

Amendment No. 951

Assembly Amendment to Assembly Bill No. 526	(BDR 34-1214)
Proposed by: Assembly Committee on Ways and Means	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AMM/AAK



Date: 5/26/2019

A.B. No. 526—Revises provisions relating to the Commission on Postsecondary Education. (BDR 34-1214)



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

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

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

(a) The disputed facts of the case;

(b) The issues presented by the case;

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

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

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

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

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

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

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

(c) Rescind the suspension of approval.

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

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

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

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

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

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

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

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

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

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

394.385 1. The Governor shall appoint:

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

4 (b) Two members who are representatives of private postsecondary educational
5 institutions.

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

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

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

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

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

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

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

31 3. The Administrator may impose an administrative fine of not more than
32 \$10,000 against an institution or agent, revoke an agent's permit, or make a permit
33 conditional after its issuance, if the Administrator reasonably believes that the
34 holder has violated the provisions of NRS 394.383 to 394.560, inclusive, *and*
35 *section 1 of this act*, or regulations adopted pursuant thereto. Before action is taken,
36 the Administrator shall notify the holder by certified mail of facts or conduct that
37 warrant the impending action and advise the holder that if a hearing is desired it
38 must be requested within 10 days after receipt of the notice letter. If no hearing is
39 requested within the prescribed period the action becomes final.

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

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

44 394.520 1. Until 1 year after the last date of attendance or date on which the
45 damage occurred, whichever is later, a person claiming damage as a result of any
46 act by a postsecondary educational institution or its agent, or both, that is a
47 violation of NRS 394.383 to 394.560, inclusive, *and section 1 of this act*, or
48 regulations adopted pursuant thereto, may file with the Administrator a verified
49 complaint against the institution, its agent, or both. The complaint must set forth the
50 alleged violation and contain other information as required by regulations of the
51 Commission. A complaint may also be filed by a Commissioner or the Attorney
52 General or initiated by the Administrator.

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

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

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

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

1 including, without limitation, age, race and gender. The Director of the Department
2 shall:

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

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

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

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

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

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

20 612.220 The Administrator:

21 1. Shall administer this chapter.

22 2. Is responsible for the administration, through the Administrator of the
23 Commission on Postsecondary Education, of the provisions of NRS 394.383 to
24 394.560, inclusive ~~H~~, *and section 1 of this act*.

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

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