

1 HB342  
2 165634-1  
3 By Representative Davis  
4 RFD: Education Policy  
5 First Read: 19-MAR-15

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8 SYNOPSIS: Under existing law, the state is authorized  
9 to participate in reciprocity agreements whereby  
10 colleges and universities of member states are  
11 allowed to operate, without additional state  
12 approval or authorization, in other member states.

13 This bill would clarify the exemption from  
14 state approval or authorization for regional  
15 accrediting authorities or accredited degree  
16 granting entities operating under the terms of an  
17 approved reciprocity agreement.

18 This bill would also establish the State  
19 Reciprocity Committee, and would provide for the  
20 duties and powers of the reciprocity committee.

21  
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25  
26 To amend Sections 16-5-10 and 16-46-3, Code of  
27 Alabama 1975, as amended by Act 2014-245 and Act 2014-330 of

1 the 2014 Regular Session, relating to exemptions from state  
2 approval for entities participating in reciprocity agreements;  
3 to clarify the exemption for regional accrediting authorities  
4 and accredited degree granting entities; and to establish the  
5 State Reciprocity Committee and provide for the duties and  
6 powers of the reciprocity committee.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 16-5-10 and 16-46-3, Code of  
9 Alabama 1975, as amended by Act 2014-245 and Act 2014-330 of  
10 the 2014 Regular Session, are 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 institution. In making studies  
2 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, except for  
3 those accredited units or programs approved by regional  
4 accrediting authorities or accredited degree granting entities  
5 located in states participating in reciprocity agreements  
6 entered into by the Governor or the commission. The commission  
7 under its rule-making authority shall establish criteria for  
8 the approval of such institutions and programs. The commission  
9 shall promulgate a schedule of programmatic review fees,  
10 commensurate with the cost of commission activities related to  
11 programmatic review, not exceeding fifteen thousand dollars  
12 (\$15,000) per institution. Any programmatic review fee  
13 collected from a non-Alabama institution of postsecondary  
14 education shall be deposited in the State Treasury to the  
15 credit of the commission and funds collected are hereby  
16 appropriated to the commission.

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

21 "§16-46-3.

22 "(a) This chapter shall not apply to any school  
23 offering instruction in grades K-12, or any combination  
24 thereof, including any person in regard to the operation of  
25 such K-12 school.

26 "(b) This chapter shall not apply to any of the  
27 following private postsecondary institutions, including any

1 person in regard to the operation of such private  
2 postsecondary institution:

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

8 "(2) Courses conducted by employers exclusively for  
9 their employees and courses conducted by labor unions  
10 exclusively for their members.

11 "(3) Schools, colleges, and universities principally  
12 operated and supported by the State of Alabama or its  
13 political subdivisions.

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

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



1           "(6) Programs of study regulated by other state  
2 public boards, commissions, or agencies requiring school  
3 licensure or performance bonding, or both, except where the  
4 appropriate regulatory agency requires a license under this  
5 chapter.

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

17           "~~(8) Any out-of-state nonprofit entity that offers~~  
18 ~~online programs of instruction, is approved by a regional~~  
19 ~~accreditation authority, and is located in degree granting~~  
20 ~~entity accredited by an accrediting body recognized by the~~  
21 ~~United States Department of Education and located in and~~  
22 ~~authorized by a state participating in a regional or national~~  
23 ~~authorization reciprocity agreement approved by that the State~~  
24 ~~of Alabama has joined with the approval of the Governor or the~~  
25 ~~Alabama Commission on Higher Education, and operating under~~  
26 ~~the terms of that agreement.~~

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

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

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

20           "(f) Private postsecondary institutions which cease  
21 operations shall place the student academic, attendance, and  
22 financial aid records in the office of the appropriate  
23 institutional administrator where a repository shall exist to  
24 safeguard and to make available these records to authorized  
25 persons upon request as follows:

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

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

9           "(3) Other private postsecondary institutions not  
10          elsewhere designated shall deposit with the Department of  
11          Postsecondary Education."

12          Section 2. (a) There is created the State  
13          Reciprocity Committee. The membership of the committee shall  
14          consist of the following members:

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

17                 (2) The President of Auburn University, or his or  
18                 her designee.

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

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

23                 (b) At the organizational meeting of the committee,  
24                 and annually thereafter, the membership of the reciprocity  
25                 committee shall select the chair from among the membership of  
26                 the reciprocity committee. The reciprocity committee shall  
27                 make recommendations to the Governor on all issues, decisions,

1 appointments, and designations necessary for the State of  
2 Alabama to participate and comply with reciprocity agreements.

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

5 (1) Negotiating reciprocal agreements with other  
6 states regarding the offering of educational services of  
7 Alabama institutions of higher education in other states.

8 (2) Negotiating reciprocal agreements allowing  
9 institutions of higher education in other states to offer  
10 educational services in this state.

11 (3) Coordinating Alabama's compliance with efforts  
12 relating to reciprocity agreements.

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

15 (1) Conferring with other institutions of higher  
16 education within the State of Alabama and the Alabama  
17 Commission on Higher Education.

18 (2) Promptly informing the reciprocity committee of  
19 all developments.

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

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

26 (f) (1) The reciprocity committee shall select a  
27 portal agency. For the purposes of this section, a portal

1 agency is an entity designated and managed by the reciprocity  
2 committee to serve as the point of contact for questions,  
3 complaints, and other communications from State Authorization  
4 Reciprocity Agreements (SARA) and other reciprocity agreements  
5 entered into by the State of Alabama that seek to establish  
6 comparable national standards for interstate offerings of  
7 postsecondary distance-education courses and programs.

8 (2) The reciprocity committee shall manage the  
9 activities of the portal agency through the coordinator and  
10 the portal agency shall make reports at least quarterly or  
11 more frequently upon the request of the coordinator. The  
12 quarterly reports shall include, at a minimum, data requested  
13 by the reciprocity committee and the coordinator.

14 (3) Commencing on the effective date of the act  
15 adding this subdivision, every five years the reciprocity  
16 committee shall compile the data necessary to evaluate the  
17 effectiveness of SARA and other reciprocity agreements. Based  
18 on the compiled data, the reciprocity committee may recommend  
19 to the Governor that the state withdraw from any reciprocity  
20 agreement if the data indicates overly high enrollment in  
21 institutions with low completion rates and high default rates.

22 (g)(1) The reciprocity committee may annually  
23 establish fees to be collected by the portal agency from each  
24 Alabama SARA institution based on full-time enrollment and  
25 commensurate with the costs of administering SARA and other  
26 reciprocity agreements entered into by the State of Alabama  
27 that seek to establish comparable national standards for

1 interstate offerings of postsecondary distance-education  
2 courses and programs. In the event the National Council for  
3 SARA determines to waive or terminate the assessment of fees  
4 for participating institutions, then the fee applicable to  
5 participating Alabama SARA institutions shall be the same as  
6 those fees assessed in the prior fiscal year.

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

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

18 (h) If the institution of a member of the  
19 reciprocity committee is under investigation for a SARA  
20 complaint, the member shall recuse himself or herself from any  
21 discussions or proceedings relating to that investigation.

22 Section 3. This act shall become effective  
23 immediately following its passage and approval by the  
24 Governor, or its otherwise becoming law.