

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1314

Citations Affected: IC 21-7-13-13.3; IC 21-18-12.2; IC 21-18.5; IC 22-4.1-21-10; IC 22-4.5-10.5; IC 24-5-0.5-3.

Synopsis: Proprietary education. Provides that the executive officer of the commission for higher education (commission) may develop procedures for authorizing out-of-state public and nonprofit degree granting institutions to offer instructional or educational services or training in Indiana. Adds a definition of "degree granting". Requires an out-of-state public or nonprofit degree granting institution seeking to offer instructional or educational services or training in Indiana to receive authorization from the executive officer of the commission to provide instructional or educational services in Indiana. Provides that a person may not do business as a degree granting institution in Indiana unless: (1) the institution is accredited by an accrediting agency recognized by the United States Department of Education or is seeking and progressing toward accreditation by an accrediting agency recognized by the United States Department of Education; or (2) the institution is a religious institution that offers educational instruction or an educational program of a clearly religious nature. Provides that the board for proprietary education may join interstate reciprocity agreements and may authorize an institution to operate in Indiana if the institution and the state in which the institution's principal campus is located and its institutional accreditation is provided are members of the interstate reciprocity agreement. Transfers rulemaking authority regarding the regulation of postsecondary proprietary institutions from the state workforce innovation council to the department of workforce development (department). Changes references to "accreditation" to "authorization" in provisions relating to administration of postsecondary credit bearing proprietary institutions. Repeals the definition of "accreditation" and adds a definition of "authorization". Makes changes to the definition of "postsecondary credit bearing proprietary educational institution". Repeals requirements for the issuance of agent permits. Repeals the definition of "agent's permit". Provides that a person who knowingly and intentionally makes certain misrepresentations regarding a postsecondary credit bearing proprietary educational institution is subject to action by the attorney general's office for making a deceptive consumer sale. Requires the department, in consultation with the commission for higher education, the department of education, the office of the secretary of family and social services, and any other agency the department determines to be necessary, to include information in the Indiana workforce intelligence system (IWIS) regarding middle skill credentials awarded in the state. Requires public and private institutions of higher education, private occupational schools, community colleges, area vocational schools, high school vocational programs,

apprenticeship programs, and other public or private workforce training programs to provide the information required for IWIS. **(This conference committee report: (1) adds a provision requiring the department of workforce development to include certain information pertaining to middle skill credential programs for the Indiana workforce intelligence system (IWIS) in the department's annual report; and (2) makes technical changes.)**

Effective: Upon passage; July 1, 2013.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1314 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 21-7-13-13.3 IS ADDED TO THE INDIANA
- 3 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE UPON PASSAGE]: **Sec. 13.3. "Degree granting"**
- 5 **refers to any institution that offers a degree program and offers**
- 6 **instructional or educational services or training in Indiana.**
- 7 SECTION 2. IC 21-18-12.2 IS ADDED TO THE INDIANA CODE
- 8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 9 UPON PASSAGE]:
- 10 **Chapter 12.2. Out-of-State Public and Nonprofit Institutions**
- 11 **Sec. 1. All out-of-state public and nonprofit degree granting**
- 12 **institutions seeking to offer instructional or educational services or**
- 13 **training in Indiana, and the instructional or educational services**
- 14 **or training programs, including degree programs, offered by these**
- 15 **institutions, whether onsite, online, or through any combination of**
- 16 **these or other instructional modalities, must be authorized by the**
- 17 **executive officer of the commission, who may develop procedures**
- 18 **for authorizing such institutions to offer such instructional**
- 19 **programs in Indiana, and who may enter into interstate reciprocity**
- 20 **agreements for this purpose.**
- 21 SECTION 3. IC 21-18.5-1-5, AS ADDED BY P.L.107-2012,

1 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 5. (a) The Indiana commission on proprietary
3 education is abolished on July 1, 2012.

4 (b) Unless otherwise specified in a memorandum of understanding
5 described in subsection (e), the following are transferred on July 1,
6 2012, from the Indiana commission on proprietary education to the
7 commission for higher education established by IC 21-18-2-1:

8 (1) All real and personal property of the Indiana commission on
9 proprietary education.

10 (2) All assets and liabilities of the Indiana commission on
11 proprietary education.

12 (3) All appropriations to the Indiana commission on proprietary
13 education.

14 (c) All powers and duties of the Indiana commission on proprietary
15 education before its abolishment pertaining to the accreditation of a
16 postsecondary credit bearing proprietary educational institution are
17 transferred to the board for proprietary education established by
18 IC 21-18.5-5-1.

19 (d) All powers and duties of the Indiana commission on proprietary
20 education before its abolishment pertaining to the accreditation of a
21 postsecondary proprietary educational institution (as defined in
22 IC 22-4.1-21-9) are transferred to the state workforce innovation
23 council established by IC 22-4-18.1-3.

24 (e) The commission for higher education established by
25 IC 21-18-2-1 may enter into a memorandum of understanding with the
26 state workforce innovation council established by IC 22-4-18.1-3 to
27 implement the transition of the responsibilities and obligations of the
28 Indiana commission on proprietary education before its abolishment to
29 the commission for higher education and the state workforce
30 innovation council.

31 (f) Rules that were adopted by the Indiana commission on
32 proprietary education before July 1, 2012, shall be treated as though the
33 rules were adopted by the state workforce innovation council
34 established by IC 22-4-18.1-3 until the state workforce innovation
35 council **or the department of workforce development** adopts rules
36 under IC 4-22-2 to implement IC 22-4.1-21.

37 (g) An accreditation granted or a permit issued under IC 21-17-3 by
38 the Indiana commission on proprietary education before July 1, 2012,
39 shall be treated after June 30, 2012, as an ~~accreditation~~ **authorization**
40 granted ~~or a permit issued~~ by the:

41 (1) board for proprietary education established by IC 21-18.5-5-1
42 if the accreditation pertains to a postsecondary credit bearing
43 proprietary educational institution (as defined in
44 IC 21-18.5-2-12); or

45 (2) ~~state workforce innovation council~~ **department of workforce**
46 **development** if the accreditation pertains to a postsecondary
47 proprietary educational institution (as defined in IC 22-4.1-21-9).

48 (h) **An accreditation granted or a permit issued before May 15,**
49 **2013, under IC 21-17-3 (repealed):**

50 (1) **by the board for proprietary education established by**

1 **IC 21-18.5-5-1 shall be treated as an authorization granted by**
 2 **the board for proprietary education; and**
 3 **(2) by the state workforce innovation council shall be treated**
 4 **as an authorization granted by the department of workforce**
 5 **development.**

6 ~~(h)~~ (i) Proceedings pending before the Indiana commission on
 7 proprietary education on July 1, 2012, shall be transferred from the
 8 Indiana commission on proprietary education to:

9 (1) the board for proprietary education established by
 10 IC 21-18.5-5-1 for a proceeding pertaining to a postsecondary
 11 credit bearing proprietary educational institution (as defined in
 12 IC 21-18.5-2-12); or

13 (2) the state workforce innovation council if the proceeding
 14 pertains to a postsecondary proprietary educational institution (as
 15 defined in IC 22-4.1-21-9).

16 SECTION 4. IC 21-18.5-2-2 IS REPEALED [EFFECTIVE UPON
 17 PASSAGE]. Sec. 2: "~~Accreditation~~", for purposes of IC 21-18.5-6,
 18 means certification of a status of approval or authorization by the board
 19 for proprietary education to conduct business as a postsecondary credit
 20 bearing proprietary educational institution.

21 SECTION 5. IC 21-18.5-2-4 IS REPEALED [EFFECTIVE UPON
 22 PASSAGE]. Sec. 4: "~~Agent's permit~~", for purposes of IC 21-18.5-6,
 23 means a nontransferable written authorization issued to a person by the
 24 board for proprietary education to solicit a resident of Indiana to enroll
 25 in a course offered or maintained by a postsecondary credit bearing
 26 proprietary educational institution.

27 SECTION 6. IC 21-18.5-2-5, AS ADDED BY P.L.107-2012,
 28 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 UPON PASSAGE]: Sec. 5. "Application", for purposes of
 30 IC 21-18.5-6, means a written request for ~~accreditation or an agent's~~
 31 **permit authorization** on forms supplied by the board for proprietary
 32 education.

33 SECTION 7. IC 21-18.5-2-5.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. "Authorization", for**
 36 **purposes of IC 21-18.5-6, means certification of a status of**
 37 **approval or authorization by the board for proprietary education**
 38 **to conduct business as a postsecondary credit bearing proprietary**
 39 **educational institution.**

40 SECTION 8. IC 21-18.5-2-12, AS ADDED BY P.L.107-2012,
 41 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 12. (a) "Postsecondary credit bearing
 43 proprietary educational institution" means a degree granting and credit
 44 bearing institution that provides instructional or educational services
 45 or training, ~~in a technical, professional, mechanical, business, or~~
 46 ~~industrial occupation, whether onsite, online, or through any~~
 47 **combination of these or other instructional modalities**, and is
 48 accredited by an accrediting agency recognized by the United States
 49 Department of Education or is seeking and progressing toward
 50 accreditation by an accrediting agency recognized by the United States
 51 Department of Education.

1 (b) The term does not include the following:

2 (1) An Indiana state educational institution or another Indiana
3 educational institution established by law and financed in whole
4 or in part by public funds.

5 (2) A postsecondary proprietary educational institution approved
6 or regulated by any other state regulatory board, agency, or
7 commission other than the board for proprietary education.

8 (3) An elementary or secondary school attended by students in
9 kindergarten or grades 1 through 12 and supported in whole or in
10 part by private tuition payments.

11 (4) Any educational institution or educational training that:

12 (A) is maintained or given by an employer or a group of
13 employers, without charge, for employees or for individuals
14 the employer anticipates employing;

15 (B) is maintained or given by a labor organization, without
16 charge, for its members or apprentices;

17 (C) offers exclusively instruction that is clearly
18 self-improvement, motivational, or avocational in intent
19 (including instruction in dance, music, or self-defense, and
20 private tutoring); or

21 (D) is a Montessori or nursery school.

22 (5) A privately endowed two (2) or four (4) year degree granting
23 institution that is regionally accredited and whose principal
24 campus is located in Indiana.

25 **(6) Out-of-state public and nonprofit degree granting**
26 **institutions offering instructional or educational services or**
27 **training in Indiana.**

28 **(7) A religious institution that offers educational instruction**
29 **or an educational program of a clearly religious nature.**

30 SECTION 9. IC 21-18.5-5-2, AS ADDED BY P.L.107-2012,
31 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 UPON PASSAGE]: Sec. 2. (a) The board for proprietary education
33 consists of the following seven (7) members:

34 (1) The state superintendent or the superintendent's designee.

35 (2) The executive officer of the commission for higher education
36 or the executive officer's designee.

37 (3) Five (5) members appointed by the governor.

38 (b) The members appointed by the governor under subsection (a)
39 serve for a term of four (4) years.

40 (c) Not more than three (3) of the members appointed by the
41 governor may be members of the same political party.

42 (d) Of the five (5) members appointed by the governor:

43 (1) one (1) must have been engaged for a period of at least five
44 (5) years immediately preceding appointment in an executive or
45 a managerial position in a postsecondary proprietary educational
46 institution subject to IC 21-18.5-6;

47 (2) one (1) must have been engaged in administering or managing
48 an industrial employee training program for a period of at least
49 five (5) years immediately preceding appointment; and

50 (3) three (3) must be representatives of the public at large who are
51 not representatives of the types of postsecondary credit bearing

1 proprietary educational institutions to be ~~accredited~~ **authorized**.
 2 For purposes of subdivision (3), an elected or appointed state or local
 3 official or a member of a private or public school may not be appointed
 4 as a representative of the public at large.

5 (e) An appointment to fill a vacancy occurring on the board for
 6 proprietary education is for the unexpired term.

7 SECTION 10. IC 21-18.5-6-2, AS ADDED BY P.L.107-2012,
 8 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: Sec. 2. A person may not do business as a
 10 postsecondary credit bearing proprietary educational institution in
 11 Indiana without having obtained ~~accreditation~~ **authorization by the**
 12 **board for proprietary education** under this chapter, **except for a**
 13 **religious institution that offers educational instruction or an**
 14 **educational program of a clearly religious nature.**

15 SECTION 11. IC 21-18.5-6-2.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. A person may not do**
 18 **business as a degree granting institution in Indiana unless:**

19 **(1) the institution is accredited by an accrediting agency**
 20 **recognized by the United States Department of Education or**
 21 **is seeking and progressing toward accreditation by an**
 22 **accrediting agency recognized by the United States**
 23 **Department of Education; or**

24 **(2) the institution is a religious institution that offers**
 25 **educational instruction or an educational program of a clearly**
 26 **religious nature.**

27 SECTION 12. IC 21-18.5-6-3, AS ADDED BY P.L.107-2012,
 28 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 UPON PASSAGE]: Sec. 3. Applications for ~~accreditation~~
 30 **authorization** under this chapter must be filed with the board for
 31 proprietary education and accompanied by an application fee of at least
 32 one hundred dollars (\$100) for processing the application and
 33 evaluating the postsecondary credit bearing proprietary educational
 34 institution.

35 SECTION 13. IC 21-18.5-6-4, AS ADDED BY P.L.107-2012,
 36 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 4. An application for ~~accreditation~~
 38 **authorization** under this chapter must include at least the following
 39 information:

40 (1) The name and address of the postsecondary credit bearing
 41 proprietary educational institution and the institution's officers.

42 (2) The places where the courses are to be provided.

43 (3) The types of courses to be offered, the form of instruction to
 44 be followed with the class, shop, or laboratory, and the hours
 45 required for each curriculum.

46 (4) The form of certificate, diploma, or degree to be awarded.

47 (5) A statement of the postsecondary credit bearing proprietary
 48 educational institution's finances.

49 (6) A description of the postsecondary credit bearing proprietary
 50 educational institution's physical facilities, including classrooms,
 51 laboratories, library, machinery, and equipment.

- 1 (7) An explicit statement of policy with reference to:
 2 (A) solicitation of students;
 3 (B) payment and amount of student fees; and
 4 (C) conditions under which students are entitled to a refund in
 5 part or in full of fees paid, including a statement concerning
 6 the existence of the career college student assurance fund
 7 established under section 6 of this chapter.
 8 (8) Provisions for liability insurance of students.
 9 (9) Maximum student-teacher ratio to be maintained.
 10 (10) Minimum requirements for instructional staff.

11 SECTION 14. IC 21-18.5-6-5, AS ADDED BY P.L.107-2012,
 12 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 5. The board for proprietary education shall
 14 require each postsecondary credit bearing proprietary educational
 15 institution to include in each curriculum catalog and promotional
 16 brochure the following:

- 17 (1) A statement indicating that the postsecondary credit bearing
 18 proprietary educational institution is ~~regulated~~ **authorized** by the
 19 board for proprietary education under this chapter.
 20 (2) The board for proprietary education's mailing address and
 21 telephone number.

22 SECTION 15. IC 21-18.5-6-6, AS ADDED BY P.L.107-2012,
 23 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 6. (a) The career college student assurance
 25 fund is established to provide indemnification to a student or an
 26 enrollee of a postsecondary credit bearing proprietary educational
 27 institution who suffers loss or damage as a result of:

- 28 (1) the failure or neglect of the postsecondary credit bearing
 29 proprietary educational institution to faithfully perform all
 30 agreements, express or otherwise, with the student, enrollee, one
 31 (1) or both of the parents of the student or enrollee, or a guardian
 32 of the student or enrollee as represented by the application for the
 33 institution's ~~accreditation~~ **authorization** and the materials
 34 submitted in support of that application;
 35 (2) the failure or neglect of the postsecondary credit bearing
 36 proprietary educational institution to maintain and operate a
 37 course or courses of instruction or study in compliance with the
 38 standards of this chapter; or
 39 (3) an agent's misrepresentation in procuring the student's
 40 enrollment.

41 (b) The board for proprietary education shall administer the fund.

42 (c) The expenses of administering the fund shall be paid from
 43 money in the fund.

44 (d) The treasurer of state shall invest the money in the fund not
 45 currently needed to meet the obligations of the fund in the same
 46 manner as other public funds may be invested.

47 (e) Money in the fund at the end of a state fiscal year does not revert
 48 to the state general fund but remains available to be used for providing
 49 money for reimbursements allowed under this chapter.

50 (f) Upon the fund acquiring fifty thousand dollars (\$50,000), the

1 balance in the fund must not become less than fifty thousand dollars
2 (\$50,000). If:

3 (1) a claim against the fund is filed that would, if paid in full,
4 require the balance of the fund to become less than fifty thousand
5 dollars (\$50,000); and

6 (2) the board for proprietary education determines that the student
7 is eligible for a reimbursement under the fund;

8 the board for proprietary education shall prorate the amount of the
9 reimbursement to ensure that the balance of the fund does not become
10 less than fifty thousand dollars (\$50,000), and the student is entitled to
11 receive that balance of the student's claim from the fund as money
12 becomes available in the fund from contributions to the fund required
13 under this chapter.

14 (g) The board for proprietary education shall ensure that all
15 outstanding claim amounts described in subsection (f) are paid as
16 money in the fund becomes available in the chronological order of the
17 outstanding claims.

18 (h) A claim against the fund may not be construed to be a debt of the
19 state.

20 SECTION 16. IC 21-18.5-6-8, AS ADDED BY P.L.107-2012,
21 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 8. (a) Upon receipt of an application for
23 ~~accreditation authorization~~ under this chapter, the board for
24 proprietary education shall make an investigation to determine the
25 accuracy of the statements in the application to determine if the
26 postsecondary credit bearing proprietary educational institution meets
27 the minimum standards for ~~accreditation~~ **authorization**.

28 (b) During the investigation under subsection (a), the board for
29 proprietary education may grant a temporary status of ~~accreditation~~
30 **authorization**. The temporary status of ~~accreditation~~ **authorization** is
31 sufficient to meet the requirements of this chapter until a determination
32 on ~~accreditation~~ **authorization** is made.

33 SECTION 17. IC 21-18.5-6-11, AS ADDED BY P.L.107-2012,
34 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 UPON PASSAGE]: Sec. 11. Full ~~accreditation~~ **authorization** under
36 this chapter may not be issued unless and until the board for proprietary
37 education finds that the postsecondary credit bearing proprietary
38 educational institution meets minimum standards that are appropriate
39 to that type or class of postsecondary credit bearing proprietary
40 educational institution, including the following minimum standards:

41 (1) The postsecondary credit bearing proprietary educational
42 institution has a sound financial structure with sufficient
43 resources for continued support.

44 (2) The postsecondary credit bearing proprietary educational
45 institution has satisfactory training or educational facilities with
46 sufficient tools, supplies, or equipment and the necessary number
47 of work stations or classrooms to adequately train, instruct, or
48 educate the number of students enrolled or proposed to be
49 enrolled.

50 (3) The postsecondary credit bearing proprietary educational

- 1 institution has an adequate number of qualified instructors or
 2 teachers, sufficiently trained by experience or education, to give
 3 the instruction, education, or training contemplated.
- 4 (4) The advertising and representations made on behalf of the
 5 postsecondary credit bearing proprietary educational institution
 6 to prospective students are truthful and free from
 7 misrepresentation or fraud.
- 8 (5) The charge made for the training, instruction, or education is
 9 clearly stated and based upon the services rendered.
- 10 (6) The premises and conditions under which the students work
 11 and study are sanitary, healthful, and safe according to modern
 12 standards.
- 13 (7) The postsecondary credit bearing proprietary educational
 14 institution has and follows a refund policy approved by the board
 15 for proprietary education.
- 16 (8) The owner or chief administrator of the postsecondary credit
 17 bearing proprietary educational institution is subject to a
 18 background check by the board for proprietary education and has
 19 not been convicted of a felony.
- 20 (9) The owner or chief administrator of the postsecondary credit
 21 bearing proprietary educational institution has not been the owner
 22 or chief administrator of a postsecondary credit bearing
 23 proprietary educational institution that has had its ~~accreditation~~
 24 **authorization** revoked or has been closed involuntarily in the five
 25 (5) year period preceding the application for ~~accreditation:~~
 26 **authorization**. However, if the owner or chief administrator of
 27 the postsecondary credit bearing proprietary educational
 28 institution has been the owner or chief administrator of a
 29 postsecondary credit bearing proprietary educational institution
 30 that has had its ~~accreditation~~ **authorization** revoked or has been
 31 closed involuntarily more than five (5) years before the
 32 application for ~~accreditation;~~ **authorization**, the board for
 33 proprietary education may issue full ~~accreditation~~ **authorization**
 34 at the board for proprietary education's discretion.
- 35 SECTION 18. IC 21-18.5-6-12, AS ADDED BY P.L.107-2012,
 36 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 12. (a) After an investigation and a finding
 38 that the information in the application is true and **that** the
 39 postsecondary credit bearing proprietary educational institution meets
 40 the minimum standards, the ~~commission on postsecondary proprietary~~
 41 ~~education~~ **board for proprietary education** shall issue an
 42 ~~accreditation~~ **authorization** to the postsecondary credit bearing
 43 proprietary educational institution upon payment of an additional fee
 44 of at least twenty-five dollars (\$25). An applicant's market research
 45 may not be considered or required by the board for proprietary
 46 education as a condition for ~~accrediting~~ **authorizing** or renewing the
 47 accreditation of or for ~~approval~~ **authorization** of the programs of a
 48 postsecondary credit bearing proprietary educational institution.
- 49 (b) The board for proprietary education may waive inspection of a
 50 postsecondary credit bearing proprietary educational institution that has

1 been ~~accredited~~ **authorized** by an accrediting ~~unit~~ **agency recognized**
 2 **by the United States Department of Education** whose standards are
 3 approved by the board for proprietary education as meeting or
 4 exceeding the requirements of this chapter.

5 (c) A valid license, ~~approval~~ **authorization** to operate, or other form
 6 of ~~accreditation~~ **authorization** issued to a postsecondary credit bearing
 7 proprietary educational institution by another state may be accepted,
 8 instead of inspection, if:

9 (1) the requirements of that state meet or exceed the requirements
 10 of this chapter; and

11 (2) the other state will, in turn, extend reciprocity to
 12 postsecondary credit bearing proprietary educational institutions
 13 ~~accredited~~ **authorized** by the board for proprietary education.

14 **(d) The board for proprietary education may join interstate**
 15 **reciprocity agreements and authorize an institution to operate in**
 16 **Indiana, if the:**

17 **(1) institution; and**

18 **(2) state in which both the institution's:**

19 **(A) principal campus is located; and**

20 **(B) institutional accreditation is provided;**

21 **are members of the interstate reciprocity agreement.**

22 ~~(d)~~ **(e)** An ~~accreditation~~ **authorization** issued under this section
 23 expires one (1) year following the ~~accreditation's~~ **authorization's**
 24 issuance.

25 ~~(e)~~ **(f)** An ~~accredited~~ **authorized** postsecondary credit bearing
 26 proprietary educational institution may renew the institution's
 27 ~~accreditation~~ **authorization** annually upon:

28 (1) the payment of a fee of at least twenty-five dollars (\$25); and

29 (2) continued compliance with this chapter.

30 SECTION 19. IC 21-18.5-6-13, AS ADDED BY P.L.107-2012,
 31 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 13. ~~Accreditation~~ **Authorization** may be
 33 revoked by the board for proprietary education:

34 (1) for cause upon notice and an opportunity for a hearing before
 35 the board for proprietary education; and

36 (2) for the ~~accredited~~ **authorized** postsecondary credit bearing
 37 proprietary educational institution failing to make the appropriate
 38 quarterly contributions to the career college student assurance
 39 fund not later than forty-five (45) days after the end of a quarter.

40 SECTION 20. IC 21-18.5-6-14, AS ADDED BY P.L.107-2012,
 41 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 14. (a) A postsecondary credit bearing
 43 proprietary educational institution, after notification that the
 44 institution's ~~accreditation~~ **authorization** has been refused, revoked, or
 45 suspended, may apply for a hearing before the board for proprietary
 46 education concerning the institution's qualifications. The application
 47 for a hearing must be filed in writing with the board for proprietary
 48 education not more than thirty (30) days after receipt of notice of the
 49 denial, revocation, or suspension.

50 (b) The board for proprietary education shall give a hearing

1 promptly and with not less than ten (10) days notice of the date, time,
 2 and place. The postsecondary credit bearing proprietary educational
 3 institution is entitled to be represented by counsel and to offer oral and
 4 documentary evidence relevant to the issue.

5 (c) Not more than fifteen (15) days after a hearing, the board for
 6 proprietary education shall make written findings of fact, a written
 7 decision, and a written order based solely on the evidence submitted at
 8 the hearing, either granting or denying ~~accreditation~~ **authorization** to
 9 the postsecondary credit bearing proprietary educational institution.

10 SECTION 21. IC 21-18.5-6-15, AS ADDED BY P.L.107-2012,
 11 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: Sec. 15. A postsecondary credit bearing
 13 proprietary educational institution's ~~accreditation~~ **authorization** shall
 14 be suspended at any time if the ~~accredited~~ **authorized** postsecondary
 15 credit bearing proprietary educational institution denies enrollment to
 16 a student or makes a distinction or classification of students on the
 17 basis of race, color, or creed.

18 SECTION 22. IC 21-18.5-6-17, AS ADDED BY P.L.107-2012,
 19 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 17. (a) ~~A person representing a postsecondary~~
 21 ~~credit bearing proprietary educational institution doing business in~~
 22 ~~Indiana by offering courses may not sell a course or solicit students for~~
 23 ~~the institution unless the person first secures an agent's permit from the~~
 24 ~~board for proprietary education. If the agent represents more than one~~
 25 ~~(1) postsecondary credit bearing proprietary educational institution; a~~
 26 ~~separate agent's permit must be obtained for each institution that the~~
 27 ~~agent represents.~~

28 (b) Upon approval of an agent's permit, the board for proprietary
 29 education shall issue a pocket card to the person that includes:

- 30 (1) the person's name and address;
- 31 (2) the name and address of the postsecondary credit bearing
- 32 proprietary educational institution that the person represents; and
- 33 (3) a statement certifying that the person whose name appears on
- 34 the card is an authorized agent of the postsecondary credit bearing
- 35 proprietary educational institution.

36 (c) The application must be accompanied by a fee of at least ten
 37 dollars (\$10).

38 (d) An agent's permit is valid for one (1) year from the date of its
 39 issue. An application for renewal must be accompanied by a fee of at
 40 least ten dollars (\$10).

41 (e) A postsecondary credit bearing proprietary educational
 42 institution is liable for the actions of the institution's agents.

43 SECTION 23. IC 21-18.5-6-18 IS REPEALED [EFFECTIVE
 44 UPON PASSAGE]. Sec. 18: (a) An application for an agent's permit
 45 must be granted or denied by the board for proprietary education not
 46 more than fifteen (15) working days after the receipt of the application.
 47 If the board for proprietary education has not completed a
 48 determination with respect to the issuance of a permit under this
 49 section within the fifteen (15) working day period, the board for
 50 proprietary education shall issue a temporary permit to the applicant.

1 The temporary permit is sufficient to meet the requirements of this
2 chapter until a determination is made on the application.

3 (b) A permit issued under this chapter may, upon ten (10) days
4 notice and after a hearing, be revoked by the board for proprietary
5 education:

6 (1) if the holder of the permit solicits or enrolls students through
7 fraud, deception, or misrepresentation; or

8 (2) upon a finding that the permit holder is not of good moral
9 character.

10 SECTION 24. IC 21-18.5-6-21, AS ADDED BY P.L.107-2012,
11 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: Sec. 21. An obligation, negotiable or
13 nonnegotiable, providing for payment for a course or courses of
14 instruction is void if the postsecondary credit bearing proprietary
15 educational institution is not ~~accredited~~ **authorized** to operate in
16 Indiana.

17 SECTION 25. IC 21-18.5-6-22, AS ADDED BY P.L.107-2012,
18 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 UPON PASSAGE]: Sec. 22. The issuance of ~~an agent's permit or any~~
20 ~~accreditation authorization~~ **may not be considered to constitute**
21 ~~approval endorsement~~ **of a course, a person, or an institution. A**
22 **representation to the contrary is a misrepresentation.**

23 SECTION 26. IC 21-18.5-6-22.5 IS ADDED TO THE INDIANA
24 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
25 **[EFFECTIVE UPON PASSAGE]: Sec. 22.5. A person who knowingly**
26 **and intentionally violates section 16 or 22 of this chapter commits**
27 **a deceptive act that is actionable by the attorney general under**
28 **IC 24-5-0.5 and is subject to the penalties and remedies available**
29 **to the attorney general under IC 24-5-0.5.**

30 SECTION 27. IC 21-18.5-6-24, AS ADDED BY P.L.107-2012,
31 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 UPON PASSAGE]: Sec. 24. An action of the board for proprietary
33 education concerning the issuance, denial, or revocation of ~~a permit or~~
34 ~~accreditation an authorization~~ **under this chapter is subject to review**
35 **under IC 4-21.5.**

36 SECTION 28. IC 21-18.5-6-26, AS ADDED BY P.L.107-2012,
37 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 UPON PASSAGE]: Sec. 26. (a) As used in this section, "fund" means
39 the postsecondary credit bearing proprietary educational institution
40 ~~accreditation authorization~~ **fund established by subsection (b).**

41 (b) The postsecondary credit bearing proprietary educational
42 institution ~~accreditation authorization~~ **fund is established.**

43 (c) The fund shall be administered by the commission (as defined
44 in IC 21-18.5-2-7.).

45 (d) Money in the fund at the end of a state fiscal year does not revert
46 to the general fund.

47 (e) All fees collected by the board for proprietary education under
48 this chapter shall be deposited in the fund.

49 (f) Money in the fund shall be used by the board for ~~postsecondary~~
50 ~~proprietary education to administer this chapter.~~

1 SECTION 29. IC 22-4.1-21-10, AS ADDED BY P.L.107-2012,
 2 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 10. (a) The office for career and technical
 4 schools is established to carry out the responsibilities of the council
 5 under this chapter.

6 (b) The council may employ and fix compensation for necessary
 7 administrative staff with the approval of the department.

8 (c) The ~~council~~ **department** may adopt reasonable rules under
 9 IC 4-22-2 to implement this chapter.

10 (d) The council may adopt and use a seal, the description of which
 11 shall be filed with the office of the secretary of state, and which may be
 12 used for the authentication of the acts of the council.

13 SECTION 30. IC 22-4.5-10.5 IS ADDED TO THE INDIANA
 14 CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2013]:

16 **Chapter 10.5. Middle Skill Credentials**

17 **Sec. 1. As used in this chapter, "industry based certification"**
 18 **means a middle skill credential that is awarded based on**
 19 **performance on a test rather than on classroom instruction.**

20 **Sec. 2. As used in this chapter, "middle skill credential" means**
 21 **a credential awarded above the level of a high school diploma but**
 22 **below the level of a four (4) year college degree.**

23 **Sec. 3. (a) The department, in consultation with the commission**
 24 **for higher education, the department of education, the office of the**
 25 **secretary of family and social services, and any other agency the**
 26 **department determines is necessary, shall include in the Indiana**
 27 **workforce intelligence system established by IC 22-4.5-10-3, as**
 28 **added by HB 1002-2013, SECTION 2, information regarding the**
 29 **middle skill credentials awarded in Indiana for the immediately**
 30 **preceding state fiscal year.**

31 **(b) The information required under subsection (a) must include:**

32 **(1) the aggregate number of enrollees in programs leading to**
 33 **middle skill credentials from:**

34 **(A) public institutions of higher education;**

35 **(B) private institutions of higher education;**

36 **(C) postsecondary proprietary educational institutions;**

37 **(D) community colleges;**

38 **(E) area vocational schools;**

39 **(F) high school vocational programs;**

40 **(G) apprenticeship programs; and**

41 **(H) other public or private workforce training programs;**
 42 **and**

43 **(2) aggregate data of industry based certifications awarded as**
 44 **the result of the completion of education and employment**
 45 **training programs.**

46 **(c) The department shall publish the information described in**
 47 **subsection (b) in the department's annual report.**

48 **Sec. 4. (a) Public and private institutions of higher education,**
 49 **postsecondary proprietary educational institutions, community**
 50 **colleges, area vocational schools, high school vocational programs,**
 51 **apprenticeship programs, and other public or private workforce**

1 **training programs shall provide sufficient data described in section**
 2 **3 of this chapter so that the department is able to:**

- 3 (1) **meet its obligations under section 3 of this chapter; and**
 4 (2) **respond to requests for information and reports**
 5 **concerning middle skill credentials.**

6 (b) **The data described in section 3 of this chapter must be**
 7 **provided to:**

- 8 (1) **the department;**
 9 (2) **the commission for higher education;**
 10 (3) **the department of education;**
 11 (4) **the office of the secretary of family and social services; and**
 12 (5) **any other agency the department determines is necessary.**

13 (c) **The data described in section 3 of this chapter must be**
 14 **provided in disaggregated form and in the manner prescribed by**
 15 **the department.**

16 (d) **The data provided for each trainee of a training program**
 17 **described in this chapter must include:**

- 18 (1) **the trainee's name;**
 19 (2) **the trainee's address;**
 20 (3) **the school identification number;**
 21 (4) **the name or a description of the certification completed by**
 22 **or credential awarded to the trainee;**
 23 (5) **the name and address of the training provider; and**
 24 (6) **a pass/fail indicator.**

25 SECTION 31. IC 24-5-0.5-3, AS AMENDED BY P.L.226-2011,
 26 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]: Sec. 3. (a) The following acts, and the following
 28 representations as to the subject matter of a consumer transaction,
 29 made orally, in writing, or by electronic communication, by a supplier,
 30 are deceptive acts:

- 31 (1) That such subject of a consumer transaction has sponsorship,
 32 approval, performance, characteristics, accessories, uses, or
 33 benefits it does not have which the supplier knows or should
 34 reasonably know it does not have.
 35 (2) That such subject of a consumer transaction is of a particular
 36 standard, quality, grade, style, or model, if it is not and if the
 37 supplier knows or should reasonably know that it is not.
 38 (3) That such subject of a consumer transaction is new or unused,
 39 if it is not and if the supplier knows or should reasonably know
 40 that it is not.
 41 (4) That such subject of a consumer transaction will be supplied
 42 to the public in greater quantity than the supplier intends or
 43 reasonably expects.
 44 (5) That replacement or repair constituting the subject of a
 45 consumer transaction is needed, if it is not and if the supplier
 46 knows or should reasonably know that it is not.
 47 (6) That a specific price advantage exists as to such subject of a
 48 consumer transaction, if it does not and if the supplier knows or
 49 should reasonably know that it does not.
 50 (7) That the supplier has a sponsorship, approval, or affiliation in
 51 such consumer transaction the supplier does not have, and which

- 1 the supplier knows or should reasonably know that the supplier
2 does not have.
- 3 (8) That such consumer transaction involves or does not involve
4 a warranty, a disclaimer of warranties, or other rights, remedies,
5 or obligations, if the representation is false and if the supplier
6 knows or should reasonably know that the representation is false.
- 7 (9) That the consumer will receive a rebate, discount, or other
8 benefit as an inducement for entering into a sale or lease in return
9 for giving the supplier the names of prospective consumers or
10 otherwise helping the supplier to enter into other consumer
11 transactions, if earning the benefit, rebate, or discount is
12 contingent upon the occurrence of an event subsequent to the time
13 the consumer agrees to the purchase or lease.
- 14 (10) That the supplier is able to deliver or complete the subject of
15 the consumer transaction within a stated period of time, when the
16 supplier knows or should reasonably know the supplier could not.
17 If no time period has been stated by the supplier, there is a
18 presumption that the supplier has represented that the supplier
19 will deliver or complete the subject of the consumer transaction
20 within a reasonable time, according to the course of dealing or the
21 usage of the trade.
- 22 (11) That the consumer will be able to purchase the subject of the
23 consumer transaction as advertised by the supplier, if the supplier
24 does not intend to sell it.
- 25 (12) That the replacement or repair constituting the subject of a
26 consumer transaction can be made by the supplier for the estimate
27 the supplier gives a customer for the replacement or repair, if the
28 specified work is completed and:
- 29 (A) the cost exceeds the estimate by an amount equal to or
30 greater than ten percent (10%) of the estimate;
- 31 (B) the supplier did not obtain written permission from the
32 customer to authorize the supplier to complete the work even
33 if the cost would exceed the amounts specified in clause (A);
- 34 (C) the total cost for services and parts for a single transaction
35 is more than seven hundred fifty dollars (\$750); and
- 36 (D) the supplier knew or reasonably should have known that
37 the cost would exceed the estimate in the amounts specified in
38 clause (A).
- 39 (13) That the replacement or repair constituting the subject of a
40 consumer transaction is needed, and that the supplier disposes of
41 the part repaired or replaced earlier than seventy-two (72) hours
42 after both:
- 43 (A) the customer has been notified that the work has been
44 completed; and
- 45 (B) the part repaired or replaced has been made available for
46 examination upon the request of the customer.
- 47 (14) Engaging in the replacement or repair of the subject of a
48 consumer transaction if the consumer has not authorized the
49 replacement or repair, and if the supplier knows or should
50 reasonably know that it is not authorized.

- 1 (15) The act of misrepresenting the geographic location of the
2 supplier by listing a fictitious business name or an assumed
3 business name (as described in IC 23-15-1) in a local telephone
4 directory if:
5 (A) the name misrepresents the supplier's geographic location;
6 (B) the listing fails to identify the locality and state of the
7 supplier's business;
8 (C) calls to the local telephone number are routinely forwarded
9 or otherwise transferred to a supplier's business location that
10 is outside the calling area covered by the local telephone
11 directory; and
12 (D) the supplier's business location is located in a county that
13 is not contiguous to a county in the calling area covered by the
14 local telephone directory.
- 15 (16) The act of listing a fictitious business name or assumed
16 business name (as described in IC 23-15-1) in a directory
17 assistance database if:
18 (A) the name misrepresents the supplier's geographic location;
19 (B) calls to the local telephone number are routinely forwarded
20 or otherwise transferred to a supplier's business location that
21 is outside the local calling area; and
22 (C) the supplier's business location is located in a county that
23 is not contiguous to a county in the local calling area.
- 24 (17) The violation by a supplier of IC 24-3-4 concerning
25 cigarettes for import or export.
- 26 (18) The act of a supplier in knowingly selling or reselling a
27 product to a consumer if the product has been recalled, whether
28 by the order of a court or a regulatory body, or voluntarily by the
29 manufacturer, distributor, or retailer, unless the product has been
30 repaired or modified to correct the defect that was the subject of
31 the recall.
- 32 (19) The violation by a supplier of 47 U.S.C. 227, including any
33 rules or regulations issued under 47 U.S.C. 227.
- 34 (20) The violation by a supplier of the federal Fair Debt
35 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
36 rules or regulations issued under the federal Fair Debt Collection
37 Practices Act (15 U.S.C. 1692 et seq.).
- 38 (21) A violation of IC 24-5-7 (concerning health spa services), as
39 set forth in IC 24-5-7-17.
- 40 (22) A violation of IC 24-5-8 (concerning business opportunity
41 transactions), as set forth in IC 24-5-8-20.
- 42 (23) A violation of IC 24-5-10 (concerning home consumer
43 transactions), as set forth in IC 24-5-10-18.
- 44 (24) A violation of IC 24-5-11 (concerning home improvement
45 contracts), as set forth in IC 24-5-11-14.
- 46 (25) A violation of IC 24-5-12 (concerning telephone
47 solicitations), as set forth in IC 24-5-12-23.
- 48 (26) A violation of IC 24-5-13.5 (concerning buyback motor
49 vehicles), as set forth in IC 24-5-13.5-14.
- 50 (27) A violation of IC 24-5-14 (concerning automatic

- 1 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 2 (28) A violation of IC 24-5-15 (concerning credit services
- 3 organizations), as set forth in IC 24-5-15-11.
- 4 (29) A violation of IC 24-5-16 (concerning unlawful motor
- 5 vehicle subleasing), as set forth in IC 24-5-16-18.
- 6 (30) A violation of IC 24-5-17 (concerning environmental
- 7 marketing claims), as set forth in IC 24-5-17-14.
- 8 (31) A violation of IC 24-5-19 (concerning deceptive commercial
- 9 solicitation), as set forth in IC 24-5-19-11.
- 10 (32) A violation of IC 24-5-21 (concerning prescription drug
- 11 discount cards), as set forth in IC 24-5-21-7.
- 12 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 13 appraisals), as set forth in IC 24-5-23.5-9.
- 14 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 15 forth in IC 24-5-26-3.
- 16 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 17 as set forth in IC 24-5.5-6-1.
- 18 (36) A violation of IC 24-8 (concerning promotional gifts and
- 19 contests), as set forth in IC 24-8-6-3.
- 20 **(37) A violation of IC 21-18.5-6 (concerning representations**
- 21 **made by a postsecondary credit bearing proprietary**
- 22 **educational institution), as set forth in IC 21-18.5-6-22.5.**
- 23 (b) Any representations on or within a product or its packaging or
- 24 in advertising or promotional materials which would constitute a
- 25 deceptive act shall be the deceptive act both of the supplier who places
- 26 such representation thereon or therein, or who authored such materials,
- 27 and such other suppliers who shall state orally or in writing that such
- 28 representation is true if such other supplier shall know or have reason
- 29 to know that such representation was false.
- 30 (c) If a supplier shows by a preponderance of the evidence that an
- 31 act resulted from a bona fide error notwithstanding the maintenance of
- 32 procedures reasonably adopted to avoid the error, such act shall not be
- 33 deceptive within the meaning of this chapter.
- 34 (d) It shall be a defense to any action brought under this chapter that
- 35 the representation constituting an alleged deceptive act was one made
- 36 in good faith by the supplier without knowledge of its falsity and in
- 37 reliance upon the oral or written representations of the manufacturer,
- 38 the person from whom the supplier acquired the product, any testing
- 39 organization, or any other person provided that the source thereof is
- 40 disclosed to the consumer.
- 41 (e) For purposes of subsection (a)(12), a supplier that provides
- 42 estimates before performing repair or replacement work for a customer
- 43 shall give the customer a written estimate itemizing as closely as
- 44 possible the price for labor and parts necessary for the specific job
- 45 before commencing the work.
- 46 (f) For purposes of subsection (a)(15) and (a)(16), a telephone
- 47 company or other provider of a telephone directory or directory
- 48 assistance service or its officer or agent is immune from liability for
- 49 publishing the listing of a fictitious business name or assumed business
- 50 name of a supplier in its directory or directory assistance database
- 51 unless the telephone company or other provider of a telephone

1 directory or directory assistance service is the same person as the
2 supplier who has committed the deceptive act.

3 (g) For purposes of subsection (a)(18), it is an affirmative defense
4 to any action brought under this chapter that the product has been
5 altered by a person other than the defendant to render the product
6 completely incapable of serving its original purpose.

7 **SECTION 32. An emergency is declared for this act.**
(Reference is to EHB 1314 as reprinted March 27, 2013.)

Conference Committee Report
on
Engrossed House Bill 1314

Signed by:

Representative Clere
Chairperson

Senator Kruse

Representative Hale

Senator Arnold J

House Conferees

Senate Conferees