

LATE

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

Thursday, February 21, 2013, 9:00 AM
State Capitol Room 211

Testimony of
Policy Office of the Governor, State of Hawaii

To the Senate Committee on Ways and Means
Senator David Ige, Chair, Ways and Means Committee
Senator Michelle Kidani, Vice Chair, Ways and Means Committee

SB 46_SD 1 - Relating to Education

Chair Ige, Vice Chair Kidani, and members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 46, Senate Draft 1 (SB 46_SD1). The bill would establish the postsecondary education commission within the Department of Commerce and Consumer Affairs (DCCA) and create a framework for authorizing private postsecondary educational institutions in the State.

The U.S. Department of Education (ED) administers the Higher Education Act (HEA) of 1965, reauthorized as the Higher Education Opportunity Act in 2008. Federal financial aid for students provides grants, loans and work study programs and is part of the Title IV program of the HEA. In 2010, ED established new federal regulations requiring states to “legally authorize” postsecondary institutions within their state and requiring postsecondary institutions to be authorized in states in which they operate in order to qualify for Title IV student financial aid. ED’s objective is to ensure “program integrity” of postsecondary institutions in order to protect students from substandard institutions, referred to as “diploma mills.”

Since Hawaii does not have a process for authorizing postsecondary institutions, Governor Neil Abercrombie has notified ED of the state’s good faith effort to establish a process and requested an extension to July 1, 2013 in order to meet the requirements for “state authorization.” The U.S. Department of Education (ED) sent the Governor a letter dated January 23, 2013 (attached) to remind the state that state authorization procedures need to be developed and implemented by July 1, 2013. The Governor’s policy staff has been in contact with ED about legislation to bring the state into compliance.

The Governor's Policy Office continues to work closely with the Senate and House Higher Education Committee leaders, national organizations including the National Governors Association, Western Interstate Commission on Higher Education and Western Association of Schools and Colleges, and relevant state departments to establish a state policy framework, represented in SB 46_SD1 and HB1200_HD2. In addition, we continue to meet with Hawaii-based postsecondary institutions to provide information and solicit feedback about the state's plans for authorizing postsecondary institutions. The Governor's Office has also worked with the Department of Commerce and Consumer Affairs (DCCA), University of Hawaii Board of Regents Office, and Board of Education to respond to more than 100 requests from institutions seeking authorization; in 2012, the Board of Regents Office responded to 75 requests from institutions.

SB 46_SD1 describes a process that meets the federal requirements, minimizes burden and cost on postsecondary institutions and state departments by meeting minimum requirements to participate in an inter-state reciprocity agreement, and protects Hawaii's residents who are consumers of higher education. Implementing SB 46_SD1 would allow Hawaii-based institutions, based on their authorization in Hawaii, to participate in inter-state reciprocity agreements, reducing institutions' burden and cost to obtain authorization in other states where they have satellite campuses or students taking on-line courses. Furthermore, it reduces the burden on the state's authorizing agency, DCCA as identified in SB 46_SD1, by allowing the state to participate in reciprocity agreements so that eligible out-of-state institutions may be recognized without seeking authorization in Hawaii.

It is critical that the Legislature establish the state authorization process this year. The state must meet the ED deadline to modify or establish procedures to authorize postsecondary institutions by July 1, 2013. Failing to establish an authorization process puts Title IV federal financial assistance for college students at risk. According to a 2012 State Auditors report, more than 63,000 Hawaii students attending 35 postsecondary institutions received \$283.6 million in Title IV assistance in Fiscal Year 2011.

Thank you for your attention to this matter.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony presented before the
Senate Committee on Ways and Means
February 22, 2013 at 9:00 am

By Linda K. Johnsrud

Executive Vice President for Academic Affairs & Provost, University of Hawai'i System

SB 46 SD1 – RELATING TO EDUCATION

Chair Ige, Vice Chair Kidani, and members of the Senate Committee on Ways and Means:

The University of Hawai'i supports SB 46 SD1 that establishes the post-secondary education commission within the Department of Commerce and Consumer Affairs (DCCA) to authorize post-secondary educational institutions to operate in the state, to maintain a listing of such private institutions, and to act on complaints concerning these institutions. SB 46 SD1 addresses the requirements of the U.S. Department of Education regulations under Title IV of the Higher Education Act of 1965, as amended. The University appreciates the thoroughness of SB 46 SD1 in specifying the criteria for authorization of private institutions, for example, through accreditation status from a recognized national or regional body and demonstration of financial integrity. These provisions serve to protect authorized private institutions as well as the public by delineating the basis for authorization. Furthermore, it is the University's position that placing the authorization function outside the University of Hawai'i (UH) avoids the potential or the appearance of a conflict of interest were the state's sole public university to authorize private providers to operate within the state.

The University is available to offer DCCA any expertise it may need regarding post-secondary educational institutions and on accreditation.

Again, we appreciate the thoughtfulness in SB 46 in addressing the U.S. Department of Education regulations, and thank you for the opportunity to testify.



LATE

To be presented to the Committee of Ways and Means
February 22, 2013; 9:00AM

Regarding SB46 SD1: "Relating to Education"
Testimony in Support, with Amendments

Chair: David Ige, Vice Chair Michelle Kidani, and honored members.

My name is Dr. Loren Cunningham, and I am the co-founder of the University of the Nations with Dr Howard V. Malmstadt. This university is an international interdenominational Christian organization and training institution, with more than 400 campuses operating in more than 140 countries and in 40 states including Hawaii. We are accredited by the Global Accreditation Association headquartered in Switzerland. We have been in operation in Hawaii since 1973, and the Kona campus was founded in 1978 (when we acquired the old Pacific Empress Hotel and golf course). We offer certificates and associate, bachelor and master's degrees to train missionaries, pastors, and others who will work in areas of study that strengthen the moral foundation in various spheres of society. At the Kona location alone we currently are training over 2,000 students per year from more than 60 countries.

I understand the need for the state to comply with federal requirements for funding under the Higher Education Opportunity Act of 2008 and the 2010 federal regulations (Title 4), and what you propose in that area seems reasonable. Nevertheless, the bill, as written, seems to broaden the scope unnecessarily to include institutions not dependent upon Title 4 funding. The University of the Nations is one of these institutions. We do not seek nor receive Title 4 funding for our students.

I also feel it is very important that qualified religious training institutions continue to be exempt from state accreditation requirements.

We respectfully offer the following amendments and changes to Senate Bill 46:

Section 2. Exceptions (**add**)

"Schools and educational programs that qualify for an exception under HRS 446E-1.6, and who do not seek "Title 4" funding."

We also agree with other universities who suggest that HRS 446E not be repealed.

Sincerely,

Loren Cunningham
President, University of the Nations, Kona campus



February 21, 2013

TO: COMMITTEE ON WAYS AND MEANS
Senator David Ige, Chair
Senator Michelle Kidani, Vice Chair

FROM: Charles R. Camp, General Counsel
Remington College

RE: SB46 SUPPORT WITH AMENDMENTS

Dear Chair Ige, Vice Chair Kidani and members of the Committee:

Remington Colleges, a private non-profit corporation having its headquarters in Heathrow Florida, owns and operates 18 post-secondary educational institutions throughout the United States. Remington's Honolulu Campus is accredited by a national accreditation agency recognized by the United States Department of Education and has been in continuous operation as an accredited college in Honolulu since 1998. Remington's Honolulu Campus offers diploma, Associate's Degree and Bachelor's Degree programs and currently has an enrollment of 452 students. Remington's Honolulu college has 101 employees. Senate Bill 46 is necessary to provide a mechanism for the state to authorize private higher-education programs in compliance with new Federal financial aid eligibility requirements. Without a state authorization process, students at Remington and the 20 other private higher education institutions in Hawaii that currently participate in the Title IV Federal Student Aid programs will no longer qualify to receive Pell Grants or student loans under Title IV Federal Student Aid programs.

In excess of 90% of the students attending Remington's Honolulu college receive some form of financial aid under the Title IV Federal Student Aid programs and to continue to qualify for Pell Grants and student loans, Remington's Honolulu college must be granted authorization by the state before July 1, 2013.

We appreciate your early consideration of this bill and your recognition of the urgency associated with its passage.

We do, however, ask for your consideration of a few amendments.

First, because Remington's college campuses are located in several states, we would request an amendment that clarifies that the state authorization process is focused on Remington's student's enrolled here in Hawaii. To that end, we suggest two amendments. One would amend the definition of Private College or University on page 7, line 15 to 21, to add the words "in this State" and as amended it would read:

“Private college or university” means a non-public post-secondary education institution having a physical presence in the State that enrolls the majority of its students in this State in an associate, baccalaureate, or postgraduate degree program.

Approximately 75% of the students attending Remington’s Honolulu college are enrolled in associate or baccalaureate degree programs. However, at some of Remington’s colleges that operate in other states the majority of the students may not be enrolled in associate, baccalaureate, or postgraduate degree programs.

The second clarifying amendment would alter section 7 (2) on page 17, beginning on line 3:

(2) Apply for, on a form prescribed by the department, and receive authorization from the commission; provided that a private college or university shall apply for and obtain a separate authorization for each campus, branch, or site in the State of Hawaii that is separately accredited.

The purpose of this amendment is to clarify that only the locations of a college physically present in Hawaii are subject to this requirement.

Remington’s cosmetology program is currently licensed by the Hawaii Department of Commerce and Consumer Affairs, Board of Barbering and Cosmetology and accredited by a national accreditation agency recognized by the United States Department of Education. Unless SB46 is amended, Remington’s cosmetology program will be subject to regulation by two different agencies of the State of Hawaii. Remington proposes that SB46 be amended to have the regulation of its cosmetology program limited to the Hawaii Department of Commerce and Consumer Affairs, Board of Barbering and Cosmetology by adding a new subparagraph numbered (12) to the exemptions in Section 2 (b) to read as follows:

“(12) Educational programs offered by a private colleges or universities that are licensed and regulated by the Hawaii Department of Commerce and Consumer Affairs, Board of Barbering and Cosmetology.”

All of Remington’s 18 colleges participate in the Title IV Federal Student Aid programs. The United States Department of Education has assigned each of these campuses to one of five groups for purposes of administering the Title IV programs. The Honolulu Campus is assigned to the Mobile Alabama group. The United States Department of Education measures Remington’s compliance with 34 Code of Federal Regulations section 668.172 based upon the audited financial statements of the entire company and not by group.

Remington does not currently maintain a composite score of a least 1.5 on its equity, primary reserve, and net income ratios, as required in title 34 Code of Federal Regulations section 668.172. This means that Remington must satisfy other conditions to remain eligible to participate in the federal Title IV financial aid programs.

One of the conditions imposed by the United States Department of Education was that Remington obtain a letter of credit in favor of the United States Department of Education in the amount of \$13,689,820.00 that could be drawn upon by the United States Department of Education to recover any unearned tuition funded with Title IV funds that Remington failed to return or to pay the cost of a “teach-out” (alternative enrollment) if Remington closed a college before all of the students had complete their enrollment. Consequently, the surety provided by these letter of credit protections provides protection similar to the surety bond that would be required pursuant to Section 13 of SB46

for protection of students at Remington Honolulu college. As noted previously in excess of 90% of Remington students at the Honolulu college receive some form of Title IV financial aid and are protected under the federal letter of credit.

Remington will be required as a condition of its Participation Agreement with the United States Department of Education to keep a letter of credit in place with the United States Department of Education until under the financial responsibility criteria of the United States Department of Education are met. A copy of the letter of credit delivered to the United States Department of Education by Remington is attached. As discussed above, the Honolulu college is part of the group identified in the letter of credit as the Remington College-Mobile OPE-ID group. Remington proposes that the recognition be given to the fact the United States Department of Education has already taken steps to insure funds are available to protect Remington's students if Remington closes or fails to refund tuition a students is entitled to receive.

Remington first choice would be that the following amendment to Section 13(b) (4) be adopted. The amendment language is initialized:

(4) Maintains a composite score of a least 1.5 on its equity, primary reserve, and net income ratios, as required in title 34 Code of Federal Regulations section 668.172 or has been provisionally certified to participate in the title IV, HEA programs under title 34 Code of Federal Regulations section 668.175 (f) and submitted a letter or credit to the United States Department of Education as required by section 668.175 (f) (2) (i) of title 34 Code of Federal Regulations.

Remington's second choice would be to amend Section 13 (f) by adding the following to the end of Section (f):

“In determining the reasonable amount of the surety bond required for a private college or university that has satisfied all of the requirements of either Section 13(b) or (c) except for Sections 13(b)(4) or (c)(5), the commission shall consider the amount of any letter of credit that the private college or university has submitted to the United States Department of Education as required by section 668.175 (f) (2) (i) of title 34 Code of Federal Regulations. The commission shall reduce the amount of the maximum prepaid unearned tuition and fees used to fix the amount of the surety bond by that portion of the maximum prepaid unearned tuition and fees that are funded or to be funded by either: (i) student loans ,Pell Grants or other financial aid under Title IV of the Higher Education Act of 1965, as amended when the private college or university has submitted to the United States Department of Education as required by section 668.175 (f) (2) (i) of title 34 Code of Federal Regulations or (ii) noninterest bearing loans made by the private career college to its students.

Subsection (d) of Section 13 references subsection (g) as the subsection pursuant to which the bond calculation amount will be made. The formula is set out in subsection (f). This appears to be a typographical error.

Section 13 (g) provides that the commission can reject a bond if it deems it to be inadequate. Since Section 13(f) specifies the amount of the required bond these two provisions should be reconciled. Remington proposes that Section 13 (g) be amended to read as follow:

“(g) The commission may disapprove a surety bond if it finds that the surety bond is not in the amount required by subsection (f) or does not provide students with indemnification and alternative enrollment protection as required by subsection (e). “

Section 13(f) specifies that the surety bond amounts will change from year to year based upon the maximum unearned tuition held in a given year so it is unlikely bond amount required will be the same from year to year. The release of bond provisions of subsection (i) of Section 13 requires a bond “of like amount” be submitted as a condition of releasing a bond that has previously been submitted if the new annual bonding requirement is less than the prior year’s and the private college or university college wants to change bonding companies for the next year, the current bonding company would not be released if a bond meeting the Section 13 (f) requirements is submitted but is not considered to be of “like” amount. This could be clarified by amending subsection (i) to state the replacement bond must be in the amount required by Section 13 (f).

Thank you for the opportunity to provide comments. We look forward to working with you as this critical bill moves through the legislative process.

Attachment

REGIONS[®]

1900 5TH AVENUE NORTH, 22ND FLR, BIRMINGHAM, ALABAMA 35203
S.W.I.F.T. UPNBUS44M1A TELEX 6737871 UPBMIA
PHONE (866)828-6928 FAX (205)264-6027

DATE: JULY 25, 2012

L/C NUMBER: 55105574
AMENDMENT NUMBER: 01

BENEFICIARY:
U.S. DEPARTMENT OF EDUCATION
ATTN: VERONICA PICKETT, DIRECTOR
PERFORMANCE IMPROVEMENT AND PROCEDURES
FEDERAL STUDENT AID/PROGRAM COMPLIANCE
830 FIRST STREET, NE, UCP3, MS 5435
WASHINGTON, DC 20002-8019

APPLICANT:
REMINGTON COLLEGES, INC.
500 INTERNATIONAL PARKWAY SUITE 200
HEATHROW, FL 32746

WE HAVE AMENDED THE CAPTIONED LETTER OF CREDIT AT THE REQUEST OF THE APPLICANT.

AMENDED TERMS AND CONDITIONS:

AMOUNT INCREASED BY: USD \$2,467,558.00
NEW BALANCE: USD \$13,691,820.00

EXPIRATION DATE AMENDED TO: JUNE 30, 2013.

THIS AMENDMENT MUST BE ATTACHED TO AND BECOME AN INTEGRAL PART OF THE ORIGINAL CREDIT. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SINCERELY,


(AUTHORIZED SIGNATURE)



1900 5TH AVENUE NORTH, 22ND FLR, BIRMINGHAM, ALABAMA 35203
S W I F T. UPNBUS44MIA TELEX 6737871 UPBMIA
PHONE (866)828-6928 FAX (205)264-6027

IRREVOCABLE LETTER OF CREDIT NO. 55105574

TO BENEFICIARY:

U.S. DEPARTMENT OF EDUCATION
ATTN: VERONICA PICKETT, DIRECTOR
PERFORMANCE IMPROVEMENT AND PROCEDURES
FEDERAL STUDENT AID/PROGRAM COMPLIANCE
830 FIRST STREET, NE, UCP3, MS 5435
WASHINGTON, DC 20002-8019

DATE: JULY 29, 2011

AMOUNT: USD\$11,224,262.00 (US DOLLARS ELEVEN MILLION TWO HUNDRED TWENTY
FOUR THOUSAND TWO HUNDRED SIXTY TWO)

EXPIRATION DATE: SEPTEMBER 30, 2012

DEAR SIR/MADAM:

WE HEREBY ESTABLISH OUR IRREVOCABLE LETTER OF CREDIT NUMBER 55105574 IN
YOUR FAVOR FOR THE ACCOUNT OF REMINGTON COLLEGES, INC., 500
INTERNATIONAL PARKWAY SUITE 200, HEATHROW, FL 32746.

OPE-ID#'S:

00758600 REMINGTON COLLEGE - TAMPA
00777700 REMINGTON COLLEGE - CLEVELAND
02605500 REMINGTON COLLEGE - MOBILE
03012100 REMINGTON COLLEGE - COLORADO SPRINGS
03026500 REMINGTON COLLEGE - HOUSTON (LOCATOR)

HEREAFTER, REMINGTON COLLEGES, INC. ("INSTITUTION"), PRESENTS, IN THE
AMOUNT OF USD\$11,224,262.00 (US DOLLARS ELEVEN MILLION TWO HUNDRED
TWENTY FOUR THOUSAND TWO HUNDRED SIXTY TWO), AVAILABLE BY YOUR DRAFT
(OR DRAFTS DRAWN ON US) AT SIGHT ACCOMPANIED BY:

A) THE ORIGINAL OF THIS LETTER OF CREDIT INSTRUMENT (ALONG WITH
ORIGINALS OF ALL AMENDMENTS), AND

B) A STATEMENT SIGNED BY THE SECRETARY ("SECRETARY"), U.S. DEPARTMENT
OF EDUCATION ("DEPARTMENT"), OR THE SECRETARY'S REPRESENTATIVE,
CERTIFYING THAT THE DRAFTED FUNDS WILL BE USED FOR ONE OR MORE OF THE
FOLLOWING PURPOSES, AS DETERMINED BY THE SECRETARY:

1) TO PAY REFUNDS OF INSTITUTIONAL OR NON-INSTITUTIONAL CHARGES
OWED TO OR ON BEHALF OF CURRENT OR FORMER STUDENTS OF THE
INSTITUTION, WHETHER THE INSTITUTION REMAINS OPEN OR HAS CLOSED.

2) TO PROVIDE FOR THE "TEACH-OUT" OF STUDENTS ENROLLED AT THE TIME OF
THE CLOSURE OF THE INSTITUTION, AND

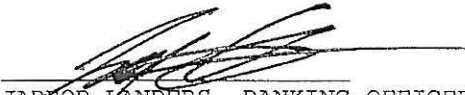
3) TO PAY ANY LIABILITIES OWING TO THE SECRETARY ARISING FROM ACTS OR OMISSIONS BY THE INSTITUTION, ON OR BEFORE THE EXPIRATION OF THIS LETTER OF CREDIT, IN VIOLATION OF REQUIREMENTS SET FORTH IN THE HIGHER EDUCATION ACT OF 1965, AS AMENDED ("HEA"), INCLUDING THE VIOLATION OF ANY AGREEMENT ENTERED INTO BY THE INSTITUTION WITH THE SECRETARY REGARDING THE ADMINISTRATION OF PROGRAMS UNDER TITLE IV OF THE HEA

SHOULD THE INSTITUTION FAIL TO RENEW THE LETTER OF CREDIT WITHIN TEN (10) DAYS PRIOR TO ITS EXPIRATION AS DIRECTED BY THE DEPARTMENT, THE DEPARTMENT MAY CALL THE LETTER OF CREDIT AND PLACE THE FUNDS IN AN ESCROW ACCOUNT AT THE DEPARTMENT PENDING A PROMPT DETERMINATION OF THE EXTENT TO WHICH THOSE FUNDS WILL BE USED IN ACCORDANCE WITH SUBPARAGRAPHS 1) THROUGH 3), ABOVE.

WE HEREBY AGREE WITH YOU THAT PARTIAL DRAWINGS ARE PERMITTED AND THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED UPON DUE PRESENTATION AT OUR OFFICES ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT

THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NUMBER 590.

REGIONS BANK


JARROD LANDERS, BANKING OFFICER
AUTHORIZED SIGNATURE
JULY 29, 2011