

1 SB159
2 165819-6
3 By Senator Glover
4 RFD: Education and Youth Affairs
5 First Read: 05-MAR-15

1 SB159

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 16-5-10 and 16-46-3, Code of
12 Alabama 1975, as amended by Act 2014-245 and Act 2014-330 of
13 the 2014 Regular Session, relating to exemptions from state
14 approval for entities participating in reciprocity agreements;
15 to clarify the exemption for regional accrediting authorities
16 and accredited degree granting entities; and to establish the
17 State Reciprocity Committee and provide for the duties and
18 powers of the reciprocity committee.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 16-5-10 and 16-46-3, Code of
21 Alabama 1975, as amended by Act 2014-245 and Act 2014-330 of
22 the 2014 Regular Session, are amended to read as follows:

23 "§16-5-10.

24 "The commission shall exercise the following powers
25 and duties in addition to those otherwise specified in this
26 article:

1 "(1) To cause to be made such surveys and
2 evaluations of higher education as are believed necessary for
3 the purpose of providing appropriate information to carry out
4 its powers and duties.

5 "(2) To recommend to the Legislature of Alabama the
6 enactment of such legislation as it deems necessary or
7 desirable to insure the highest quality of higher education in
8 this state taking into consideration the orderly development
9 and maintenance of the state system of public higher education
10 to meet trends in population and the change in social and
11 technical requirements of the economy.

12 "(3) To advise and counsel the Governor, at his
13 request, regarding any area of, or matter pertaining to,
14 postsecondary education.

15 "(4) To establish definitions of a junior college, a
16 community college, a technical college or institute, a senior
17 college, a university and university system; provided, that
18 nothing herein shall be construed as authorizing the
19 commission to establish or create any university system, nor
20 to alter any university system presently existing.

21 "(5) To develop and publish criteria which may be
22 used by the Legislature as a basis:

23 "a. For changing the classification of any public
24 institution of higher education; and

25 "b. For determining the need for new public junior
26 colleges, public senior colleges, universities or university
27 systems.

1 "Any proposed statute which would establish an
2 additional institution of higher education may be submitted,
3 either prior to introduction or by the standing committee
4 considering same to the commission for its opinion as to the
5 need for the state therefore, and the commission shall report
6 its findings to the Governor and the Legislature.

7 "(6) To cause studies to be made for the purpose of
8 classifying and prescribing the role and scope for each public
9 institution of higher education in Alabama and to recommend
10 such changes in classification or role and scope for such
11 institutions as it deems necessary and which may be agreed to
12 by the governing board of the institution. In making studies
13 and recommendations for the purpose of classifying and
14 prescribing the role and scope of institutions, the commission
15 shall do so without regard for race and traditional role of
16 the institution, provided, however, that in the absence of
17 compelling reasons to the contrary the commission shall give
18 priority to institutions having seniority in years of
19 operation in the service area. When making recommendations for
20 the elimination of duplication of educationally unnecessary
21 programs, absent justifiable reasons to the contrary, the
22 commission shall recommend the replacement of such programs
23 and/or services with programs and/or services that will
24 strengthen and enhance the role of the institution affected.

25 "(7) To hear applications from the institutions for
26 changes in classification or role and scope and to recommend
27 to the Legislature for clarification such classifications in

1 role or scope which may not be agreed to by the governing
2 board of any institution.

3 "(8) To make continuing studies, on its own
4 initiative or upon the request of the Governor or the
5 Legislature, of the financial needs of public higher education
6 and issue such reports to the Governor and the Legislature as
7 may result from its studies.

8 "(9) To submit to the Governor and the Legislature
9 on or before the first day in January of each year a written
10 report covering the activities of the commission and the state
11 of higher education in Alabama. The report shall include:

12 "a. Statements of the nature, progress or result of
13 any studies undertaken or completed during the past fiscal
14 year;

15 "b. Comments upon major developments, trends, new
16 policies, budgets and financial considerations which, in the
17 judgment of the commission will be useful in planning a sound
18 program of higher education; and

19 "c. Recommendations respecting postsecondary
20 education in this state as may be appropriate.

21 "(10) To make rules and regulations for its
22 meetings, procedures and execution of the powers and duties
23 delegated to it by this article.

24 "(11) To encourage the establishment and development
25 of formal consortia for the advancement of higher education
26 comprised of institutions of higher education in the state.

1 "(12) To conduct a program of public information in
2 order to inform citizens of the state of matters of importance
3 to higher education in Alabama.

4 "(13) To serve as the state agency for the
5 administration of those titles of the Higher Education Act of
6 1965 (Public Law 89-329) as amended for those programs
7 requiring a single state agency for which the commission
8 qualifies, unless otherwise designated by executive order.

9 "(14) To authorize and regulate instructional
10 programs or units offered by non-Alabama institutions of
11 postsecondary education in the State of Alabama. No
12 institution of postsecondary education located outside of
13 Alabama may offer units or programs of instruction within
14 Alabama without prior approval of the commission, except for
15 those accredited units or programs approved by regional
16 accrediting authorities or accredited degree granting entities
17 located in states participating in reciprocity agreements
18 entered into by the Governor or the commission. The commission
19 under its rule-making authority shall establish criteria for
20 the approval of such institutions and programs. The commission
21 shall promulgate a schedule of programmatic review fees,
22 commensurate with the cost of commission activities related to
23 programmatic review, not exceeding fifteen thousand dollars
24 (\$15,000) per institution. Any programmatic review fee
25 collected from a non-Alabama institution of postsecondary
26 education shall be deposited in the State Treasury to the

1 credit of the commission and funds collected are hereby
2 appropriated to the commission.

3 "(15) The powers and duties of the commission shall
4 apply equally to all postsecondary institutions regardless of
5 any authority that may be, or has been, conferred upon them by
6 the constitution or by statutes.

7 "§16-46-3.

8 "(a) This chapter shall not apply to any school
9 offering instruction in grades K-12, or any combination
10 thereof, including any person in regard to the operation of
11 such K-12 school.

12 "(b) This chapter shall not apply to any of the
13 following private postsecondary institutions, including any
14 person in regard to the operation of such private
15 postsecondary institution:

16 "(1) Schools operated on a nonprofit basis offering
17 only courses or programs of study which do not lead to an
18 associate or baccalaureate degree and are limited in nature to
19 the performance of or preparation for the ministry of any
20 established church, denomination, or religion.

21 "(2) Courses conducted by employers exclusively for
22 their employees and courses conducted by labor unions
23 exclusively for their members.

24 "(3) Schools, colleges, and universities principally
25 operated and supported by the State of Alabama or its
26 political subdivisions.

1 "(4) Seminars and short courses sponsored or offered
2 by professional business, trade, or religious organizations
3 primarily for benefit of members thereof, or similar public
4 programs of training where the majority of the students have
5 at least half of their tuition and enrollment fees paid by
6 their employers, provided that evidence is supplied supporting
7 this exemption continuously over the preceding five years.

8 "(5) Any private postsecondary institution
9 conducting resident courses whose principal base of operation
10 is within the State of Alabama which has been in continuous
11 operation for 20 years or more as of July 1, 2004, and that
12 held accreditation as of that date by an accrediting agency
13 recognized by the United States Department of Education.

14 "(6) Programs of study regulated by other state
15 public boards, commissions, or agencies requiring school
16 licensure or performance bonding, or both, except where the
17 appropriate regulatory agency requires a license under this
18 chapter.

19 "(7) Any private postsecondary institution
20 conducting resident courses that has been in operation within
21 Alabama for at least five years as of July 1, 2004, and that
22 is accredited by an accrediting agency recognized by the
23 United States Department of Education shall be accorded the
24 following provisions: Upon proof of such accreditation, such
25 private postsecondary schools shall be issued a license and
26 representative permits after required fees are paid to the
27 Alabama Department of Postsecondary Education. The requisite

1 accreditation shall satisfy the minimum standards of this
2 chapter.

3 ~~"(8) Any out-of-state nonprofit entity that offers~~
4 ~~online programs of instruction, is approved by a regional~~
5 ~~accreditation authority, and is located in degree granting~~
6 ~~entity accredited by an accrediting body recognized by the~~
7 ~~United States Department of Education and located in and~~
8 ~~authorized by a state participating in a regional or national~~
9 ~~authorization reciprocity agreement approved by that the State~~
10 ~~of Alabama has joined with the approval of the Governor or the~~
11 ~~Alabama Commission on Higher Education, and operating under~~
12 ~~the terms of that agreement.~~

13 "(c) Any private postsecondary institution exempted
14 in this section shall retain the exempted status as long as
15 the conditions of exemption remain valid. An accredited
16 private postsecondary institution or program of study not
17 elsewhere exempted whose accreditation is withdrawn,
18 suspended, or revoked shall forfeit its exemption status until
19 the grant of accreditation is restored. Due process of the
20 accrediting agency shall be allowed prior to withdrawal of an
21 exemption. Private postsecondary institutions having
22 accreditation withheld as a result of transfer of ownership
23 shall be allowed a period of time to regain the grant in
24 accordance with the appropriate accrediting agency
25 regulations.

1 "(d) An exemption pursuant to this section shall not
2 be construed to constitute approval or endorsement by the
3 State of Alabama for any purpose.

4 "(e) Exempted private postsecondary institutions may
5 voluntarily request to be licensed without surety as described
6 in Sections 16-46-5 and 16-46-6.

7 "(f) Private postsecondary institutions which cease
8 operations shall place the student academic, attendance, and
9 financial aid records in the office of the appropriate
10 institutional administrator where a repository shall exist to
11 safeguard and to make available these records to authorized
12 persons upon request as follows:

13 "(1) Private postsecondary institutions which merge,
14 consolidate, or undergo change of ownership shall deposit with
15 the continuing school.

16 "(2) Private postsecondary institutions which are a
17 part of a system, organization, franchise, or a ministry of a
18 local church or a group of churches shall deposit with the
19 administrative office thereof if such is to remain in
20 operation.

21 "(3) Other private postsecondary institutions not
22 elsewhere designated shall deposit with the Department of
23 Postsecondary Education."

24 Section 2. (a) There is created the State
25 Reciprocity Committee. The membership of the committee shall
26 consist of the following members:

1 (1) The Chancellor of the University of Alabama
2 System, or his or her designee.

3 (2) The President of Auburn University, or his or
4 her designee.

5 (3) The President of the University of South
6 Alabama, or his or her designee.

7 (4) The Chancellor of the Department of
8 Postsecondary Education, or his or her designee.

9 (5) A president of a historically black college or
10 university, or his or her designee, appointed by the Governor.

11 (b) At the organizational meeting of the committee,
12 and annually thereafter, the membership of the reciprocity
13 committee shall select the chair from among the membership of
14 the reciprocity committee. The reciprocity committee shall
15 make recommendations to the Governor on all issues, decisions,
16 appointments, and designations necessary for the State of
17 Alabama to participate and comply with reciprocity agreements.

18 (c) The reciprocity committee shall appoint and
19 direct a state coordinator in doing all of the following:

20 (1) Negotiating reciprocal agreements with other
21 states regarding the offering of educational services of
22 Alabama institutions of higher education in other states.

23 (2) Negotiating reciprocal agreements allowing
24 institutions of higher education in other states to offer
25 educational services in this state.

26 (3) Coordinating Alabama's compliance with efforts
27 relating to reciprocity agreements.

1 (d) The coordinator shall act under the direction of
2 the reciprocity committee in doing all of the following:

3 (1) Conferring with other institutions of higher
4 education within the State of Alabama, including independent
5 colleges and universities, and the Alabama Commission on
6 Higher Education.

7 (2) Promptly informing the reciprocity committee of
8 all developments.

9 (3) Coordinating and leading all activities, action,
10 and efforts necessary for the State of Alabama to participate
11 and comply with reciprocity agreements.

12 (e) The coordinator shall have no power to bind the
13 State of Alabama to any agreements, as that power is reserved
14 for the Governor.

15 (f) (1) The reciprocity committee shall select a
16 portal agency. For the purposes of this section, a portal
17 agency is an entity designated and managed by the reciprocity
18 committee to serve as the point of contact for questions,
19 complaints, and other communications from State Authorization
20 Reciprocity Agreements (SARA) and other reciprocity agreements
21 entered into by the State of Alabama that seek to establish
22 comparable national standards for interstate offerings of
23 postsecondary distance-education courses and programs.

24 (2) The reciprocity committee shall manage the
25 activities of the portal agency through the coordinator and
26 the portal agency shall make reports at least quarterly or
27 more frequently upon the request of the coordinator. The

1 quarterly reports shall include, at a minimum, data requested
2 by the reciprocity committee and the coordinator.

3 (3) Commencing on the effective date of the act
4 adding this subdivision, every five years the reciprocity
5 committee shall compile the data necessary to evaluate the
6 effectiveness of SARA and other reciprocity agreements. Based
7 on the outcomes of the evaluation, the committee may recommend
8 to the Governor that the state withdraw from any reciprocity
9 agreement that is counter to the best interests of Alabama
10 students or the state for reasons including, but not limited
11 to, overly high enrollment in institutions with low completion
12 rates and high student loan default rates.

13 (g)(1) The reciprocity committee may annually
14 establish fees to be collected by the portal agency from each
15 Alabama SARA institution based on full-time enrollment and
16 commensurate with the costs of administering SARA and other
17 reciprocity agreements entered into by the State of Alabama
18 that seek to establish comparable national standards for
19 interstate offerings of postsecondary distance-education
20 courses and programs, except that such fees shall be limited
21 as follows: Initial application and subsequent annual renewal
22 fees which, by dollar amount, may not exceed the respective
23 individual institution fees assessed by the National Council
24 for SARA, or its successor entity. In the event the National
25 Council for SARA determines to waive or terminate the
26 assessment of fees for participating institutions, then the
27 fee applicable to participating Alabama SARA institutions

1 shall be the same as those fees assessed in the prior fiscal
2 year.

3 (2) All fees collected pursuant to this subsection
4 shall be deposited and credited to a dedicated Reciprocity
5 Fund, which is hereby created in the State Treasury, for use
6 by the portal agency as designated by the reciprocity
7 committee. All monies deposited into the Reciprocity Fund are
8 hereby appropriated to the portal agency for the fiscal year
9 ending September 30, 2015, and for the fiscal year ending
10 September 30, 2016.

11 (3) The fees to be collected by the reciprocity
12 committee shall accompany an application for voluntary
13 participation in SARA and the annual renewal thereof.

14 (h) If the institution of a member of the
15 reciprocity committee is under investigation for a SARA
16 complaint, the member shall recuse himself or herself from any
17 discussions or proceedings relating to that investigation.

18 Section 3. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

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2
3 Senate

4 Read for the first time and referred to the Senate
5 committee on Education & Youth Affairs..... 05-MAR-15
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7 Read for the second time and placed on the calen-
8 dar with 1 substitute and..... 02-APR-15
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10 Read for the third time and passed as amended 07-APR-15

11 Yeas 33
12 Nays 0

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15 Patrick Harris
16 Secretary
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