

A-Engrossed
Senate Bill 1544

Ordered by the Senate February 14
Including Senate Amendments dated February 14

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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.

Requires Higher Education Coordinating Commission to adopt by rule additional minimum standards regarding source of tuition revenue for licensing of career schools and schools authorized to confer degrees.

Establishes penalty for violation of standards as Class B misdemeanor and civil penalty.

A BILL FOR AN ACT

1
2 Relating to regulation of post-secondary institutions of education; creating new provisions; and
3 amending ORS 341.455, 345.015, 345.030, 345.330, 345.340, 345.992 and 348.992.

4 Whereas 314,000 veterans live in Oregon; and

5 Whereas the Servicemen's Readjustment Act of 1944 (G.I. Bill) provided tuition and living ex-
6 penses to veterans for a college or vocational school; and

7 Whereas the Post-9/11 G.I. Bill included expanded benefits for college and living expenses for
8 veterans who served in Iraq or Afghanistan; and

9 Whereas the 90/10 rule in the Higher Education Act of 1965 (HEA) was established as a market
10 viability test to protect taxpayers from artificially propping up failing institutions incapable of at-
11 tracting at least 10 percent of their revenue from a private source; and

12 Whereas the 90/10 rule in the HEA contains a loophole that excludes Department of Veterans'
13 Affairs and Department of Defense funds in the cap on federal funds that institutions of higher ed-
14 ucation otherwise collect; and

15 Whereas predatory for-profit colleges are incentivized by this 90/10 loophole to aggressively re-
16 cruit veterans; and

17 Whereas predatory for-profit colleges have been investigated by federal law enforcement and
18 every state Attorney General in the nation on charges of defrauding veterans; now, therefore,

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

20 **SECTION 1. Section 2 of this 2020 Act is added to and made a part of ORS 345.010 to**
21 **345.450.**

22 **SECTION 2. (1) As used in this section:**

23 (a) "Annual revenue" means the gross tuition revenue received by each career school
24 during the school's fiscal year, as reported by the school to the Internal Revenue Service.

25 (b)(A) "Federal funds for education" means any federal financial assistance provided
26 through a grant, contract, subsidy, loan, guarantee, insurance or other means to a career

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 school described in subsection (3) of this section, including any federal financial assistance
2 that is disbursed or delivered to a career school on behalf of a student or to a student to be
3 used to attend the school.

4 (B) "Federal funds for education" does not include any monthly housing stipend or books
5 and supplies stipend provided under federal law to a veteran.

6 (c) "Institutional loan" means:

7 (A) The obligation or alleged obligation of a student to pay money to a career school for
8 course credit or other educational services, regardless of whether the obligation has been
9 reduced to judgment or whether the career school classifies the obligation as a loan; or

10 (B) A loan or other debt arrangement for course credit or other educational services that
11 is received by a student at a career school and that is made by any entity affiliated with the
12 school.

13 (d) "Veteran" has the meaning given that term in ORS 408.225.

14 (2) The Higher Education Coordinating Commission shall adopt by rule minimum stan-
15 dards for the licensing under ORS 345.010 to 345.450 of a career school. The standards
16 adopted under this section apply in addition to the requirements of ORS 345.325 and shall be
17 reasonably calculated to ensure that at least 10 percent of the annual revenue received by
18 each career school comes from a source other than:

19 (a) Institutional loans; or

20 (b) Federal funds for education.

21 (3) Subsection (2) of this section applies only to a career school that:

22 (a) Does not qualify as a not-for-profit corporation that is tax exempt under section
23 501(c)(3) of the Internal Revenue Code;

24 (b) During the previous academic year received funds to pay for students' tuition, fees
25 or other institutional charges under Title IV of the Higher Education Act of 1965, as
26 amended;

27 (c) Charges tuition and mandatory enrollment fees that, for a student enrolled on a
28 full-time basis during the prior enrollment year, exceed the maximum amount of the largest
29 source of federally funded student aid grants, including the federal Pell Grant, as determined
30 by rule by the Higher Education Coordinating Commission; and

31 (d) Are approved to receive federal funds for education provided to veterans for educa-
32 tional purposes, as determined by the commission by rule.

33 **SECTION 3.** ORS 345.992 is amended to read:

34 345.992. (1) In addition to any other penalty provided by law, any person who violates any pro-
35 vision of ORS 345.020, 345.030, 345.070, 345.115 or 345.117, or who engages in an unlawful trade
36 practice as defined by ORS 646.608 shall incur a civil penalty for each violation in the amount pre-
37 scribed by the schedule adopted under ORS 345.995.

38 (2) A violation of any rule adopted under section 2 of this 2020 Act is a Class B
39 misdemeanor. In addition, a person who violates any rule adopted under section 2 of this 2020
40 Act shall incur a civil penalty for each violation in the amount of \$5,000.

41 [(2)] (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

42 **SECTION 4.** ORS 341.455 is amended to read:

43 341.455. (1) A community college may give credit for courses or programs taken in a career
44 school. The courses or programs for which credit may be given must meet the standards adopted
45 by the Higher Education Coordinating Commission under ORS 345.325 and section 2 of this 2020

1 **Act**, must be taken at a career school domiciled in this state and must be approved for credit by
2 the Director of the Office of Community Colleges and Workforce Development.

3 (2) A community college board may charge a transcribing fee to a student for courses taken
4 at a career school and accepted by the community college under subsection (1) of this section. Such
5 a fee is to be set by the board and is to be consistent with other student fees.

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

8 **SECTION 5.** ORS 345.015 is amended to read:

9 345.015. ORS 345.010 to 345.450 do not apply to:

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

12 (2) Instruction or training sponsored or offered by a bona fide trade, business, professional or
13 fraternal organization or by a business primarily for the organization's membership or the business's
14 employees.

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

18 (a) Advertised or promoted as leading to or fulfilling the requirements for licensing, certifica-
19 tion, accreditation or education credentials; or

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

22 (4) Courses offered in hospitals that meet standards prescribed by the American Medical Asso-
23 ciation or national accrediting associations for nursing.

24 (5) Courses, instruction or training offered for a limited number of hours, as defined by rule of
25 the Higher Education Coordinating Commission.

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

29 (7) Courses, instruction or training offered to prepare a student to become certified as a nursing
30 assistant or a medication aide in compliance with standards prescribed by the Oregon State Board
31 of Nursing.

32 (8) Schools that the Higher Education Coordinating Commission:

33 (a) Determines are adequately regulated by other means that guarantee the school meets the
34 standards described in ORS 345.325 **and section 2 of this 2020 Act**; and

35 (b) As a result of the determination described in paragraph (a) of this subsection, grants an ex-
36 emption from the licensure requirements of ORS 345.010 to 345.450.

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

39 (10) Schools described in ORS 348.597 and, except as provided in ORS 345.017, schools approved
40 by the Higher Education Coordinating Commission to confer or offer to confer academic degrees
41 under ORS 348.606.

42 (11) Any parochial or denominational institution providing instruction or training relating solely
43 to religion and that does not grant degrees.

44 **SECTION 6.** ORS 345.030 is amended to read:

45 345.030. (1) A person may not open, conduct or do business as a career school in this state

1 without obtaining a license under ORS 345.010 to 345.450.

2 (2) Except as provided in subsection (8) of this section, the Higher Education Coordinating
3 Commission may issue a license to conduct a career school only after the applicant has presented
4 proof satisfactory to the commission that the applicant complies with applicable standards adopted
5 under ORS 345.325 and 670.280 **and section 2 of this 2020 Act**. For the purpose of this subsection,
6 ORS 670.280 applies to individuals who hold positions of authority or control in the operation of the
7 school and to its faculty members and agents.

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

11 (4) In determining whether to issue a license to a career school, the commission may consider
12 the prior history of the applicant in operating other career schools. The prior history of operating
13 other career schools includes, but is not limited to:

14 (a) Conduct by the applicant that is cause for a notice of corrective action or for suspension
15 or revocation of a license as provided in ORS 345.120 (3);

16 (b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to
17 345.450; and

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

19 (5) The commission may not issue a license to or renew the license of a career school until the
20 applicant provides all of the following to the commission:

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

22 (b) Proof of compliance with the tuition protection policy established by the commission pursu-
23 ant to ORS 345.110; and

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

25 (6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance
26 of a license or a renewal of a license must provide to the commission the fingerprints of faculty
27 members and agents of the school and individuals who hold positions of authority or control in the
28 operation of the school if the career school will be enrolling or does enroll persons under 18 years
29 of age.

30 (b) In addition to requirements provided under paragraph (a) of this subsection, the commission
31 may require a career school to provide the fingerprints of any agents of the school who will have
32 contact with persons under 18 years of age on behalf of the career school.

33 (c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this sub-
34 section if the commission has conducted a state or nationwide criminal records check on the person
35 within the three years preceding the date of the application.

36 (d) The commission shall request a state or nationwide criminal records check under ORS
37 181A.195. Fingerprints acquired under this subsection may be used only for the purpose of obtaining
38 a criminal records check under this section.

39 (7) Notwithstanding ORS 345.325 (10), the commission may issue a notice for corrective action
40 or deny, suspend or revoke a license if the commission finds that an individual who holds a position
41 of authority or control in the operation of the school was convicted of a crime listed in ORS 342.143.

42 (8) The commission may issue a conditional license to a career school that meets the require-
43 ments of subsection (5) of this section but that does not comply with the applicable standards
44 adopted by rule under ORS 345.325 **and section 2 of this 2020 Act**. A conditional license issued
45 under this subsection is effective for a period prescribed by the commission, which may not exceed

1 90 days.

2 (9)(a) Except as provided in paragraph (b) of this subsection, a career school license is
3 nontransferable. The licensee must give 30 days of notice to the commission when transferring
4 ownership of a career school.

5 (b) The commission may transfer a career school license or allow the ownership of a career
6 school to transfer with less than 30 days of notice if:

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

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

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

10 **SECTION 7.** ORS 345.330 is amended to read:

11 345.330. (1) The Higher Education Coordinating Commission shall appoint a representative ad-
12 visory committee consisting of 11 members who shall serve for terms of three years ending June 30.
13 Of the membership of the committee:

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

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

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

20 (a) Make recommendations to the commission concerning the need for professional and technical
21 instructional and training facilities, the types of instruction and training needed and by whom these
22 can best be provided.

23 (b) Recommend standards for career schools as provided in ORS 345.325 **and section 2 of this**
24 **2020 Act** which are consistent with the purposes of such schools.

25 (c) Investigate and present findings to the commission on the administration and operation of
26 laws relating to career schools. However, the investigations and findings of the advisory committee
27 do not affect the authority of the commission to issue, deny, suspend or revoke the license of any
28 career school.

29 (d) Consult with the commission in determining the refund schedule under ORS 345.115.

30 (e) Make recommendations to the commission concerning rules to be adopted by the commission
31 for ORS 345.010 to 345.450 and 345.992 to 345.997.

32 (3) Members of the advisory committee are entitled to compensation and expenses as provided
33 in ORS 292.495 from funds appropriated to the commission for purposes of administering ORS 345.010
34 to 345.450.

35 **SECTION 8.** ORS 345.340 is amended to read:

36 345.340. Consistent with the requirements of ORS 345.325 **and section 2 of this 2020 Act**, the
37 advisory committee shall recommend to the Higher Education Coordinating Commission minimum
38 standards for the operation of career schools. In making its recommendations, the committee shall
39 consider changes in technological, economic and social conditions which affect employment needs,
40 opportunities and skills.

41 **SECTION 9.** Section 10 of this 2020 Act is added to and made a part of ORS 348.594 to
42 348.615.

43 **SECTION 10.** (1) As used in this section:

44 (a) "Annual revenue" means the gross tuition revenue received by each school during the
45 school's fiscal year, as reported by the school to the Internal Revenue Service.

1 **(b)(A) “Federal funds for education” means any federal financial assistance provided**
2 **through a grant, contract, subsidy, loan, guarantee, insurance or other means to a school**
3 **described in subsection (3) of this section, including any federal financial assistance that is**
4 **disbursed or delivered to a school on behalf of a student or to a student to be used to attend**
5 **the school.**

6 **(B) “Federal funds for education” does not include any monthly housing stipend or books**
7 **and supplies stipend provided under federal law to a veteran.**

8 **(c) “Institutional loan” means:**

9 **(A) The obligation or alleged obligation of a student to pay money to a school for course**
10 **credit or other educational services, regardless of whether the obligation has been reduced**
11 **to judgment or whether the school classifies the obligation as a loan; or**

12 **(B) A loan or other debt arrangement for course credit or other educational services that**
13 **is received by a student at a school and that is made by any entity affiliated with the school.**

14 **(d) “Veteran” has the meaning given that term in ORS 408.225.**

15 **(2) The Higher Education Coordinating Commission shall adopt by rule minimum stan-**
16 **dards for the authorization of school programs under ORS 348.594 to 348.615. The standards**
17 **adopted under this section apply in addition to the standards and procedures adopted under**
18 **ORS 348.606 and shall be reasonably calculated to ensure that at least 10 percent of the an-**
19 **annual revenue received by each school comes from a source other than:**

20 **(a) Institutional loans; or**

21 **(b) Federal funds for education.**

22 **(3) Subsection (2) of this section applies only to a school that:**

23 **(a) Does not qualify as a not-for-profit corporation that is tax exempt under section**
24 **501(c)(3) of the Internal Revenue Code;**

25 **(b) During the previous academic year received funds to pay for students’ tuition, fees**
26 **or other institutional charges under Title IV of the Higher Education Act of 1965, as**
27 **amended;**

28 **(c) Charges tuition and mandatory enrollment fees that, for a student enrolled on a**
29 **full-time basis during the prior enrollment year, exceed the maximum amount of the largest**
30 **source of federally funded student aid grants, including the federal Pell Grant, as determined**
31 **by rule by the Higher Education Coordinating Commission; and**

32 **(d) Are approved to receive federal funds for education provided to veterans for educa-**
33 **tional purposes, as determined by the commission by rule.**

34 **SECTION 11.** ORS 348.992 is amended to read:

35 348.992. **(1) Violation of any of the provisions of ORS 348.594 to 348.615 by any person individ-**
36 **ually or on behalf of an organization or group is a Class B misdemeanor.**

37 **(2) In addition to the criminal penalty set forth in subsection (1) of this section, any**
38 **person who violates any rule adopted under section 10 of this 2020 Act shall incur a civil**
39 **penalty for each violation in the amount of \$5,000.**

40