

1 HB342
2 166541-6
3 By Representative Davis
4 RFD: Education Policy
5 First Read: 19-MAR-15

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

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

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

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

19 "a. For changing the classification of any public
20 institution of higher education; and

21 "b. For determining the need for new public junior
22 colleges, public senior colleges, universities or university
23 systems.

24 "Any proposed statute which would establish an
25 additional institution of higher education may be submitted,
26 either prior to introduction or by the standing committee
27 considering same to the commission for its opinion as to the

1 need for the state therefore, and the commission shall report
2 its findings to the Governor and the Legislature.

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

21 "(7) To hear applications from the institutions for
22 changes in classification or role and scope and to recommend
23 to the Legislature for clarification such classifications in
24 role or scope which may not be agreed to by the governing
25 board of any institution.

26 "(8) To make continuing studies, on its own
27 initiative or upon the request of the Governor or the

1 Legislature, of the financial needs of public higher education
2 and issue such reports to the Governor and the Legislature as
3 may result from its studies.

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

8 "a. Statements of the nature, progress or result of
9 any studies undertaken or completed during the past fiscal
10 year;

11 "b. Comments upon major developments, trends, new
12 policies, budgets and financial considerations which, in the
13 judgment of the commission will be useful in planning a sound
14 program of higher education; and

15 "c. Recommendations respecting postsecondary
16 education in this state as may be appropriate.

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

20 "(11) To encourage the establishment and development
21 of formal consortia for the advancement of higher education
22 comprised of institutions of higher education in the state.

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

26 "(13) To serve as the state agency for the
27 administration of those titles of the Higher Education Act of

1 1965 (Public Law 89-329) as amended for those programs
2 requiring a single state agency for which the commission
3 qualifies, unless otherwise designated by executive order.

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

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

1 "§16-46-3.

2 "(a) This chapter shall not apply to any school
3 offering instruction in grades K-12, or any combination
4 thereof, including any person in regard to the operation of
5 such K-12 school.

6 "(b) This chapter shall not apply to any of the
7 following private postsecondary institutions, including any
8 person in regard to the operation of such private
9 postsecondary institution:

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

15 "(2) Courses conducted by employers exclusively for
16 their employees and courses conducted by labor unions
17 exclusively for their members.

18 "(3) Schools, colleges, and universities principally
19 operated and supported by the State of Alabama or its
20 political subdivisions.

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

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

7 "(6) Programs of study regulated by other state
8 public boards, commissions, or agencies requiring school
9 licensure or performance bonding, or both, except where the
10 appropriate regulatory agency requires a license under this
11 chapter.

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

23 "~~(8) Any out-of-state nonprofit entity that offers~~
24 ~~online programs of instruction, is approved by a regional~~
25 ~~accreditation authority, and is located in degree granting~~
26 ~~entity accredited by an accrediting body recognized by the~~
27 United States Department of Education and located in and

1 authorized by a state participating in a regional or national
2 authorization reciprocity agreement approved by that the State
3 of Alabama has joined with the approval of the Governor or the
4 Alabama Commission on Higher Education, and operating under
5 the terms of that agreement.

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

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

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

25 "(f) Private postsecondary institutions which cease
26 operations shall place the student academic, attendance, and
27 financial aid records in the office of the appropriate

1 institutional administrator where a repository shall exist to
2 safeguard and to make available these records to authorized
3 persons upon request as follows:

4 "(1) Private postsecondary institutions which merge,
5 consolidate, or undergo change of ownership shall deposit with
6 the continuing school.

7 "(2) Private postsecondary institutions which are a
8 part of a system, organization, franchise, or a ministry of a
9 local church or a group of churches shall deposit with the
10 administrative office thereof if such is to remain in
11 operation.

12 "(3) Other private postsecondary institutions not
13 elsewhere designated shall deposit with the Department of
14 Postsecondary Education."

15 Section 2. (a) There is created the State
16 Reciprocity Committee. The membership of the committee shall
17 consist of the following members:

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

20 (2) The President of Auburn University, or his or
21 her designee.

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

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

26 (5) A president of an historically black college or
27 university, or his or her designee, appointed by the Governor.

1 (b) At the organizational meeting of the committee,
2 and annually thereafter, the membership of the reciprocity
3 committee shall select the chair from among the membership of
4 the reciprocity committee. The reciprocity committee shall
5 make recommendations to the Governor on all issues, decisions,
6 appointments, and designations necessary for the State of
7 Alabama to participate and comply with reciprocity agreements.

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

10 (1) Negotiating reciprocal agreements with other
11 states regarding the offering of educational services of
12 Alabama institutions of higher education in other states.

13 (2) Negotiating reciprocal agreements allowing
14 institutions of higher education in other states to offer
15 educational services in this state.

16 (3) Coordinating Alabama's compliance with efforts
17 relating to reciprocity agreements.

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

20 (1) Conferring with other institutions of higher
21 education within the State of Alabama, including independent
22 colleges and universities, and the Alabama Commission on
23 Higher Education.

24 (2) Promptly informing the reciprocity committee of
25 all developments.

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

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

7 (f) (1) The reciprocity committee shall select a
8 portal agency. For the purposes of this section, a portal
9 agency is an entity designated and managed by the reciprocity
10 committee to serve as the point of contact for questions,
11 complaints, and other communications from State Authorization
12 Reciprocity Agreements (SARA) and other reciprocity agreements
13 entered into by the State of Alabama that seek to establish
14 comparable national standards for interstate offerings of
15 postsecondary distance-education courses and programs.

16 (2) The reciprocity committee shall manage the
17 activities of the portal agency through the coordinator and
18 the portal agency shall make reports at least quarterly or
19 more frequently upon the request of the coordinator. The
20 quarterly reports shall include, at a minimum, data requested
21 by the reciprocity committee and the coordinator.

22 (3) Commencing on the effective date of the act
23 adding this subdivision, every five years the reciprocity
24 committee shall compile the data necessary to evaluate the
25 effectiveness of SARA and other reciprocity agreements. Based
26 on the outcomes of the evaluation, the committee may recommend
27 to the Governor that the state withdraw from any reciprocity

1 agreement that is counter to the best interests of Alabama
2 students or the state for reasons including, but not limited
3 to, overly high enrollment in institutions with low completion
4 rates and high student loan default rates.

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

22 (2) All fees collected pursuant to this subsection
23 shall be deposited and credited to a dedicated Reciprocity
24 Fund, which is hereby created in the State Treasury, for use
25 by the portal agency as designated by the reciprocity
26 committee. All monies deposited into the Reciprocity Fund are
27 hereby appropriated to the portal agency for the fiscal year

1 ending September 30, 2015, and for the fiscal year ending
2 September 30, 2016.

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

6 (h) If the institution of a member of the
7 reciprocity committee is under investigation for a SARA
8 complaint, the member shall recuse himself or herself from any
9 discussions or proceedings relating to that investigation.

10 Section 3. This act shall become effective
11 immediately following its passage and approval by the
12 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
..... 19-MAR-15

Read for the second time and placed
on the calendar with 1 substitute
and..... 02-APR-15

Read for the third time and passed
as amended..... 09-APR-15

Yeas 98, Nays 0, Abstains 0

Jeff Woodard
Clerk