

Senate Bill 1538

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Education and Workforce Development for the Senate Bill 242 Work Group)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Oregon Education Investment Board to approve or reject Oregon University System funding requests and performance compacts. Identifies required elements of funding requests and performance compacts.

Expands and clarifies duties of Higher Education Coordinating Commission.

Transfers licensing authority of career schools from State Board of Education to Higher Education Coordinating Commission.

Clarifies applicability to Oregon University System of provisions of law related to borrowing through State Treasurer or holding of moneys in State Treasury.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to education; creating new provisions; amending ORS 340.310, 341.430, 341.455, 345.010,
3 345.015, 345.017, 345.020, 345.030, 345.040, 345.060, 345.070, 345.080, 345.110, 345.115, 345.117,
4 345.120, 345.325, 345.330, 345.340, 345.400, 345.430, 345.450, 345.995, 348.040, 348.070, 351.052,
5 351.086, 351.735, 418.658, 471.580, 690.225 and 696.182 and section 1, chapter 519, Oregon Laws
6 2011; and declaring an emergency.

7 **Be It Enacted by the People of the State of Oregon:**

8 **SECTION 1.** ORS 351.052 is amended to read:

9 351.052. (1) For the purposes of this section, "performance compact" means an agreement be-
10 tween the State Board of Higher Education and the State of Oregon to achieve certain performance
11 targets in order to enhance the success of Oregon University System students in exchange for con-
12 sideration of the appropriations sought in a funding request submitted by the State Board of Higher
13 Education to the Oregon Department of Administrative Services.

14 (2)(a) On or before May 1 of each even-numbered year, the State Board of Higher Education
15 shall submit a draft funding request to the [*Higher Education Coordinating Commission*] **Oregon**
16 **Education Investment Board established by section 1, chapter 519, Oregon Laws 2011**, for the
17 Oregon University System, applicable to the biennium beginning on July 1 of the following year. The
18 draft funding request must include a performance compact.

19 **(b) The Oregon Education Investment Board shall approve or reject a draft funding re-**
20 **quest and performance compact. When determining whether to approve or reject a draft**
21 **funding request and performance compact, the Oregon Education Investment Board shall**
22 **consult with, and accept advice from, the Higher Education Coordinating Commission to de-**
23 **termine if the request and compact:**

24 **(A) Advance goals that are consistent with state higher education goals and priorities**
25 **developed by the Oregon Education Investment Board;**

26 **(B) Comply with biennial and long-term budget priorities related to higher education es-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **established by the Oregon Education Investment Board;**

2 **(C) Implement accountability measures and strategic investments for higher education**
 3 **that are aligned with the overall goals for the education system established by the Oregon**
 4 **Education Investment Board;**

5 **(D) Implement recommendations from the Task Force on Higher Education Student and**
 6 **Institutional Success, as established by section 1, chapter 640, Oregon Laws 2011;**

7 **(E) Address the issue of tuition affordability for students; and**

8 **(F) Comply with the requirements for the form and contents of the funding request and**
 9 **performance compact, including, if applicable, a report on performance from the previous**
 10 **biennium's performance compact.**

11 *[(b)]* **(3)(a)** If the *[Higher Education Coordinating Commission]* **Oregon Education Investment**
 12 **Board** approves the draft funding request and performance compact, or approves the draft funding
 13 request and performance compact with modifications, the *[commission]* **board** shall take such action
 14 prior to August 15 of the same even-numbered year.

15 *[(c)]* **(b)** If the *[Higher Education Coordinating Commission]* **Oregon Education Investment**
 16 **Board** rejects the draft funding request and performance compact, the *[commission]* **board** shall take
 17 such action prior to June 15 of the same even-numbered year. In returning the rejected draft funding
 18 request and performance compact to the State Board of Higher Education, the *[commission]* **Oregon**
 19 **Education Investment Board** shall give specific direction to the *[board]* **State Board of Higher**
 20 **Education** regarding the changes necessary to earn *[commission]* approval.

21 *[(3)]* **(4)** On or before September 1 of each even-numbered year, the State Board of Higher Edu-
 22 cation shall submit the funding request and performance compact to the Oregon Department of Ad-
 23 ministrative Services for the Oregon University System.

24 *[(4)]* **(5)** The Governor's biennial budget submitted to the Legislative Assembly may include the
 25 State Board of Higher Education's funding request submitted to the Oregon Department of Admin-
 26 istrative Services for the Oregon University System. Any funding request approved by the Legisla-
 27 tive Assembly must specify that the moneys be appropriated to the Oregon Department of
 28 Administrative Services for allocation to the Oregon University System.

29 *[(5)]* **(6)** The funding request must include, in addition to the performance compact, a report on
 30 performance from the previous biennium's performance compact.

31 *[(6)]* **(7)** The State Board of Higher Education shall, by rule, establish a framework for the de-
 32 velopment of a performance compact that must accompany the funding request to the Oregon De-
 33 partment of Administrative Services. *[The framework must address, among other issues, the issue of*
 34 *tuition affordability for students.]*

35 **SECTION 2. (1) The amendments to ORS 351.052 by section 1 of this 2012 Act become**
 36 **operative on July 1, 2012.**

37 **(2) The amendments to ORS 351.052 by section 1 of this 2012 Act apply to biennia begin-**
 38 **ning on or after July 1, 2015.**

39 **SECTION 3.** ORS 351.052, as amended by section 1 of this 2012 Act, is amended to read:

40 351.052. (1) For the purposes of this section, "performance compact" means an agreement be-
 41 tween the State Board of Higher Education and the State of Oregon to achieve certain performance
 42 targets in order to enhance the success of Oregon University System students in exchange for con-
 43 sideration of the appropriations sought in a funding request submitted by the State Board of Higher
 44 Education to the Oregon Department of Administrative Services.

45 (2)(a) On or before May 1 of each even-numbered year, the State Board of Higher Education

1 shall submit a draft funding request to the [*Oregon Education Investment Board established by section*
 2 *1, chapter 519, Oregon Laws 2011,*] **Higher Education Coordinating Commission** for the Oregon
 3 University System, applicable to the biennium beginning on July 1 of the following year. The draft
 4 funding request must include a performance compact.

5 (b) The [*Oregon Education Investment Board*] **Higher Education Coordinating Commission**
 6 shall approve or reject a draft funding request and performance compact. When determining whether
 7 to approve or reject a draft funding request and performance compact, the [*Oregon Education In-*
 8 *vestment Board shall consult with, and accept advice from, the Higher Education Coordinating Com-*
 9 *mission to*] **commission shall** determine if the request and compact:

10 (A) Advance goals that are consistent with state higher education goals and priorities [*developed*
 11 *by the Oregon Education Investment Board*];

12 (B) Comply with biennial and long-term budget priorities related to higher education [*established*
 13 *by the Oregon Education Investment Board*];

14 (C) Implement accountability measures and strategic investments for higher education that are
 15 aligned with the overall goals for the education system [*established by the Oregon Education Invest-*
 16 *ment Board*];

17 [(D) *Implement recommendations from the Task Force on Higher Education Student and Institu-*
 18 *tional Success, as established by section 1, chapter 640, Oregon Laws 2011;*]

19 [(E)] (D) Address the issue of tuition affordability for students; and

20 [(F)] (E) Comply with the requirements for the form and contents of the funding request and
 21 performance compact, including, if applicable, a report on performance from the previous biennium's
 22 performance compact.

23 (3)(a) If the [*Oregon Education Investment Board*] **Higher Education Coordinating Commission**
 24 approves the draft funding request and performance compact, or approves the draft funding request
 25 and performance compact with modifications, the [*board*] **commission** shall take such action prior
 26 to August 15 of the same even-numbered year.

27 (b) If the [*Oregon Education Investment Board*] **Higher Education Coordinating Commission**
 28 rejects the draft funding request and performance compact, the [*board*] **commission** shall take such
 29 action prior to June 15 of the same even-numbered year. In returning the rejected draft funding re-
 30 quest and performance compact to the State Board of Higher Education, the [*Oregon Education In-*
 31 *vestment Board*] **commission** shall give specific direction to the [*State Board of Higher Education*]
 32 **board** regarding the changes necessary to earn approval.

33 (4) On or before September 1 of each even-numbered year, the State Board of Higher Education
 34 shall submit the funding request and performance compact to the Oregon Department of Adminis-
 35 trative Services for the Oregon University System.

36 (5) The Governor's biennial budget submitted to the Legislative Assembly may include the State
 37 Board of Higher Education's funding request submitted to the Oregon Department of Administrative
 38 Services for the Oregon University System. Any funding request approved by the Legislative As-
 39 sembly must specify that the moneys be appropriated to the Oregon Department of Administrative
 40 Services for allocation to the Oregon University System.

41 (6) The funding request must include, in addition to the performance compact, a report on per-
 42 formance from the previous biennium's performance compact.

43 (7) The State Board of Higher Education shall, by rule, establish a framework for the develop-
 44 ment of a performance compact that must accompany the funding request to the Oregon Department
 45 of Administrative Services.

1 **SECTION 4. (1) The amendments to ORS 351.052 by section 3 of this 2012 Act become**
 2 **operative on July 1, 2015.**

3 **(2) The amendments to ORS 351.052 by section 3 of this 2012 Act apply to biennia begin-**
 4 **ning on or after July 1, 2017.**

5 **SECTION 5.** Section 1, chapter 519, Oregon Laws 2011, as amended by section 8, chapter 519,
 6 Oregon Laws 2011, is amended to read:

7 **Sec. 1.** (1) The Oregon Education Investment Board is established for the purpose of ensuring
 8 that all public school students in this state reach the education outcomes established for the state.
 9 The board shall accomplish this goal by overseeing a unified public education system that begins
 10 with early childhood services and continues throughout public education from kindergarten to
 11 post-secondary education.

12 (2)(a) The board consists of 13 members as follows:

13 (A) The Governor, or the designee of the Governor; and

14 (B) Twelve members who are appointed by the Governor, subject to confirmation by the Senate
 15 in the manner provided in ORS 171.562 and 171.565, and who serve at the pleasure of the Governor.

16 (b) When determining who to appoint to the board, the Governor shall:

17 (A) Ensure that each congressional district of this state is represented by at least one member
 18 of the board; and

19 (B) Solicit recommendations from the Speaker of the House of Representatives for at least two
 20 members and from the President of the Senate for at least two members.

21 (3) The Governor, or the Governor's designee, shall serve as chairperson of the Oregon Educa-
 22 tion Investment Board.

23 (4) The duties of the board include:

24 (a) Ensuring that early childhood services are streamlined and connected to public education
 25 from kindergarten through grade 12 and that public education from kindergarten through grade 12
 26 is streamlined and connected to post-secondary education. To assist the board in fulfilling this duty,
 27 the board shall oversee:

28 (A) The Early Learning Council established by section 4, **chapter 519, Oregon Laws 2011** [*of*
 29 *this 2011 Act*].

30 (B) The Higher Education Coordinating Commission established by [*section 1, chapter 637,*
 31 *Oregon Laws 2011*] **ORS 351.715.**

32 (b) Recommending strategic investments in order to ensure that the public education budget is
 33 integrated and is targeted to achieve the education outcomes established for the state.

34 (c) Providing an integrated, statewide, student-based data system that monitors expenditures and
 35 outcomes to determine the return on statewide education investments. The board shall provide the
 36 data system described in this paragraph by:

37 (A) Developing the data system or identifying or modifying an existing data system that ac-
 38 complishes the goals of the data system; and

39 (B) Ensuring that the data system is maintained.

40 **(d) Approving or rejecting funding requests and performance compacts, as described in**
 41 **ORS 351.052.**

42 (5) An appointed member of the board is entitled to compensation and expenses as provided in
 43 ORS 292.495.

44 (6) A majority of the members of the board constitutes a quorum for the transaction of business.

45 (7) The board shall meet at such times and places specified by the call of the chairperson or of

1 a majority of the members of the board.

2 (8) In accordance with applicable provisions of ORS chapter 183, the board may adopt rules
3 necessary for the administration of the laws that the board is charged with administering, including
4 any rules necessary for the oversight of the direction and control of the Higher Education Coordinating
5 Commission.

6 **SECTION 6.** ORS 351.735 is amended to read:

7 351.735. (1) **Under the direction and control of the Oregon Education Investment Board,**
8 the Higher Education Coordinating Commission shall:

9 [(1)] (a) Develop state goals and associated accountability measures for the state post-secondary
10 education system, including community colleges and public universities listed in ORS 352.002, and
11 for the Oregon Student Access Commission.

12 [(2)] (b) Develop a strategic plan for achieving state higher education goals, identifying priority
13 areas for attention and taking into consideration the contributions of this state's independent insti-
14 tutions and other organizations dedicated to helping Oregonians reach state goals. Goals should in-
15 clude, but need not be limited to:

16 [(a)] (A) Increasing the educational attainment of the population;

17 [(b)] (B) Increasing this state's global economic competitiveness and the quality of life of its
18 citizens;

19 [(c)] (C) Ensuring affordable access for qualified Oregon students at each college or public uni-
20 versity; and

21 [(d)] (D) Ensuring that public higher education in this state is provided in a cost-effective man-
22 ner.

23 [(3)] (c) Evaluate and recommend changes to statutory goals and missions described for com-
24 munity colleges in ORS 341.009 and for public universities in ORS 351.003 and 351.009 after receiv-
25 ing recommendations from the appropriate governing board. The appropriate governing board shall
26 have decision-making authority over program offerings to implement established goals and missions.

27 [(4)] (d) Develop a finance model for higher education aligned with the goals in the system
28 strategic plan, including:

29 [(a)] (A) Recommended biennial appropriations to institutions, including a component specifically
30 tied to institutional contributions to state educational priorities;

31 [(b)] (B) Recommended limits regarding the setting of tuition rates at public universities listed
32 in ORS 352.002 in accordance with criteria set by the State Board of Higher Education, with the
33 goal of encouraging tuition affordability for students;

34 [(c)] (C) Tuition rates set by each community college governing board for community colleges
35 in this state;

36 [(d)] (D) Recommended biennial appropriations for student financial aid; and

37 [(e)] (E) Recommended biennial appropriations for any future statewide higher education initi-
38 atives.

39 [(5)] (e) Each biennium, recommend to the Governor and the Legislative Assembly a consol-
40 idated higher education budget request consistent with the finance model, including appropriations
41 for:

42 [(a)] (A) Ongoing operations of the Oregon Student Access Commission;

43 [(b)] (B) Ongoing operations for the Oregon University System;

44 [(c)] (C) Ongoing operations for community colleges;

45 [(d)] (D) Needed new facilities or programs; and

1 [(e)] **(E)** Capital improvements.

2 [(6)] **(f)** *[Design and]* Maintain a statewide educational data system[, *in collaboration with the*
3 *State Board of Education*].

4 [(7)] **(g)** Coordinate with the Oregon Student Access Commission to maximize the effectiveness
5 of student financial assistance programs, including the Oregon Opportunity Grant program under
6 ORS 348.260.

7 [(8)] **(h)** Approve and authorize degrees for the Oregon University System.

8 [(9)] **(i)** Authorize degrees to be offered in this state in accordance with ORS 348.594 to 348.615,
9 and adopt any rules to implement that authority.

10 **(2) In addition to the duties described in subsection (1) of this section, the Higher Edu-**
11 **cation Coordinating Commission shall:**

12 **(a) Develop policies and enter into agreements to ensure or improve access to higher**
13 **education by underserved populations.**

14 **(b) Develop and implement student success and completion initiatives.**

15 **(c) Develop policies and enter into agreements to improve the coordination of the pro-**
16 **vision of educational services, including:**

17 **(A) Transfers and other movements throughout the higher education system;**

18 **(B) Accelerated college credit programs for high school students;**

19 **(C) Applied baccalaureate and other transfer degrees; and**

20 **(D) Reciprocity agreements with other states.**

21 **(d) Oversee the licensing of career schools under ORS 345.010 to 345.450.**

22 **(e) Coordinate research efforts among the public universities of this state to improve**
23 **economic development in this state.**

24 **(f) Coordinate education initiatives with the State Workforce Investment Board, local**
25 **workforce investment boards, the Oregon Health and Science University and independent**
26 **institutions of post-secondary education.**

27 **(g) Oversee programs and develop policies, as designated by statute.**

28 **SECTION 7. The amendments to ORS 351.735 by section 6 of this 2012 Act become oper-**
29 **ative on July 1, 2012.**

30 **SECTION 8.** ORS 351.735, as amended by section 6 of this 2012 Act, is amended to read:

31 351.735. [(1) *Under the direction and control of the Oregon Education Investment Board,*] The
32 Higher Education Coordinating Commission shall:

33 [(a)] **(1)** Develop state goals and associated accountability measures for the state post-secondary
34 education system, including community colleges and public universities listed in ORS 352.002, and
35 for the Oregon Student Access Commission.

36 [(b)] **(2)** Develop a strategic plan for achieving state higher education goals, identifying priority
37 areas for attention and taking into consideration the contributions of this state's independent insti-
38 tutions and other organizations dedicated to helping Oregonians reach state goals. Goals should in-
39 clude, but need not be limited to:

40 [(A)] **(a)** Increasing the educational attainment of the population;

41 [(B)] **(b)** Increasing this state's global economic competitiveness and the quality of life of its
42 citizens;

43 [(C)] **(c)** Ensuring affordable access for qualified Oregon students at each college or public uni-
44 versity; and

45 [(D)] **(d)** Ensuring that public higher education in this state is provided in a cost-effective man-

1 ner.

2 [(c)] (3) Evaluate and recommend changes to statutory goals and missions described for com-
3 munity colleges in ORS 341.009 and for public universities in ORS 351.003 and 351.009 after receiv-
4 ing recommendations from the appropriate governing board. The appropriate governing board shall
5 have decision-making authority over program offerings to implement established goals and missions.

6 [(d)] (4) Develop a finance model for higher education aligned with the goals in the system
7 strategic plan, including:

8 [(A)] (a) Recommended biennial appropriations to institutions, including a component specif-
9 ically tied to institutional contributions to state educational priorities;

10 [(B)] (b) Recommended limits regarding the setting of tuition rates at public universities listed
11 in ORS 352.002 in accordance with criteria set by the State Board of Higher Education, with the
12 goal of encouraging tuition affordability for students;

13 [(C)] (c) Tuition rates set by each community college governing board for community colleges
14 in this state;

15 [(D)] (d) Recommended biennial appropriations for student financial aid; and

16 [(E)] (e) Recommended biennial appropriations for any future statewide higher education initi-
17 atives.

18 [(e)] (5) Each biennium, recommend to the Governor and the Legislative Assembly a consolidated
19 higher education budget request consistent with the finance model, including appropriations for:

20 [(A)] (a) Ongoing operations of the Oregon Student Access Commission;

21 [(B)] (b) Ongoing operations for the Oregon University System;

22 [(C)] (c) Ongoing operations for community colleges;

23 [(D)] (d) Needed new facilities or programs; and

24 [(E)] (e) Capital improvements.

25 [(f)] (6) Maintain a statewide educational data system.

26 [(g)] (7) Coordinate with the Oregon Student Access Commission to maximize the effectiveness
27 of student financial assistance programs, including the Oregon Opportunity Grant program under
28 ORS 348.260.

29 [(h)] (8) Approve and authorize degrees for the Oregon University System.

30 [(i)] (9) Authorize degrees to be offered in this state in accordance with ORS 348.594 to 348.615,
31 and adopt any rules to implement that authority.

32 [(2) *In addition to the duties described in subsection (1) of this section, the Higher Education Co-*
33 *ordinating Commission shall:*]

34 [(a)] (10) Develop policies and enter into agreements to ensure or improve access to higher ed-
35 ucation by underserved populations.

36 [(b)] (11) Develop and implement student success and completion initiatives.

37 [(c)] (12) Develop policies and enter into agreements to improve the coordination of the pro-
38 vision of educational services, including:

39 [(A)] (a) Transfers and other movements throughout the higher education system;

40 [(B)] (b) Accelerated college credit programs for high school students;

41 [(C)] (c) Applied baccalaureate and other transfer degrees; and

42 [(D)] (d) Reciprocity agreements with other states.

43 [(d)] (13) Oversee the licensing of career schools under ORS 345.010 to 345.450.

44 [(e)] (14) Coordinate research efforts among the public universities of this state to improve
45 economic development in this state.

1 [(f)] (15) Coordinate education initiatives with the State Workforce Investment Board, local
2 workforce investment boards, the Oregon Health and Science University and independent insti-
3 tutions of post-secondary education.

4 [(g)] (16) Oversee programs and develop policies, as designated by statute.

5 **SECTION 9. The amendments to ORS 351.735 by section 8 of this 2012 Act become oper-**
6 **ative on March 15, 2016.**

7 **SECTION 10.** ORS 340.310 is amended to read:

8 340.310. (1) The [*Joint Boards of Education*] **Higher Education Coordinating Commission** shall
9 develop statewide standards for dual credit programs to be implemented by public high schools,
10 community colleges and state institutions of higher education within the Oregon University System.
11 The standards must establish the manner by which:

12 (a) A student may, upon completion of a course, earn course credit both for high school and for
13 a community college or state institution of higher education within the Oregon University System;
14 and

15 (b) Teachers of courses that are part of a dual credit program will work together to determine
16 the quality of the program and to ensure the alignment of the content, objectives and outcomes of
17 individual courses.

18 (2) Each public high school, community college and state institution of higher education within
19 the Oregon University System that provides a dual credit program must implement the statewide
20 standards developed under subsection (1) of this section.

21 (3) Each school district, community college and state institution of higher education within the
22 Oregon University System that provides a dual credit program shall submit an annual report to the
23 [*Joint Boards of Education*] **Higher Education Coordinating Commission** on the academic per-
24 formance of students enrolled in a dual credit program. The [*Joint Boards of Education*] **Higher**
25 **Education Coordinating Commission** shall establish the required contents of the report, which
26 must provide sufficient information to allow the [*Joint Boards of Education*] **commission** to deter-
27 mine the quality of the dual credit program.

28 **SECTION 11.** ORS 341.430 is amended to read:

29 341.430. (1) As used in this section:

30 (a) “Associate transfer degree” means an associate degree that is awarded by a community
31 college and that is intended to allow a student to apply the credits earned for the degree towards
32 a baccalaureate degree.

33 (b) “Community college” means a community college operated under ORS chapter 341.

34 (c) “State institution of higher education” means a state institution of higher education listed
35 in ORS 352.002.

36 (d) “Transfer program” means a one-year program that is designed to allow a student to apply
37 the credits earned through the program towards a baccalaureate degree.

38 (2) The [*Joint Boards of Education*] **Higher Education Coordinating Commission** shall develop
39 standards related to the ability of students to apply credits earned through courses of study at
40 community colleges to baccalaureate degrees awarded by state institutions of higher education. The
41 standards shall be known as the “Transfer Student Bill of Rights and Responsibilities.”

42 (3) The standards developed under this section may include:

43 (a) Admission standards to state institutions of higher education for students who have earned
44 an associate transfer degree.

45 (b) The maximum number of credits that students who have earned an associate transfer degree

1 would need to complete prior to receiving various types of baccalaureate degrees at state insti-
2 tutions of higher education.

3 (c) The maximum number of credits that students who have completed a transfer program would
4 need to complete prior to receiving various types of baccalaureate degrees at state institutions of
5 higher education.

6 (d) A process by which a community college would award an associate degree to a student upon
7 completion of necessary credits, regardless of whether the student applied to receive the degree or
8 whether the student earned the credits for the degree at a community college or a state institution
9 of higher education.

10 (e) Any other issues identified by the [*Joint Boards of Education*] **Higher Education Coordi-**
11 **nating Commission** that relate to courses of study at community colleges and the ability of a stu-
12 dent to transfer credits to a community college or a state institution of higher education, to be
13 admitted to a state institution of higher education or to earn a degree at a community college or
14 a state institution of higher education.

15 (f) Requirements that students must meet in order to benefit from the standards described in
16 paragraphs (a) to (e) of this subsection.

17 (4) Each community college and state institution of higher education shall submit annual reports
18 to the [*Joint Boards of Education*] **Higher Education Coordinating Commission** related to:

19 (a) The number of students who attend a community college and then a state institution of
20 higher education, or a state institution of higher education and then a community college.

21 (b) The number of students who attend one community college and then a different community
22 college.

23 (c) The number of students who transfer from a community college to a state institution of
24 higher education and who have an associate transfer degree or have completed a transfer program.

25 (d) The average number of credits students have when they transfer from a community college
26 to a state institution of higher education.

27 (e) The average number of credits students have when they attend one community college and
28 then a different community college.

29 (f) The average number of credits that a student earning an associate transfer degree completed
30 at a community college.

31 (g) The average number of credits students who have transferred from a community college to
32 a state institution of higher education must earn prior to receiving a baccalaureate degree compared
33 to the average number of credits students who did not transfer from a community college must earn
34 prior to receiving a baccalaureate degree.

35 **SECTION 12. The amendments to ORS 340.310 and 341.430 by sections 10 and 11 of this**
36 **2012 Act become on operative July 1, 2012.**

37 **SECTION 13. The duties, functions and powers of the State Board of Education, Depart-**
38 **ment of Education and Superintendent of Public Instruction relating to career schools are**
39 **imposed upon, transferred to and vested in the Higher Education Coordinating Commission.**

40 **SECTION 14. (1) The Superintendent of Public Instruction shall:**

41 **(a) Deliver to the Higher Education Coordinating Commission all records and property**
42 **within the jurisdiction of the superintendent that relate to the duties, functions and powers**
43 **transferred by section 13 of this 2012 Act; and**

44 **(b) Transfer to the Higher Education Coordinating Commission those employees engaged**
45 **primarily in the exercise of the duties, functions and powers transferred by section 13 of this**

1 2012 Act.

2 (2) The executive officer of the Higher Education Coordinating Commission shall take
3 possession of the records and property, and shall take charge of the employees and employ
4 them in the exercise of the duties, functions and powers transferred by section 13 of this 2012
5 Act, without reduction of compensation but subject to change or termination of employment
6 or compensation as provided by law.

7 (3) The Governor shall resolve any dispute between the State Board of Education, De-
8 partment of Education, Superintendent of Public Instruction and the Higher Education Co-
9 ordinating Commission relating to transfers of records, property and employees under this
10 section, and the Governor's decision is final.

11 **SECTION 15.** (1) The unexpended balances of amounts authorized to be expended by the
12 Department of Education for the biennium beginning July 1, 2011, from revenues dedicated,
13 continuously appropriated, appropriated or otherwise made available for the purpose of ad-
14 ministering and enforcing the duties, functions and powers transferred by section 13 of this
15 2012 Act are transferred to and are available for expenditure by the Higher Education Coor-
16 dinating Commission for the biennium beginning July 1, 2011, for the purpose of administer-
17 ing and enforcing the duties, functions and powers transferred by section 13 of this 2012 Act.

18 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
19 expenditures by the Department of Education remain applicable to expenditures by the
20 Higher Education Coordinating Commission.

21 **SECTION 16.** The transfer of duties, functions and powers to the Higher Education Co-
22 ordinating Commission by section 13 of this 2012 Act does not affect any action, proceeding
23 or prosecution involving or with respect to such duties, functions and powers begun before
24 and pending at the time of the transfer, except that the Higher Education Coordinating
25 Commission is substituted for the State Board of Education, Department of Education or
26 Superintendent of Public Instruction in the action, proceeding or prosecution.

27 **SECTION 17.** (1) Nothing in sections 13 to 16 of this 2012 Act relieves a person of a li-
28 ability, duty or obligation accruing under or with respect to the duties, functions and powers
29 transferred by section 13 of this 2012 Act. The Higher Education Coordinating Commission
30 may undertake the collection or enforcement of any such liability, duty or obligation.

31 (2) The rights and obligations of the Department of Education legally incurred under
32 contracts, leases and business transactions executed, entered into or begun before the op-
33 erative date of section 13 of this 2012 Act accruing under or with respect to the duties,
34 functions and powers transferred by section 13 of this 2012 Act are transferred to the Higher
35 Education Coordinating Commission. For the purpose of succession to these rights and obli-
36 gations, the Higher Education Coordinating Commission is a continuation of the Department
37 of Education and not a new authority.

38 **SECTION 18.** Notwithstanding the transfer of duties, functions and powers by section 13
39 of this 2012 Act, the rules of the State Board of Education with respect to such duties,
40 functions or powers that are in effect on the operative date of section 13 of this 2012 Act
41 continue in effect until superseded or repealed by rules of the Higher Education Coordinating
42 Commission. References in such rules of the State Board of Education to the Department
43 of Education or to an officer or employee of the department are considered to be references
44 to the Higher Education Coordinating Commission or an officer or employee of the Higher
45 Education Coordinating Commission.

1 **SECTION 19.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 2 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 3 the context of the duties, functions and powers transferred by section 13 of this 2012 Act,
 4 reference is made to the rulemaking authority of the State Board of Education or to the
 5 administrative authority of the Department of Education, or an officer or employee of the
 6 State Board of Education or Department of Education, whose duties, functions or powers are
 7 transferred by section 13 of this 2012 Act, the reference is considered to be a reference to
 8 the Higher Education Coordinating Commission or an officer or employee of the Higher Ed-
 9 ucation Coordinating Commission who, by this 2012 Act, is charged with carrying out such
 10 duties, functions and powers.

11 **SECTION 20.** ORS 345.010 is amended to read:

12 345.010. As used in ORS 345.010 to 345.450 and 345.992 to 345.997:

13 (1) "Agent" means a person employed by or for a career school for the purpose of procuring
 14 students, enrollees or subscribers by solicitation in any form, made at a place or places other than
 15 the school office or place of business of such school.

16 (2) "Barbering" has the meaning given that term in ORS 690.005.

17 [(3) "Board" means the State Board of Education.]

18 [(4)] (3) "Career school" or "school" means any private proprietary professional, technical, home
 19 study, correspondence, business or other school instruction, organization or person that offers any
 20 instruction or training for the purpose or purported purpose of instructing, training or preparing
 21 persons for any profession.

22 [(5)] (4) "Esthetics" has the meaning given in ORS 690.005.

23 [(6)] (5) "Hair design" has the meaning given in ORS 690.005.

24 [(7)] (6) "License" means the authority the career school has been granted to operate under ORS
 25 345.010 to 345.450.

26 [(8)] (7) "Nail technology" has the meaning given in ORS 690.005.

27 [(9)] (8) "Registration" means the approval by the [*Superintendent of Public Instruction*] **Higher**
 28 **Education Coordinating Commission** of a teacher or agent to instruct in or to represent the
 29 school.

30 [(10) "*Superintendent*" means *Superintendent of Public Instruction*.]

31 **SECTION 21.** ORS 345.015 is amended to read:

32 345.015. ORS 345.010 to 345.450 do not apply to:

33 (1) Instruction or training solely avocational or recreational in nature or to institutions offering
 34 such education exclusively.

35 (2) Instruction or training sponsored or offered by a bona fide trade, business, professional or
 36 fraternal organization or by a business solely for the organization's membership or the business's
 37 employees.

38 (3) Instruction or training sponsored, offered or contracted by organizations, institutions or
 39 agencies, if the instruction or training is advertised or promoted to be in the nature of professional
 40 self-improvement or personal self-improvement and the instruction or training is not:

41 (a) Advertised or promoted as leading to or fulfilling the requirements for licensing, certif-
 42 ication, accreditation or education credentials; or

43 (b) Leading to an occupation, employment or other activity for which a person may reasonably
 44 expect financial compensation.

45 (4) Courses offered in hospitals that meet standards prescribed by the American Medical Asso-

1 ciation or national accrediting associations for nursing.

2 (5) Courses, instruction or training offered for a limited number of hours, as defined by rule of
3 the [*State Board of Education*] **Higher Education Coordinating Commission**.

4 (6) Schools offering only courses of an advanced training or continuing educational nature when
5 offered solely to licensed practitioners and people previously qualified or employed in the profession
6 for which a course is being offered.

7 (7) Schools that the [*Superintendent of Public Instruction*] **Higher Education Coordinating**
8 **Commission** determines are adequately regulated by other means that guarantee the school meets
9 the standards of ORS 345.325.

10 (8) Schools offering only review instruction to prepare a student to take an examination to enter
11 a profession, where the student has completed prior training related to the profession.

12 (9) Schools described in ORS 348.597 and, except as provided in ORS 345.017, schools approved
13 by the Higher Education Coordinating Commission to confer or offer to confer academic degrees
14 under ORS 348.606.

15 (10) Any parochial or denominational institution providing instruction or training relating solely
16 to religion and that does not grant degrees.

17 **SECTION 22.** ORS 345.017 is amended to read:

18 345.017. When a school that is licensed under ORS 345.010 to 345.450 is approved by the Higher
19 Education Coordinating Commission to confer or offer to confer an academic degree under ORS
20 348.606 and the school continues to offer a course or program that does not lead to an academic
21 degree:

22 (1) The school must continue to be licensed as a career school and meet the requirements of
23 ORS 345.010 to 345.450 until:

24 (a) All courses or programs offered by the school are approved by the commission; and

25 (b) All students who were first enrolled in the school when the school was licensed as a career
26 school have:

27 (A) Completed the course or program for which the student contracted with the career school;
28 or

29 (B) Terminated enrollment in the career school for any reason.

30 (2) A student who is enrolled in a course or program for which a school must be licensed under
31 ORS 345.010 to 345.450 is eligible for moneys from the Tuition Protection Fund established under
32 ORS 345.110 if the student:

33 (a) Qualifies for moneys under rules adopted by the [*State Board of Education*] **Higher Educa-**
34 **tion Coordinating Commission** under ORS 345.110; and

35 (b) Was first admitted to the school when the school was licensed as a career school under ORS
36 345.010 to 345.450.

37 (3) When a course or program that did not lead to an academic degree is approved by the Higher
38 Education Coordinating Commission to lead to an academic degree, the regulatory authority for that
39 course or program transfers to the commission upon the approval.

40 **SECTION 23.** ORS 345.020 is amended to read:

41 345.020. (1) The [*Superintendent of Public Instruction*] **Higher Education Coordinating Com-**
42 **mission** shall administer ORS 345.010 to 345.450 and 345.992 to 345.997 and shall enforce all laws
43 and rules relating to the licensing of career schools and agents.

44 (2) The [*superintendent*] **commission** may establish procedures whereby schools become eligible
45 to participate in federal student assistance programs if approved by the United States Department

1 of Education.

2 (3) *[The superintendent and the employees of the Department of Education shall]* **Members and**
 3 **employees of the commission may** not have financial interests in any career school and *[shall]*
 4 **may** not act as agents or employees thereof.

5 **SECTION 24.** ORS 345.030 is amended to read:

6 345.030. (1) A person may not open, conduct or do business as a career school in this state
 7 without obtaining a license under ORS 345.010 to 345.450.

8 (2) Except as provided in subsection (8) of this section, the *[Superintendent of Public*
 9 *Instruction]* **Higher Education Coordinating Commission** may issue a license to conduct a career
 10 school only after the applicant has presented proof satisfactory to the *[superintendent or the repre-*
 11 *sentative of the superintendent]* **commission** that the applicant complies with applicable standards
 12 adopted under ORS 345.325 and 670.280. For the purpose of this subsection, ORS 670.280 applies to
 13 individuals who hold positions of authority or control in the operation of the school and to its fac-
 14 ulty members and agents.

15 (3) A career school licensed in any other state must be licensed in this state before establishing
 16 a physical presence in this state such as offices or agents, or both, for the purpose of solicitation
 17 of students.

18 (4) In determining whether to issue a license to a career school, the *[superintendent]* **commis-**
 19 **sion** may consider the prior history of the applicant in operating other career schools. The prior
 20 history of operating other career schools includes, but is not limited to:

21 (a) Conduct by the applicant that is cause for probation of a licensee or for suspension or re-
 22 vocation of a license as provided in ORS 345.120 (2);

23 (b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to
 24 345.450; and

25 (c) The history of the applicant in operating career schools in other states.

26 (5) The *[superintendent]* **commission** may not issue a license to or renew the license of a career
 27 school until the applicant provides all of the following to the *[superintendent]* **commission**:

28 (a) A financial statement, certified true and accurate and signed by the owner of the school;

29 (b) Proof of compliance with the tuition protection policy established by the *[State Board of*
 30 *Education]* **commission** pursuant to ORS 345.110; and

31 (c) Fingerprints of individuals as described in subsection (6) of this section.

32 (6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance
 33 of a license or a renewal of a license must provide to the *[superintendent]* **commission** the finger-
 34 prints of faculty members and agents of the school and individuals who hold positions of authority
 35 or control in the operation of the school if the career school will be enrolling or does enroll persons
 36 under 18 years of age.

37 (b) In addition to requirements provided under paragraph (a) of this subsection, the *[superinten-*
 38 *dent]* **commission** may require a career school to provide the fingerprints of any agents of the
 39 school who will have contact with persons under 18 years of age on behalf of the career school.

40 (c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this sub-
 41 section if the *[Department of Education]* **commission** has conducted a state or nationwide criminal
 42 records check on the person within the three years preceding the date of the application.

43 (d) Fingerprints acquired under this subsection may be used only for the purpose of requesting
 44 a state or nationwide criminal records check under ORS 181.534.

45 (7) Notwithstanding ORS 345.325 (10), the *[superintendent]* **commission** may place a school on

1 probation or deny, suspend or revoke a license if the [*superintendent*] **commission** finds that an in-
 2 dividual who holds a position of authority or control in the operation of the school was convicted
 3 of a crime listed in ORS 342.143.

4 (8) The [*superintendent*] **commission** may issue a conditional license to a career school that
 5 meets the requirements of subsection (5) of this section but that does not comply with the applicable
 6 standards adopted by rule under ORS 345.325. A conditional license issued under this subsection is
 7 effective for a period prescribed by the [*department*] **commission**, which may not exceed 90 days.

8 (9)(a) Except as provided in paragraph (b) of this subsection, a career school license is
 9 nontransferable. The licensee must give 30 days of notice to the [*Department of Education*] **com-**
 10 **mission** when transferring ownership of a career school.

11 (b) The [*department*] **commission** may transfer a career school license or allow the ownership
 12 of a career school to transfer with less than 30 days of notice if:

13 (A) The owner of the school dies, is incapacitated or is incarcerated; or

14 (B) Other circumstances render the owner unable to operate the career school.

15 (10) Each career school shall display its license in a prominent place.

16 **SECTION 25.** ORS 345.040 is amended to read:

17 345.040. (1) [*No person shall*] **A person may not** act in this state as an agent for a career school
 18 domiciled within or outside this state, unless the [*Superintendent of Public Instruction*] **Higher Ed-**
 19 **ucation Coordinating Commission** has approved the agent's registration as a part of the school's
 20 license under ORS 345.010 to 345.450. No person shall act as an agent for a career school unless
 21 and until the career school has obtained a license.

22 (2) For the purposes of licensing and student protection, persons acting as agents for a career
 23 school domiciled within or outside this state are employees of the school and shall be included under
 24 the school's bonding or student protection policy, or both. Agents shall perform their duties and
 25 conduct their business in accordance with ORS 345.010 to 345.450.

26 (3) An agent shall be a person who has attained the age of 18 years, is of good moral character
 27 and is otherwise competent and qualified to safeguard and protect the interests of the public.

28 **SECTION 26.** ORS 345.060 is amended to read:

29 345.060. (1) Every agent for a career school not domiciled in this state shall be held to have
 30 appointed the [*Superintendent of Public Instruction*] **executive officer of the Higher Education**
 31 **Coordinating Commission** as agent to accept service of all summonses, pleadings, writs and pro-
 32 cesses in all actions or proceedings brought against the applicant in this state. Service upon the
 33 [*superintendent*] **executive officer** shall be taken and held in all courts to be as valid and binding
 34 as if personal service thereof had been made upon the applicant within this state.

35 (2) When any summons, pleading, writ or process is served on the [*superintendent*] **executive**
 36 **officer**, service shall be by duplicate copies. One of the duplicates shall be filed in the office of the
 37 [*superintendent*] **executive officer** and the other immediately forwarded by certified mail to the
 38 agent thereby affected or therein named, at the agent's last-known post-office address. If service is
 39 of a summons, the plaintiff therein also shall cause the agent to be served therewith in a manner
 40 provided by ORCP 7.

41 **SECTION 27.** ORS 345.070 is amended to read:

42 345.070. The employing school shall issue an identification credential to each agent registered
 43 under ORS 345.010 to 345.450 in the form and size prescribed by the [*Superintendent of Public In-*
 44 *struction*] **Higher Education Coordinating Commission**. Each agent shall carry the credential at
 45 all times while engaged as an agent of the school.

SECTION 28. ORS 345.080 is amended to read:

345.080. (1) Before issuing any licenses under ORS 345.010 to 345.450, the [*Superintendent of Public Instruction*] **Higher Education Coordinating Commission** shall collect the following nonrefundable, annual license fees:

<u>In-State Schools</u>		
<u>Tuition</u>	<u>Income Range</u>	<u>Fee</u>
\$	0 - 15,000	\$ 450
	15,001 - 50,000	600
	50,001 - 125,000	750
	125,001 - 250,000	1,050
	250,001 - 500,000	1,350
	500,001 - 750,000	1,650
	750,001 - 1,000,000	1,950
	Over 1,000,000	2,250
<u>Out-of-State Schools</u>		
<u>Tuition</u>	<u>Income Range</u>	<u>Fee</u>
\$	0 - 50,000	\$ 1,350
	50,001 - 250,000	1,650
	250,001 - 500,000	1,950
	500,001 - 750,000	2,250
	750,001 - 1,000,000	2,550
	Over 1,000,000	2,850

(2) The [*State Board of Education*] **commission** may adopt, by rule, fees for teacher registration and fees for providing copies of student transcripts maintained [*at the Department of Education*] **by the commission**.

(3) The [*board*] **commission** may adopt, by rule, fees for conducting a state or nationwide criminal background check under ORS 181.534 and may collect fees for each criminal records check. Fees collected as provided by this subsection are in addition to any other fees collected by the [*department*] **commission**.

(4) All fees collected under this section shall be paid to the credit of the [*department*] **commission**. Such moneys are continuously appropriated to the [*department*] **commission** and shall be used for the administration of the licensing program under ORS 345.010 to 345.450.

SECTION 29. ORS 345.110 is amended to read:

345.110. (1) The Tuition Protection Fund is established separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Proceeds of the fund are continuously appropriated to the [*Department of Education*] **Higher Education Coordinating Commission** to protect students when a career school ceases to provide educational services and for administrative expenses incurred under subsection (5) of this section.

(2) The [*Superintendent of Public Instruction*] **commission** shall maintain and administer the fund[, and the *State Board of Education*] **and** shall adopt by rule procedures governing the administration and maintenance of the fund, including requirements relating to contributions to and claims

1 against the fund.

2 (3) Each career school shall pay to the Tuition Protection Fund an initial capitalization deposit
3 in amounts and within time limits established by rule of the [board] **commission**. Thereafter, each
4 school shall make installment payments based on a matrix adopted by rule of the [board] **commis-**
5 **sion**. In establishing the amount and frequency of payments, the [board] **commission** may consider
6 the enrollment and financial condition of each school and such other factors as the [board] **com-**
7 **mission** considers appropriate. The [superintendent] **commission** may deny, suspend or revoke the
8 license of a school which fails to make payments or fails to conform to other requirements of this
9 section or rules adopted by the [board] **commission** under this section.

10 (4) The [superintendent] **commission** shall deposit moneys received under this section with the
11 State Treasurer in the Tuition Protection Fund.

12 (5) The [superintendent] **commission** may disburse moneys from the fund by checks or orders
13 drawn upon the State Treasurer in conformance with rules of the [board] **commission** and only for
14 tuition protection purposes, including the [superintendent's] **commission's** costs in administering
15 and maintaining the fund.

16 (6) The [superintendent] **commission** may enter into contracts to carry out the purposes of the
17 fund. The provisions of ORS 279.835 to 279.855 and ORS chapters 279A and 279B do not apply to
18 contracts entered into under this subsection.

19 **SECTION 30.** ORS 345.115 is amended to read:

20 345.115. (1) The enrollment agreement entered into between a person and a career school for the
21 purpose of obtaining instruction or training shall contain a schedule for the refund of tuition, de-
22 posits and fees when the person does not complete the course or program of instruction or training
23 which was the subject of the contract. No action or suit may be brought by a career school or its
24 assigns if the enrollment agreement does not contain this refund schedule. This provision shall not
25 limit the career school's right to defend any action or suit brought by any person on a contract
26 which does not contain such a schedule.

27 (2) The refund schedule required by subsection (1) of this section shall be established by the
28 [Superintendent of Public Instruction] **Higher Education Coordinating Commission** in consultation
29 with the advisory committee appointed under ORS 345.330. In establishing the refund schedule, the
30 [superintendent] **commission** shall consider:

31 (a) The reasonable, obligated and fixed costs of the career school, including but not limited to
32 rent, personnel and nonreturnable supplies.

33 (b) The method of instruction.

34 (c) The reasonable value of services performed prior to cancellation of the course or program.

35 (3) The [superintendent] **commission** may establish varying refund schedules when the difference
36 in services performed necessitates separate schedules.

37 (4) Nothing in this section is intended to prevent a career school from requiring an advance
38 deposit of tuition on behalf of the person intending to enroll in a course or program offered by or
39 through the career school. However, the advance deposit shall be limited to 20 percent of the total
40 tuition and fees, excluding federal and state financial aid, unless the [State Board of Education]
41 **commission** determines by rule that larger advance deposits are appropriate.

42 (5) A school shall be considered in default of the enrollment agreement when a course or pro-
43 gram is discontinued or canceled or the school closes prior to completion of contracted services.
44 When a school is in default, student tuition may be refunded on a pro rata basis if the [superinten-
45 dent] **commission** determines that the school has made provision for students enrolled at the time

1 of default to complete a comparable program at another institution at no additional tuition cost to
 2 the student beyond the original contract with the defaulting school. If the school does not make such
 3 provision, a total refund of all tuition and fees shall be made to the students.

4 **SECTION 31.** ORS 345.117 is amended to read:

5 345.117. Any enrollment agreement used within this state as a contract for instruction between
 6 a career school and a student shall have printed or stamped upon it: "Any inquiry a student may
 7 have regarding this contract may be made in writing to the school (name and address), or to the
 8 [*Superintendent of Public Instruction, Department of Education, (current address), Salem, Oregon*
 9 (*current zip code*)] **Higher Education Coordinating Commission (current address).**"

10 **SECTION 32.** ORS 345.120 is amended to read:

11 345.120. (1) On the written complaint of any person, the [*Superintendent of Public Instruction*]
 12 **Higher Education Coordinating Commission** shall, and on the [*superintendent's*] **commission's**
 13 own motion may, investigate the actions of any career school or agent, or any person who assumes
 14 to act in either capacity within this state.

15 (2) As a result of the investigation, and in addition to any penalty that may be imposed under
 16 ORS 345.992, the [*superintendent*] **commission** may place a licensee on probation or may suspend
 17 or revoke any license issued under ORS 345.010 to 345.450 when the licensee has:

- 18 (a) Obtained a license by misrepresentation.
- 19 (b) Violated ORS 345.010 to 345.450 or any applicable rule.
- 20 (c) Ceased to engage in the business authorized by the license.
- 21 (d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

22 (3) When notice of suspension or revocation is issued, the licensee shall be notified and, upon
 23 request, shall be granted a contested case hearing under ORS 183.310 (2).

24 (4) A licensee placed on probation must be formally notified by the [*superintendent*] **commission**
 25 that it has deficiencies that must be corrected within a time specified in the notice.

26 (5) A licensee whose license is suspended is prohibited from advertising, recruiting or enrolling
 27 students but may remain in operation to complete training of students enrolled on the effective date
 28 of the suspension.

29 (6) A licensee whose license has been revoked is not authorized to continue in operation on and
 30 after the effective date of the revocation.

31 **SECTION 33.** ORS 345.325 is amended to read:

32 345.325. The [*State Board of Education*] **Higher Education Coordinating Commission** shall
 33 adopt by rule minimum standards for the licensing of career schools under ORS 345.010 to 345.450
 34 that are reasonably calculated to ensure that:

35 (1) The quality and content of each course or program of instruction can achieve its stated ob-
 36 jective;

37 (2) The facilities, instructional equipment and materials are sufficient to enable students to
 38 achieve the program goals and are adequate for the purposes of the program;

39 (3) The directors, administrators and instructors are properly qualified;

40 (4) Prior to an applicant signing an enrollment agreement, the school provides the applicant
 41 with a catalog or brochure that includes an accurate description of the program for which the ap-
 42 plicant is enrolling, total costs of tuition and fees and other information specified by rule;

43 (5) Upon satisfactory completion of instruction and training, the student is given appropriate
 44 educational credentials;

45 (6) Adequate records and standard transcripts are maintained;

1 (7) The career school is maintained and operated in compliance with all applicable ordinances
2 and laws;

3 (8) The career school is financially sound and capable of fulfilling its commitments to students;

4 (9) Neither the career school nor its agents engage in advertising, sales, collection, credit or
5 other practices of any type which are unlawful under ORS 646.608;

6 (10) The directors, administrators, supervisors and instructors of the school are of good reputa-
7 tion and character, except that a school shall not be placed on probation or a license shall not be
8 denied, suspended or revoked because a faculty member has been convicted of a crime except as
9 authorized under ORS 670.280;

10 (11) Any student housing owned, maintained or approved by the career school is appropriate,
11 safe and adequate;

12 (12) The school has a written placement assistance plan; and

13 (13) A license application from a new school or an application for approval of a new program
14 from an existing school shall include labor market information that identifies the need for the new
15 school or program.

16 **SECTION 34.** ORS 345.330 is amended to read:

17 345.330. (1) The [*Superintendent of Public Instruction*] **Higher Education Coordinating Com-**
18 **mission** shall appoint a representative advisory committee consisting of 11 members who shall serve
19 for terms of three years ending June 30. Of the membership of the committee:

20 (a) Seven members shall be persons affiliated with career schools as owners, directors, admin-
21 istrators, instructors or representatives, but not more than one member shall represent an out-of-
22 state career school.

23 (b) Four members shall be persons who are not eligible under paragraph (a) of this subsection.
24 At least one of these members shall have graduated from a career school.

25 (2) The advisory committee appointed under subsection (1) of this section shall:

26 (a) Make recommendations to the [*superintendent and State Board of Education*] **commission**
27 concerning the need for professional and technical instructional and training facilities, the types of
28 instruction and training needed and by whom these can best be provided.

29 (b) Recommend standards for career schools as provided in ORS 345.325 which are consistent
30 with the purposes of such schools.

31 (c) Investigate and present findings to the [*State Board of Education*] **commission** on the ad-
32 ministration and operation of laws relating to career schools. However, the investigations and
33 findings of the advisory committee do not affect the authority of the [*superintendent*] **commission**
34 to issue, deny, suspend or revoke the license of any career school.

35 (d) Consult with the [*superintendent*] **commission** in determining the refund schedule under ORS
36 345.115.

37 (e) Make recommendations to the [*superintendent*] **commission** concerning rule development for
38 ORS 345.010 to 345.450 and 345.992 to 345.997.

39 (3) Members of the advisory committee are entitled to compensation and expenses as provided
40 in ORS 292.495 from funds appropriated to the [*Department of Education*] **commission** for purposes
41 of administering ORS 345.010 to 345.450.

42 **SECTION 35.** ORS 345.340 is amended to read:

43 345.340. Consistent with the requirements of ORS 345.325, the advisory committee shall recom-
44 mend to the [*State Board of Education*] **Higher Education Coordinating Commission** minimum
45 standards for the operation of career schools. In making its recommendations, the committee shall

1 consider changes in technological, economic and social conditions which affect employment needs,
2 opportunities and skills.

3 **SECTION 36.** ORS 345.400 is amended to read:

4 345.400. In addition to the other requirements of ORS 345.010 to 345.450, the rules adopted by
5 the [*State Board of Education*] **Higher Education Coordinating Commission** to regulate schools
6 teaching hair design, barbering, esthetics or nail technology:

7 (1) May include rules the [*board*] **commission** considers necessary to protect the economic or
8 physical health and safety of the public and of the students attending the school including compli-
9 ance with ORS 345.110.

10 (2) Shall include rules that set standards for teachers teaching in schools licensed to teach hair
11 design, barbering, esthetics or nail technology pursuant to ORS 345.010 to 345.450.

12 (3) Shall require the schools to teach, and require for graduation from the school, courses that
13 meet the following minimum standards:

14 (a)(A) A minimum hourly training requirement for:

15 (i) Hair design, 1,450 hours;

16 (ii) Barbering, 1,100 hours;

17 (iii) Esthetics, 250 hours; and

18 (iv) Nail technology, 350 hours; and

19 (B) In addition to the programs listed in this subsection, a student is also required to success-
20 fully complete the following requirements once:

21 (i) Safety and sanitation, 150 hours; and

22 (ii) Career development, 100 hours.

23 (b) A student competency-based training requirement for hair design, barbering, esthetics or nail
24 technology, if the school has developed written requirements for graduation that are approved by
25 the [*Superintendent of Public Instruction*] **commission**.

26 **SECTION 37.** ORS 345.430 is amended to read:

27 345.430. At the request of the Board of Cosmetology, the [*Superintendent of Public Instruction*]
28 **Higher Education Coordinating Commission** shall determine whether a person from out-of-state
29 or out-of-country seeking a certificate in hair design, barbering, esthetics or nail technology is
30 qualified to take the test of the Board of Cosmetology. A determination shall be made by an evalu-
31 ation of academic transcripts, apprenticeship records and work experience documentation. If doc-
32 umentation is not available, the [*superintendent*] **commission** may refer the person to a career
33 school for evaluation and recommendation.

34 **SECTION 38.** ORS 345.450 is amended to read:

35 345.450. (1) In addition to the fees required by ORS 345.080, before issuing any license under
36 ORS 345.010 to 345.450 to a school teaching hair design, barbering, esthetics or nail technology, and
37 annually thereafter, the [*Department of Education*] **Higher Education Coordinating Commission**
38 shall collect a nonrefundable annual inspection fee of \$100.

39 (2) The inspection fee collected under subsection (1) of this section shall be transferred to the
40 Oregon Health Licensing Agency for inspections performed under ORS 345.440.

41 **SECTION 39.** ORS 345.995 is amended to read:

42 345.995. (1) After consultation with the advisory committee established under ORS 345.330, the
43 [*State Board of Education*] **Higher Education Coordinating Commission** shall adopt by rule a
44 schedule or schedules establishing the amount of civil penalty that may be imposed for a particular
45 violation of ORS 345.010 to 345.450. No civil penalty shall exceed \$500 per violation. The [*board*]

1 **commission** shall consult with the Attorney General before adopting the schedule of penalties for
 2 violations of ORS 345.120 (2)(d).

3 (2) In imposing a penalty for violation of ORS 345.010 to 345.450 pursuant to the schedule or
 4 schedules authorized by this section, the [*Superintendent of Public Instruction*] **commission** shall
 5 consider the following factors:

6 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
 7 necessary or appropriate to correct any violation.

8 (b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.

9 (c) The economic and financial conditions of the person incurring a penalty.

10 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and
 11 conditions as the [*superintendent*] **commission** considers proper and consistent with the public wel-
 12 fare.

13 (4) The [*superintendent*] **commission** may impose penalties which may be remitted or mitigated
 14 on condition that a particular violation not continue or occur after a certain period not to exceed
 15 15 days.

16 **SECTION 40.** ORS 341.455 is amended to read:

17 341.455. (1) A community college may give credit for courses or programs taken in a career
 18 school. The courses or programs for which credit may be given must meet the standards adopted
 19 by the [*State Board of Education*] **Higher Education Coordinating Commission** under ORS 345.325,
 20 must be taken at a career school domiciled in this state and must be approved for credit by the
 21 Commissioner for Community College Services.

22 (2) A community college may charge a transcribing fee to a student for courses taken at a ca-
 23 reer school and accepted by the community college under subsection (1) of this section. Such a fee
 24 is to be set by the [*board*] **commission** and is to be consistent with other student fees.

25 (3) Time spent by students on such courses shall not be considered as clock hours of instruction
 26 in determining full-time equivalency for purposes of ORS 341.626.

27 **SECTION 41.** ORS 348.040 is amended to read:

28 348.040. As used in ORS 348.040 to 348.070, unless the context requires otherwise:

29 (1) "Eligible student" means a person who is a resident of this state, as determined by the
 30 Oregon Student Access Commission, at the time of application for a loan under ORS 348.040 to
 31 348.070:

32 (a) Who is enrolled in or has applied for enrollment in a qualified school;

33 (b) Who has demonstrated a satisfactory level of achievement in the high school or other school
 34 on the record of which the application for enrollment is based or in which the applicant is enrolled;
 35 and

36 (c) Who can show the necessity for financial assistance in order to continue the applicant's ed-
 37 ucation.

38 (2) "Qualified school" means a school within this state that is a:

39 (a) Four-year, nonprofit, generally accredited institution of higher education;

40 (b) Accredited public or private community college or education center, or one recognized by a
 41 state educational agency;

42 (c) Career school that is approved by the [*Superintendent of Public Instruction*] **Higher Educa-
 43 tion Coordinating Commission**;

44 (d) Medical or dental program offered by the Oregon Health and Science University;

45 (e) Veterinary program offered by Oregon State University; or

1 (f) Institution that is, in the opinion of the commission, comparable to such institutions, colleges,
2 centers or schools.

3 (3) "Qualified school" may include an institution, college, center or school not located in this
4 state if the commission certifies that the course is not available in this state.

5 **SECTION 42.** ORS 348.070 is amended to read:

6 348.070. To assist the Oregon Student Access Commission and the Department of State Lands
7 in determining the qualification of schools, the [*Superintendent of Public Instruction*] **Higher Edu-**
8 **cation Coordinating Commission** shall maintain a listing of career schools offering professional
9 and technical training that meets the occupational needs of the student.

10 **SECTION 43.** ORS 418.658 is amended to read:

11 418.658. (1) The program director of the Oregon Youth Conservation Corps shall establish a
12 separate program known as the Oregon Community Stewardship Corps. In addition to the estab-
13 lished purposes of the Oregon Youth Conservation Corps, the purpose of the Oregon Community
14 Stewardship Corps is to promote community service activities throughout the state for a broad cross
15 section of Oregon disadvantaged and at-risk youth through programs that also include appropriate
16 educational and job training opportunities for participants.

17 (2) In addition to projects submitted under ORS 418.660 (1), projects of the Oregon Community
18 Stewardship Corps may include, but shall not be limited to:

19 (a) Child care services.

20 (b) Elderly and disabled care services.

21 (c) Literacy education programs.

22 (d) Recycling and other waste reduction services.

23 (3) The Oregon Community Stewardship Corps shall offer employment and educational opportu-
24 nities of at least three but not more than 12 months' duration for selected participants.

25 (4) Under rules adopted by the [*State Board of Education*] **Higher Education Coordinating**
26 **Commission**, participants who successfully complete any 12-month program under this section shall
27 be eligible for \$1,500 in tuition vouchers that can be used at any career school or post-secondary
28 educational institution that is qualified to receive assistance through the Oregon Student Access
29 Commission.

30 (5) All Oregonians who are at least 13 years of age and under 25 years of age are eligible to
31 participate in the program. To ensure that Oregon Community Stewardship Corps participants rep-
32 resent a broad cross section of Oregonians, special emphasis shall be given to recruiting school
33 dropouts and other disadvantaged and at-risk youth, according to criteria established by the Oregon
34 Youth Conservation Corps Advisory Committee.

35 (6) To the extent practicable, the program director shall enlist state and federal agencies, local
36 government, nonprofit organizations and private businesses, and any combination of such entities,
37 to act as sponsors for programs administered under this section. Selection of sponsors shall be based
38 on criteria that include the following:

39 (a) The availability of other resources on a matching basis, including contributions from private
40 sources, other federal, state and local agencies, and moneys available through the federal Workforce
41 Investment Act of 1998 (29 U.S.C. 2801 et seq.);

42 (b) The provision of related educational and job training programs to participants, including but
43 not limited to school and college coursework, General Educational Development (GED) tests equiv-
44 alency training, project-related education and professional training;

45 (c) Assurances that proposed projects will not displace existing employees or duplicate existing

1 private or government programs; and

2 (d) Assurances that proposed projects are devoted to the enhancement of the community and are
3 not based in maintenance activities and that these projects meet an identified need.

4 (7) In consultation with the advisory committee and the Commissioner for Community College
5 Services, the program director shall make grants for programs administered under this section.

6 **SECTION 44.** ORS 471.580 is amended to read:

7 471.580. (1) As used in this section:

8 (a) "Alcohol equivalence" means the amount of ethanol that would be expected to be present in
9 a beverage based on the standard drink measurement used by the Centers for Disease Control and
10 Prevention.

11 (b) "Education provider" means:

12 (A) A community college, as defined in ORS 341.005, offering a food or beverage career program
13 approved by the State Board of Education;

14 (B) A career school, as defined in ORS 345.010, offering a food or beverage career program ap-
15 proved by the Oregon Student Assistance Commission or the [*State Board of Education*] **Higher**
16 **Education Coordinating Commission;**

17 (C) An institution of higher education listed in ORS 352.002 offering a food or beverage career
18 program approved by the State Board of Higher Education; or

19 (D) A private and independent institution of higher education, as defined in ORS 352.720, offer-
20 ing a food or beverage career program that qualifies for payment under ORS 352.740.

21 (c) "Food or beverage career program" means a course of study designed to qualify a person for
22 a career in the food service industry or alcoholic beverage industry, including but not limited to a
23 course of study in culinary arts, viticulture, winemaking, enology, brewing or restaurant manage-
24 ment.

25 (2) The charging or payment of tuition or a special fee for enrollment in a class that is part of
26 a food or beverage career program or in a workshop or seminar concerning matters related to food
27 or beverage industry workforce training, offered by an education provider, that includes the con-
28 sumption of alcoholic beverages for educational purposes, is not a sale or purchase of, or other ex-
29 change of consideration for, alcoholic beverages.

30 (3) Notwithstanding ORS 471.130, 471.406, 471.410 and 471.475, an education provider may serve
31 alcoholic beverages to a person who is 18, 19 or 20 years of age and may allow the person to possess
32 and consume alcoholic beverages on a licensed or unlicensed premises that the education provider
33 uses for educational purposes if:

34 (a) The person is enrolled as a student in a required or elective class that is part of a food or
35 beverage career program offered by the education provider;

36 (b) The alcoholic beverages are served to, and possessed and consumed by, the person for edu-
37 cational purposes as part of the class curriculum or a workshop or seminar concerning food or
38 beverage workforce training;

39 (c) The service, possession and consumption of the alcoholic beverages are supervised by a fac-
40 ulty or staff member of the education provider who is 21 years of age or older;

41 (d) The person does not purchase the alcoholic beverages; and

42 (e) The amount served to the person for consumption purposes during any two-hour class,
43 workshop or seminar period does not exceed two ounces of alcohol equivalence.

44 (4) Notwithstanding ORS 471.130 or 471.410, a person may serve alcoholic beverages to another
45 person who is 18, 19 or 20 years of age on premises that an education provider uses for educational

1 purposes if:

2 (a) The person served is enrolled as a student in a required or elective class that is part of a
3 food or beverage career program offered by the education provider;

4 (b) The alcoholic beverages are served to, and consumed by, the person for educational purposes
5 as part of the class curriculum or, with the approval of the education provider, as part of a work-
6 shop or seminar concerning food or beverage workforce training;

7 (c) The service and consumption of the alcoholic beverages are supervised by a faculty or staff
8 member of the education provider who is 21 years of age or older;

9 (d) The person served does not purchase the alcoholic beverages; and

10 (e) The amount served to the person for consumption purposes during any two-hour class period
11 does not exceed two ounces of alcohol equivalence.

12 (5) Notwithstanding ORS 471.130 or 471.410 or the prohibitions in ORS 471.430, a person who is
13 18, 19 or 20 years of age may possess and consume alcoholic beverages on a licensed or unlicensed
14 premises that an education provider uses for educational purposes if:

15 (a) The person is enrolled as a student in a required or elective class that is part of a food or
16 beverage career program offered by the education provider;

17 (b) The person possesses and consumes the alcoholic beverages for educational purposes as part
18 of the class curriculum or, with the approval of the education provider, as part of a workshop or
19 seminar concerning food or beverage workforce training;

20 (c) The person possesses and consumes the alcoholic beverages under the supervision of a fac-
21 ulty or staff member of the education provider who is 21 years of age or older;

22 (d) The person does not purchase the alcoholic beverages; and

23 (e) The amount consumed by the person during any two-hour class, workshop or seminar period
24 does not exceed two ounces of alcohol equivalence.

25 (6) Notwithstanding ORS 471.410, a person who exercises control over private real property may
26 allow a person who is 18, 19 or 20 years of age to remain on the property after the person who is
27 18, 19 or 20 years of age consumes an alcoholic beverage on the property in accordance with this
28 section.

29 (7) Subsections (3) to (5) of this section do not affect the ability of an education provider, a
30 licensee or a permittee to make alcoholic beverages available to a person 21 years of age or older
31 in accordance with this chapter or the ability of a person 21 years of age or older to possess or
32 consume alcoholic beverages in accordance with this chapter.

33 **SECTION 45.** ORS 690.225 is amended to read:

34 690.225. (1) In addition to any other duties prescribed by law, the Oregon Health Licensing
35 Agency shall provide for the inspection of facilities and schools licensed to teach practitioner skills
36 under ORS 345.010 to 345.450.

37 (2) Inspections conducted under this section shall determine whether the facilities comply with
38 the health, safety, infection control and licensing rules of the Board of Cosmetology and whether the
39 schools comply with the health, safety and infection control requirements under ORS 345.010 to
40 345.450 and rules of the agency. A report of the results of the inspection shall be submitted to the
41 *[Department of Education]* **Higher Education Coordinating Commission.**

42 **SECTION 46.** ORS 696.182 is amended to read:

43 696.182. (1) The Real Estate Agency, with advice from real estate professionals and educators,
44 shall prescribe rules for certifying real estate continuing education providers.

45 (2) The agency shall include in the rules that an applicant for certification under this section

1 must be:

2 (a) A main or branch office, with a registered business name as provided under ORS 696.026,
3 of a licensed real estate property manager or principal real estate broker;

4 (b) A licensed title or escrow company conducting business in this state;

5 (c) A real estate trade association or a trade association in a related field;

6 (d) A real estate multiple listing service;

7 (e) An attorney admitted to practice in this state;

8 (f) A private career school licensed by the [*Department of Education*] **Higher Education Coor-**
9 **dinating Commission** and approved by the agency to provide the basic real estate broker's or
10 property manager's educational courses required under ORS 696.022;

11 (g) An accredited community college, an accredited public university listed in ORS 352.002 or
12 a private and independent institution of higher education as defined in ORS 352.720;

13 (h) A distance learning provider as provided by rule of the agency; or

14 (i) Another provider approved by the Real Estate Board.

15 (3) The Real Estate Agency may provide continuing education without being certified under this
16 section.

17 (4) The agency, in consultation with real estate professionals and educators, shall provide by
18 rule:

19 (a) A broad list of course topics that are eligible for continuing education credit required by
20 ORS 696.174; and

21 (b) Learning objectives for each course topic.

22 (5) The list of course topics developed by the agency under subsection (4) of this section must
23 allow for changes in the real estate profession.

24 (6) The minimum length of each course is one hour. A continuing education provider or course
25 instructor may allow a break of no more than 10 minutes for each hour of instruction.

26 **SECTION 47. Sections 13 to 19 of this 2012 Act and the amendments to ORS 341.455,**
27 **345.010, 345.015, 345.017, 345.020, 345.030, 345.040, 345.060, 345.070, 345.080, 345.110, 345.115,**
28 **345.117, 345.120, 345.325, 345.330, 345.340, 345.400, 345.430, 345.450, 345.995, 348.040, 348.070,**
29 **418.658, 471.580, 690.225 and 696.182 by sections 20 to 46 of this 2012 Act become operative on**
30 **July 1, 2012.**

31 **SECTION 48.** ORS 351.086 is amended to read:

32 351.086. (1) Except as otherwise provided in this chapter and ORS chapter 352, the provisions
33 of ORS chapters 182, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291 and 292 and ORS
34 180.060, 180.160, 180.210, 180.220, 180.225 and 180.230 do not apply to the Oregon University System.

35 (2) Notwithstanding subsection (1) of this section, **the provisions of** ORS 182.100, 182.109,
36 240.167, 276.073 to 276.090, 279A.065 (2), 279B.055 (3), 279C.380 (1)(a) and (3), 279C.600 to 279C.625,
37 279C.800, 279C.810, 279C.825, 279C.830, 279C.835, 279C.840, 279C.845, 279C.850, 279C.855, 279C.860,
38 279C.865, 279C.870, 283.085 to 283.092, 291.200, 291.201 to 291.222, 291.223, 291.224 (2) and (6),
39 291.226, 291.272 to 291.278, 291.322 to 291.334, 291.405, 291.407, 291.445, 292.043 and 292.044 apply to
40 the Oregon University System.

41 (3) Notwithstanding subsection (1) of this section, ORS 273.413 to 273.456 apply to any structure,
42 equipment or asset owned by the Oregon University System that is encumbered by a certificate of
43 participation.

44 (4) Notwithstanding subsection (6) of this section:

45 (a) The provisions of ORS chapters 35, 190, 192, 244, 286A, 295 and 297 and ORS 30.260 to 30.460,

1 184.480, 184.483, 184.486, 184.488, 200.005 to 200.025, 200.045 to 200.090, 200.100 to 200.120, 200.160
2 to 200.200, 236.605 to 236.640, 243.650 to 243.782, 243.800, 243.820, 243.830, 243.850, 243.910 to 243.945,
3 307.090 and 307.112 apply to the Oregon University System under the same terms as they apply to
4 other public bodies other than the State of Oregon.

5 (b) The provisions of ORS 293.115, 293.117, 293.130, 293.169, 293.171, 293.205 to 293.225, 293.250,
6 293.265 to 293.280, 293.285, 293.295, 293.321, 293.353, 293.375, 293.406, 293.465 to 293.485, 293.490,
7 293.495, 293.525, 293.701 to 293.820, 293.875, 293.880 and 293.990 apply to the Oregon University
8 System under the same terms as they apply to state agencies with moneys held by the State Treas-
9 urer, to the Oregon University System Fund established in ORS 351.506 and to any other moneys
10 deposited with or held by the State Treasurer for the Oregon University System.

11 (5) Notwithstanding subsections (1) and (6) of this section, the Oregon University System and its
12 agents and employees remain subject to all statutes and administrative rules of this state that create
13 rights, benefits or protections in favor of military veterans, service members and families of service
14 members to the same extent as an agency of this state would be subject to such statutes and ad-
15 ministrative rules.

16 (6)(a) **Except as provided by paragraph (b) of this subsection**, the Oregon University System,
17 as a distinct governmental entity, is not subject to any provision of law enacted after January 1,
18 2011, with respect to any governmental entity, that is unique to governmental entities, unless the
19 provision specifically provides that it applies to the Oregon University System.

20 **(b) To the same extent as state agencies that borrow through the State Treasurer or that**
21 **have moneys held in the State Treasury, the Oregon University System is subject to any**
22 **provision of law enacted after January 1, 2011, that relates to or affects the borrowings of**
23 **the Oregon University System through the State Treasurer or the deposit, payment or in-**
24 **vestment of moneys held in the Oregon University System Fund or any other moneys held**
25 **for the Oregon University System in the State Treasury.**

26 (7) In carrying out the duties, functions and powers imposed by law upon the Oregon University
27 System, the State Board of Higher Education or the Chancellor of the Oregon University System
28 may contract with any public agency for the performance of such duties, functions and powers as
29 the board or chancellor considers appropriate.

30 **SECTION 49. This 2012 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
32 **on its passage.**

33
