

(Reprinted with amendments adopted on May 27, 2019)

FIRST REPRINT

A.B. 526

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.

~

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:**

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



\* A B 5 2 6 R 1 \*

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

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

29 **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:

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

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

11 *(a) The institution requests the disapproval; or*

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

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

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

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

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

27 *3. If an institution corrects the deficiencies identified by the*  
28 *Commission in the statement submitted to the institution pursuant*  
29 *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.**



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

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

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

12 394.510 1. The Commission may impose an administrative  
13 fine of not more than \$10,000 against a licensee, revoke a license, or  
14 make a license conditional after its issuance, if the Commission  
15 reasonably believes that the holder has violated the provisions of  
16 NRS 394.383 to 394.560, inclusive, *and section 1 of this act*, or  
17 regulations adopted pursuant to those sections, or has failed to  
18 comply with a lawful order of the Commission. The Administrator  
19 shall notify the institution of the reasons for the action by certified  
20 mail to its last known address, 20 days before the meeting of the  
21 Commission at which the action will be considered.

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

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

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

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

41 394.520 1. Until 1 year after the last date of attendance or  
42 date on which the damage occurred, whichever is later, a person  
43 claiming damage as a result of any act by a postsecondary  
44 educational institution or its agent, or both, that is a violation of  
45 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.



1     **Sec. 7.** NRS 232.920 is hereby amended to read as follows:  
2     232.920 The Director:

3     1. Shall:

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

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

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

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

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

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

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

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

34    2. Is responsible for the administration, through the divisions  
35 of the Department, of the provisions of NRS 394.383 to 394.560,  
36 inclusive, *and section 1 of this act*, 426.010 to 426.720, inclusive,  
37 426.740, 426.790 and 426.800, and chapters 612 and 615 of NRS,  
38 and all other provisions of law relating to the functions of the  
39 Department and its divisions, but is not responsible for the  
40 professional line activities of the divisions or other operating units  
41 except as otherwise provided by specific statute.

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



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

2     612.220 The Administrator:

3     1. Shall administer this chapter.

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

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

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

Ⓢ

