

# HOUSE BILL REPORT

## E2SHB 1439

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### As Amended by the Senate

**Title:** An act relating to regulating the institutions of higher education, including for-profit institutions and private vocational schools, to protect students from unfair business practices.

**Brief Description:** Regulating the institutions of higher education, including for-profit institutions and private vocational schools, to protect students from unfair business practices.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Pollet, Haler, Tarleton, Fey, Sells, Orwall, Ryu, Stanford and Dolan).

**Brief History:**

**Committee Activity:**

Higher Education: 2/1/17, 2/17/17 [DPS];  
Appropriations: 2/24/17 [DP2S(w/o sub HE)].

**Floor Activity:**

Passed House: 3/6/17, 56-42.

**Floor Activity:**

Passed House: 2/7/18, 63-35.  
Senate Amended.  
Passed Senate: 3/1/18, 31-18.

#### Brief Summary of Engrossed Second Substitute Bill

- Authorizes the Washington Student Achievement Council to continue administering its study from 2016 on for-profit degree-granting institutions and private vocational schools, and to include recommendations on the creation of an ombuds office.
- Makes it an unfair business practice for degree-granting institutions and private vocational schools to provide misleading or deceptive testimonials and endorsements.
- Provides that if a degree-granting institution or private vocational school presents certain performance data, the posted data must be consistent with data posted on the state Career Bridge website or data posted by the United States Department of Education.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON HIGHER EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Hansen, Chair; Pollet, Vice Chair; Orwall, Sells and Tarleton.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member; Haler and Stambaugh.

**Staff:** Trudes Tango (786-7384).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Higher Education. Signed by 19 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Haler, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 13 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Harris, Nealey, Schmick, Taylor, Vick, Volz and Wilcox.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Manweller.

**Staff:** Lily Sobolik (786-7157).

### **Background:**

For-profit post secondary institutions are regulated by federal and state laws. The two agencies in Washington that regulate most for-profit schools are: (1) the Washington Student Achievement Council (WSAC), which regulates degree-granting institutions; and (2) the Workforce Training and Education Coordinating Board (WTB), which regulates private vocational schools.

Degree-granting institutions, which includes for-profit schools, and private vocational schools must be authorized or licensed by the appropriate regulating agency, meet certain minimum standards regarding academic standards and financial stability, and not engage in unfair or deceptive practices set forth in the statutes. Certain degree-granting institutions, such as the public universities and private institutions that meet specific criteria from the WSAC, are exempt from the regulatory statutes.

The WSAC and the WTB may investigate student complaints and issue civil penalties. A person or entity that violates the regulations is subject to a civil penalty of not more than

\$100 for each violation. A violation of the regulations constitutes an unfair or deceptive practice in violation of the Consumer Protection Act (CPA).

In the 2016 Supplemental Operating Budget, money was appropriated for the WSAC, the WTB, and the Department of Licensing to design and oversee a study that objectively analyzes and makes recommendations about systemic overlaps and gaps in jurisdiction over for-profit degree-granting institutions and private vocational schools. The WSAC contracted with the William D. Ruckelshaus Center (Center) to conduct the study, and the Center issued a report in December 2016.

### **Summary of Engrossed Second Substitute Bill:**

It is a violation for degree-granting institutions and private vocational schools to provide prospective students with any testimonial, endorsement, or other information that a reasonable person would find was likely to mislead or deceive regarding the institution's current practices, current conditions for employment opportunities, postgraduation employment by industry, probable earnings in the occupation for which the education is designed, the likelihood of obtaining financial aid or low-interest loans, or the ability of graduates to repay loans.

If a degree-granting institution presents data about its completion rates, employment rates, loan or indebtedness metrics, or its graduates' median hourly and annual earnings, the posted data must be consistent with posted data on the WTB's Career Bridge website or the data posted by the United States Department of Education. Parallel requirements are imposed on private vocational schools posting their data.

Subject to the availability of amounts appropriated for this specific purpose, the WSAC must continue administering the study that was authorized in the 2016 Supplemental Operating Budget bill. The study must contain findings and recommendations regarding the creation of an ombuds to serve students of degree-granting institutions and private vocational schools, including a recommendation on which state agency should house an Office of the Ombuds.

### **EFFECT OF SENATE AMENDMENT(S):**

#### The Senate amendment:

1. adds the following prohibitions and duties applicable to degree-granting institutions and private vocational schools: (a) prohibits using any official United States military logo in advertising or promotional materials; (b) prohibits engaging in any practice regarding the selling of consumer student loan products that financially benefit any person or entity with ownership interest in the institution, with certain exceptions. Makes this prohibition applicable to institutions with 150 or more enrolled students or institutions operating in the state for less than two consecutive years; and (c) requires disclosure to their regulatory agency (Washington Student Achievement Council [WSAC] or the Workforce Training and Education Coordinating Board [WTB]) any investigation the institution is under, including investigations by accrediting agencies;
2. creates two tuition recover trust funds, in the custody of the state treasurer, one to be administered by the Department of Licensing and the other by the

- WSAC. Authorizes both agencies to impose fees, established in rule, on the institutions to fund the tuition recovery trust funds. Authorizes both agencies to phase in the collection of fees, but requires that within five years of the effective date of the act, the amounts collected must be sufficient to provide relief for students in the event of a school closure. Provides that money from the tuition recovery trust funds may be used: to provide refunds to students affected by school closures; to secure and administer student records, and for any other response the agency determines is necessary to mitigate impacts of a potential or actual school closure. Requires both agencies to adopt rules to address notifying potential claimants, settling claims, disbursing funds, and other processes necessary to implement the purpose of the tuition recovery trust fund;
3. specifies that the WSAC may not delegate to any other state WSAC's oversight authority over degree-granting institutions;
  4. requires, within existing resources, the WSAC, the WTB, and the DOL to collaborate to create a single portal for student complaints on issues related to consumer protection, disclosures, school or program closures, or other violations committed by institutions regulated by those agencies. Requires staff of the portal to refer complaints to the appropriate agency, work as a liaison between the student and the agency, and report to the Legislature each year, beginning November 1, 2018, regarding the number of complaints and their resolution status. Requires each agency to ensure that students are informed of the portal and how to file complaints;
  5. makes explicit that violations of the governing chapters are also violations of the Consumer Protection Act; and
  6. adds language to the intent section.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony (Higher Education):**

(In support) There are some great career and private degree-granting institutions, and because of the actions of a few high-profile bad actors, there is a need for a "Good Housekeeping Seal" of approval. One such actor sold private loans with interests rates as high as 16 percent. It is important to ban the practice of selling loans to students when the school has a self-interest in those loans. The Center's report recommended unified data collection with consistent definitions and metrics. This bill will provide more information to students and provide consumer protection for students who are investing in their education. Students of schools that have been investigated are left not knowing if they will get their degrees. For-profit schools target the most vulnerable students. They look at students through a "for-profit" lens. Students do not know who regulates their school and where to turn to. The bill has the same disclosures for student financial aid as in the transparency bill.

(Opposed) This bill is an attack on private businesses. There are already multiple agencies that oversee these schools. This bill creates another way to report data, but there already exists ways to report data.

(Other) Some clarifying technical corrections are needed. There are some long-standing for-profit schools that have been operating in Washington for more than 15 years and they are exempt from the degree-granting institution statutes. The WSAC looks at the financial status and other factors when authorizing schools. The WSAC receives student complaints and refers them to the AGO when appropriate.

**Staff Summary of Public Testimony (Appropriations):**

(In support) When a school is a for-profit business, there are going to be some bad actors. Weak regulations offer little protection. Students, who are paying high tuition, deserve consumer protection rights.

(Opposed) None.

**Persons Testifying (Higher Education):** (In support) Representative Pollet, prime sponsor; Benjamin Rowe, Associated Students of Eastern Washington University; Anna Nepomuceno, University of Washington-Tacoma; and Ariel Speser, Northwest Justice Project.

(Opposed) Dion McNeeley, Northwest Career Colleges Federation.

(Other) Maddy Thompson, Student Achievement Council; and Jim Parker, Workforce Training and Education Coordinating Board.

**Persons Testifying (Appropriations):** Anna Nepomuceno, Associated Students of the University of Washington Tacoma.

**Persons Signed In To Testify But Not Testifying (Higher Education):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.