HOUSE FILE 644
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HF 375)

(As Amended and Passed by the House March 9, 2021)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

An Act relating to the registration of postsecondary schools with the college student aid commission, and to the postsecondary registration fund under the control of the commission.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 261B.8, subsection 3, Code 2021, is amended to read as follows:

3. A postsecondary registration fund is created in the state treasury under the control of the commission. Fees collected under this section and any other moneys approved by the commission shall be deposited in the postsecondary registration fund. Moneys in the fund are appropriated to the commission and shall be used ~~by the commission to administer this chapter and chapter 261G~~ for any of the purposes set forth in subsection 4. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund of the state at the end of a fiscal year. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 2. Section 261B.8, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Moneys in the fund may be used for any of the following purposes:

a. To administer this chapter and chapter 261G.

b. To procure, evaluate, and store school records needed to establish the validity of claims against a school for failure to faithfully perform all contracts and agreements.

c. To pay institutional charges on behalf of Iowans who enrolled at the school.

d. To support an arrangement in which the school provides its current students with the opportunity to complete the students' courses of study when the school closes, including any activities designed to facilitate the transition of such students to another postsecondary educational institution.

e. To pay private educational loan debt incurred by Iowans for attendance at the school.

f. To reimburse Iowans who enrolled at the school for other financial loss, as determined by the commission.

g. For other purposes prescribed by rule by the commission.

Sec. 3. Section 714.18, subsection 1, unnumbered paragraph 1, Code 2021, is amended to read as follows:

~~Except as otherwise provided in subsection 2 or 3, every~~ Every person, firm, association, or corporation maintaining or conducting in Iowa any educational course by classroom instruction or by correspondence or by other delivery method, or soliciting in Iowa the sale of such course, shall file with the college student aid commission, in a format prescribed by the commission, all of the following:

Sec. 4. Section 714.18, subsection 1, paragraph a, Code 2021, is amended to read as follows:

a. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars or ten percent of the total annual tuition determined in accordance with subsection 2, whichever is less, conditioned on the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons~~; but the~~. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the college student aid commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

Sec. 5. Section 714.18, subsections 2, 3, 4, and 5, Code 2021, are amended to read as follows:

2. A school ~~licensed under the provisions of section 157.8 or 158.7 shall file~~ that files with the college student aid commission ~~the following:~~

~~*a.* (1) A~~ a continuous corporate surety bond ~~to the state of Iowa~~ in ~~the~~ a sum ~~of~~ less than fifty thousand dollars ~~or ten percent of the total annual tuition collected, whichever is less, conditioned on the faithful performance of all contracts and agreements with students made by such school. A school desiring to file a surety bond based on a percentage of annual tuition~~ shall provide to the college student aid commission, in the ~~form~~ format prescribed by the commission, a notarized

statement attesting to the total amount of tuition ~~collected~~ the school charged to students in the immediately preceding ~~twelve-month period~~ fiscal year. The commission shall determine the sufficiency of the statement and the amount of the bond or, as permitted under subsection 3, letter of credit. Tuition information submitted pursuant to this ~~subparagraph~~ subsection shall be kept confidential.

~~(2) If the school has filed a performance bond with an agency of the United States government pursuant to federal law, the college student aid commission shall reduce the bond required by this paragraph "a" by an amount equal to the amount of the federal bond.~~

~~(3) The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the college student aid commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.~~

~~(4)~~ 3. *a.* The college student aid commission may accept a letter of credit issued by a state or federally chartered bank or credit union in lieu of and for the amount of the corporate surety bond required ~~by subparagraphs (1) through (3), as applicable~~ under subsection 2.

b. ~~The statement required in subsection 1, paragraph "b".~~ For purposes of this chapter and chapter 261B, a letter of credit must meet all of the following conditions:

(1) Be payable to the commission.

(2) Be valid for a period of at least one year from the date of issuance and subject to renewal as required by the commission.

(3) Allow the commission to draw one or multiple installments of the total letter of credit amount upon making the required presentations to the issuer.

c. ~~The materials required in subsection 1, paragraph "c"~~ For

purposes of this section, *"letter of credit"* means a financial instrument subject to the provisions of chapter 554, article 5, with irrevocable terms and conditions that cannot be modified or canceled after issuance without the consent of all of the parties.

4. If a letter of credit accepted by the college student aid commission under subsection 3 is canceled, revoked, not renewed, or otherwise fails to be of full force and effect, the school shall comply with the provisions of subsection 2.

~~3.~~ 5. This section shall not apply to the provision of an educational course of flight instruction under regulations promulgated by the federal aviation administration for which students do not pay tuition in advance of instruction and which students may cancel at any time with no further monetary obligation.

Sec. 6. Section 714.19, subsections 1, 2, 3, 4, and 6, Code 2021, are amended to read as follows:

1. ~~Colleges or universities authorized by the laws of Iowa or any other state or foreign country to grant degrees~~ A community college established under chapter 260C or an institution of higher learning under the control of the state board of regents.

2. ~~Schools of nursing accredited by the board of nursing or an equivalent public board of another state or foreign country~~ A public college or university created or authorized by the laws of any other state to grant degrees, in which state the college or university maintains its principal domicile and from which the college or university receives public funds to support the operating costs of the college or university.

3. ~~Public schools~~ A school district described in chapter 274.

4. Private and nonprofit elementary or secondary schools recognized by the department of education or ~~a local~~ the board of directors of a school ~~board~~ district for the purpose of complying with chapter 299 and employing ~~certified~~ teachers

licensed under chapter 272.

6. Schools and educational programs conducted by firms, corporations, or persons for which no fee is charged to any student or any other party who assumes the cost of education on the student's behalf.

Sec. 7. Section 714.19, subsection 8, Code 2021, is amended by striking the subsection.

Sec. 8. Section 714.23, Code 2021, is amended to read as follows:

714.23 Refund policies — penalty.

1. ~~*a.*~~ For ~~the~~ purposes of this section ~~and section 714.25, "postsecondary educational program"~~:

a. "Payment period" means the same as set forth in 34 C.F.R. §668.4.

b. "Postsecondary educational program" means a series of postsecondary educational courses that lead to a recognized educational credential ~~such as~~ including but not limited to an academic or professional degree, diploma, ~~or~~ license, or other certification or designation, regardless of whether the school awards the credential.

~~*b. For the purposes of this section, "school period"*~~

c. "Proprietary school" means a person offering a postsecondary educational program, for profit.

d. "School period" means the course, term, payment period, postsecondary educational program, or other period for which the school assessed tuition charges to the student. ~~A school that assesses tuition charges to the student at the beginning of each course, term, payment period, or other period that is shorter than the postsecondary educational program's length shall base its tuition refund on the amount of tuition costs the school charged for the course, term, or other period in which the student terminated. A school shall not base its tuition refund calculation on any portion of a postsecondary educational program that remains after a student terminates unless the student was charged for that remaining portion of~~

~~the postsecondary educational program before the student's termination and the student began attendance in the school term or course.~~

2. *a.* A proprietary school shall refund all tuition charges to a student who withdraws within the first two calendar weeks of instruction.

b. A ~~person offering at least one postsecondary educational program, for profit, that is more than four months in length and leads to a recognized educational credential,~~ proprietary school shall make a pro rata refund of tuition charges to ~~an Iowa resident~~ a student who terminates from any of the school's postsecondary educational programs or courses after the first two calendar weeks in an amount that is not less than ~~ninety~~ ninety-five percent of the amount of tuition charged to the student multiplied by the ratio of the number of calendar days remaining in the school period ~~until the date equivalent to the completion of sixty percent of the calendar days in the school period~~ to the total number of calendar days in the school period ~~until the date equivalent to the completion of sixty percent of the calendar days in the school period~~. If a terminating student has completed sixty percent or more of a school period, the school offering the postsecondary educational program is not required to refund tuition charges to the student.

c. (1) A proprietary school as provided in subparagraph (2) shall provide to a student who terminates after the first two calendar weeks a refund of tuition charges in an amount that is not less than ninety-five percent of the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period.

(2) This paragraph "*c*" applies to a proprietary school whose cohort default rate for students under the Stafford loan program as reported by the United States department of education for the most recent federal fiscal year is more than

one hundred ten percent of the national average cohort default rate of all schools for the same federal fiscal year or six percent, whichever is higher.

3. ~~Notwithstanding the provisions of subsection 2, the following tuition refund policy shall apply:~~

~~*a. If a terminating student has completed sixty percent or more of a school period, the person offering the postsecondary educational program is not required to refund tuition charges to the student. However, if, at any time, a student terminates a postsecondary educational program due to the student's physical incapacity or, for a program that requires classroom instruction, due to the transfer of the student's spouse's employment to another city, the terminating student shall receive a refund of tuition charges in an amount that equals the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period.*~~

~~*b. A school shall provide to a terminating student a refund of tuition charges in an amount that is not less than ninety percent of the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period. This paragraph "b" applies to those persons offering at least one postsecondary educational program of more than four months in length, for profit, whose cohort default rate for students under the Stafford loan program as reported by the United States department of education for the most recent federal fiscal year is more than one hundred ten percent of the national average cohort default rate of all schools for the same federal fiscal year or six percent, whichever is higher.~~ A proprietary school that assesses tuition charges to the student at the beginning of each course, term, payment period, or other period that is shorter than the postsecondary educational program's length

shall base its tuition refund on the amount of tuition costs the school charged for the course, term, or other period in which the student terminated. A school shall not base its tuition refund calculation on any portion of a postsecondary educational program that remains after a student terminates unless the student was charged for that remaining portion of the postsecondary educational program before the student's termination and the student began attendance in the school term or course.

4. Notwithstanding the provisions of subsection 2, paragraphs "*b*" and "*c*", if, at any time, a student terminates a postsecondary educational program after the first two calendar weeks due to the student's physical incapacity or, for a program that requires classroom instruction, due to the transfer of the student's spouse's employment to another city, the terminating student shall receive a refund of the tuition charges in an amount that equals the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period.

5. In the case of a program in which student progress is measured only in clock hours, all occurrences of "calendar days" in subsections 2 and ~~3~~ 4 shall be replaced with "scheduled clock hours".

~~5. *a.*~~ 6. A student who does not receive a tuition refund up to the full refund of tuition charges due to the effect of an interstate reciprocity agreement under section 261G.4, subsection 1, may apply to the attorney general for a refund in a sum that represents the difference between any tuition refund received from the school and the full refund of tuition charges. For purposes of this subsection, "*full refund of tuition charges*" means the monetary sum of the refund for which the student would be eligible pursuant to the application of this section.

~~*b.*~~ 7. A tuition refund fund is created as a separate fund

in the office of the treasurer of state under the control of the attorney general. Moneys credited to the fund shall include amounts appropriated by the general assembly and moneys received as a result of a court order, judgment, or settlement which specifically directs that moneys be used for the purpose of providing student tuition refunds, or which authorizes the attorney general to use moneys for any other purpose at the discretion of the attorney general. All moneys credited to the fund are appropriated and made available to the attorney general for such purposes. For each fiscal year, the attorney general may expend all moneys in the fund to provide tuition refunds to eligible students. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this subsection in subsequent fiscal years. Notwithstanding section 12C.7, interest or earnings on the moneys in the fund shall be credited to the fund.

~~6.~~ 8. A refund of tuition charges shall be provided to the student within forty-five days following the date of the school's determination that a student has terminated from a postsecondary educational program.

~~7.~~ 9. A student who terminates a postsecondary educational program shall not be charged any fee or other monetary penalty for terminating the postsecondary educational program, other than a reduction in tuition refund as specified in this section.

10. A proprietary school shall apply the refund policy it adopts in accordance with this section to all students who attend on-campus classes or at instructional sites in Iowa and to all Iowa resident students who attend the school's distance education programs. A proprietary school offering instructional programs or courses under an interstate reciprocity agreement entered into or recognized by the commission under chapter 261G shall apply the policy it adopts under this section to Iowa resident and nonresident students

who attend distance education programs the school offers under the interstate reciprocity agreement.

11. This section does not apply to any of the following:

a. Personal vehicle driving education schools.

b. Postsecondary vocational schools that offer solely discrete continuing education courses.

c. A for-profit school that offers solely programs for which the sum of tuition, fees, instructional materials, technology, and other items required for program completion is less than three thousand dollars.

~~8.~~ 12. A violation of this section is a simple misdemeanor.

Sec. 9. Section 714.24, subsections 2, 5, and 7, Code 2021, are amended to read as follows:

2. An entity that claims an exemption under section 714.19 must file an exemption claim with the commission. The commission may approve or deny the exemption claim. Except for a school that claims an exemption under section 714.19, subsection 1, 2, 3, or 10, a filing of a claim for an exemption pursuant to section 714.19 must be completed at least once every two years.

5. ~~The commission may, at its discretion, require a~~ A proprietary school that must comply with ~~section~~ sections 714.23 ~~to~~ and 714.25 shall submit ~~its tuition refund policy~~ documentation of compliance with sections 714.23 and 714.25 to the commission for ~~its~~ review and approval as part of the evidence of financial responsibility filed pursuant to section 714.18.

7. Except as provided in section 714.18, subsection 2, ~~paragraph "a",~~ the information submitted under sections 714.18, 714.19, 714.23, and 714.25 are public records under chapter 22.

Sec. 10. Section 714.25, Code 2021, is amended to read as follows:

714.25 Disclosure.

1. For purposes of this section, *"proprietary school"* means ~~a person offering a postsecondary educational program, for~~

~~profit, that is more than four months in length and leads to a recognized educational credential, such as an academic or professional degree, diploma, or license~~ the same as defined in section 714.23, subsection 1.

2. A proprietary school shall, prior to the time a student is obligated for payment of any moneys, inform the student~~,~~ and the college student aid commission~~, and in the case of a school licensed under section 157.8, the board of cosmetology arts and sciences or in the case of a school licensed under section 158.7, the board of barbering,~~ of all of the following:

a. The current total cost of the postsecondary educational program as charged by the proprietary school.

b. An estimate of ~~any~~ fees ~~which~~ that may be charged to the student by others ~~which would be required if the student is to successfully complete the postsecondary educational program and~~ in order to obtain a recognized educational credential, including but not limited to fees for examination or licensure.

c. The percentage of students who successfully complete the postsecondary educational program~~,~~ and the percentage who terminate prior to completing the postsecondary educational program~~, and the period of time upon which the proprietary school has based these percentages. The reporting period shall not be less than one year in length and shall not extend more than five years into the past~~ in accordance with paragraph "*e*".

d. If claims are made by the proprietary school as to successful placement of students in jobs upon completion of the proprietary school's postsecondary educational programs, the proprietary school shall, in accordance with paragraph "*e*", provide the student with all of the following:

(1) The percentage of graduating students who were placed in jobs in fields related to the postsecondary educational programs.

(2) The percentage of graduating students who went on to further education immediately upon graduation.

(3) The percentage of students who, ninety days after

graduation, were without a job and had not gone on to further education.

(4) The ~~period of time upon which the reports required by paragraphs "a" through "c" were based. The reporting period shall not be less than one year in length and shall not extend more than five years into the past~~ method by which the proprietary school collected and verified the validity of data provided in accordance with this paragraph "d".

e. Information provided by the proprietary school in accordance with paragraph "c" and, if applicable, paragraph "d", shall include all of the following additional data:

(1) The applicable program name and the normal length of time required to complete the program.

(2) The total number of students in the cohort for which data is reported and the year in which the students began the program.

(3) The percentages of students that met the conditions described in paragraph "c" and, if applicable, paragraph "d", by the most recent ending date for program completion in each of the school's programs.

f. If claims are made by the proprietary school as to income levels of students who have graduated and are working in fields related to the proprietary school's postsecondary educational programs, the proprietary school shall inform the student of the method used to derive such information.

3. ~~The requirements of subsection 2~~ A proprietary school that is initiating operation for the first time is exempt from data reporting under subsection 2, paragraphs "c" and "d", until the school's first biennial renewal application under section 714.24, subsection 5.

4. This section shall not apply to ~~a~~ any of the following:

a. A proprietary school that is eligible for federal student financial aid under Tit. IV of the federal Higher Education Act of 1965, as amended.

b. A person described in section 714.23, subsection 11.