

AN ACT

ENTITLED, An Act to provide for authorization to offer postsecondary education services in South Dakota.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

The terms used in this Act mean:

- (1) "Accredited" or "accreditation," the status of public recognition that an accrediting agency recognized by the United States Department of Education pursuant to Title IV of the Higher Education Act of 1965 (20 U.S.C. § 1070 et seq.) as amended to January 1, 2012, grants to an institution or educational program that meets the agency's established requirements;
- (2) "Complaint," an allegation that a postsecondary institution does not meet the requirements of this Act; an allegation that a postsecondary institution violated chapter 37-24; or an allegation raised by a student that a postsecondary institution does not meet standards established by the institution's accrediting agency;
- (3) "Secretary," the secretary of state;
- (4) "Educational program," a program of organized instruction or study beyond secondary education that leads to an academic, professional, or vocational degree, or certificate, or other recognized educational credential;
- (5) "Federal student financial assistance programs," federal student financial assistance program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. Section 1070 et seq.), as amended to January 1, 2012;
- (6) "Postsecondary institution," a person, business entity, nonprofit corporation or

government entity that operates educational programs beyond secondary education.

Section 2. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

No postsecondary institution may provide educational programs at physical locations in this state unless it has been issued a certificate of authorization to provide postsecondary education as provided in this Act. Additionally, except for such postsecondary institutions providing educational programs at physical locations in this state on the effective date of this Act, no postsecondary institution may publicize the availability in this state of such programs unless it has been issued a certificate of authorization to provide postsecondary education as provided in this Act.

Section 3. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

To ensure that postsecondary institutions legally operating in this state as of this date and participating in the federal student financial assistance programs may comply with the state authorization regulations promulgated by the United States Department of Education on October 29, 2010, codified at 34 C.F.R. Section 600.9 and effective as of July 1, 2011, the following postsecondary institutions are acknowledged by the Legislature as being authorized to provide educational programs at physical locations in this state, subject to the provisions of section 5 of this Act:

- (1) Augustana College;
- (2) Avera McKennan Hospital School of Radiologic Technology;
- (3) Avera Sacred Heart Hospital of Radiologic Technology;
- (4) Black Hills State University;
- (5) Colorado Technical University;
- (6) Dakota State University;

- (7) Dakota Wesleyan University;
- (8) Globe University;
- (9) Kilian Community College;
- (10) Lake Area Technical Institute;
- (11) Mitchell Technical Institute;
- (12) Mount Marty College;
- (13) National American University;
- (14) Northern State University;
- (15) Presentation College;
- (16) Sanford Medical Center;
- (17) Sioux Falls Seminary;
- (18) South Dakota School of Mines and Technology;
- (19) South Dakota State University;
- (20) Southeast Technical Institute;
- (21) University of Sioux Falls;
- (22) University of South Dakota; and
- (23) Western Dakota Technical Institute.

Section 4. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

The secretary shall issue a certificate of authorization to provide postsecondary education to any postsecondary institution named in section 3 of this Act. The secretary also may issue a certificate of authorization to provide postsecondary education to any other postsecondary institution to provide educational programs at physical locations in this state if the postsecondary institution:

- (1) Is established as an instrumentality of this state, or is legally established to operate as a

private business entity or nonprofit corporation in accordance with applicable state law;  
and

- (2) Is accredited or is operating under an affiliation agreement whose terms make an accredited postsecondary institution responsible for awarding academic credit and educational credentials to its students and maintaining transcripts for such students.

Section 5. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

Authorization to provide educational programs at physical locations in this state, once granted by the secretary, is continuous so long as the postsecondary institution continues to meet the requirements set forth in section 4 of this Act.

Section 6. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

The secretary shall maintain a registry of all postsecondary institutions authorized by this Act and such other postsecondary institutions for which it has issued a certificate of authorization to provide postsecondary education. If any institution changes the name under which it operates its educational programs, or the physical location of any campus, the institutions shall notify the secretary in writing within thirty days of such change and the secretary shall, as needed, issue an updated certificate of authorization to provide postsecondary education. The secretary shall develop, by rules promulgated pursuant to chapter 1-26, such forms and procedures as may be necessary to administer the requirements of this Act.

Section 7. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

The Office of Attorney General, Division of Consumer Protection, shall review and act on complaints, as such term is defined by this Act, concerning postsecondary institutions providing

educational programs at physical locations in the state, including, as necessary, requiring a postsecondary institution to cease its operations in the state. If a complaint relates to a postsecondary institution controlled by the Board of Regents, the attorney general shall refer the matter to the Board of Regents. In all other cases, the attorney general shall refer the complaint to the institution and provide the institution with no less than thirty days to respond to the matters set forth in the complaint, including an opportunity to demonstrate any actions it has taken or plans to take in response to the complaint, and to consider whether the complainant has exhausted all available administrative remedies within the institutions's policies and procedures. In administering the requirements of this section, the attorney general may refer a complaint to an institution's accrediting agency for review and investigation, with the accrediting agency providing a report of its investigation to the attorney general for further disposition. In enforcing this Act, the attorney general has all the enforcement powers, authorities, and remedies provided by chapter 37-24.

Section 8. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of this Act do not apply to postsecondary institutions:

- (1) Established by the government of the United States;
- (2) Established by the government of an Indian tribe whose tribal lands are located, in whole or in part, in this state;
- (3) Established by owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and awarding only religious degrees or certificates for the purpose of conferring clerical status or authority within that religion; or
- (4) Subject to the jurisdiction and regulations to the South Dakota Cosmetology Commission.

An Act to provide for authorization to offer postsecondary education services in South Dakota.

I certify that the attached Act originated in the

SENATE as Bill No. 191

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 191  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_,

20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State