

ASSEMBLY BILL NO. 526—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE OFFICE OF FINANCE
IN THE OFFICE OF THE GOVERNOR)

MAY 3, 2019

Referred to Committee on Ways and Means

SUMMARY—Revises provisions relating to the Commission on Postsecondary Education. (BDR 34-1214)

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

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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 education; authorizing the Commission on Postsecondary Education to suspend the approval of or disapprove certain courses of training in certain circumstances; establishing a process for the appeal of such a suspension; providing for an additional voting member on the Commission who represents veterans; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing federal law, an eligible person or veteran receives certain educational benefits while enrolled in a course of education if the course is approved for the training of veterans by the State approving agency or is approved for the training of veterans in certain other circumstances. (38 U.S.C. § 3672; 38 C.F.R. § 21.4250) Existing federal law authorizes the State approving agency, which in the State of Nevada is the Commission on Postsecondary Education, to suspend or withdraw the approval of such a course if the course fails to meet the requirements for approval. (38 C.F.R. §§ 21.4150, 21.4259) Existing law establishes the Commission on Postsecondary Education. (NRS 394.383) The Commission grants licenses to postsecondary educational institutions in this State. (NRS 394.415) Under existing law, the Commission may also, without limitation, authorize a postsecondary educational institution to offer a degree in a specific subject and add vocational programs or degrees in specific subjects. (NRS 394.421) Existing regulations also provide that any institution licensed by or under the jurisdiction of an agency of government which seeks or has obtained approval to offer training to veterans is subject to the regulations of the Commission. (NAC 394.375)



Section 1 of this bill authorizes the Commission to suspend the approval of a course for the training of veterans in certain circumstances. **Section 1** requires the Commission to disapprove such a course in certain circumstances. **Section 1** further requires the Commission to provide notification to a postsecondary educational institution of the suspension or disapproval of a course and include certain information in such notification. **Section 1** establishes a process by which a postsecondary educational institution that offers a course that has been suspended may appeal such a decision.

Section 2 of this bill increases the number of voting members on the Commission from six to seven members. **Section 3** of this bill requires that one member on the Commission represent veterans and be knowledgeable on issues relating to veterans.

Sections 4-8 of this bill make conforming changes.

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

Section 1. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission may suspend the approval of a course for the training of veterans approved pursuant to 38 U.S.C. § 3672 and offered by a postsecondary educational institution only in accordance with the provisions of 38 C.F.R. § 21.4259(a)(1). The Commission shall disapprove such a course in accordance with the provisions of 38 C.F.R. § 21.4259(a)(2). Except as otherwise provided by federal law, the Commission may immediately disapprove such a course if:

(a) The institution requests the disapproval; or

(b) The institution has permanently closed or no longer has the legal authority to operate.

2. The Commission shall notify the postsecondary educational institution, in writing, of a suspension of approval or disapproval of a course pursuant to subsection 1 by certified mail, return receipt requested, in accordance with the provisions of 38 U.S.C. § 3679 and 38 C.F.R. § 21.4259. Except as otherwise provided by federal law, the notification must include:

(a) A statement of the facts or conduct that led to the suspension of approval or disapproval of a course;

(b) A statement of any deficiencies in the course that must be corrected before the suspension of approval of a course can be rescinded, if applicable; and

(c) A statement informing the institution of its right to appeal such a decision by requesting a hearing.

3. If an institution corrects the deficiencies identified by the Commission in the statement submitted to the institution pursuant to subsection 2 during the period of suspension imposed pursuant



1 to subsection 1, the Commission shall rescind the suspension of
2 approval of the course.

3 4. Except as otherwise provided by federal law, the
4 Commission shall grant a request for a hearing submitted by a
5 postsecondary educational institution not less than 10 business
6 days after the date the institution receives a notification of
7 suspension of approval sent pursuant to subsection 2. The request
8 for a hearing must be in writing and may be sent to the
9 Administrator by electronic mail, facsimile or certified mail,
10 return receipt requested.

11 5. At least 10 days before a hearing granted pursuant to
12 subsection 4, each party to the hearing shall submit to the other
13 party a written statement that includes, without limitation:

14 (a) The disputed facts of the case;

15 (b) The issues presented by the case;

16 (c) A list of the names of the witnesses who may testify at the
17 hearing and the contact information for each witness; and

18 (d) A list and description of the exhibits, if any, that the party
19 intends to use at the hearing.

20 6. A hearing before a hearing officer granted pursuant to
21 subsection 4 must be held in accordance with chapter 233B of
22 NRS.

23 7. Each party to a hearing granted pursuant to subsection 4 is
24 entitled to be heard, to present and rebut evidence and to examine
25 and cross-examine witnesses. The Commission shall present its
26 case first, followed by the postsecondary educational institution.
27 The hearing officer may allow rebuttal evidence.

28 8. The hearing officer shall render his or her decision at an
29 open meeting after the conclusion of a hearing granted pursuant
30 to subsection 4. The hearing officer may:

31 (a) Affirm the initial suspension of approval of a course and
32 the conditions for correcting any deficiencies identified by the
33 Commission pursuant to subsection 2;

34 (b) Affirm the initial suspension of approval of a course and
35 modify the conditions for correcting any deficiencies identified by
36 the Commission pursuant to subsection 2; or

37 (c) Rescind the suspension of approval.

38 9. A decision of the Commission on a hearing granted
39 pursuant to subsection 4 is final. If a postsecondary educational
40 institution does not request a hearing pursuant to subsection 4, the
41 initial suspension of approval of a course is final. A postsecondary
42 educational institution that offers a course that has been
43 suspended pursuant to subsection 8 is entitled to a review of the
44 decision in the manner provided by chapter 233B of NRS.



1 **10. The Commission shall adopt regulations establishing a**
2 **process for holding a hearing requested pursuant to subsection 4,**
3 **including, without limitation, that a hearing date may be**
4 **continued upon written motion or stipulation and the approval of**
5 **the Chair of the Commission.**

6 **Sec. 2.** NRS 394.383 is hereby amended to read as follows:

7 394.383 1. The Commission on Postsecondary Education is
8 hereby created within the Employment Security Division of the
9 Department of Employment, Training and Rehabilitation. The
10 Commission consists of:

11 (a) An employee of the Department of Employment, Training
12 and Rehabilitation designated by the Director of the Department of
13 Employment, Training and Rehabilitation to serve as a nonvoting
14 member; and

15 (b) ~~Six~~ **Seven** voting members appointed by the Governor.

16 2. The voting members of the Commission are entitled to
17 receive a salary of not more than \$80, as fixed by the Commission,
18 for each day's attendance at a meeting of the Commission.

19 3. The nonvoting member of the Commission designated
20 pursuant to paragraph (a) of subsection 1 must be relieved from his
21 or her duties with the Department of Employment, Training and
22 Rehabilitation without loss of regular compensation so that he or she
23 may prepare for and attend meetings of the Commission and
24 perform any work necessary to carry out the duties of the
25 Commission in the most timely manner practicable. The Department
26 may not require the member to make up time or take annual
27 vacation or compensatory time for the time that he or she is absent
28 from work to carry out his or her duties as a member of the
29 Commission.

30 4. While engaged in the business of the Commission, each
31 member of the Commission is entitled to receive the per diem
32 allowance and travel expenses provided for state officers and
33 employees generally.

34 **Sec. 3.** NRS 394.385 is hereby amended to read as follows:

35 394.385 1. The Governor shall appoint:

36 (a) Two members who are knowledgeable in the field of
37 education, but not persons representing postsecondary educational
38 institutions, or colleges established or maintained under the laws of
39 this State.

40 (b) Two members who are representatives of private
41 postsecondary educational institutions.

42 (c) Two members who are representatives of the general public
43 and are not associated with the field of education.

44 **(d) One member who represents veterans and is knowledgeable**
45 **in issues relating to veterans.**



2. The Commission shall designate a Chair. The Commission may meet regularly at least four times each year at such places and times as may be specified by a call of the Chair or majority of the Commission. The Commission shall prescribe regulations for its own management. Four voting members of the Commission constitute a quorum which may exercise all the authority conferred upon the Commission.

3. Any Commissioner may be removed by the Governor if, in the opinion of the Governor, the Commissioner is guilty of malfeasance in office or neglect of duty.

Sec. 4. NRS 394.510 is hereby amended to read as follows:

394.510 1. The Commission may impose an administrative fine of not more than \$10,000 against a licensee, revoke a license, or make a license conditional after its issuance, if the Commission reasonably believes that the holder has violated the provisions of NRS 394.383 to 394.560, inclusive, *and section 1 of this act*, or regulations adopted pursuant to those sections, or has failed to comply with a lawful order of the Commission. The Administrator shall notify the institution of the reasons for the action by certified mail to its last known address, 20 days before the meeting of the Commission at which the action will be considered.

2. If the Commission revokes a license, the institution shall cease its operations and granting degrees and shall refund to each enrolled student the cost of the student's current course or program.

3. The Administrator may impose an administrative fine of not more than \$10,000 against an institution or agent, revoke an agent's permit, or make a permit conditional after its issuance, if the Administrator reasonably believes that the holder has violated the provisions of NRS 394.383 to 394.560, inclusive, *and section 1 of this act*, or regulations adopted pursuant thereto. Before action is taken, the Administrator shall notify the holder by certified mail of facts or conduct that warrant the impending action and advise the holder that if a hearing is desired it must be requested within 10 days after receipt of the notice letter. If no hearing is requested within the prescribed period the action becomes final.

4. If an agent is fined or the agent's permit is revoked or conditions imposed, the Administrator shall notify, by certified mail, the institution the agent represented in addition to the agent and any other parties to any hearing.

Sec. 5. NRS 394.520 is hereby amended to read as follows:

394.520 1. Until 1 year after the last date of attendance or date on which the damage occurred, whichever is later, a person claiming damage as a result of any act by a postsecondary educational institution or its agent, or both, that is a violation of NRS 394.383 to 394.560, inclusive, *and section 1 of this act*, or



1 regulations adopted pursuant thereto, may file with the
2 Administrator a verified complaint against the institution, its agent,
3 or both. The complaint must set forth the alleged violation and
4 contain other information as required by regulations of the
5 Commission. A complaint may also be filed by a Commissioner or
6 the Attorney General or initiated by the Administrator.

7 2. The Administrator shall investigate any verified complaint
8 and may, at his or her discretion, attempt to effectuate a settlement
9 by arbitration, mediation or negotiation. The Administrator may also
10 consult with the applicable accrediting body to resolve the
11 complaint. If a settlement cannot be reached, the Administrator shall
12 render a decision and notify each party of the decision and the
13 reasons for it by certified mail to his or her last known address.
14 Either party may request a hearing before the Commission by
15 notifying the Administrator by certified mail within 15 days after
16 the decision was mailed to the party. The hearing must be held at the
17 next meeting of the Commission in the geographical area convenient
18 to the parties. If a hearing is not requested, the decision of the
19 Administrator is final.

20 3. If, after consideration of all the evidence presented at a
21 hearing, the Commission finds that a postsecondary educational
22 institution or its agent, or both, are guilty of the violation alleged in
23 the complaint, it shall issue and the Administrator shall serve upon
24 the institution or agent, or both, an order to cease and desist from the
25 violation. If the Commission finds the institution has substantially
26 failed to furnish the instruction or services agreed upon in the
27 agreement to enroll, it shall order the institution to make full
28 restitution to the student of all money paid pursuant to the
29 agreement. If the Commission finds that the institution has
30 substantially furnished the instruction or services agreed upon in the
31 agreement to enroll, but that conditions in the school were
32 sufficiently substandard that it was not reasonable to expect the
33 student to complete the instruction, the Commission shall order the
34 institution to make restitution to the student of one-half the money
35 paid pursuant to the agreement. The Commission may also, as
36 appropriate, based on the Administrator's investigation and the
37 evidence adduced at the hearing, or either of them, institute
38 proceedings to revoke an institution's license or recommend that the
39 Administrator institute proceedings to revoke an agent's permit.

40 **Sec. 6.** NRS 394.610 is hereby amended to read as follows:

41 394.610 Unless a specific penalty is otherwise provided, a
42 person who willfully violates the provisions of NRS 394.005 to
43 394.560, inclusive, **and section 1 of this act** is guilty of a gross
44 misdemeanor. Each day's failure to comply with the provisions of
45 these sections is a separate offense.



Sec. 7. NRS 232.920 is hereby amended to read as follows:
232.920 The Director:

1. Shall:

(a) Organize the Department into divisions and other operating units as needed to achieve the purposes of the Department;

(b) Upon request, provide the Director of the Department of Administration with a list of organizations and agencies in this State whose primary purpose is the training and employment of persons with disabilities;

(c) Except as otherwise provided by a specific statute, direct the divisions to share information in their records with agencies of local governments which are responsible for the collection of debts or obligations if the confidentiality of the information is otherwise maintained under the terms and conditions required by law;

(d) Provide the employment and wage information to the Board of Regents of the University of Nevada for purposes of the reporting required of the Board of Regents by subsection 4 of NRS 396.531; and

(e) Provide to the Director of the Legislative Counsel Bureau a written report each quarter containing the rate of unemployment of residents of this State regarding whom the Department has information, organized by county and, for each county, the rate of unemployment disaggregated by demographic information, including, without limitation, age, race and gender. The Director of the Department shall:

(1) Post on the Internet website of the Department the report required by this paragraph;

(2) Provide the report to the Governor's Workforce Investment Board and all applicable agencies for the purposes of subsection 5 of NRS 232.935; and

(3) Post on the Internet website of the Department the written report provided by the Governor's Workforce Investment Board pursuant to subsection 5 of NRS 232.935.

2. Is responsible for the administration, through the divisions of the Department, of the provisions of NRS 394.383 to 394.560, inclusive, **and section 1 of this act**, 426.010 to 426.720, inclusive, 426.740, 426.790 and 426.800, and chapters 612 and 615 of NRS, and all other provisions of law relating to the functions of the Department and its divisions, but is not responsible for the professional line activities of the divisions or other operating units except as otherwise provided by specific statute.

3. May employ, within the limits of legislative appropriations, such staff as is necessary for the performance of the duties of the Department.



Sec. 8. NRS 612.220 is hereby amended to read as follows:

612.220 The Administrator:

1. Shall administer this chapter.

2. Is responsible for the administration, through the Administrator of the Commission on Postsecondary Education, of the provisions of NRS 394.383 to 394.560, inclusive ~~H~~ , and *section 1 of this act.*

3. Has power and authority to adopt, amend or rescind such rules and regulations, to employ, in accordance with the provisions of this chapter, such persons, make such expenditures, require such reports, make such investigations, and take such other action as the Administrator deems necessary or suitable to that end.

4. Shall determine his or her own organization and methods of procedure for the Division in accordance with the provisions of this chapter.

