

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

400V0369

## HOUSE BILL NO. 1019

Introduced by: The Committee on State Affairs at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to permit South Dakota to participate in a state  
2 authorization reciprocity agreement for distance education programing.

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

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

6 The Board of Regents shall enter into an agreement with the Western Interstate Commission  
7 for Higher Education to participate, on behalf of the State of South Dakota, with all other states  
8 legally joining in a state authorization reciprocity agreement, if the initial reciprocity agreement  
9 conforms substantially to the version of the Western Interstate Commission for Higher  
10 Education State Authorization Reciprocity Agreement published on November 1, 2013.

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

13 The Board of Regents shall, on behalf of the State of South Dakota, authorize institutions  
14 under its control to participate in the state authorization reciprocity agreement and to:

15 (1) Notify in a timely manner the Western Interstate Commission for Higher Education



1 of the institutions that it has admitted to the reciprocity agreement;

2 (2) Reauthorize on an annual basis participation by institutions that continue to meet the  
3 requirements of the reciprocity agreement;

4 (3) Monitor compliance of the institutions with requirements of the reciprocity  
5 agreement regarding institutional quality, consumer protection, and fiscal viability;

6 (4) Take appropriate action against an institution it authorized if that institution fails to  
7 comply with requirements of the agreement, which action may include an  
8 investigation, citation, suspension, or expulsion from the reciprocity agreement; and

9 (5) Notify in a timely manner the Western Interstate Commission for Higher Education  
10 of any adverse action taken against an institution related to the reciprocity agreement.

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

13 For purposes of section 2 of this Act, an institution may satisfy:

14 (1) The quality standard through evidence of current accreditation;

15 (2) The consumer protection standard through evidence that the institution is in fact  
16 providing to current and prospective students and, where required, to the integrated  
17 postsecondary education data system, the information that is required for Title IV  
18 disclosures and reporting; and

19 (3) The fiscal viability standard through evidence of governmental status or, for a private  
20 institution, through evidence that the United States Department of Education, in its  
21 most recent fiscal year report, assigned the institution a financial responsibility  
22 composite score of 1.5 or greater, or, if, for not more than two consecutive years, the  
23 institution's financial responsibility composite score has been less than 1.5 but at least  
24 1.0, and the Board of Regents determines that the institution's financial condition is

1 sound.

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

4 The Board of Regents shall promulgate rules, pursuant to chapter 1-26, to accomplish the  
5 purposes of sections 1 to 3, inclusive, of this Act. These rules shall provide that the Board of  
6 Regents shall accept applications to participate in the state authorization reciprocity agreement  
7 from any public or private institution that provides educational programs at physical locations  
8 in South Dakota and that has been organized under the laws of the State of South Dakota or  
9 under the laws of any tribe located in South Dakota.

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

12 Any institution admitted to the state authorization reciprocity agreement pursuant to this Act  
13 shall agree to cooperate with the Board of Regents by providing the documentation required  
14 pursuant to this Act to confirm the institution's continuing eligibility to participate in the  
15 reciprocity agreement and by cooperating with investigations and proceedings required pursuant  
16 to this Act and the reciprocity agreement.

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

19 The secretary of state and the attorney general shall provide information requested by the  
20 Board of Regents for the purposes of this Act.

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

23 In connection with the administration of the state authorization reciprocity agreement, the  
24 Board of Regents may establish and collect fees from participating institutions to pay necessary

1 expenses of the board's operation of the program. The board shall retain and apply the fees for  
2 those purposes.

3 Section 8. That § 13-48-34 be amended to read as follows:

4 13-48-34. The terms used in this chapter mean:

5 (1) "Accredited" or "accreditation," the status of public recognition that an accrediting  
6 agency recognized by the United States Department of Education pursuant to Title  
7 IV of the Higher Education Act of 1965 (20 U.S.C. § 1070 et seq.) as amended to  
8 January 1, 2012, grants to an institution or educational program that meets the  
9 agency's established requirements;

10 (2) "Complaint," an allegation that a postsecondary institution does not meet the  
11 requirements of this chapter; an allegation that a postsecondary institution violated  
12 chapter 37-24; or an allegation raised by a student that a postsecondary institution  
13 does not meet standards established by the institution's accrediting agency;

14 (3) "Secretary," the secretary of state;

15 (4) "Educational program," a program of organized instruction or study beyond  
16 secondary education that leads to an academic, professional, or vocational degree, or  
17 certificate, or other recognized educational credential;

18 (5) "Federal student financial assistance programs," federal student financial assistance  
19 program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C.  
20 Section 1070 et seq.), as amended to January 1, 2012;

21 (6) "Postsecondary institution," a person, business entity, nonprofit corporation or  
22 government entity that operates educational programs beyond secondary education;

23 and

24 (7) "State authorization reciprocity agreement," the reciprocity agreement between the

1           Board of Regents and the Western Interstate Commission for Higher Education  
2           authorized by this Act.

3           Section 9. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5           For the purposes of this chapter, physical location in this state, means the ongoing  
6 occupation of a physical location in South Dakota for instructional purposes or the maintenance  
7 of an administrative office to facilitate instruction. The following activities do not constitute the  
8 use of a physical location in this state: delivering of distance education courses online, through  
9 correspondence or broadcast; advertising; recruiting; contractual arrangements to acquire goods  
10 or services, including educational or examination proctoring services, with institutions or  
11 businesses physically located in South Dakota; courses delivered on military installations by an  
12 accredited institution limited to active and reserve military personnel, dependents of military  
13 personnel, and civilian employees of the military installation; field trips; operation of a server  
14 or other electronic service device; short courses (twenty classroom hours or less, or the  
15 equivalent thereof); courses for which fewer than twenty-five percent of class requirements take  
16 place in a setting where the instructor and students physically meet together; and experiential  
17 learning opportunities, such as a clinical, practicum, residency, or internship, if the offering  
18 institution has already obtained all the necessary professional and licensure approvals necessary  
19 to conduct the learning opportunity in the state, and that only ten students from each institution  
20 are physically present simultaneously at a single field site.