operated postsecondary school, other than an institution of higher
35 education or proprietary institution licensed to offer academic
36 degrees, that furnishes or offers to furnish programs, whether or not
37 requiring a payment of tuition or fee, for the purpose of training,
38 retraining, or upgrading individuals for gainful employment as
39 workers in recognized or emerging occupations.

40 “Student” means an individual enrolled at a private career school
41 in New Jersey, or a New Jersey resident enrolled at a private career
42 school located outside of this State.

43 “Teach-out agreement” means a written agreement between
44 schools that provides for the equitable treatment of students and a
45 reasonable opportunity for students to complete their program of
46 study if a school, or a school location that provides 100 percent of
47 at least one program offered, ceases to operate before all enrolled
48 students have completed their program of study.

1 “Teach-out plan” means a written plan developed by the school
2 that provides for the equitable treatment of students if a school, or a
3 school location, ceases to operate before all students have
4 completed their program of study, and may include, if required by
5 the school’s accrediting agency, a teach-out agreement between
6 schools.

7
8 15. (New section) a. Sections 14 through 20 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) shall apply to
10 a private career school that operates in this State.

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

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

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

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

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

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

31
32 16. (New section) a. A private career school shall enter into a
33 school-to-school teach-out agreement at least 120 days prior to the
34 cessation of school operations.

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

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

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

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

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

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

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

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

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

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

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

7
8 17. (New section) a. The Commissioner of Labor and
9 Workforce Development shall approve a private career school to act
10 as an eligible transfer institution if the school:

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

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

16 (3) has not been placed on Heightened Cash Monitoring
17 Payment Method Level 2 by the United States Department of
18 Education;

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

24 (5) meets the requirements provided in section 16 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), and any
26 additional standards provided pursuant to subsection b. of this
27 section.

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

30
31 18. (New section) a. Before any private career school ceases
32 operations, the school shall file with the commissioner copies of all
33 essential records of the current or former students of the school.
34 The obligation of a school under this section shall not be discharged
35 in bankruptcy.

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

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

38 (2) any other academic information usually required by private
39 career schools when considering students for transfer or advanced
40 study; and

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

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

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

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

9 (2) A replacement transcript issued in accordance with
10 paragraph (1) of this subsection shall be signed by a designee of the
11 commissioner, contain an explanation of the closure of the school,
12 and contain an explanation of the source of all information
13 contained in the replacement transcript.

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

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

22 g. (1) The commissioner shall adopt regulations necessary to
23 carry out the provisions of this section, which shall include the
24 manner and format in which student records are to be filed with the
25 commissioner, and a description of the circumstances under which a
26 private career school may cease operation.

27 h. If a private career school does not file all essential records
28 with the commissioner in accordance with this section, the
29 commissioner may:

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

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

35
36 19. (New section) a. It shall be an unlawful practice and a
37 violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any private career
38 school, person, or entity to collect on a student's institutional debt
39 if the institutional financial aid agreement does not contain the
40 language required under paragraph (3) of subsection c. of section 15
41 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

46
47 20. (New section) The Commissioner of Labor and Workforce
48 Development, in consultation with the Commissioner of Education,
49 shall adopt rules and regulations pursuant to the "Administrative

1 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
2 the purposes of sections 14 through 19 of P.L. , c. (C.) (pending
3 before the Legislature as this bill).
4

5 21. This act shall take effect on ¹the 120th day next following
6 enactment **】** September 1, 2021¹.