

1 HB321  
2 158286-4  
3 By Representative Poole  
4 RFD: Education Policy  
5 First Read: 21-JAN-14

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
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8 To amend Sections 10A-1-7.02 and 16-46-3, Code of  
9 Alabama 1975, relating to foreign nonprofit entities offering  
10 online programs of instruction; to provide further for the  
11 participation of the state in reciprocity agreements whereby  
12 colleges and universities of member states are allowed to  
13 operate, without additional state approval or authorization,  
14 in other member states.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 10A-1-7.02 and 16-46-3 of the  
17 Code of Alabama 1975, are amended to read as follows:

18 "§10A-1-7.02.

19 "(a) A foreign entity not described by Section  
20 10A-1-7.01(a) may transact business in this state without  
21 registering under this chapter.

22 "(b) Subsection (a) does not relieve a foreign  
23 entity from the duty to comply with applicable requirements  
24 under other law to file or register.

25 "(c) A foreign entity is not required to register  
26 under this chapter if other law of this state or of federal

1 law authorizes the entity to transact the particular business  
2 authorized by law in this state.

3 "(d) A foreign unincorporated nonprofit association  
4 is not required to register under this chapter.

5 "(e) A foreign entity which is exempt from the  
6 requirements of Chapter 46, Title 16, is not required to  
7 register under this chapter.

8 "§16-46-3.

9 "(a) This chapter shall not apply to any of the  
10 following schools nor to any person in regard to the operation  
11 of such schools, except for the conditions stated in this  
12 section:

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

18 "(2) Courses conducted by employers exclusively for  
19 their employees and courses conducted by labor unions  
20 exclusively for their members.

21 "(3) Schools offering instruction in grades K-12,  
22 including the kindergarten, elementary, or secondary level and  
23 operated by a parochial, denominational, or religious  
24 organization, and/or as a ministry of a local church or group  
25 of churches on a nonprofit basis.

26 "(4) Schools offering instruction in grades K-12,  
27 including the kindergarten, elementary, or secondary level,

1 and operated by a community, educational organization, or  
2 group of parents, organized as a nonprofit educational  
3 corporation with the expectation of establishing a more  
4 favorable environment for those in attendance.

5 "(5) Schools, colleges, and universities principally  
6 operated and supported by the State of Alabama or its  
7 political subdivisions.

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

15 "(7) Any private school conducting resident courses  
16 whose principal base of operation is within the State of  
17 Alabama which has been in continuous operation for 20 years or  
18 more as of July 1, 2004, and that held accreditation as of  
19 that date by an accrediting agency recognized by the United  
20 States Department of Education.

21 "(8) Programs of study regulated by other state  
22 public boards, commissions, or agencies requiring school  
23 licensure or performance bonding, or both, except where the  
24 appropriate regulatory agency requires a license under this  
25 chapter.

26 "(9) Any private postsecondary institution  
27 conducting resident courses that has been in operation within

1 Alabama for at least five years as of July 1, 2004, and that  
2 is accredited by an accrediting agency recognized by the  
3 United States Department of Education shall be accorded the  
4 following provisions: Upon proof of such accreditation, such  
5 schools shall be issued a license and representative permits  
6 after required fees are paid to the Alabama Department of  
7 Postsecondary Education. The requisite accreditation shall  
8 satisfy the minimum standards of this chapter.

9 "(10) Any out of state nonprofit entity that offers  
10 online programs of instruction, is approved by a regional  
11 accreditation authority, and is located in a state  
12 participating in a regional authorization reciprocity  
13 agreement approved by the Governor ~~—or the Alabama Commission~~  
14 ~~on Higher Education.~~

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

1           "(c) 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           "(d) Exempted private schools may voluntarily  
5 request to be licensed without surety as described in Sections  
6 16-46-5 and 16-46-6.

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

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

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

19           "(3) Elementary and secondary schools without system  
20 support shall deposit with the superintendent of the public  
21 county or city within whose district the school is located.

22           "(4) Postsecondary, higher, and others not elsewhere  
23 designated shall deposit with the Alabama Department of  
24 Postsecondary Education."

25           Section 2. This act shall become effective on the  
26 first day of the third month following its passage and  
27 approval by the Governor, or its otherwise becoming law.



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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Education Policy  
..... 21-JAN-14

Read for the second time and placed  
on the calendar with 1 substitute  
and..... 12-FEB-14

Read for the third time and passed  
as amended..... 05-MAR-14

Yeas 96, Nays 0, Abstains 0

Jeff Woodard  
Clerk