

By the Committee on Education; and Senator Villalobos

304-2005-02

1 A bill to be entitled
2 An act relating to independent postsecondary
3 education; reenacting and amending s. 246.011,
4 F.S.; eliminating references to nonpublic
5 colleges in provisions stating legislative
6 findings and intent; conforming provisions to
7 changes made by the act; eliminating
8 legislative intent with respect to a
9 requirement for dual licensure; reenacting and
10 amending s. 246.013, F.S.; restricting
11 participation in the statewide course numbering
12 system to institutions that provide resident
13 instruction; conforming provisions to changes
14 made by the act; reenacting and amending s.
15 246.021, F.S.; providing definitions;
16 reenacting and amending s. 246.031, F.S.;
17 creating the Commission for Independent
18 Education within the Department of Education;
19 providing for administration of the commission;
20 providing for members to be appointed by the
21 Governor; providing for terms of office,
22 meetings, and accountability; reenacting and
23 amending s. 246.041, F.S.; providing for powers
24 and duties of the commission; providing
25 rulemaking authority; authorizing the
26 commission to expend funds; requiring certain
27 reports and recordkeeping; authorizing the
28 appointment of committees; providing additional
29 duties of the commission with respect to
30 administration and offices; repealing ss.
31 246.051, 246.061, 246.071, F.S., relating to

1 expenditures and rulemaking authority;
2 reenacting and amending s. 246.081, F.S.;
3 providing for licensure of institutions;
4 establishing standards; requiring licensure to
5 be based on the institution's highest
6 educational offering; creating stages of
7 licensure as approved-applicant status,
8 provisional license, and annual license;
9 restricting programs to those authorized in an
10 institution's license; prohibiting the transfer
11 of a license; prohibiting certain activities by
12 nonlicensed institutions; requiring standards
13 for the approval of agents; providing
14 requirements for students of foreign medical
15 schools; specifying that a license is not an
16 accreditation; requiring antihazing policies;
17 reenacting and amending s. 246.084, F.S.;
18 providing for licensure by means of
19 accreditation; establishing requirements;
20 authorizing continuation of an exemption until
21 a license is issued; providing for validity of
22 a license; requiring compliance with certain
23 rules governing consumer practices; providing
24 rulemaking authority; reenacting and amending
25 s. 246.085, F.S.; authorizing certain
26 institutions to be excluded from the
27 jurisdiction of the commission; providing for
28 verification of such an institution's status;
29 authorizing certain statements to verify
30 status; repealing s. 246.087, F.S., relating to
31 licensing requirements; reenacting and amending

1 s. 246.091, F.S.; establishing license periods
2 and renewal requirements; repealing s. 246.093,
3 F.S., relating to permission to operate an
4 institution; reenacting and amending s.
5 246.095, F.S.; requiring that the commission
6 adopt rules governing fair consumer practices
7 by institutions; authorizing penalties;
8 reenacting and amending s. 246.101, F.S.;
9 conforming provisions relating to fees to
10 changes made by the act; providing for proper
11 accounting of fee revenues; creating s.
12 246.103, F.S.; requiring certain procedural
13 activities related to institutions that cease
14 operations; authorizing certain civil penalties
15 and criminal investigations; requiring student
16 records to become state property under certain
17 conditions; reenacting and amending s. 246.111,
18 F.S.; providing for actions against licensees
19 and other penalties; authorizing the commission
20 to conduct certain investigations; providing
21 for injunctive relief; authorizing cease and
22 desist orders under certain circumstances;
23 authorizing investigations to determine
24 probable cause; requiring the commission to
25 adopt rules for granting review of certain
26 orders; providing for appeals; reenacting and
27 amending s. 246.121, F.S.; restricting the use
28 of the terms "college" and "university" to
29 certain entities; creating s. 246.147, F.S.;
30 authorizing the commission to require certain
31 continuing education and training programs;

1 repealing ss. 246.131, 246.141, 246.151,
2 246.201, 246.203, 246.205, 246.207, 246.211,
3 246.213, 246.215, 246.216, 246.217, 246.219,
4 246.220, 246.222, 246.2235, 246.225, 246.226,
5 246.2265, 246.227, 246.228, 246.229, 246.231,
6 246.232, 246.31, 246.50, F.S.; relating to
7 injunctive relief and penalties, provisions
8 establishing and governing the State Board of
9 Nonpublic Career Education, the Institutional
10 Assessment Trust Fund, and the Certified
11 Teacher-Aide Welfare Transition Program;
12 providing an effective date.

13

14 Be It Enacted by the Legislature of the State of Florida:

15

16 Section 1. Notwithstanding subsection (7) of section 3
17 of chapter 2000-321, Laws of Florida, section 246.011, Florida
18 Statutes, shall not stand repealed on January 7, 2003, but
19 that section is reenacted and amended to read:

20 246.011 Purpose.--

21 (1) The Legislature encourages privately supported
22 higher education and intends to aid in protecting ~~the~~
23 ~~integrity of degrees conferred by privately supported~~
24 ~~colleges. Sections 246.011-246.151 are intended to aid in~~
25 ~~protecting~~ the health, education, and welfare of persons who
26 receive educational services from independent postsecondary
27 educational institutions ~~and degrees from nonpublic colleges~~
28 in this state; to aid in protecting employers and others who
29 depend upon people whose educational credentials are from
30 independent postsecondary educational institutions ~~nonpublic~~
31 ~~colleges~~ in this state; and to aid in protecting independent

1 postsecondary educational institutions ~~nonpublic colleges~~ that
2 currently operate or intend to begin operating in this state.
3 The Legislature finds that both individuals and independent
4 postsecondary educational institutions ~~colleges~~ benefit from a
5 state system that assures that all institutions ~~nonpublic~~
6 ~~colleges~~ satisfactorily meet minimum educational standards.
7 The Legislature further recognizes the role of federally
8 recognized ~~regional~~ accrediting associations in setting
9 standards for independent postsecondary educational
10 institutions ~~colleges and universities~~ and encourages the use
11 of recognized accreditation ~~the standards of regional~~
12 ~~accrediting associations~~ as general guidelines for the
13 licensure ~~licensing~~ of independent postsecondary educational
14 institutions ~~nonpublic colleges~~.

15 (2) The Legislature recognizes that a degree, diploma,
16 or other educational credential serves several purposes.
17 Employers rely upon a person's educational credentials ~~degree~~
18 in judging that person's ~~individual's~~ qualifications for
19 employment. Educators rely upon a person's educational
20 credentials ~~degree~~ to assess the adequacy of that person's
21 ~~individual's~~ preparation for the pursuit of further education.
22 Therefore, the Legislature intends that the provisions of this
23 chapter ~~ss. 246.011-246.151~~ aid in protecting the integrity of
24 degrees, diplomas, and other educational credentials ~~degrees~~
25 offered by independent postsecondary educational institutions
26 ~~nonpublic colleges~~ by providing for the evaluation of minimum
27 educational requirements.

28 ~~(3) It is the intent of the Legislature that a~~
29 ~~nonpublic college which offers both degrees and vocational~~
30 ~~certificates or diplomas shall be subject to the rules of the~~
31 ~~State Board of Independent Colleges and Universities as~~

1 ~~provided by ss. 246.011-246.151 and the State Board of~~
2 ~~Nonpublic Career Education as provided by ss. 246.201-246.231.~~

3 (3)(4) ~~It is the intent of~~ The Legislature intends to
4 prohibit the granting of false or misleading educational
5 credentials and to prohibit misleading literature,
6 advertising, solicitation, or representations by independent
7 postsecondary educational institutions ~~nonpublic colleges~~ or
8 their agents.

9 Section 2. Notwithstanding subsection (7) of section 3
10 of chapter 2000-321, Laws of Florida, section 246.013, Florida
11 Statutes, shall not stand repealed on January 7, 2003, but
12 that section is reenacted and amended to read:

13 246.013 Participation in the statewide ~~common~~ course
14 ~~designation and~~ numbering system.--

15 (1) Licensed independent postsecondary educational
16 institutions that are institutionally ~~Nonpublic colleges and~~
17 ~~schools that have been issued a regular license pursuant to s.~~
18 ~~246.081(2), or nonpublic postsecondary colleges that are~~
19 ~~exempt from state licensure pursuant to s. 246.085(1)(a) and~~
20 ~~that are fully accredited by an a regional or national~~
21 ~~accrediting agency recognized by the United States Department~~
22 ~~of Education to provide resident instruction,~~ may participate
23 in the statewide ~~common~~ course ~~designation and~~ numbering
24 system pursuant to s. 229.551. Participating colleges and
25 schools shall bear the costs associated with inclusion in the
26 system and shall meet the terms and conditions for
27 institutional participation in the system. The department
28 shall adopt a fee schedule that includes the expenses incurred
29 through data processing, faculty task force travel and per
30 diem, and staff and clerical support time. The ~~Such~~ fee
31 schedule may differentiate between the costs associated with

1 initial course inclusion in the system and costs associated
2 with subsequent course maintenance in the system. A nonprofit
3 institution that is eligible to participate in the statewide
4 course numbering system is not required to pay the costs
5 associated with participation. Fees collected for
6 participation in the common course designation and numbering
7 system shall be deposited in the Institutional Assessment
8 Trust Fund. Decisions regarding initial course inclusion and
9 subsequent course maintenance must be made within 360 days
10 after submission of the required materials and fees by the
11 institution. The Department of Education may select a date by
12 which institutions ~~colleges~~ must submit requests for new
13 courses to be included, and may delay review of courses
14 submitted after that date until the next year's cycle. ~~Any~~
15 ~~college that currently participates in the system, and that~~
16 ~~participated in the system prior to July 1, 1986, shall not be~~
17 ~~required to pay the costs associated with initial course~~
18 ~~inclusion in the system. Fees collected for participation in~~
19 ~~the common course designation and numbering system pursuant to~~
20 ~~the provisions of this section shall be deposited in the~~
21 ~~Institutional Assessment Trust Fund created by s. 246.31. Any~~
22 ~~nonpublic, nonprofit college or university that is eligible to~~
23 ~~participate in the common course designation and numbering~~
24 ~~system shall not be required to pay the costs associated with~~
25 ~~participation in the system.~~

26 (2) An independent postsecondary educational
27 institution may not ~~No college or school shall~~ record student
28 transcripts or document courses offered by the college or
29 school in accordance with this section unless the college or
30 school is actually participating in the system pursuant to
31 rules of the State Board of Education. Any independent

1 postsecondary educational institution that violates ~~college or~~
2 ~~school deemed to be in violation of this section~~ is subject to
3 actions against its license as authorized by law ~~shall be~~
4 ~~subject to the provisions of s. 246.111 or s. 246.228.~~

5 Section 3. Notwithstanding subsection (7) of section 3
6 of chapter 2000-321, Laws of Florida, section 246.021, Florida
7 Statutes, shall not stand repealed on January 7, 2003, but
8 that section is reenacted and amended to read:

9 (Substantial rewording of section. See
10 s. 246.021, F.S., for present text.)

11 246.021 Definitions.--As used in this chapter, the
12 term:

13 (1) "Accreditation" means accredited status awarded to
14 an institution by an accrediting agency or association that is
15 recognized by the United States Department of Education and
16 that has standards comparable to the minimum standards
17 required to operate an educational institution at that level
18 in this state.

19 (2) "Agent" means a person who is employed by an
20 independent postsecondary educational institution under the
21 jurisdiction of the Commission for Independent Education, or
22 by an out-of-state independent postsecondary educational
23 institution, and who secures an application or accepts payment
24 of fees from prospective students for the institution at any
25 place other than the legal place of business of the
26 institution.

27 (3) "Avocational" means a course or program the
28 objective of which is not occupational but is only for
29 personal enrichment or enjoyment. To be classified as
30 avocational, a program must:

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1 (a) Prior to enrollment, provide to each enrollee, and
2 maintain a record copy of, a written statement that includes
3 the following or substantially similar language: "This program
4 is not designed or intended to qualify its participants and
5 graduates for employment. It is intended solely for the
6 avocation, personal enrichment, and enjoyment of its
7 participants."

8 (b) Not make any other verbal or written statement
9 that negates the required written statement by stating or
10 implying that people who enroll in or complete the program
11 have a more substantial likelihood of obtaining employment in
12 the field to which the training pertains than people who do
13 not.

14 (4) "College" or "university" means any incorporated
15 postsecondary educational entity, and its additional
16 locations, offering a substantially complete program that
17 confers or offers to confer at least an associate degree
18 requiring at least 15 semester hours or the equivalent of
19 general education, or that furnishes or offers to furnish
20 instruction leading toward, or prerequisite to, college
21 credit. The terms include any college-credit-granting
22 independent educational institution that is chartered in this
23 state and any center or branch campus within this state of an
24 out-of-state institution at the college-credit level.

25 (5) "Commission" or "board" means the Commission for
26 Independent Education.

27 (6) "Contract training" means instruction or training
28 provided through a written contract with an independent
29 contractor whose fees and any other charges are entirely paid
30 by a company, trade or professional association, or group of
31 employers to provide the instruction exclusively to bona fide

1 employees of the entity that engaged the contractor. The term
2 applies only when those receiving training are selected by
3 their employer and are not recruited by the contractor.

4 (7) "Degree" means any educational credential that is
5 generally taken to signify satisfactory completion of the
6 requirements of an undergraduate, graduate, academic,
7 educational, or professional program of study or any honorary
8 credential conferred for meritorious recognition. At the
9 undergraduate level, an institution may not award a degree for
10 a program unless it includes a general education component as
11 established by rule and at least 60 semester hours or 90
12 quarter hours of study or the equivalent.

13 (8) "Diploma" means a credential that is not a degree
14 but is any of the following: a certificate, transcript,
15 report, document, or title; a designation, mark, or
16 appellation; or a series of letters, numbers, or words that
17 generally are taken to signify satisfactory completion of the
18 requirements of an educational, technical, or vocational
19 program of study or training or course of study.

20 (9) "Examination preparation course" means a course or
21 program that does not offer to confer a diploma, that is
22 offered by a person or entity that discloses in all
23 advertising that the course or program is for test
24 preparation, and that does not include any expression or
25 implication in writing or orally regarding salaries, job
26 placement, or career advancement.

27 (10) "Governmental" means an institution provided,
28 operated, and supported by a federal, state, or county
29 government or any of its political subdivisions.

30 (11) "Independent postsecondary educational
31 institution" means any postsecondary educational institution

1 that operates in this state or makes application to operate in
2 this state, and is not provided, operated, and supported by
3 the State of Florida, its political subdivisions, or the
4 Federal Government.

5 (12) "In-service, continuing education, or
6 professional development" means training provided by:

7 (a) A trade or professional association or a group of
8 employers in the same or related business who offer training
9 and provide only professional-development programs to bona
10 fide employees or contractors of an employer who is a member
11 of the association or employers who qualify for membership;

12 (b) A labor union or group of labor unions that offer
13 training to and trains only those persons who are dues-paying
14 members of the participating labor union;

15 (c) An independent contractor engaged by the labor
16 union or group of labor unions, by written contract, to
17 provide the training on its behalf exclusively to those who
18 are selected by the labor union or group of labor unions that
19 engaged the contractor and who are dues-paying members of that
20 union; or

21 (d) A person or entity offering only
22 continuing-education programs to persons who engage in an
23 occupation or profession whose practitioners are subject to
24 licensure, certification, or registration by a state agency
25 that recognizes the programs for continuing-education purposes
26 and provides a written statement of the recognition.

27 (13) "License" means a certificate signifying that an
28 independent postsecondary educational institution meets
29 standards prescribed in statute or rule and is permitted to
30 operate in this state.

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1 (14) "Operating in this state" means any of the
2 following:

3 (a) Maintaining for any purpose related to offering a
4 degree, diploma, or credit a physical location in this state,
5 a mailing address in this state, a telephone or facsimile
6 number in this state, or a mail forwarding service or
7 telephone answering or relay service in this state or
8 advertising any such presence; or

9 (b) By any means or device, facilitating in this state
10 any part of a scheme to offer a degree, diploma, or credit, or
11 any activity connected with the administration, promotion,
12 recruitment, placement, instruction, fee collection or
13 receipt, or any other function of a purported independent
14 postsecondary educational institution, other than periodic and
15 customary contact with the institution's own alumni.

16 (15) "Out-of-state college" or "out-of-state school"
17 means any independent postsecondary educational institution
18 where the place of instruction, the legal place of residence,
19 or the place of evaluation of instruction or work by
20 correspondence or distance education is not within the legal
21 boundaries of this state.

22 (16) "School" means any nonpublic postsecondary
23 noncollegiate educational institution, association,
24 corporation, person, partnership, or organization of any type
25 which:

26 (a) Offers to provide or provides any complete, or
27 substantially complete, postsecondary program of instruction
28 through the student's personal attendance; in the presence of
29 an instructor; in a classroom, clinical, or other practicum
30 setting; or through correspondence or other distance
31 education;

1 (b) Represents, directly or by implication, that the
2 instruction will qualify the student for employment in an
3 occupation for which a degree is not required in order to
4 practice in this state;

5 (c) Receives remuneration from the student or any
6 other source based on the enrollment of a student or the
7 number of students enrolled; or

8 (d) Offers to award or awards a diploma, regardless of
9 whether it conducts instruction or receives remuneration.

10 Section 4. Notwithstanding subsection (7) of section 3
11 of chapter 2000-321, Laws of Florida, section 246.031, Florida
12 Statutes, shall not stand repealed on January 7, 2003, but
13 that section is reenacted and amended to read:

14 (Substantial rewording of section. See
15 s. 246.031, F.S., for present text.)

16 246.031 Commission for Independent Education.--

17 (1) There is established in the Department of
18 Education the Commission for Independent Education. The
19 department shall serve as the administrative agent of the
20 commission by providing services, including payroll,
21 procurement, and legal counsel. The commission shall exercise
22 independently all powers, duties, and functions prescribed by
23 law. The commission shall authorize the granting of diplomas
24 and degrees by any independent postsecondary educational
25 institution under its jurisdiction.

26 (2) The Commission for Independent Education shall
27 consist of seven members who are residents of this state. The
28 commission shall function in matters concerning independent
29 postsecondary education institutions in consumer protection,
30 program improvement, and licensure for institutions under its
31 purview. The Governor shall appoint the members of the

1 commission who are subject to confirmation by the Senate. The
2 membership of the commission shall consist of:

3 (a) Two representatives of independent colleges or
4 universities licensed by the commission.

5 (b) Two representatives of independent,
6 nondegree-granting schools licensed by the commission.

7 (c) One member from a public school district or
8 community college who is an administrator of
9 vocational-technical education.

10 (d) Two lay members who are not affiliated with an
11 independent postsecondary educational institution.

12 (3) The members of the commission shall be appointed
13 to 3-year terms and until their successors are appointed and
14 qualified. If a vacancy on the commission occurs before the
15 expiration of a term, the Governor shall appoint a successor
16 to serve the unexpired portion of the term.

17 (4) The commission shall meet at least four times each
18 fiscal year.

19 (5) Members of the commission are entitled to
20 reimbursement for travel and per diem expenses, as provided in
21 s. 112.061, Florida Statutes, while performing their duties.

22 (6) Each member is accountable to the Governor for the
23 proper performance of the duties of his or her office. The
24 Governor may remove from office any member for cause.

25 Section 5. Notwithstanding subsection (7) of section 3
26 of chapter 2000-321, Laws of Florida, section 246.041, Florida
27 Statutes, shall not stand repealed on January 7, 2003, but
28 that section is reenacted and amended to read:

29 246.041 Powers and duties of commission ~~board~~.--

30 (1) The commission ~~board~~ shall:

31

1 (a) Hold meetings as necessary to administer its
2 duties ~~the provisions of ss. 246.011-246.151.~~

3 (b) Annually select ~~annually~~ a chairperson and a vice
4 chairperson, appoint and review an executive director, and
5 authorize the executive director to appoint employees of the
6 commission.

7 (c) Adopt and use an official seal in the
8 authentication of its acts.

9 (d) Make rules for its own governance.

10 ~~(e) Adopt rules pursuant to ss. 120.536(1) and 120.54~~
11 ~~to implement provisions of law conferring duties upon it.~~

12 ~~(f) Authorize an individual, or a designated group of~~
13 ~~individuals, to represent one or more nonpublic colleges in~~
14 ~~appearances before the board on official matters if each~~
15 ~~college agrees formally to designate the individual or group~~
16 ~~of individuals to represent it.~~

17 ~~(e)(g)~~ Administer the provisions of this chapter ss.
18 246.011-246.151. To this end, the commission has the following
19 administrative powers and responsibilities:

20 1. The commission shall adopt rules pursuant to ss.
21 120.536(1) and 120.54 for the operation and establishment of
22 independent postsecondary educational institutions. The
23 commission shall submit the rules to the State Board of
24 Education for approval or disapproval. If the state board does
25 not act on a rule within 60 days after receiving it, the rule
26 shall be filed immediately with the Department of State.

27 2. The commission shall expend funds as necessary to
28 assist in the application and enforcement of its powers and
29 duties. The Chief Financial Officer shall pay out all moneys
30 and funds as directed under this chapter upon vouchers
31 approved by the Department of Education for all lawful

1 purposes necessary to administering this chapter. The
2 commission shall make annual reports to the Governor showing
3 in detail amounts received and all expenditures. All fees,
4 donations, or other receipts of money shall be paid into the
5 Institutional Assessment Trust Fund, and the funds
6 appropriated for the purposes of this chapter shall be from
7 the Institutional Assessment Trust Fund and other state fund
8 sources as appropriate, based on an appropriate budget
9 approved by the commission and submitted to the Legislature
10 through the Governor in accordance with chapter 216. The
11 commission shall include in its annual report to the Governor
12 a statement of its major activities during the period covered
13 by the report.

14 ~~(h) Appoint, on the recommendation of its chairperson,~~
15 ~~executives, deputies, clerks, and employees of the board.~~

16 ~~(f)(i)~~ Maintain a record of its proceedings.

17 ~~(g)(j)~~ Cooperate with other state and federal agencies
18 and other nongovernmental agencies in administering its duties
19 ~~the provisions of ss. 246.011-246.151.~~

20 ~~(k) Prepare an annual budget.~~

21 ~~(h)(l)~~ Cause to be investigated criminal justice
22 information, as defined in s. 943.045, for each owner,
23 administrator, and agent employed by an institution applying
24 for licensure from the commission.~~Transmit all fees,~~
25 ~~donations, or other receipts of money through the Department~~
26 ~~of Education to be deposited in the Institutional Assessment~~
27 ~~Trust Fund created by s. 246.31.~~

28 ~~(i)(m)~~ Transmit to the Governor, the Commissioner of
29 Education, the Speaker of the House of Representatives, and
30 the President of the Senate an annual report,~~which shall~~
31 ~~include, but not be limited to:~~

- 1 ~~1. An accounting of all funds received and expended.~~
- 2 ~~2. The number of complaints received, the number of~~
3 ~~complaints investigated by the board, and the number of~~
4 ~~complaints forwarded to the appropriate accrediting agency for~~
5 ~~action, by college and type of complaint. The report shall~~
6 ~~include a summary of the actions taken by the accrediting~~
7 ~~agency following receipt of the complaint.~~
- 8 ~~3. The number of findings of probable cause.~~
- 9 ~~4. A description of disciplinary actions taken, by~~
10 ~~statutory classification.~~
- 11 ~~5. A description of all administrative hearings and~~
12 ~~court actions.~~
- 13 ~~6. A description of the board's major activities~~
14 ~~during the previous year.~~
- 15 (j)(n) Serve as a central agency for collecting and
16 distributing current information regarding institutions
17 colleges licensed by the commission board and colleges granted
18 a certificate of exemption by the board.
- 19 ~~1. The board shall annually collect information~~
20 ~~relating to the college administration, calendar system,~~
21 ~~admissions requirements, student costs and financial~~
22 ~~obligations, financial aid information, refund policy,~~
23 ~~placement services, degree programs, and off-campus academic~~
24 ~~programs. To the extent that such information is available in~~
25 ~~the institution's current catalog, a copy of the catalog~~
26 ~~accompanied by an index indicating where the information may~~
27 ~~be found shall be sufficient to demonstrate compliance with~~
28 ~~this provision. Financial information of a strictly~~
29 ~~proprietary, commercial nature is excluded from this~~
30 ~~requirement.~~
- 31

1 ~~2. The board shall annually collect information on~~
2 ~~students, faculty, and degrees awarded. To the extent that~~
3 ~~data submitted to the Federal Government for compilation into~~
4 ~~the Integrated Postsecondary Education Data System (IPEDS)~~
5 ~~provide the information required pursuant to this paragraph,~~
6 ~~submission to the board of copies of such reports shall be~~
7 ~~sufficient to demonstrate compliance with this provision.~~

8 ~~3. The board shall collect annually from each college~~
9 ~~a descriptive inventory of consumer practices including:~~

10 ~~a. A description of the college's policies and~~
11 ~~procedures regarding the recruitment and admission of~~
12 ~~students.~~

13 ~~b. The sources and kinds of student financial~~
14 ~~assistance available, and the specific manner by which~~
15 ~~students are informed of their responsibilities with respect~~
16 ~~to receiving assistance and repaying loans.~~

17 ~~c. The placement assistance provided by the college,~~
18 ~~including any claims concerning job placement rates.~~

19 ~~d. All advertising issued on behalf of the college,~~
20 ~~including copies of all published items.~~

21 ~~e. A copy of the college's refund policy. Such refund~~
22 ~~policy shall provide students with a minimum of 3 working days~~
23 ~~from the date a student signs an enrollment contract or~~
24 ~~financial agreement with a college for the student to cancel~~
25 ~~the contract and receive a full refund of any tuition or~~
26 ~~registration fees paid. This provision of the refund policy~~
27 ~~shall be prominently displayed on the contract form. The~~
28 ~~refund policy shall also provide for a full refund of tuition~~
29 ~~and registration fees paid by the student prior to the~~
30 ~~commencement of instruction if the student submits a written~~

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1 ~~request to the institution within 3 working days of the~~
2 ~~payment.~~

3 ~~f. Evidence that the college has provided students~~
4 ~~with a clear and specific statement regarding the~~
5 ~~transferability of credits to and from other colleges.~~

6
7 ~~To the extent that such information is available in the~~
8 ~~institution's current catalog, a copy of the catalog~~
9 ~~accompanied by an index indicating where the information may~~
10 ~~be found shall be sufficient to demonstrate compliance with~~
11 ~~this provision.~~

12 ~~4. The board shall annually provide to each college~~
13 ~~the format, definitions, and instructions for submitting the~~
14 ~~required information.~~

15 ~~5. Each college shall include with the information~~
16 ~~submitted a letter of certification, signed by its chief~~
17 ~~administrative officer, affirming that the information~~
18 ~~submitted is accurate, that the policies reported are provided~~
19 ~~in writing to all prospective students at least 1 week prior~~
20 ~~to enrollment or collection of tuition fees, and that the~~
21 ~~college observes the policies and practices as reported to the~~
22 ~~board.~~

23 ~~6. The board shall include a summary of the~~
24 ~~information collected in the annual report to the Governor,~~
25 ~~the Speaker of the House of Representatives, and the President~~
26 ~~of the Senate. This information may also be used by the~~
27 ~~Department of Education for such purposes as statewide master~~
28 ~~planning, state financial aid programs, and publishing~~
29 ~~directories; by the Legislature; and to respond to consumer~~
30 ~~inquiries received by the board.~~

31

1 ~~7. If a college fails to provide the information~~
2 ~~required by the board under this paragraph, the board may~~
3 ~~impose a fine for every month the information is not made~~
4 ~~available. Repeated failure to supply the information required~~
5 ~~by this paragraph or to pay the fines imposed by the board may~~
6 ~~result in the revocation of the license or certificate of~~
7 ~~exemption. The board shall adopt rules for these actions.~~

8 ~~(k)(o)~~ Inform independent postsecondary educational
9 institutions of laws ~~Advise nonpublic colleges of policies~~
10 adopted by the Legislature and rules adopted by the commission
11 and of their responsibility to follow those laws and rules
12 ~~such policies.~~

13 ~~(l)(p)~~ Establish and publicize the procedures for
14 receiving and responding to complaints from students, faculty,
15 and others concerning institutions or programs under the
16 purview of the commission, and keep records of such complaints
17 in order to determine the frequency and nature of complaints
18 with respect to specific institutions of higher education.
19 ~~Forward complaints against colleges which hold a certificate~~
20 ~~of exemption by virtue of accreditation to the college and~~
21 ~~appropriate accrediting agency for action. The board shall~~
22 ~~request that the college and accrediting agency inform the~~
23 ~~board of any and all actions taken in response to the~~
24 ~~complaint.~~

25 ~~(q)~~ ~~To ensure comparability with licensure standards,~~
26 ~~review at least biennially the accreditation standards of~~
27 ~~agencies listed in s. 246.085(1)(a), and upon request and~~
28 ~~payment of an initial review fee, other accrediting agencies~~
29 ~~recognized by the United States Department of Education.~~

30 ~~(r)~~ ~~Provide information and documentation on an annual~~
31 ~~basis to the Office of Student Financial Assistance of the~~

1 ~~Department of Education regarding the requirements set forth~~
2 ~~for nonpublic colleges in s. 240.605, relating to William L.~~
3 ~~Boyd, IV, Florida resident access grants, and s. 240.609,~~
4 ~~relating to Florida postsecondary endowment grants.~~

5 ~~(s) Cooperate with the Board of Regents and the~~
6 ~~Department of Education, pursuant to s. 240.53, in~~
7 ~~establishing one or more approved postdoctoral training~~
8 ~~programs to train currently employed college or university~~
9 ~~faculty to deliver postsecondary courses, inservice training~~
10 ~~programs, and technical assistance related to middle childhood~~
11 ~~education programs.~~

12 ~~(m)(t)~~ Provide annually to the Office of State-Funded
13 Student Financial Assistance of the Department of Education
14 information and documentation that which can be used to
15 determine an institution's in determining a college's
16 eligibility to participate in state-funded state student
17 financial assistance programs.

18 ~~(n)(u)~~ Coordinate and convey annual reports to the
19 Commissioner of Education relating to campus crime statistics,
20 ~~for nonpublic colleges, pursuant to s. 240.2683, and on the~~
21 assessment of physical plant safety, and the antihazing
22 policies of nonpublic postsecondary educational institutions
23 eligible to receive state-funded student assistance, as
24 required by law pursuant to s. 240.2684.

25 ~~(o)(v)~~ Appoint a member ~~two representatives~~ to the
26 board of directors of the Florida Education Fund, as required
27 by law pursuant to s. 240.498.

28 ~~(p)(w)~~ Identify and report to the Office of
29 State-Funded Student Assistance the accrediting associations
30 recognized by the United States Department of Education which
31 have standards that are comparable to the minimum standards

1 required to operate an institution at that level in this
2 state.~~Affirm, on an annual basis, that all nonpublic colleges~~
3 ~~whose students are eligible to receive state student financial~~
4 ~~assistance have adopted and implemented a written antihazing~~
5 ~~policy, pursuant to s. 240.1325.~~

6 (q) Assure that an institution is not required to
7 operate without a current license because of the schedule of
8 commission meetings or application procedures, if the
9 institution has met the commission's requirements for
10 licensure or license renewal.

11 (2) The commission board may:

12 (a) Sue or be sued.

13 (b) Enter into contracts with the Federal Government,
14 with other departments of the state, or with individuals.

15 (c) Receive bequests and gifts, subject to any
16 restrictions upon which the commission board and the donor
17 agree.

18 (d) Appoint standing or special committees to assist
19 it in carrying out its responsibilities. Committees may
20 include members who are not commission members or
21 representatives of licensed postsecondary institutions.

22 ~~developing rules; in determining the qualifications required~~
23 ~~of a college endeavor; in evaluating applications for~~
24 ~~temporary, provisional, or regular licensure, certificates of~~
25 ~~exemption, or requests for authorization; in evaluating~~
26 ~~reports submitted by colleges; or in legislative or other~~
27 ~~matters. Special committees may be appointed to advise the~~
28 ~~board or to conduct onsite evaluation visits at colleges.~~

29 (e) Advise the Governor, the Legislature, the State
30 Board of Education, the Council for Education Policy Research
31 and Improvement ~~Postsecondary Education Planning Commission,~~

1 and the Commissioner of Education on issues relating to
2 private postsecondary education.

3 (f) Delegate to the chairperson of the board the
4 responsibility for signing final orders.

5 ~~(g) Following evaluation by the board, recommend to~~
6 ~~the Legislature any changes to the accrediting associations~~
7 ~~included in s. 246.085(1)(a). Accrediting associations~~
8 ~~included in s. 246.085(1)(a) shall be United States Department~~
9 ~~of Education recognized accrediting associations whose~~
10 ~~standards are comparable with state licensing standards.~~

11 (g)(h) Assist independent postsecondary educational
12 institutions nonpublic colleges in formulating articulation
13 agreements with public and other independent institutions
14 colleges and universities.

15 (h) Establish and operate additional offices in the
16 central and southern part of the state if the concentration of
17 licensed institutions renders such an office economically
18 feasible.

19 (i) Establish and administer the Student Protection
20 Fund as provided by law.

21 Section 6. Sections 246.051, 246.061, 246.071, Florida
22 Statutes, are repealed.

23 Section 7. Notwithstanding subsection (7) of section 3
24 of chapter 2000-321, Laws of Florida, section 246.081, Florida
25 Statutes, shall not stand repealed on January 7, 2003, but
26 that section is reenacted and amended to read:

27 (Substantial rewording of section. See
28 s. 246.081, F.S., for present text.)
29 246.081 Licensure of institutions.--

30 (1) Each college or school operating within this state
31 must obtain licensure from the commission unless the

1 institution is not under the commission's purview or
2 jurisdiction as provided in s. 246.085.

3 (2) The commission shall develop minimum standards by
4 which to evaluate institutions for licensure. These standards
5 must include at least the institution's name, financial
6 stability, purpose, administrative organization, admissions
7 and recruitment, educational programs and curricula,
8 retention, completion, career placement, faculty, learning
9 resources, student personnel services, physical plant and
10 facilities, publications, and disclosure statements about the
11 status of the institution with respect to professional
12 certification and licensure. The commission may adopt rules to
13 ensure that institutions licensed under this section meet
14 these standards in ways that are appropriate to achieve the
15 stated intent of this chapter, including provisions for
16 nontraditional or distance education programs and delivery.

17 (3) The commission shall recognize an institution
18 based on the institution's highest educational offering and
19 shall adopt rules for licensure that include reporting
20 requirements for each level of licensure.

21 (4) Approved-applicant status shall be extended to all
22 institutions that have submitted a complete application, as
23 defined in rule, for provisional licensure and paid all
24 attendant fees. In granting approved-applicant status, the
25 commission shall provide to commission staff and the
26 institution a list of specific omissions or deficiencies.
27 Institutions granted approved-applicant status may not
28 advertise, offer programs of study, collect tuition or fees,
29 or engage in any other activities not specifically approved by
30 the commission. If the commission, or the commission staff if
31 specifically directed by the commission, determines that the

1 omissions or deficiencies have been provided for or corrected,
2 the institution may be awarded a provisional license.

3 (5) Provisional licensure shall be granted to an
4 applicant for initial licensure for a period not to exceed 1
5 year when the commission determines that the applicant is in
6 substantial compliance with the standards for licensure. A
7 provisional license granted for initial licensure may be
8 extended for up to 1 additional year. A licensed institution
9 that has undergone a substantive change, as defined by rule,
10 must be granted a provisional license for a period of time
11 determined by the commission, after which period the
12 institution may apply for a different status. A provisional
13 license may include conditions required by the commission, and
14 all conditions must be met before the institution may receive
15 a different licensure status.

16 (6) An annual license shall be granted to an
17 institution holding a provisional license, or seeking a
18 renewal of an annual license, upon demonstrating full
19 compliance with licensure standards. An annual license may be
20 extended for up to 1 year if the institution meets the
21 requirements set by rule for such an extension.

22 (7) An institution may not conduct a program unless
23 specific authority is granted in its license.

24 (8) A license granted by the commission is not
25 transferable to another institution or to another agent, and
26 an institution's license does not transfer when the
27 institution's ownership changes.

28 (a) A licensed institution must notify the commission
29 prior to a change of ownership or control. The commission
30 shall adopt procedures for interim executive approval of a
31 change of ownership or control if the next scheduled meeting

1 of the commission occurs after the scheduled date of the
2 change of ownership or control.

3 (b) The commission may adopt rules governing changes
4 of ownership or control.

5 (9) An independent postsecondary educational
6 institution or any person acting on behalf of such an
7 institution may not publish any advertisement soliciting
8 students or offering a credential before the institution is
9 duly licensed by the commission or while the institution is
10 under an injunction against operating, soliciting students, or
11 offering an educational credential.

12 (10) The commission shall establish minimum standards
13 for the approval of agents. The commission may adopt rules to
14 ensure that licensed agents meet these standards and uphold
15 the intent of this chapter. An agent may not solicit
16 prospective students in this state for enrollment in any
17 independent postsecondary educational institution under the
18 commission's purview or in any out-of-state independent
19 postsecondary educational institution unless the agent has
20 received a license as prescribed by the commission.

21 (11) A student of a foreign medical school may not
22 engage in a clinical clerkship in this state unless the
23 foreign medical school has received a license, in the case of
24 a core clerkship or an ongoing regular program of clerkships,
25 or has received individual approval, in the case of an
26 occasional elective clerkship. The commission may adopt rules
27 to administer this subsection.

28 (12) The granting of a license is not an
29 accreditation.

30
31

1 (13) As a condition of licensure, an independent
2 college or university must provide the commission with a copy
3 of its antihazing policy.

4 Section 8. Notwithstanding subsection (7) of section 3
5 of chapter 2000-321, Laws of Florida, section 246.084, Florida
6 Statutes, shall not stand repealed on January 7, 2003, but
7 that section is reenacted and amended to read:

8 (Substantial rewording of section. See
9 s. 246.084, F.S., for present text.)

10 246.084 Licensure by means of accreditation.--

11 (1) An independent postsecondary educational
12 institution that meets the following criteria may apply for a
13 license by means of accreditation from the commission:

14 (a) The institution has operated legally in this state
15 for at least 5 consecutive years.

16 (b) The institution holds institutional accreditation
17 by an accrediting agency evaluated and approved by the
18 commission as having standards substantially equivalent to the
19 commission's licensure standards.

20 (c) The institution has no unresolved complaints or
21 actions in the past 12 months.

22 (d) The institution meets minimum requirements for
23 financial responsibility as determined by the commission.

24 (e) The institution is a Florida corporation.

25 (2) An institution that was exempt from licensure in
26 2001 under s. 246.085(1)(a) may retain an exemption until the
27 commission issues it a license by means of accreditation as
28 provided in this section.

29 (3) The commission may not require an institution
30 granted a license by means of accreditation to submit reports
31 that differ from the reports required by its accrediting

1 association, except that each institution must file with the
2 commission an annual audit and follow the commission's
3 requirements for orderly closing, including provisions for
4 trainout or refunds and arranging for the proper disposition
5 of student and institutional records.

6 (4) An institution granted a license by means of
7 accreditation must apply for and receive another level of
8 licensure before the institution may offer courses or programs
9 that exceed the scope or level of its accreditation.

10 (5) Institutions granted a license by means of
11 accreditation must comply with the standards of fair consumer
12 practices as established in rule by the commission.

13 (6) A license by means of accreditation is valid for
14 the same period as the qualifying grant of accreditation.

15 (7) A license by means of accreditation may be denied,
16 placed on probation, or revoked for repeated failure to comply
17 with the requirements of this section. The commission shall
18 adopt rules for these actions. Revocation or denial of a
19 license by means of accreditation requires that the
20 institution immediately obtain an annual license.

21 Section 9. Notwithstanding subsection (7) of section 3
22 of chapter 2000-321, Laws of Florida, section 246.085, Florida
23 Statutes, shall not stand repealed on January 7, 2003, but
24 that section is reenacted and amended to read:

25 (Substantial rewording of section. See
26 s. 246.085, F.S., for present text.)

27 246.085 Institutions not under the jurisdiction or
28 purview of the commission.--The following institutions are not
29 under the jurisdiction or purview of the commission and are
30 not required to obtain licensure:

31

1 (1) Any postsecondary educational institution
2 provided, operated, or supported by this state, its political
3 subdivisions, or the Federal Government.

4 (2) Any college, school, or course licensed or
5 approved for establishment and operation under part I of
6 chapter 464, chapter 466, or chapter 475, or any other chapter
7 of the Florida Statutes requiring licensing or approval as
8 defined in this chapter.

9 (3) Any institution that is under the jurisdiction of
10 the Division of Colleges and Universities of the Department of
11 Education, whose students are eligible for the William L.
12 Boyd, IV, Florida Resident Access Grant, and that is a
13 nonprofit independent college or university located and
14 chartered in this state and accredited by the Commission on
15 Colleges of the Southern Association of Colleges and Schools
16 to grant baccalaureate degrees.

17 (4) Any institution that offers only avocational
18 programs or courses, examination-preparation programs or
19 courses, contract training programs or courses, continuing
20 education, or professional-development programs or courses.

21 (5) Any institution that was exempt from licensure in
22 2001 under s. 246.085(1)(b) as long as it maintains these
23 qualifying criteria: the institution is incorporated in this
24 state, the institution's credits or degrees are accepted for
25 credit by at least three colleges that are fully accredited by
26 an agency recognized by the United States Department of
27 Education, the institution was exempt under that category
28 prior to July 1, 1982, and the institution does not enroll any
29 students who receive state or federal financial aid for
30 education. Such an institution shall notify the commission and
31 apply for licensure if it no longer meets these criteria.

1 (6) A religious college may operate without
2 governmental oversight if the college annually verifies by
3 sworn affidavit to the commission that:

4 (a) The name of the institution includes a religious
5 modifier or the name of a religious patriarch, saint, person,
6 or symbol of the church.

7 (b) The institution offers only educational programs
8 that prepare students for religious vocations as ministers,
9 professionals, or laypersons in the categories of ministry,
10 counseling, theology, education, administration, music, fine
11 arts, media communications, or social work.

12 (c) The titles of degrees issued by the institution
13 cannot be confused with secular degree titles. For this
14 purpose, each degree title must include a religious modifier
15 that immediately precedes, or is included within, any of the
16 following degrees: Associate of Arts, Associate of Science,
17 Bachelor of Arts, Bachelor of Science, Master of Arts, Master
18 of Science, Doctor of Philosophy, and Doctor of Education. The
19 religious modifier must be placed on the title line of the
20 degree and on the transcript.

21 (d) The duration of all degree programs offered by the
22 institution is consistent with the standards of the
23 commission.

24 (e) The institution meets the following requirements
25 for consumer protection:

26 1. The policies and practices regarding recruitment
27 and admissions of students are available to students and
28 factual.

29 2. Information provided to students about the
30 availability of financial assistance is factual and
31 accompanied by equally factual information about student

1 responsibility for receiving assistance and repayment of
2 loans.

3 3. Claims concerning job-placement rates are accurate
4 and capable of documentation.

5 4. The refund policy provides at least for a full
6 refund of all tuition and fees paid if a student does not
7 attend an official class session.

8 5. Any advertisement or publication that refers to
9 accreditation includes a statement of whether or not that
10 accreditation is recognized by the United States Department of
11 Education.

12 6. The students are provided a clear and specific
13 statement regarding the transferability of credits to and from
14 other institutions, colleges, seminaries, and universities,
15 and the students are informed that credits earned at the
16 institution will not meet the educational requirements
17 necessary for state-licensed professions.

18
19 The commission may provide such a religious institution a
20 letter stating that the institution has met the requirements
21 of state law and is not subject to governmental oversight.

22 Section 10. Section 246.087, Florida Statutes, is
23 repealed.

24 Section 11. Notwithstanding subsection (7) of section
25 3 of chapter 2000-321, Laws of Florida, section 246.091,
26 Florida Statutes, shall not stand repealed on January 7, 2003,
27 but that section is reenacted and amended to read:

28 (Substantial rewording of section. See
29 s. 246.091, F.S., for present text.)

30 246.091 License period and renewal.--

31

1 (1) As required by rule, the commission shall
2 periodically review each license to determine if the
3 institution is in compliance with this chapter and should have
4 its license renewed. The commission may extend an annual or
5 provisional license if a good-faith effort has been made by
6 the institution and agent. The commission shall determine what
7 constitutes compliance or a good-faith effort and may adopt
8 rules to administer this section.

9 (2) A licensed independent postsecondary educational
10 institution that seeks to expand or modify its programs or
11 degrees to be conferred or to add new locations must seek
12 prior approval from the commission. The commission shall adopt
13 rules for the approval of modified or additional programs,
14 degrees, and locations.

15 (3) On the effective date of this act, an institution
16 that, in 2002, held the status of "Permission to Operate"
17 under s. 246.093, has 90 days to seek and obtain licensure
18 from the commission. Ninety days after this act takes effect,
19 that status no longer authorizes an institution to operate in
20 Florida.

21 Section 12. Section 246.093, Florida Statutes, is
22 repealed.

23 Section 13. Notwithstanding subsection (7) of section
24 3 of chapter 2000-321, Laws of Florida, section 246.095,
25 Florida Statutes, shall not stand repealed on January 7, 2003,
26 but that section is reenacted and amended to read:

27 (Substantial rewording of section. See
28 s. 246.095, F.S., for present text.)
29 246.095 Fair consumer practices; condition of
30 operation.--The commission shall adopt rules to ensure the
31

1 protection of students, including rules establishing fair
2 consumer practices.

3 (1) The commission may not grant or renew a license
4 unless the institution seeking the action provides the
5 commission with a sworn statement of compliance with rules
6 regarding fair consumer practices.

7 (2) The commission may examine any complaint against
8 an institution under its jurisdiction and, if the institution
9 is found to be routinely handling these matters correctly, the
10 complaint shall be considered closed. Complaints under this
11 section against accredited institutions, if not resolved,
12 shall be forwarded to the accrediting agency for any
13 appropriate action. The institution shall notify the
14 commission of any and all actions taken by the accrediting
15 agency in response to the complaint.

16 (3) Failure to comply with this section is cause for
17 denial or revocation of a license.

18 Section 14. Notwithstanding subsection (7) of section
19 3 of chapter 2000-321, Laws of Florida, section 246.101,
20 Florida Statutes, shall not stand repealed on January 7, 2003,
21 but that section is reenacted and amended to read:

22 246.101 Fees.--

23 (1) The Commission for Independent Education State
24 ~~Board of Independent Colleges and Universities~~ shall annually
25 establish a fee schedule to generate, from fees, the amount of
26 revenue appropriated for its ~~the~~ operation of ~~the board~~.

27 (2) The commission ~~Beginning with the 1993-1994 fiscal~~
28 ~~year, the board~~ shall include, as a part of its legislative
29 budget request, a proposed fee schedule to generate the
30 appropriated fee revenue required in the appropriations act.
31 The commission ~~board~~ may adjust the fee amounts ~~amount of a~~

1 ~~college's fee as necessary~~ to generate the fee revenue
2 required in the appropriations act ~~but~~. ~~However,~~ the board may
3 not add fee categories without the Legislature's approval. ~~any~~
4 ~~category of fee that was not included in the legislative~~
5 ~~budget request. In the absence of legislative action to the~~
6 ~~contrary,~~ The proposed fee schedule ~~shall go into effect as~~
7 proposed in the board's legislative budget request takes
8 effect unless the Legislature requires changes.

9 (3) The commission shall charge each licensed
10 institution a base fee to cover the cost of routine services
11 ~~of the board,~~ such as data collection and dissemination, ~~shall~~
12 ~~be supported through a base fee. Nonpublic colleges operating~~
13 ~~pursuant to s. 246.084 are not required to pay the base fee.~~
14 ~~The base fee applies to all other nonpublic colleges.~~ The base
15 fee may be higher for institutions with a large enrollment but
16 ~~board may adjust the fee based on the enrollment of the~~
17 ~~college. However, the fee assessed to the largest college may~~
18 ~~not exceed one-half of 1 percent of the amount appropriated~~
19 ~~for the commission board or \$1,500, whichever is less. The~~
20 ~~fee assessed to the largest college may not exceed three times~~
21 ~~the amount of the fee assessed to the smallest college.~~

22 (4) The commission board shall assess workload fees to
23 institutions for specific services that defray the cost of
24 ~~workload for board activities that are specific to certain~~
25 ~~colleges. Such workload activities must relate to:~~

- 26 (a) Licensure.
27 (b) Annual reviews.
28 (c) Special reviews.
29 (d) Site visits.
30 (e) Resolution of complaints ~~for violation of fair~~
31 ~~consumer practices.~~

1 ~~(f)~~ Approval to operate in Florida without offering
2 educational programs.

3 (f)~~(g)~~ Approval to use the term "college" or
4 "university."

5 ~~(h)~~ Review and collection of data submitted pursuant
6 to s. 246.084 when the review and collection is performed by
7 the board.

8 (g)~~(i)~~ Other workload activities as allowed by law
9 approved by the Legislature.

10 (5) The commission board may assess ~~any college~~ late
11 fees for an institution's failure to timely submit required
12 materials.

13 ~~(6)~~ If the board collects fee revenues of more than
14 120 percent of the appropriated fee revenue requirements for
15 the fiscal year, the board shall use the collections in excess
16 of 120 percent to provide a credit against the base fee
17 assessed to all renewing institutions for the following year.
18 The credit shall be prorated on the base fee payments by
19 colleges for the prior year, exclusive of any related fee.

20 (6)~~(7)~~ All fees shall be submitted through the
21 Department of Education to the Chief Financial Officer
22 Treasurer, to be deposited in the Institutional Assessment
23 Trust Fund ~~created by s. 246.31.~~

24 (7)~~(8)~~ All fees authorized in this section are ~~to be~~
25 ~~collected~~ are considered to be administrative fees and are not
26 ~~shall not be~~ refundable unless paid in error. The commission
27 may deduct from an institution's future fee collection any
28 unintentional overpayment.

29 Section 15. Section 246.103, Florida Statutes, is
30 created to read:

31 246.103 Institutional closings.--

1 (1) The Legislature intends to protect students and
2 the independent sector of postsecondary education from the
3 detriment caused by licensed institutions that cease operation
4 without providing for the proper completion of student
5 training or for the appropriate refund of student fees. To
6 serve this intention, the Commission for Independent Education
7 may prevent the operation in this state of a licensed
8 independent postsecondary educational institution by an owner
9 who has unlawfully closed another institution and the
10 commission may exercise control over student records upon
11 closure of a licensed institution if the institution does not
12 provide an orderly closure.

13 (2) At least 30 days prior to closing an institution,
14 its owners, directors, or administrators shall notify the
15 commission in writing of the closure of the institution. The
16 owners, directors, and administrators must organize an orderly
17 closure of the institution, which means at least providing for
18 the completion of training of its students. The commission
19 must approve any such plan. An owner, director, or
20 administrator who fails to notify the commission at least 30
21 days prior to the institution's closure, or who fails to
22 organize the orderly closure of the institution and the
23 trainout of the students, commits a felony of the third
24 degree, punishable as provided in s. 775.082 or s. 775.083.

25 (3) If the commission finds that an institution has
26 ceased operating without providing for the proper access to
27 student records, the commission may require the institution to
28 convey all student records to the commission office or to
29 another location designated by the commission or its staff.
30 The commission shall make copies of records available to
31 bankruptcy trustees upon request and to the student or those

1 designated by the student. Confidentiality of the records
2 shall be maintained to the extent required by law. The
3 commission may seek civil penalties not to exceed \$10,000 from
4 any owner, director, or administrator of an institution who
5 knowingly destroys, abandons, or fails to convey or provide
6 for the safekeeping of institutional and student records. The
7 commission may use moneys in the Student Protection Fund to
8 facilitate the retrieval or safekeeping of records from an
9 institution that has closed.

10 (4) The commission may refer matters it deems
11 appropriate to the Department of Legal Affairs or the state
12 attorney for investigation and prosecution.

13 Section 16. Notwithstanding subsection (7) of section
14 3 of chapter 2000-321, Laws of Florida, section 246.111,
15 Florida Statutes, shall not stand repealed on January 7, 2003,
16 but that section is reenacted and amended to read:

17 (Substantial rewording of section. See
18 s. 246.111, F.S., for present text.)

19 246.111 Actions against a licensee and other
20 penalties.--

21 (1) The commission may deny, place on probation, or
22 revoke any provisional license, annual license, licence by
23 means of accreditation, agent's license, or other
24 authorization required by this chapter. The commission shall
25 adopt rules for taking these actions. The commission may
26 impose an administrative fine of not more than \$5,000 if an
27 institution is on probation for a period under conditions that
28 require oversight by the commission or its staff. The fine
29 shall be deposited into the Institutional Assessment Trust
30 Fund.

31

1 (2) The commission may conduct an investigation to
2 determine if an applicant for a new institutional license, or
3 the owners, directors, or administrators of the institution,
4 previously closed an institution, failed to arrange for
5 completion of student training or issue appropriate refunds,
6 or had its license to operate an institution revoked or denied
7 in this state or in another state or jurisdiction.

8 (3) Any person who has been convicted of, or entered a
9 plea of guilty or nolo contendere to, a crime that relates to
10 the unlawful operation or management of an institution is
11 ineligible to own, operate, manage, or be a registered agent
12 for a licensed institution in this state, and may not be a
13 director or an officer in a corporation that owns or operates
14 a licensed institution. Such a person may not operate or serve
15 in a management or supervisory position in a licensed
16 institution.

17 (4) The commission may deny an application for any
18 operating status if the commission determines that the
19 applicant or its owners, officers, directors, or
20 administrators were previously operating an institution in
21 this state or in another state or jurisdiction in a manner
22 contrary to the health, education, or welfare of the public.
23 The commission may consider factors such as the previous
24 denial or revocation of an institutional license; prior
25 criminal or civil administrative proceedings regarding the
26 operation and management of an institution; other types of
27 criminal proceedings involving fraud, deceit, dishonesty, or
28 moral turpitude; failure of the institution to be properly
29 closed, including completing the training or providing for the
30 trainout of its students; and failure to issue appropriate
31 refunds. The commission may require an applicant or its

1 owners, officers, directors, or administrators to provide the
2 commission with information under oath regarding the prior
3 operation of an institution and to provide criminal justice
4 information, the cost of which must be borne by the applicant
5 in addition to license fees.

6 (5) The commission may obtain an injunction or take
7 any action it deems necessary against any institution or agent
8 in violation of this chapter, but such proceedings and orders
9 do not bar the imposition of any other penalties that may be
10 imposed for the violation.

11 (6) The commission may conduct disciplinary
12 proceedings through an investigation of any suspected
13 violation of this chapter, including a finding of probable
14 cause and making reports to any law enforcement agency or
15 regulatory agency.

16 (a) The commission shall notify an institution or
17 individual of the substance of any complaint that is under
18 investigation unless the executive director and chairperson of
19 the board concur that notification would impede the
20 investigation. The board may also withhold notification to a
21 person under investigation for an act that constitutes a
22 criminal offense.

23 (b) The determination of probable cause shall be made
24 by a majority vote of the probable-cause panel, the membership
25 of which shall be provided by rule. The proceedings of the
26 panel are exempt from s. 120.525. After the panel declares a
27 finding of probable cause, the commission may issue an
28 administrative complaint and prosecute such complaint under
29 chapter 120.

30 (c) A privilege against civil liability is granted to
31 any informant or any witness who provides information in good

1 faith for an investigation or proceeding conducted under this
2 section.

3 (7) The commission may issue a cease and desist order
4 in conjunction with an administrative complaint or notice of
5 denial of licensure, if necessary to protect the health,
6 safety, or welfare of students, prospective students, or the
7 public. An unlicensed institution that advertises or causes
8 advertisements to be made public through which students are
9 solicited for enrollment or are offered diplomas is in
10 violation of this chapter. The commission shall adopt rules
11 that direct the issuance of an injunction against operating,
12 advertising, or offering diplomas without a license. Each day
13 of operation after a cease and desist letter is delivered
14 constitutes a separate violation for purposes of assessing
15 finest or seeking civil penalties.

16 (a) A cease and desist order may be mandatory or
17 prohibitory in form and may order a postsecondary institution
18 to cease and desist from specified conduct or from failing to
19 engage in specified conduct necessary to achieve the
20 regulatory purposes of this chapter.

21 (b) A cease and desist order may include an order to
22 cease enrollment of students whom the institution cannot
23 adequately serve, to modify curricula or methods of
24 instruction to ensure the education or training of the type
25 and quality represented in the institutional catalog, or to
26 cease from advertising or to publish or broadcast corrective
27 or clarifying advertising to overcome the effects of previous
28 allegedly deceptive or misleading advertising.

29 (c) A cease and desist order takes effect immediately
30 upon issuance and remains in effect until the commission takes
31 final agency action.

1 (d) The commission shall adopt rules to direct
2 procedures by which an affected party is entitled to a formal
3 or informal review of a cease and desist order and may request
4 the commission or the Division of Administrative Hearings to
5 modify or abate a cease and desist order. If a party is
6 aggrieved by a cease and desist order after seeking to have
7 the order abated or modified, the party may seek interlocutory
8 judicial review by the appropriate district court of appeal
9 pursuant to the applicable rules of appellate procedure.

10 (e) In addition to or in lieu of any remedy provided
11 in this section, the commission may seek the imposition of a
12 civil penalty through the circuit court for any violation for
13 which the commission may issue a notice to cease and desist
14 under this section.

15 (8) The commission shall adopt rules to identify
16 grounds for imposing disciplinary actions, which must include
17 at least the following grounds:

18 (a) Attempting to obtain action from the commission by
19 fraudulent misrepresentation, bribery, or through an error of
20 the commission.

21 (b) Action against a license imposed under the
22 authority of another state, territory, or country.

23 (c) Delegating professional responsibilities to a
24 person who is not qualified by training, experience, or
25 licensure to perform the responsibilities.

26 (d) False, deceptive, or misleading advertising.

27 (e) Conspiring to coerce, intimidate, or preclude
28 another licensee from lawfully advertising his or her
29 services.

30 Section 17. Notwithstanding subsection (7) of section
31 3 of chapter 2000-321, Laws of Florida, section 246.121,

1 Florida Statutes, shall not stand repealed on January 7, 2003,
2 but that section is reenacted and amended to read:

3 246.121 Designation "college" or "university".--

4 (1) Except as authorized in this section, an entity
5 may not use the word "college" or "university" in its name in
6 this state without the commission's approval, unless the
7 commission determines that its name is clearly and accurately
8 descriptive of the services provided by the entity and is not
9 one that may mislead the public.

10 (2) The following colleges are not required to seek
11 approval to use the title "college" or "university":~~The use~~
12 ~~of the title "college" or "university" in combination with any~~
13 ~~series of letters, numbers, or words is restricted in this~~
14 ~~state to colleges as defined in s. 246.021 which offer degrees~~
15 ~~as defined in s. 246.021 and fall into at least one of the~~
16 ~~following categories:~~

17 (a) Any Florida college legally authorized to grant
18 degrees, such as a Florida public college, a licensed college,
19 a college that has verified its compliance with Florida law
20 and is not under the jurisdiction of the commission, or an
21 independent college that is under the jurisdiction of the
22 Division of Colleges and Universities.~~A Florida public~~
23 ~~college.~~

24 (b) A Florida or out-of-state college which has been
25 in active operation and using the name since April 1, 1970.

26 ~~(c) A college for which the board has issued a~~
27 ~~license, a certificate of exemption, or an authorization~~
28 ~~pursuant to the provisions of this chapter.~~

29 (3)~~(2)~~ If a college is legally authorized approved
30 under subsection (1)to use the designation "college" or
31 "university," a branch or extension of that college must may

1 use the name of the parent college, ~~but shall include an~~
2 ~~indication of the location of the branch or extension.~~

3 (4)(3) Any entity offering postsecondary educational
4 courses or programs of study in Florida, whether or not
5 college credit is awarded, shall be subject to the provisions
6 of this section.

7 ~~(4) An entity shall not use the term "college" or~~
8 ~~"university" in its name in Florida without approval by the~~
9 ~~board, unless the board determines that its name is clearly~~
10 ~~and accurately descriptive of the services provided by the~~
11 ~~entity and is not one that may mislead the public.~~

12 Section 18. Section 246.147, Florida Statutes, is
13 created to read:

14 246.147 Continuing education and training for school
15 administrators and faculty.--

16 (1) In order to ensure that the administrators and
17 faculty of institutions licensed under this chapter are
18 qualified to conduct the operations of their respective
19 positions, the commission may require the administrators and
20 faculty to receive continuing education and training as
21 adopted by rule of the commission. The training of each
22 administrator and faculty must be the type of training
23 necessary to assure compliance with statutes and rules of the
24 commission and other state or federal agencies related to the
25 responsibilities of the respective positions.

26 (2) Each institution shall include in the materials
27 for initial and renewal application evidence of the compliance
28 of administrators and faculty with the continuing education
29 and training requirements established by the commission. Each
30 institution must maintain actual records of the continuing
31 education and training received by administrators and faculty

1 and make the records available for inspection by
2 representatives of the commission at all times.

3 (3) The commission may establish, as a condition of
4 application for an initial license or renewal of a license,
5 qualifications of administrators and faculty in their
6 respective fields and requirements for continuing education
7 and training.

8 Section 19. Sections 246.131, 246.141, 246.151,
9 246.201, 246.203, 246.205, 246.207, 246,211, 246.213, 246.215,
10 246.216, 246.217, 246.219, 246.220, 246.222, 246.2235,
11 246.225, 246.226, 246.2265, 246.227, 246.228, 246.229,
12 246.231, 246.232, 246.31, and 246.50, Florida Statutes, are
13 repealed.

14 Section 20. This act shall take effect January 7,
15 2003.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 Senate Bill 2022

20 Under the Committee Substitute:

21 The commission will not be compelled to authorize a designee
22 to represent a college on official matters.

23 The commission will not assess a fee to religious colleges.

24 The bill deletes an exemption from public records and public
25 meetings for complaints that are resolved in a probable-cause
26 panel. The exemption will be included in Proposed Committee
27 Substitute for SB 1562.