

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0728

SENATE EDUCATION ENGROSSED NO. **SB 191** - 2/7/2012

Introduced by: The Committee on Education at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to provide for authorization to offer postsecondary
2 education services in South Dakota.

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 terms used in this Act mean:

- 7 (1) "Accredited" or "accreditation," the status of public recognition that an accrediting
8 agency recognized by the United States Department of Education pursuant to Title
9 IV of the Higher Education Act of 1965 (20 U.S.C. § 1070 et seq.) as amended to
10 January 1, 2012, grants to an institution or educational program that meets the
11 agency's established requirements;
- 12 (2) "Complaint," an allegation that a postsecondary institution does not meet the
13 requirements of this Act; an allegation that a postsecondary institution violated
14 chapter 37-24; or an allegation raised by a student that a postsecondary institution
15 does not meet standards established by the institution's accrediting agency;



- 1 (3) "Secretary," the secretary of state;
- 2 (4) "Educational program," a program of organized instruction or study beyond
3 secondary education that leads to an academic, professional, or vocational degree, or
4 certificate, or other recognized educational credential;
- 5 (5) "Federal student financial assistance programs," federal student financial assistance
6 program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C.
7 Section 1070 et seq.), as amended to January 1, 2012;
- 8 (6) "Postsecondary institution," a person, business entity, nonprofit corporation or
9 government entity that operates educational programs beyond secondary education.

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

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

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

21 To ensure that postsecondary institutions legally operating in this state as of this date and
22 participating in the federal student financial assistance programs may comply with the state
23 authorization regulations promulgated by the United States Department of Education on
24 October 29, 2010, codified at 34 C.F.R. Section 600.9 and effective as of July 1, 2011, the

1 following postsecondary institutions are acknowledged by the Legislature as being authorized
2 to provide educational programs at physical locations in this state, subject to the provisions of
3 section 5 of this Act:

- 4 (1) Augustana College;
- 5 (2) Avera McKennan Hospital School of Radiologic Technology;
- 6 (3) Avera Sacred Heart Hospital of Radiologic Technology;
- 7 (4) Black Hills State University;
- 8 (5) Colorado Technical University;
- 9 (6) Dakota State University;
- 10 (7) Dakota Wesleyan University;
- 11 (8) Globe University;
- 12 (9) Kilian Community College;
- 13 (10) Lake Area Technical Institute;
- 14 (11) Mitchell Technical Institute;
- 15 (12) Mount Marty College;
- 16 (13) National American University;
- 17 (14) Northern State University;
- 18 (15) Presentation College;
- 19 (16) Sanford Medical Center;
- 20 (17) Sioux Falls Seminary;
- 21 (18) South Dakota School of Mines and Technology;
- 22 (19) South Dakota State University;
- 23 (20) Southeast Technical Institute;
- 24 (21) University of Sioux Falls;

1 (22) University of South Dakota; and

2 (23) Western Dakota Technical Institute.

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

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

10 (1) Is established as an instrumentality of this state, or is legally established to operate
11 as a private business entity or nonprofit corporation in accordance with applicable
12 state law; and

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

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

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

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

23 The secretary shall maintain a registry of all postsecondary institutions authorized by this
24 Act and such other postsecondary institutions for which it has issued a certificate of

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

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

9 The Office of Attorney General, Division of Consumer Protection, shall review and act on
10 complaints, as such term is defined by this Act, concerning postsecondary institutions providing
11 educational programs at physical locations in the state, including, as necessary, requiring a
12 postsecondary institution to cease its operations in the state. If a complaint relates to a
13 postsecondary institution controlled by the Board of Regents, the attorney general shall refer the
14 matter to the Board of Regents. In all other cases, the attorney general shall refer the complaint
15 to the institution and provide the institution with no less than thirty days to respond to the
16 matters set forth in the complaint, including an opportunity to demonstrate any actions it has
17 taken or plans to take in response to the complaint, and to consider whether the complainant has
18 exhausted all available administrative remedies within the institutions's policies and procedures.
19 In administering the requirements of this section, the attorney general may refer a complaint to
20 an institution's accrediting agency for review and investigation, with the accrediting agency
21 providing a report of its investigation to the attorney general for further disposition. In enforcing
22 this Act, the attorney general has all the enforcement powers, authorities, and remedies provided
23 by chapter 37-24.

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

1 follows:

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

3 (1) Established by the government of the United States;

4 (2) Established by the government of an Indian tribe whose tribal lands are located, in
5 whole or in part, in this state;

6 (3) Established by owned, controlled, operated, and maintained by a religious
7 organization lawfully operating as a nonprofit religious corporation and awarding
8 only religious degrees or certificates for the purpose of conferring clerical status or
9 authority within that religion; or

10 (4) Subject to the jurisdiction and regulations to the South Dakota Cosmetology
11 Commission.