

Honolulu, Hawaii

March 15, 2013

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

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

Sir:

Your Committee on Higher Education, to which was referred
S.B. No. 46, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this measure is to protect post-secondary students in the State by establishing the State Post-secondary Education Commission (Commission) within the Department of Commerce and Consumer Affairs (DCCA) to comply with new federal regulations for post-secondary educational institutions. This measure also repeals the current State Post-secondary Education Commission, located within the University of Hawaii.

The Policy Office of the Governor, University of Hawaii, Hawaii Pacific University, Chaminade University of Honolulu, University of Phoenix, Western Interstate Commission for Higher Education, Hawaii Association of Independent Schools, International Quantum University for Integrative Medicine, International University of Professional Studies, and Akamai University supported this bill. The Department of Commerce and Consumer Affairs opposed this measure. The State Procurement Office and University of the Nations provided comments.

Your Committee recognizes that this measure continues to require additional refinement as it progresses through the legislative process. Discussion is on-going regarding whether the



regulation of post-secondary educational institutions in the State is most effectively and efficiently accomplished through the establishment of a commission or the development of a program, and it is your Committee's hope that relevant stakeholders come to a consensus on this point.

Additionally, your Committee acknowledges testimony received by unaccredited schools currently subject to the requirements of Chapter 446E, Hawaii Revised Statutes, requesting their exclusion from the regulations proposed by this measure. While the inclusion of unaccredited post-secondary institutions under the proposed regulations may be inadvisable at this time, your Committee appreciates the expressed willingness of these institutions to work with your Committee on Higher Education to find a means by which to ensure appropriate and effective governmental oversight for the benefit of Hawaii's post-secondary students.

Your Committee has amended this measure by:

- (1) Clarifying the definition of "physical presence";
- (2) Specifying that non degree-granting post-secondary educational institutions must be licensed by State of Hawaii entities, rather than any state entity to be exempt from regulation under the Commission;
- (3) Specifying that schools and educational programs that offer courses of instruction exclusively through online and distance education are exempt from regulation under the Commission;
- (4) Deleting the requirement that the chairperson of the Commission be one of the two initial members of the Commission to serve an initial term of three years;
- (5) Explicitly authorizing the University of Hawaii system;
- (6) Deleting provisions that permit a private college or university to operate without accreditation under provisional authorization;
- (7) Authorizing DCCA to assess fees to administer responsibilities delegated to it by the Commission;



- (8) Clarifying that provisions associated with the awarding of degrees applies to specified entities with a physical presence in the State, rather than "doing business" in the State;
- (9) Deleting requirements that DCCA make recommendations to the Commission regarding authorizations;
- (10) Authorizing the Commission to confirm the authorization of an institution;
- (11) Inserting requirements for an institution to maintain authorization, including provisions for automatic suspension upon the loss of accreditation and provisions for automatic probationary status;
- (12) Narrowing the condition for authorization revocation based on a violation of criminal law to those violations that are directly relevant to the institution's authorization status;
- (13) Specifying that an institution has an affirmative duty to cooperate with requests from DCCA for information regarding any investigation or inspection;
- (14) Requiring institutions, upon revocation of authorization due to loss of accreditation, to provide written notice to all students within thirty days;
- (15) Inserting provisions relating to prohibited practices to conform with those applicable to other DCCA licensees;
- (16) Authorizing DCCA to issue sanctions for violations of specified prohibited practices and inserting additional sanctions an institution may be subject to upon specified violations;
- (17) Changing deceptive practices to licensing violations;
- (18) Deleting the requirement that fines be collected in a civil action;
- (19) Clarifying that a claim may be filed with the Commission as a result of loss of tuition or fees due to an institution's cessation of operations;



- (20) Specifying that DCCA shall be responsible, rather than act as a trustee, for specified funds if an authorized private college or university ceases operation;
- (21) Authorizing the Commission and DCCA to initiate complaints based on information received by the Commission;
- (22) Authorizing DCCA to determine the disposition of educational records deposited to it by a regulated institution upon the cessation of the institution's operations;
- (23) Deleting language providing that rules established by the Post-secondary Commission under the University of Hawaii will remain in effect until DCCA adopts new rules;
- (24) Changing its effective date to July 1, 2013; and
- (25) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 46, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 46, S.D. 2, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Respectfully submitted on
behalf of the members of the
Committee on Higher Education,



ISAAC W. CHOY, Chair



