

SENATE BILL NO. 345—SENATOR HAMMOND

MARCH 20, 2023

Referred to Committee on Education

SUMMARY—Revises provisions governing private educational institutions. (BDR 34-869)

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

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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; requiring the Commission on Postsecondary Education to review certain regulations every 5 years; revising provisions governing certain requirements of licensed postsecondary educational institutions; eliminating the requirement for certain applicants for a license to operate a postsecondary educational institution to provide certain financial information; authorizing the Commission to reduce or waive the amount of certain required surety bonds; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law creates the Commission on Postsecondary Education within the
2 Employment Security Division of the Department of Employment, Training and
3 Rehabilitation. (NRS 394.383) The Commission grants licenses to postsecondary
4 educational institutions in this State. (NRS 394.415)

5 Existing law requires the Commission to adopt regulations governing the
6 administration of postsecondary educational institutions. (NRS 394.411) Existing
7 law also requires each agency of the Executive Department of the State
8 Government to review its regulations at least once every 10 years to determine
9 whether any regulations should be amended or repealed. (NRS 233B.050) **Section**
10 **1** of this bill requires the Commission to conduct such a review at least once every
11 5 years.

12 Existing law requires a postsecondary educational institution to ensure the
13 adequacy of its facilities, materials and personnel. (NRS 394.450) Existing law
14 authorizes the governing body of a private school to provide a program of distance
15 education for a student or prospective student who is otherwise eligible to attend
16 the private school. (NRS 394.134) **Section 2** of this bill exempts a postsecondary
17 educational institution which provides a majority of its instruction through distance



18 education from the requirement that such an institution ensure that it has adequate
19 space to provide education of good quality.

20 Existing law requires an applicant for a license as a postsecondary educational
21 institution to apply to the Administrator of the Commission on forms provided by
22 the Administrator. (NRS 394.460) Existing regulations require such applicants to
23 provide a certified financial statement that has been audited or reviewed by a
24 certified public accountant. (NAC 394.381) **Section 3** of this bill prohibits the
25 Administrator from requiring such a certified financial statement from an applicant
26 who has less than 1 year of experience operating a postsecondary educational
27 institution and, instead, authorizes an applicant to submit an alternative financial
28 statement that the Commission deems sufficient.

29 Existing law requires certain postsecondary educational institutions to provide a
30 surety bond in an amount of at least \$10,000 with the Administrator, under certain
31 circumstances. (NRS 394.480) **Section 4** of this bill authorizes the Commission to
32 reduce or waive the amount of surety bond required if the entity that owns the
33 postsecondary educational institution is: (1) a nonprofit organization; or (2) a
34 corporation for the public benefit.

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

1 **Section 1.** NRS 394.411 is hereby amended to read as follows:
2 394.411 1. The Commission shall adopt regulations
3 governing the administration of NRS 394.383 to 394.560, inclusive,
4 and may adopt such other regulations as are proper or necessary for
5 the execution of the powers and duties conferred upon it by law.

6 2. Subject to the administrative supervision of the
7 Administrator of the Employment Security Division of the
8 Department of Employment, Training and Rehabilitation pursuant to
9 NRS 612.220, the Administrator of the Commission shall execute,
10 direct or supervise all administrative, technical and procedural
11 activities for which the Administrator is responsible in accordance
12 with the policies and regulations of the Commission.

13 *3. Notwithstanding the provisions of paragraph (e) of*
14 *subsection 1 of NRS 233B.050, the Commission shall review its*
15 *regulations adopted pursuant to this section at least once every 5*
16 *years to determine whether it should amend or repeal any of the*
17 *regulations. Within 30 days after completion of the review, the*
18 *Commission shall submit a report to the Director of the Legislative*
19 *Counsel Bureau for distribution to the next regular session of the*
20 *Legislature. The report must include the date on which the*
21 *Commission completed its review of the regulations and describe*
22 *any regulation that must be amended or repealed as a result of the*
23 *review.*

24 **Sec. 2.** NRS 394.450 is hereby amended to read as follows:
25 394.450 1. A postsecondary educational institution shall
26 ensure that:



1 ~~[1.]~~ (a) The quality and content of each vocational or academic
2 course or program of instruction, training or study reasonably and
3 adequately achieved the stated objective for which the course or
4 program is offered.

5 ~~[2.—The]~~

6 (b) *Unless the institution provides a majority of its instruction*
7 *through a program of distance education, the* institution has
8 adequate space ~~[,equipment,]~~ *to provide education of good quality.*

9 (c) *The institution has adequate* instructional materials ,
10 *equipment* and personnel to provide education of good quality.

11 ~~[3.]~~ (d) The education and experience of directors,
12 administrators, supervisors and instructors reasonably provide the
13 students with an education consistent with the objectives of the
14 course or program of study.

15 ~~[4.]~~ (e) The institution is maintained and operated in
16 compliance with all pertinent local ordinances and state laws,
17 including regulations adopted pursuant thereto, relative to the safety
18 and health of all persons upon the premises.

19 ~~[5.]~~ (f) The housing, if any, owned, maintained or approved by
20 the institution for its students is appropriate, safe and adequate.

21 **2. As used in this section, “program of distance education”**
22 **has the meaning ascribed to it in subsection 2 of NRS 394.134.**

23 **Sec. 3.** NRS 394.460 is hereby amended to read as follows:

24 394.460 1. Each person required to be licensed as a
25 postsecondary educational institution by the Commission or each
26 postsecondary educational institution requesting to add a new
27 program or degree or to renew a license must apply to the
28 Administrator, upon forms provided by the Administrator. The
29 application must be accompanied by the required fees. *Forms*
30 *provided by the Administrator to an applicant who has less than 1*
31 *year of experience operating a postsecondary educational*
32 *institution must not require the submission of a certified financial*
33 *statement that has been audited or reviewed by a certified public*
34 *accountant. For such an applicant, the Commission shall require*
35 *another form of financial statement that is deemed sufficient by*
36 *the Commission.* The institution’s curriculum and financial
37 statement are confidential except as otherwise provided in NRS
38 239.0115 or unless, in the opinion of the Commission, they militate
39 against the issuance of a license.

40 2. After review of the application, any other information
41 required by the Administrator and the report of the panel of
42 evaluators, and an investigation of the applicant if necessary, the
43 Commission shall grant or deny a license or grant a provisional
44 license for a term specified by the Commission. Before the
45 expiration of a provisional license, the Administrator shall inspect



1 the institution, or the Commission may require the appointment of a
2 panel of evaluators to inspect the institution, and recommend
3 whether to revoke or continue the provisional license or to grant an
4 unqualified license. The Commission may accept or reject the
5 recommendation.

6 3. The license must state at least the following information:

7 (a) The date of issuance, effective date and term of the license.

8 (b) The correct name, address and owner of the institution.

9 (c) The approved degrees or occupational subjects.

10 (d) Any limitation considered necessary by the Commission.

11 4. The term for which a license is given must not exceed 2
12 years. The license must be posted in a conspicuous place.

13 5. The license must be issued to the owner or governing body
14 of the institution and is nontransferable. If a change in ownership of
15 the institution occurs, the owner to whom the license was issued
16 shall inform the Administrator, and the new owner or governing
17 body must, within 10 days after the change in ownership, apply for
18 an approval of the change of ownership. If it fails to do so, the
19 license terminates.

20 6. Within 10 days after a change of location or an addition of
21 buildings or other facilities, the institution must file a notice of the
22 change with the Administrator.

23 7. At least 60 days before the expiration of a license, the
24 institution must complete and file with the Administrator an
25 application for renewal of its license.

26 **Sec. 4.** NRS 394.480 is hereby amended to read as follows:

27 394.480 1. Notwithstanding the provisions of NRS 100.065
28 to the contrary **H** *and except as otherwise provided in subsection 5,*
29 each:

30 (a) Postsecondary educational institution initially licensed on or
31 after July 1, 1995, shall file with the Administrator a surety bond in
32 the amount of \$10,000 or in a greater amount determined by the
33 Commission for the period of the initial license to operate, including
34 any provisional period.

35 (b) Postsecondary educational institution or other entity which is
36 authorized to employ one or more agents in this State shall file with
37 the Administrator a surety bond in the amount of \$10,000 or in a
38 greater amount determined by the Commission for the period of the
39 agent's permit.

40 (c) Postsecondary educational institution that poses a financial
41 risk to the students who are enrolled in the institution, as determined
42 by the Commission, shall file with the Administrator a surety bond
43 in the amount of \$10,000 or in a greater amount determined by the
44 Commission for a period that the Commission determines is
45 appropriate.



1 (d) Postsecondary educational institution that files for a change
2 of ownership shall file with the Administrator a surety bond in the
3 amount of \$10,000 or in a greater amount determined by the
4 Commission for the period of the initial license to operate issued to
5 the new owner, including any provisional period.

6 (e) Postsecondary educational institution may be required by the
7 Commission to file a new or supplementary bond in an amount and
8 for a period determined appropriate by the Commission if the
9 Commission determines that the current bond filed by the institution
10 is insufficient to cover all claims, accrued or contingent, against the
11 institution.

12 2. The bond required of a postsecondary educational institution
13 pursuant to subsection 1 must be executed by the entity that owns
14 the institution as principal, by a surety company as surety and by a
15 licensed insurance agent residing in this State. The bond must be
16 payable to the State of Nevada and must be conditioned to provide
17 indemnification to any student, enrollee or his or her parent or
18 guardian determined by the Commission to have suffered damage as
19 a result of any act by the postsecondary educational institution that
20 is a violation of NRS 394.383 to 394.560, inclusive. The bonding
21 company shall provide indemnification upon receipt of written
22 notice of the determination by the Commission. The bond may be
23 continuous, but regardless of the duration of the bond the aggregate
24 liability of the surety does not exceed the penal sum of the bond.

25 3. A surety on any bond filed pursuant to this section may be
26 released after the surety gives 30 days' written notice to the
27 Administrator, but the release does not discharge or otherwise affect
28 any claim filed by a student, enrollee or his or her parent or guardian
29 for damage resulting from any act of the postsecondary educational
30 institution or agent alleged to have occurred while the bond was in
31 effect, or for an institution's ceasing operations during the term for
32 which tuition had been paid while the bond was in force.

33 4. A license or an agent's permit is suspended by operation of
34 law when the institution or agent is no longer covered by a surety
35 bond as required by this section. The Administrator shall give the
36 institution or agent, or both, at least 20 days' written notice before
37 the release of the surety, to the effect that the license or permit will
38 be suspended by operation of law until another surety bond is filed
39 in the same manner and amount as the bond being terminated.

40 5. *If the entity that owns a postsecondary educational*
41 *institution as principal is a nonprofit organization or a*
42 *corporation for public benefit, the Commission may elect to reduce*
43 *or waive the amount of surety bond required pursuant to this*
44 *section.*



1 **6.** If any student is entitled to a refund from an institution
2 pursuant to any provision of NRS 394.383 to 394.560, inclusive, the
3 surety shall provide indemnification.

4 **7. As used in this section:**

5 **(a) “Corporation for public benefit” has the meaning ascribed**
6 **to it in NRS 82.021.**

7 **(b) “Nonprofit organization” means an organization which**
8 **qualifies as tax exempt pursuant to section 501(c) of the Internal**
9 **Revenue Code.**

10 **Sec. 5.** The provisions of subsection 1 of NRS 218D.380 do
11 not apply to any provision of this act which adds or revises a
12 requirement to submit a report to the Legislature.

13 **Sec. 6.** This act becomes effective on July 1, 2023.

