

1 HB35  
2 131531-1  
3 By Representative Love  
4 RFD: Education Policy  
5 First Read: 07-FEB-12  
6 PFD: 12/01/2011

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8 SYNOPSIS: Under existing law, the Alabama Commission  
9 on Higher Education is authorized to regulate, and  
10 required to provide prior approval for,  
11 instructional programs offered by non-Alabama  
12 institutions of postsecondary education in the  
13 state.

14 This bill would require the commission to  
15 establish a schedule of programmatic review fees  
16 for the review of instructional programs proposed  
17 to be offered in the state by non-Alabama  
18 institutions of postsecondary education and would  
19 provide for the deposit of fees collected from  
20 non-Alabama institutions of postsecondary education  
21 into the State Treasury to the credit of the  
22 commission.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
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1           To amend Section 16-5-10, Code of Alabama 1975,  
2 relating to the Alabama Commission on Higher Education; to  
3 require the commission to establish a programmatic review fee  
4 schedule; to provide for the collection of the fees from  
5 non-Alabama institutions of postsecondary education; and to  
6 provide for the deposit of the fees into the State Treasury to  
7 the credit of the commission.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9           Section 1. Section 16-5-10 of the Code of Alabama  
10 1975, is amended to read as follows:

11           "§16-5-10.

12           "The commission shall exercise the following powers  
13 and duties in addition to those otherwise specified in this  
14 article:

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

19           "(2) To recommend to the Legislature of Alabama the  
20 enactment of such legislation as it deems necessary or  
21 desirable to insure the highest quality of higher education in  
22 this state taking into consideration the orderly development  
23 and maintenance of the state system of public higher education  
24 to meet trends in population and the change in social and  
25 technical requirements of the economy.

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

4           "(4) To establish definitions of a junior college, a  
5 community college, a technical college or institute, a senior  
6 college, a university and university system; provided, that  
7 nothing herein shall be construed as authorizing the  
8 commission to establish or create any university system, nor  
9 to alter any university system presently existing.

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

12           "a. For changing the classification of any public  
13 institution of higher education; and

14           "b. For determining the need for new public junior  
15 colleges, public senior colleges, universities or university  
16 systems.

17           "Any proposed statute which would establish an  
18 additional institution of higher education may be submitted,  
19 either prior to introduction or by the standing committee  
20 considering same to the commission for its opinion as to the  
21 need for the state therefore, and the commission shall report  
22 its findings to the Governor and the Legislature.

23           "(6) To cause studies to be made for the purpose of  
24 classifying and prescribing the role and scope for each public  
25 institution of higher education in Alabama and to recommend  
26 such changes in classification or role and scope for such  
27 institutions as it deems necessary and which may be agreed to

1 by the governing board of the said institution. In making  
2 studies and recommendations for the purpose of classifying and  
3 prescribing the role and scope of institutions, the commission  
4 shall do so without regard for race and traditional role of  
5 the institution, provided, however, that in the absence of  
6 compelling reasons to the contrary the commission shall give  
7 priority to institutions having seniority in years of  
8 operation in the service area. When making recommendations for  
9 the elimination of duplication of educationally unnecessary  
10 programs, absent justifiable reasons to the contrary, the  
11 commission shall recommend the replacement of such programs  
12 and/or services with programs and/or services that will  
13 strengthen and enhance the role of the institution affected.

14 "(7) To hear applications from the institutions for  
15 changes in classification or role and scope and to recommend  
16 to the Legislature for clarification such classifications in  
17 role or scope which may not be agreed to by the governing  
18 board of any institution.

19 "(8) To make continuing studies, on its own  
20 initiative or upon the request of the Governor or the  
21 Legislature, of the financial needs of public higher education  
22 and issue such reports to the Governor and the Legislature as  
23 may result from its studies.

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

1            "a. Statements of the nature, progress or result of  
2 any studies undertaken or completed during the past fiscal  
3 year;

4            "b. Comments upon major developments, trends, new  
5 policies, budgets and financial considerations which, in the  
6 judgment of the commission will be useful in planning a sound  
7 program of higher education; and

8            "c. Recommendations respecting postsecondary  
9 education in this state as may be appropriate.

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

13           " (11) To encourage the establishment and development  
14 of formal consortia for the advancement of higher education  
15 comprised of institutions of higher education in the state.

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

19           " (13) To serve as the state agency for the  
20 administration of those titles of the Higher Education Act of  
21 1965 (Public Law 89-329) as amended for those programs  
22 requiring a single state agency for which the commission  
23 qualifies, unless otherwise designated by executive order.

24           " (14) To authorize and regulate instructional  
25 programs or units offered by non-Alabama institutions of  
26 postsecondary education in the State of Alabama. No  
27 institution of postsecondary education located outside of

1 Alabama may offer units or programs of instruction within  
2 Alabama without prior approval of the commission. The  
3 commission under its rule-making authority shall establish  
4 criteria for the approval of such institutions and programs.  
5 The commission shall promulgate a schedule of programmatic  
6 review fees, which may be revised from time to time upon  
7 reasonable notice at the discretion of the commission. Any  
8 programmatic review fee collected from a non-Alabama  
9 institution of postsecondary education shall be deposited in  
10 the State Treasury to the credit of the commission.

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

15 Section 2. This act shall become effective  
16 immediately following its passage and approval by the  
17 Governor, or its otherwise becoming law.