

SENATE BILL NO. 133—COMMITTEE ON
HUMAN RESOURCES AND EDUCATION

(ON BEHALF OF THE COMMISSION ON
POSTSECONDARY EDUCATION)

FEBRUARY 24, 2005

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions regarding refund policies and bonding requirements of private postsecondary educational institutions. (BDR 34-407)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to educational institutions; requiring each private postsecondary educational institution to use a prescribed formula for refunds of tuition; revising other provisions governing the payment of refunds by institutions; revising provisions regarding the bonding requirements of such institutions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the minimum standards for the cancellation and refund policies of nonaccredited private postsecondary educational institutions. (NRS 394.449) Accredited institutions must adhere to the cancellation and refund policy prescribed by the United States Department of Education or by the institution's accrediting body. (NRS 394.4493)

This bill repeals the provision concerning accredited institutions and makes the refund policy that is applicable to nonaccredited private postsecondary educational institutions applicable to all private postsecondary educational institutions.

Under the minimum standards for the cancellation and refund policies set forth in existing law, an institution may retain a certain amount as fees if the student withdraws or is expelled before completing more than 40 percent of the program. If a student withdraws or is expelled after completing more than 40 percent of the program, the institution may refuse to refund any amount of money. Existing law further requires an institution to issue a refund of tuition within 60 working days. (NRS 394.449)



This bill increases to 60 percent the percentage of the program that a student may have completed and still remain eligible for a refund. This bill also shortens the period for issuing a refund to 15 calendar days.

Existing law further requires an institution to include a description of the refund policy of the institution in its catalog or brochure in two separate provisions. (NRS 394.441, 394.449)

This bill removes that requirement in one statute to eliminate duplication.

Existing law excludes from the refund policy specific financial arrangements between the institution and a student regarding the student's use or purchase of books and equipment. (NRS 394.449)

This bill requires an institution to issue a separate refund to students for any unused books, educational supplies or equipment.

Existing law provides that a postsecondary educational institution must file a surety bond with the Administrator of the Commission on Postsecondary Education under certain conditions. An unlicensed institution or other entity that is authorized to employ one or more agents in this State must file a surety bond in the amount of \$10,000 or a greater amount determined by the Commission. (NRS 394.480)

This bill makes this bonding requirement apply to all institutions and entities that are authorized to employ one or more agents, regardless of licensure.

Under existing law, an institution must file a surety bond if the school participates in certain federal student assistance programs and the default rate of the institution exceeds the maximum allowable default rate prescribed by federal law. (NRS 394.480)

This bill eliminates that bonding requirement.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 394.449 is hereby amended to read as follows:

394.449 1. ~~{A}~~ *Each* postsecondary educational institution ~~{that is not accredited}~~ shall have a policy for ~~{cancellations and}~~ refunds which at least provides:

(a) That if the institution has substantially failed to furnish the ~~{instruction or services}~~ *training program* agreed upon in the enrollment agreement, the institution shall refund to a student all the money he has paid.

(b) That if a student cancels his enrollment before the start of ~~{instruction,}~~ *the training program*, the institution ~~{may charge}~~ *shall refund* to the student ~~{a registration fee of not more than}~~ *all the money he has paid, minus* 10 percent of the tuition agreed upon in the enrollment agreement or \$100, whichever is less.

(c) That if a student withdraws or is expelled by the institution after the start of ~~{instruction}~~ *the training program* and before the completion of more than ~~{40}~~ *60* percent of the program, the institution ~~{may charge the student:~~

~~—— (1) A registration fee of not more than 10 percent of the tuition agreed upon in the enrollment agreement or \$100, whichever is less;~~



~~—— (2) A termination fee of 25 percent of the tuition agreed upon in the enrollment agreement or \$100, whichever is less; and~~

~~—— (3) A] shall refund to the student a~~ pro rata amount of the tuition agreed upon in the enrollment agreement ~~[determined by the percentage of the student's attendance.] , minus 10 percent of the tuition agreed upon in the enrollment agreement or \$100, whichever is less.~~

(d) That if a student withdraws or is expelled by the institution after completion of more than ~~[40] 60~~ percent of the *training* program, the institution *is not required to refund the student any money and* may charge the student the entire cost of the tuition agreed upon in the enrollment agreement.

~~2. [Each postsecondary educational institution that is not accredited shall include in its catalog or brochure a description of the institution's policy for refunds. The description must include at least the following:~~

~~—— (a) For the purpose of calculating the amount of a refund, the unit of time or other measurement which is used by the institution to determine the percentage of a student's attendance;~~

~~—— (b) A statement that the period of a student's attendance will be measured from the first day of instruction through the student's last day of actual attendance; and~~

~~—— (c) An example demonstrating the application of the refund policy.~~

~~3. If an institution that is not accredited expels a student, the institution shall communicate with the student by certified mail or another equally effective and documented method, and inform him of the expulsion, the reason for it and the effective date of expulsion and retain evidence to that effect in its records.~~

~~4. An] If a refund is owed pursuant to subsection 1, the~~ institution shall *pay the* refund ~~[all money collected in excess of the amounts allowed in subsection 1 within 60 working] to the person or entity who paid the tuition within 15 calendar~~ days after the:

(a) Date of cancellation by a student of his enrollment;

(b) ~~[First day of class if a student fails to attend the first day and all other classes;] Date of termination by the institution of the enrollment of a student;~~

(c) Last day of an authorized leave of absence if a student fails to return after the period of authorized absence; or

(d) Last day of attendance of a student,

➔ whichever is applicable.

~~[5. Specific financial arrangements between the institution and the student about such educational items as the use or purchase of books and]~~



1 **3. Books, educational supplies or** equipment for individual use
2 are not included in the policy for refund ~~that~~ **required by subsection**
3 **1, and a separate refund must be paid by the institution to the**
4 **student if those items were not used by the student.** Disputes must
5 be resolved by the Administrator **for refunds required by this**
6 **subsection** on a case-by-case basis.

7 **4. For the purposes of this section:**

8 **(a) The period of a student's attendance must be measured**
9 **from the first day of instruction as set forth in the enrollment**
10 **agreement through the student's last day of actual attendance,**
11 **regardless of absences.**

12 **(b) The period of time for a training program is the period set**
13 **forth in the enrollment agreement.**

14 **(c) Tuition must be calculated using the tuition and fees set**
15 **forth in the enrollment agreement and does not include books,**
16 **educational supplies or equipment that are listed separately from**
17 **the tuition and fees.**

18 **Sec. 2.** NRS 394.480 is hereby amended to read as follows:

19 394.480 1. Notwithstanding the provisions of NRS 100.065
20 to the contrary, each:

21 (a) Postsecondary educational institution initially licensed on or
22 after July 1, 1995, shall file with the Administrator a surety bond in
23 the amount of \$10,000 or in a greater amount determined by the
24 Commission for the period of the initial license to operate, including
25 any provisional period . ~~for or for a period that the Commission~~
26 ~~determines is appropriate.~~

27 (b) Postsecondary educational institution or other entity ~~not~~
28 ~~licensed in this State~~ which is authorized to employ one or more
29 agents in this State shall file with the Administrator a surety bond in
30 the amount of \$10,000 or in a greater amount determined by the
31 Commission for the period of the agent's permit . ~~for or for a period~~
32 ~~that the Commission determines is appropriate.~~

33 ~~—(c) Licensed postsecondary~~

34 **(c) Postsecondary** educational institution that poses a financial
35 risk to the students who are enrolled in the institution, as determined
36 by the Commission , ~~upon application for renewal of a license,~~
37 shall file with the Administrator a surety bond in the amount of
38 \$10,000 or in a greater amount determined by the Commission for
39 ~~the period of the renewal or for~~ a period that the Commission
40 determines is appropriate.

41 ~~Licensed postsecondary~~ **Postsecondary** educational
42 institution that files for a change of ownership shall file with the
43 Administrator a surety bond in the amount of \$10,000 or in a greater
44 amount determined by the Commission for the period ~~ending 2~~



years after the approval of the change of ownership or for a period that the Commission determines is appropriate.

~~➤ The Commission may at any time require a postsecondary~~ of the initial license to operate issued to the new owner, including any provisional period.

(e) *Postsecondary* educational institution *may be required by the Commission* to file a new or supplementary bond in an amount and for a period determined appropriate by the Commission if the Commission determines ~~[that the institution poses a financial risk to the students who are enrolled in the institution or]~~ that the current bond filed by the institution is insufficient to cover all claims, accrued or contingent, against the institution.

2. ~~[Notwithstanding the provisions of NRS 100.065 to the contrary, a licensed postsecondary educational institution shall file with the Administrator a surety bond in the amount of \$100,000 or 25 percent of the annual income of the institution received from tuition as reported in its annual report to the Commission, whichever is greater, if:~~

—(a) The institution participates in a program of student assistance pursuant to the provisions of 20 U.S.C. §§ 1070 et seq.; and

—(b) In any year, the default rate of the institution published by the Secretary of Education pursuant to those provisions exceeds the maximum allowable default rate prescribed by federal law or by the Secretary of Education pursuant to federal law.

~~➤ Except when a surety is released, the bond must cover a period ending 2 years after the date on which the default rate of the institution is published as exceeding the maximum allowable rate.~~

~~—3.]~~ The bond required of a postsecondary educational institution pursuant to ~~[subsections 1 and 2]~~ *subsection 1* must be executed by the entity that owns the institution as principal, by a surety company as surety and by a licensed insurance agent residing in this State. The bond must be payable to the State of Nevada and must be conditioned to provide indemnification to any student, enrollee or his parent or guardian ~~[]~~ determined by the Commission to have suffered damage as a result of any act by the postsecondary educational institution that is a violation of NRS 394.383 to 394.560, inclusive. The bonding company shall provide indemnification upon receipt of written notice of the determination by the Commission. The bond may be continuous, but regardless of the duration of the bond the aggregate liability of the surety does not exceed the penal sum of the bond.

~~[4.]~~ 3. A surety on any bond filed pursuant to this section may be released after the surety gives 30 days' written notice to the Administrator, but the release does not discharge or otherwise affect any claim filed by a student, enrollee or his parent or guardian for



1 damage resulting from any act of the postsecondary educational
2 institution or agent alleged to have occurred while the bond was in
3 effect, or for an institution's ceasing operations during the term for
4 which tuition had been paid while the bond was in force.

5 ~~15.1~~ 4. A license or an agent's permit is suspended by
6 operation of law when the institution or agent is no longer covered
7 by a surety bond as required by this section. The Administrator shall
8 give the institution or agent, or both, at least 20 days' written notice
9 before the release of the surety, to the effect that the license or
10 permit will be suspended by operation of law until another surety
11 bond is filed in the same manner and amount as the bond being
12 terminated.

13 ~~16.1~~ 5. If any student is entitled to a refund from an institution
14 pursuant to any provision of NRS 394.383 to 394.560, inclusive, the
15 surety shall provide indemnification.

16 **Sec. 3.** NRS 394.4493 is hereby repealed.

17 **Sec. 4.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

394.4493 Policy for cancellations and refunds of accredited institution: Requirements. Each accredited postsecondary educational institution shall:

1. Use the policy for cancellations or refunds that is published by the accrediting body by which the institution is accredited or by the United States Department of Education.

2. Refund to a student all the money he has paid if the institution substantially fails to furnish the instruction or services agreed upon in the enrollment agreement.



