

Honolulu, Hawaii

APR 26 2013

RE: S.B. No. 46
S.D. 2
H.D. 3
C.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 46, S.D. 2, H.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to bring Hawaii into compliance with Title IV of the Higher Education Act of 1965, as amended, by establishing a post-secondary education authorization program within the Department of Commerce and Consumer Affairs (DCCA) and creating the framework for authorizing private post-secondary educational institutions in the State.

Your Committee on Conference finds that in October 2010, the United States Department of Education issued new regulations for programs authorized under Title IV of the Higher Education Act of 1965, as amended, to hold programs accountable for preparing students for gainful employment, protect students from misleading



recruiting practices, ensure that only eligible students receive financial aid, and strengthen federal aid programs.

Your Committee on Conference further finds that the State was unable to satisfy all of the requirements of the Higher Education Act of 1965, as amended, relating to state authorization by the July 1, 2011, deadline. However, the United States Department of Education provided the opportunity for states and institutions to receive an extension to July 1, 2013, for certain regulations. The State must proactively examine the requirements of the Higher Education Act of 1965, as amended, and ensure state compliance.

In fiscal year 2011, roughly 63,000 students in Hawaii received more than \$283,000,000 in federal funds under Title IV of the Higher Education Act of 1965, as amended. It is imperative that Hawaii does not jeopardize the receipt of federal funds under Title IV of the Higher Education Act of 1965, as amended.

Your Committee on Conference understands that this measure is a major departure from the status quo and will require granting DCCA the flexibility necessary to get the state authorization program up and running as quickly as possible.

Your Committee on Conference notes that once DCCA has the program in place, the following issues may need to be addressed further:

- (1) Whether the required surety bond amount should be amended to specify that the alternative amount be no more than six months' worth of the maximum prepaid tuition and fees of a private college or university; and
- (2) Determining what entity should be responsible for all prepaid, unearned tuition and fees, student loans, Pell grants, and other student financial aid assistance if an authorized private college or university ceases operation.

Your Committee on Conference has amended this measure by:

- (1) Amending the definition of "accredited" by reverting to the definition in the S.D. 1 version of this measure;
- (2) Deleting the definition of "nationally recognized accrediting agency";



- (3) Amending the definitions of "private college or university" and "seminary" or "religious training institution" for purposes of clarity and consistency;
- (4) Authorizing the Director of Commerce and Consumer Affairs (Director) to appoint one or more advisory committees to assist DCCA;
- (5) Clarifying that the Director may establish the types and amount of fees DCCA may assess in order to carry out the purposes of the new chapter;
- (6) Clarifying that in order to award degrees in the State, all private colleges and universities, seminaries, and religious training institutions operating in the State on the effective date of this measure shall be authorized no later than July 1, 2014;
- (7) Removing language relating to the issuance of certificates of authorization as proof of authorization;
- (8) Clarifying that failure to maintain accreditation and to meet or maintain the requirements of financial integrity shall be grounds for the Director to refuse to reauthorize, reinstate or restore, or to deny, revoke, suspend, or condition any authorization;
- (9) Clarifying that DCCA may contract with a third party for the storage or maintenance of any records required to be deposited with DCCA;
- (10) Increasing the surety bond amount from \$5,000 to \$50,000;
- (11) Clarifying that the two-year restriction on complaints shall not apply to complaints related to obtaining transcripts;
- (12) Removing language requiring DCCA to be responsible for all prepaid, unearned tuition and fees, student loans, Pell grants, and other student financial aid assistance if an authorized private college or university ceases operation;
- (13) Specifying that any institution applying for authorization shall be required to pay the authorization fee;



- (14) Authorizing DCCA to adopt interim rules, subject to certain requirements;
- (15) Removing the repeal of the Post-Secondary Education Commission in chapter 304A, part VII, subpart C, Hawaii Revised Statutes;
- (16) Authorizing rather than mandating DCCA to hire an implementation coordinator or team to assist with the implementation of this measure;
- (17) Specifying that the implementation coordinator or team may assist the Director in establishing a staffing structure and recruiting staff necessary to carry out the purposes of this measure;
- (18) Appropriating \$400,000 to DCCA for fiscal year 2013-2014 only for the purpose of contracting an implementation coordinator or team;
- (19) Removing the authorization for three full-time equivalent (3.0 FTE) permanent positions;
- (20) Adding additional reporting requirements for DCCA and asking that DCCA report back to the Legislature prior to the Regular Session of 2015 in addition to its report prior to the Regular Session of 2014;
- (21) Making this measure effective upon its approval; provided that part IV of this measure shall take effect on July 1, 2013; and
- (22) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 46, S.D. 2, H.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 46, S.D. 2, H.D. 3, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



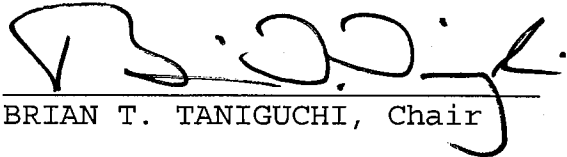
LINDA ICHIYAMA, Co-Chair



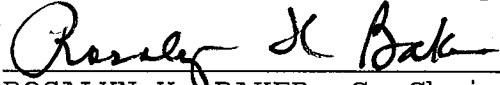
ANGUS L.K. MCKELVEY, Co-Chair



SCOTT Y. NISHIMOTO, Co-Chair



BRIAN T. TANIGUCHI, Chair



ROSALYN H. BAKER, Co-Chair



DAVID Y. IGE, Co-Chair



Record of Votes of a Conference Committee



Bill / Concurrent Resolution No.: **SB 46, SD 2, HD 3** Date/Time: **APRIL 26, 2013 1:54 PM**

- The recommendation of the House and Senate managers is to pass with amendments (CD).
- The Committee is reconsidering its previous decision.
- The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure
- The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.

Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
TANIGUCHI, Brian T., Chr.	✓				ICHIYAMA, Linda, Co-Chr.	✓			
BAKER, Rosalyn H., Co-Chr.	✓				MCKELVEY, Angus L.K., Co-Chr.	✓			
IGE, David Y., Co-Chr.	✓				NISHIMOTO, Scott Y., Co-Chr.	✓			
TOKUDA, Jill N.	✓				AQUINO, Henry J.C.				✓
SLOM, Sam				✓	FALE, Richard Lee	✓			
TOTAL	4	0	0	1	TOTAL	4	0	0	1

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: Adopted Not Adopted House Recommendation is: Adopted Not Adopted

Senate Lead Chair's or Designee's Signature:  House Lead Chair's or Designee's Signature: 

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