

By Representative Mayfield

1 A bill to be entitled
2 An act relating to the State Board of Nonpublic
3 Career Education; amending s. 246.203, F.S.,
4 relating to definitions; including flight
5 training schools and fixed based operators in
6 the definition of "school" for purposes of
7 regulation and licensure; creating s. 246.2155,
8 F.S.; requiring each flight training school and
9 fixed based operator licensed by the board to
10 collect and maintain specified information
11 about its students; requiring specified scores
12 on the Test of English as a Foreign Language;
13 providing penalties for violation or failure to
14 comply; amending s. 246.216, F.S.; removing an
15 exemption from licensure for a flight training
16 school or fixed based operator regulated by the
17 Federal Aviation Administration or other
18 agency; reenacting s. 246.201 and ss.
19 246.205-246.215 and ss. 246.217-246.231, F.S.,
20 relating to the regulation and licensure of
21 nonpublic postsecondary career schools by the
22 State Board of Nonpublic Career Education, to
23 incorporate the amendments to ss. 246.203 and
24 246.216, F.S., and the creation of s. 246.2155,
25 F.S.; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 246.203, Florida Statutes, is
30 amended to read:

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1 246.203 Definitions; ss. 246.201-246.231.--As used in
2 ss. 246.201-246.231, unless the context otherwise requires:

3 (1) "School" means any nonpublic postsecondary
4 noncollegiate career educational institution, association,
5 corporation, person, partnership, or organization of any type,
6 including any flight training school or fixed based operator,
7 that:

8 (a) Offers to provide or provides any postsecondary
9 program of instruction, course, or class through the student's
10 personal attendance, in the presence of an instructor, in a
11 classroom, clinical, or other practicum setting or through
12 correspondence or other distance learning; and

13 (b) Represents, directly or by implication, that the
14 instruction will qualify the student for employment in any
15 occupation whose practice in this state does not require a
16 degree, as defined in s. 246.021(5); and

17 (c) Receives remuneration from the student or any
18 other source on the enrollment of a student or on the number
19 of students enrolled; or

20 (d) Offers to award or awards a diploma, as defined in
21 subsection (6), regardless of whether or not it engages in the
22 activities described in paragraph (a), paragraph (b), or
23 paragraph (c).

24 (2) "Business, management, trade, technical, or career
25 education" means any instruction which prepares a person for
26 employment in an occupation listed in the latest dictionary of
27 occupational titles issued by the United States Department of
28 Labor or declared by that department to be eligible for such
29 listing or which is indicated by a school as leading to
30 employment in an occupation.

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1 (3) "Out-of-state school" or "school outside the
2 state" means any school for which the place of instruction or
3 legal place of residence or the place of evaluation of
4 instruction or work by correspondence is not within the legal
5 boundaries of the state.

6 (4) "Instruction" means the dissemination of knowledge
7 or practice which signifies, purports to signify, or is
8 generally taken to signify the preparation or education of a
9 person generally or specifically for further understanding,
10 study, skill, or training.

11 (5) "Agent" means a person employed by or representing
12 a school within or outside the state to procure Florida
13 students, enrollees, or subscribers by solicitation in any
14 form, made at a place or places other than the office or legal
15 place of business of a school.

16 (6) "Diploma" means a specialized associate degree,
17 certificate, transcript, report, document, or title or
18 designation, mark, appellation, or series of letters, numbers,
19 or words which signifies, purports to signify, or is generally
20 taken to signify satisfactory completion of the requirements
21 of an educational, technical, or vocational program of study,
22 training, or course except degrees as defined in s. 246.021.

23 (7) "Board" means the State Board of Nonpublic Career
24 Education.

25 (8) "Governmental," refers to schools provided,
26 operated, and supported by federal, state, or county
27 governments or any of their political subdivisions.

28 (9) "Accreditation" means accredited status awarded to
29 a school by an accrediting agency which is recognized by the
30 United States Department of Education.

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1 Section 2. Section 246.2155, Florida Statutes, is
2 created to read:

3 246.2155 Flight training schools and fixed based
4 operators.--

5 (1) Each flight training school and fixed based
6 operator required to be licensed by the State Board of
7 Nonpublic Career Education pursuant to ss. 246.201-246.231
8 shall collect and maintain copies of the following information
9 about its students in order to receive and retain its license
10 from the board:

11 (a) Visa: F1 (4-Year Student Visa); J1 (24-Month
12 Exchange Visitor Visa); and M1 (1-Year Student Visa).

13 (b) Passport issue page and photo identification.

14 (c) Date-stamped Page of Entry.

15 (d) Stamped I-20 mn (Certificate of Eligibility for
16 Nonimmigrant for 1-Year Student Visa)/IAP 66 (U.S. State
17 Department Exchange Program Services Certificate of
18 Eligibility for Exchange Visitor Status).

19 (e) I94 Department of Justice Departure Record Card.

20 (f) FAA Medical Certificate and, if applicable, Flight
21 Certificate.

22 (g) Test scores on the Test of English as a Foreign
23 Language (TOEFL) required pursuant to subsection (2).

24 (h) A bank letter, on bank stationery, stating that
25 the necessary funds are available for training and living
26 expenses for the student while training at the flight school
27 or fixed based operator.

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29 Each flight school and fixed based operator shall keep these
30 records for 4 years after the student's departure from the
31 school or operator.

1 (2) In order to determine that the English proficiency
2 of each student is adequate, each flight training school and
3 fixed based operator shall require of its students, except for
4 students from countries where English is the only official
5 language, a score of 550 or above on the Test of English as a
6 Foreign Language (TOEFL).

7 (3) Notwithstanding the provisions of s. 246.231, any
8 person who violates or fails to comply with the provisions of
9 this section:

10 (a) For the first conviction, commits a felony of the
11 second degree, punishable as provided in s. 775.082 or s.
12 775.083.

13 (b) For a second or subsequent conviction, commits a
14 felony of the first degree, punishable as provided in s.
15 775.082 or s. 775.083.

16 (c) May have his or her license revoked.

17 Section 3. Section 246.216, Florida Statutes, is
18 amended to read:

19 246.216 Exemption from licensure.--

20 (1) A person or entity which otherwise fits the
21 definition of school in s. 246.203(1) shall be exempt from
22 licensure if it meets the criteria specified in this section
23 and applies to the board for a statement of exemption. The
24 board shall issue a statement of exemption if it determines,
25 based on all available information, that the applicant meets
26 the following criteria:

27 (a) The entity is a church or religious organization
28 whose programs of instruction include:

29 1. A religious modifier in the title of the program,
30 immediately preceding the name of the occupation to which the
31 instruction relates, and in the title of the diploma.

1 2. No representation, directly or by implication, that
2 individuals who successfully complete the program will be
3 qualified to be employed in the field to which the training
4 relates by an employer other than a church or religious
5 organization.

6 3. No students who receive state or federal financial
7 aid to pursue the program;

8 (b) The person or entity, except for a flight training
9 school or a fixed based operator,is regulated by an ~~the~~
10 ~~Federal Aviation Administration,~~ another agency of the Federal
11 Government, or an agency of the state whose regulatory laws
12 are similar in nature and purpose to those of the board and
13 require minimum educational standards, for at least
14 curriculum, instructors, and academic progress and provide
15 protection against fraudulent, deceptive, and substandard
16 education practices;

17 (c) The person or entity offers only examination
18 preparation courses provided that:

19 1. A diploma as defined in s. 246.203(6) is not
20 awarded.

21 2. The courses do not include state licensing
22 examinations in occupations for which state laws do not
23 require a licensee to have a bachelor's degree or higher
24 academic or professional degree;

25 (d) The person or entity is:

26 1. An employer who offers training and trains only its
27 own bona fide employees;

28 2. A trade or professional association or a group of
29 employers in the same or related business who in writing agree
30 to offer training and to train only individuals who are bona
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1 bona fide employees of an employer who is a member of the
2 association or a party to the written agreement; or

3 3. An independent contractor engaged by any of the
4 foregoing by written contract to provide the training on its
5 behalf exclusively to individuals who are selected by the
6 employer, association, or group which engaged the contractor
7 and who are bona fide employees thereof.

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9 For purposes of this paragraph, a bona fide employee is an
10 individual who works for salary or wages paid by the employer
11 in at least the minimum amount required by law;

12 (e) The entity is a labor union or group of labor
13 unions which offers training to, and trains only, individuals
14 who are dues-paying members of a participating labor union; or
15 the person or entity is an independent contractor engaged by
16 the labor union or group of labor unions, by written contract,
17 to provide the training on its behalf exclusively to
18 individuals who are selected by the labor union or group of
19 labor unions which engaged the contractor and who are
20 dues-paying members thereof;

21 (f) The person or entity offers only continuing
22 education programs to individuals who engage in an occupation
23 or profession whose practitioners are subject to licensure,
24 certification, or registration by a state agency which
25 recognizes the programs for continuing education purposes and
26 provides a written statement of such recognition; or

27 (g) The person or entity offers a program of
28 instruction whose objective is not occupational, but is
29 avocational and only for personal enrichment and which:

30 1. Prior to enrollment, gives to each enrollee, and
31 maintains a record copy of, a written statement which states

1 substantially the following: "This program is not designed or
2 intended to qualify its participants and graduates for
3 employment in (the field to which the training pertains). It
4 is intended solely for the avocation, personal enrichment, and
5 enjoyment of its participants."

6 2. Makes no other verbal or written statements which
7 negate the written statement required in subparagraph 1. by
8 stating or implying that persons who enroll in or complete the
9 program have any more substantial likelihood of getting
10 employment in the field to which the training pertains than
11 persons who do not.

12 3. Maintains and makes available to the board, upon
13 request, records which demonstrate that each enrollee received
14 the statement required by subparagraph 1. prior to
15 enrollment.

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17 To be eligible for the statement of exemption, the applicant
18 must maintain records documenting its qualification for
19 exemption. A person or entity which is exempt pursuant to this
20 subsection and which is also a licensee for programs which do
21 not qualify for exemption may not include in the catalog,
22 contract, or advertising relating to its licensed program any
23 reference to its unlicensed programs. This restriction does
24 not apply to a licensee which voluntarily becomes licensed to
25 offer programs which would otherwise qualify for exemption.

26 (2) The board shall revoke a statement of exemption if
27 it determines, based on all available information, that the
28 entity does not meet the criteria required in subsection (1)
29 because of the following:

30 (a) There has been a material change in circumstances
31 or in the law;

1 (b) The statement was erroneously issued as a result
2 of false or misleading information provided by the applicant
3 or other source;

4 (c) There was a misunderstanding by the board of the
5 information which it had considered; or

6 (d) New information has been received.
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8 Probable cause proceedings do not apply to the foregoing board
9 decisions.

10 (3) The board may invoke the remedies provided in s.
11 246.227 when no application for a statement of exemption is
12 pending; in conjunction with, or subsequent to, its notice of
13 denial of an application; or in conjunction with, or
14 subsequent to, its notice of revocation. The filing of a civil
15 action pursuant to s. 246.227 shall have the effect of
16 suspending administrative proceedings under this section
17 unless the board takes a voluntary dismissal without prejudice
18 in a judicial case. An order of the court which determines or
19 renders moot an issue presented in suspended administrative
20 proceedings shall be grounds for dismissal of the
21 administrative proceeding as to that issue.

22 Section 4. For the purpose of incorporating the
23 amendments to ss. 246.203 and 246.216, Florida Statutes, and
24 the creation of s. 246.2155, Florida Statutes, ss. 246.201,
25 246.205, 246.207, 246.211, 246.213, 246.215, 246.217, 246.219,
26 246.220, 246.222, 246.2235, 246.225, 246.226, 246.2265,
27 246.227, 246.228, 246.229, and 246.231, Florida Statutes, are
28 reenacted to read:

29 246.201 Legislative intent.--

30 (1) Sections 246.201-246.231 shall provide for the
31 protection of the health, education, and welfare of the

1 citizens of Florida and shall facilitate and promote the
2 acquisition of a minimum satisfactory career education by all
3 the citizens of this state. It shall be in the interest of,
4 and essential to, the public health and welfare that the state
5 create the means whereby all nonpublic postsecondary career
6 schools as defined in s. 246.203(1) shall satisfactorily meet
7 minimum educational standards and fair consumer practices.

8 (2) A common practice in our society is to use
9 diplomas and degrees for many purposes. Some of these
10 purposes are: for employers to judge the qualifications of
11 prospective employees; for public and nonpublic professional
12 groups, vocational groups, educational agencies, governmental
13 agencies, and educational institutions to determine the
14 qualifications for admission to, and continuation of,
15 educational goals, occupational goals, professional
16 affiliations, or occupational affiliations; and for public and
17 professional assessment of the extent of competency of
18 individuals engaged in a wide range of activities within our
19 society.

20 (3) Because of the common use of diplomas and degrees,
21 the minimum legal requirements provided by ss. 246.201-246.231
22 for the establishment and operation of nonpublic postsecondary
23 career schools shall protect the individual student from
24 deceptive, fraudulent, or substandard education; protect such
25 schools; and protect the citizens of Florida holding diplomas
26 or degrees.

27 246.205 State Board of Nonpublic Career Education.--

28 (1) There shall be established in the Department of
29 Education a State Board of Nonpublic Career Education. The
30 board shall be assigned to the Department of Education only
31 for the purpose of payroll, procurement, and related

1 administrative functions which shall be exercised by the head
2 of the department. The board shall independently exercise the
3 other powers, duties, and functions prescribed by law. The
4 board shall include nine members, appointed by the Governor as
5 follows:

6 (a) One from a business school;

7 (b) One from a technical school;

8 (c) One from a home study school;

9 (d) One from a nonpublic school;

10 (e) Four from business and industry; and

11 (f) An administrator of vocational-technical education
12 from a public school district or community college.

13 (2) Each of the members shall be appointed by the
14 Governor, subject to confirmation by the Senate, for a term of
15 3 years. Of the original members appointed by the Governor,
16 three shall serve for terms of 1 year, three shall serve for
17 terms of 2 years, and three shall serve for terms of 3 years.
18 Of the appointive members from the nonpublic postsecondary
19 career schools, each shall have occupied executive or
20 managerial positions in a nonpublic postsecondary career
21 school in this state for at least 5 years. All members shall
22 be residents of this state. In the event of a vacancy on the
23 board caused other than by the expiration of a term, the
24 Governor shall appoint a successor to serve the unexpired
25 term.

26 (3) The board shall meet at the call of its chair, at
27 the request of a majority of its membership, at the request of
28 the department, or at such times as may be prescribed by its
29 rules.

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1 (4) Board members shall be paid travel and subsistence
2 expenses as provided by law while performing their duties
3 under this act.

4 (5) Each board member is accountable to the Governor
5 for the proper performance of the duties of his or her office.
6 The Governor shall cause to be investigated any complaint or
7 unfavorable report received concerning an action of the board
8 or any member and shall take appropriate action thereon. The
9 Governor may remove from office any member for malfeasance,
10 misfeasance, neglect of duty, incompetence, permanent
11 inability to perform official duties, or pleading guilty or
12 nolo contendere to, or being found guilty of, a criminal
13 offense.

14 246.207 Powers and duties of board.--

15 (1) The board shall:

16 (a) Hold such meetings as are necessary to administer
17 efficiently the provisions of ss. 246.201-246.231.

18 (b) Select annually a chairperson and a vice
19 chairperson.

20 (c) Make rules for its own government.

21 (d) Prescribe and recommend to the State Board of
22 Education rules to implement ss. 246.201-246.231.

23 (e) Administer ss. 246.201-246.231 and execute such
24 rules adopted pursuant thereto by the State Board of Education
25 for the establishment and operation of nonpublic postsecondary
26 career schools as defined in s. 246.203(1).

27 (f) Appoint, on the recommendation of its chairperson,
28 executives, deputies, clerks, and employees of the board.

29 (g) Maintain a record of its proceedings.

30 (h) Cooperate with other state and federal agencies in
31 administering ss. 246.201-246.231.

- 1 (i) Prepare an annual budget.
- 2 (j) Transmit all fees, donations, and other receipts
3 of money to the Institutional Assessment Trust Fund.
- 4 (k) Transmit to the Governor, the Speaker of the House
5 of Representatives, the President of the Senate, the minority
6 leader of the Senate, and the minority leader of the House of
7 Representatives on July 1, 1987, and each succeeding year an
8 annual report which shall include, but not be limited to:
- 9 1. A detailed accounting of all funds received and
10 expended.
- 11 2. The number of complaints received and investigated,
12 by type.
- 13 3. The number of findings of probable cause.
- 14 4. A description of disciplinary actions taken, by
15 statutory classification.
- 16 5. A description of all administrative hearings and
17 court actions.
- 18 6. A description of the board's major activities
19 during the previous year.
- 20 (l) Assure that no school that has met board
21 requirements established by law or rule be made to operate
22 without a current license due to scheduling of board meetings
23 or application procedures for license renewal.
- 24 (m) Cause to be investigated criminal justice
25 information, as defined in s. 943.045, for each owner,
26 administrator, and agent employed by a school applying for
27 licensure or renewal of licensure.
- 28 (n) Serve as a central agency for collection and
29 distribution of current information regarding institutions
30 licensed by the board.
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1 1. The data collected by the board shall include
2 information relating to the school administration, calendar
3 system, admissions requirements, student costs and financial
4 obligations, financial aid information, refund policy,
5 placement services, number of full-time and part-time faculty,
6 student enrollment and demographic figures, programs, and
7 off-campus programs. Other information shall be collected in
8 response to specific needs or inquiries. Financial information
9 of a strictly proprietary, commercial nature is excluded from
10 this requirement.

11 2. The data collected by the board must also include
12 the data for the career education program evaluation reports
13 required by s. 239.233 for each school that chooses to provide
14 public information under s. 239.245.

15 3. The board shall provide to each participating
16 institution annually the format, definitions, and instructions
17 for submitting the required information.

18 4. The data submitted by each institution shall be
19 accompanied by a letter of certification signed by the chief
20 administrative officer of the institution, affirming that the
21 information submitted is accurate.

22 5. A summary of the data collected by the board shall
23 be included in the annual report to the Governor, the Speaker
24 of the House of Representatives and the President of the
25 Senate, the minority leader of the Senate, and the minority
26 leader of the House of Representatives. The information
27 collected by the board may also be used by the Department of
28 Education for such purposes as statewide master planning,
29 state financial aid programs, and publishing directories, by
30 the Legislature, and to respond to consumer inquiries received
31 by the board.

1 (o) Establish and publicize the procedures for
2 receiving and responding to complaints from students, faculty,
3 and others about schools or programs licensed by the board and
4 shall keep records of such complaints in order to determine
5 their frequency and nature for specific institutions of higher
6 education. With regard to any written complaint alleging a
7 violation of any provision of ss. 246.201-246.231 or any rule
8 promulgated pursuant thereto, the board shall periodically
9 notify, in writing, the person who filed the complaint of the
10 status of the investigation, whether probable cause has been
11 found, and the status of any administrative action, civil
12 action, or appellate action, and if the board has found that
13 probable cause exists, it shall notify, in writing, the party
14 complained against of the results of the investigation and
15 disposition of the complaint. The findings of the probable
16 cause panel, if a panel is established, shall not be disclosed
17 until the information is no longer confidential.

18 (2) The board may:

19 (a) Sue or be sued.

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

22 (c) Receive bequests and gifts, which shall be used
23 only for the purpose stated by the person making such bequest.

24 (d) Appoint committees to assist in developing
25 standards or in determining the qualifications which shall be
26 met in a given field of endeavor.

27 (e) Issue a license to any school subject to ss.
28 246.201-246.231 which is exempted from the licensing and
29 regulatory requirements of ss. 246.201-246.231, upon voluntary
30 application for such license and upon payment of the
31 appropriate fee as set forth in s. 246.219.

1 (f) With the approval of the State Board of Education,
2 establish and operate a branch office in the southeastern part
3 of the state where the concentration of licensed schools
4 renders such an office economically feasible.

5 (g) Establish and administer a statewide,
6 fee-supported financial program through which funds will be
7 available to complete the training of a student who enrolls in
8 a nonpublic school that terminates a program or ceases
9 operation before the student has completed his or her program
10 of study or for repayment of a loan made under the federal
11 Family Educational Loan Program. The financial program is
12 named the Student Protection Fund. The board is authorized to
13 assess a fee from the institutions within its jurisdiction for
14 such purpose. The board shall assess a licensed school an
15 additional fee for its eligibility for the Student Protection
16 Fund. Any school that participates in the federal Family
17 Educational Loan Program is eligible and must pay the
18 additional fee. If a licensed school terminates a program
19 before all students complete it, the board shall also assess
20 that school a fee adequate to pay the full cost to the Student
21 Protection Fund of repaying the federal loans of its students.
22 The fund shall consist entirely of fees assessed to licensed
23 schools and shall not be funded under any circumstances by
24 public funds, nor shall the board make payments or be
25 obligated to make payments in excess of the assessments
26 actually received from licensed schools and deposited in the
27 Institutional Assessment Trust Fund to the credit of the
28 Student Protection Fund. The board shall identify students
29 who may be eligible for repayment of their loans and notify
30 them in writing of the availability of the Student Protection
31 Fund. At each board meeting, the board shall consider the

1 need for and shall make required assessments, shall review the
2 collection status of unpaid assessments and take all necessary
3 steps to collect them, and shall review all moneys in the fund
4 and expenses incurred since the last reporting period. This
5 review must include administrative expenses, moneys received,
6 and payments made to students or to lending institutions.
7 Staff of the board must immediately inform the board upon
8 learning of the closing of a licensed school or the
9 termination of a program which could expose the fund to
10 liability. The Student Protection Fund must be actuarially
11 sound, periodically audited, and reviewed to determine if
12 additional fees must be charged to schools eligible to
13 participate in the fund. The board may authorize pro rata
14 payments from the fund directly to the lender. The pro rata
15 refund shall be computed as outlined in the Higher Education
16 Act of 1965.

17 246.211 Expenditures.--The State Treasurer shall pay
18 out all moneys and funds provided for in ss. 246.201-246.231
19 upon proper warrant issued by the Comptroller drawn upon
20 vouchers approved by the board for all lawful purposes
21 necessary for the administration of ss. 246.201-246.231.

22 246.213 Power of State Board of Education.--

23 (1) The State Board of Education, acting on the
24 recommendation of the State Board of Nonpublic Career
25 Education, shall adopt minimum standards for schools and other
26 rules pursuant to ss. 120.536(1) and 120.54 to implement ss.
27 246.201-246.231.

28 (2)(a) The minimum educational standards for the
29 licensing of schools shall include, but not be limited to:
30 name of school, purpose, administrative organization,
31 educational program and curricula, finances, financial

1 stability, faculty, library, student personnel services,
2 physical plant and facilities, publications, and disclosure
3 statements about the status of the institution in relation to
4 professional certification and licensure.

5 (b) Rules of the State Board of Education shall
6 require that nonpublic schools administer an entry-level test
7 of basic skills to each student who enrolls in a nondegree
8 program of at least 450 clock hours, or the credit hour
9 equivalent, which purports to prepare such student for
10 employment. The State Board of Nonpublic Career Education
11 shall designate examinations authorized for use for
12 entry-level testing purposes. State Board of Education rules
13 shall require that applicable schools provide students who are
14 deemed to lack a minimal level of basic skills with a
15 structured program of basic skills instruction. No student
16 shall be granted a diploma, as defined in s. 246.203, until he
17 or she has demonstrated mastery of basic skills. Exceptional
18 students, as defined in s. 228.041, may be exempted from the
19 provisions of this paragraph. The State Board of Education
20 shall identify means through which students who are capable of
21 demonstrating mastery of basic skills may be exempted from the
22 provisions of this paragraph.

23 (c) The State Board of Nonpublic Career Education may
24 request that schools within its jurisdiction provide the board
25 all documents associated with institutional accreditation.
26 The board shall solicit from schools which provide such
27 documents only such additional information undisclosed in the
28 accreditation documents provided. The board may conduct a
29 comprehensive study of a school that fails to provide all
30 documents associated with its institutional accreditation.
31 The cost of such study shall be borne by the institution.

1 Standards imposed by the board shall not be constrained in
2 quality or quantity to those imposed by the respective
3 accrediting body.

4 (d) The State Board of Nonpublic Career Education
5 shall recommend to the State Board of Education minimum
6 placement standards for institutions that conduct programs
7 that prepare students for employment.

8 (3) The minimum requirements for the licensing of
9 agents shall include: name, residential and business
10 addresses, background training, institution or institutions to
11 be represented, and demonstrated knowledge of statutes and
12 rules related to the authority granted to agents and the
13 limitations imposed upon such authority. No employee of a
14 nonpublic school shall solicit prospective students for
15 enrollment in such school until that employee is licensed by
16 the State Board of Nonpublic Career Education as an agent.

17 (4) The State Board of Nonpublic Career Education
18 shall adopt criteria for specialized associate degrees,
19 diplomas, certificates, or other educational credentials that
20 will be recognized in licensed schools. The State Board of
21 Nonpublic Career Education shall adopt a common definition for
22 each credential. To determine the level of a nonpublic
23 institution's vocational program or to establish criteria for
24 a specialized degree, the board shall use procedures developed
25 pursuant to s. 239.205, which requires the Department of
26 Education to determine the level of each public degree career
27 education program.

28 246.215 License required.--

29 (1) No nonpublic postsecondary career school required
30 to be licensed pursuant to ss. 246.201-246.231 shall be
31 operated or established within the state until such school

1 makes application and obtains a license or authorization from
2 the board. Each nonpublic school that seeks licensure shall
3 first submit articles of incorporation to the Department of
4 State. After the Department of State approves such articles
5 and verifies that the articles indicate the corporation is a
6 postsecondary school within the meaning and intent of s.
7 246.203, the corporation shall apply for licensure by the
8 board within 60 days of approval of the articles. Department
9 of State approval of the articles of incorporation shall not
10 constitute authorization to operate the nonpublic school. The
11 Department of State shall immediately transmit approved
12 articles of incorporation for nonpublic schools to the board.

13 (2) No agent shall solicit any prospective student for
14 enrollment in a nonpublic school until both the agent and the
15 school are appropriately licensed or otherwise authorized by
16 the board.

17 (3) No nonpublic postsecondary career school required
18 to be licensed pursuant to ss. 246.201-246.231 shall advertise
19 in any manner until such school is granted an appropriate
20 license by the board, nor shall any licensed school advertise
21 in any manner while such school is under an injunction against
22 operating, soliciting students, or offering diplomas.

23 (4) No license granted by the board shall be
24 transferable to another nonpublic postsecondary career school
25 or to another agent, nor shall school licensure transfer upon
26 a change in ownership of the institution.

27 (5) Each license granted by the board shall delineate
28 the specific nondegree programs that the nonpublic school is
29 authorized to offer. No such school shall conduct a program
30 unless express authority is granted in its license.

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1 (6) A diploma program offered by a nonpublic junior
2 college, college, or university must be licensed by the board,
3 notwithstanding the fact that such institution is concurrently
4 subject to the jurisdiction of the State Board of Independent
5 Colleges and Universities, if such program does the following:

6 (a) The program qualifies a student for employment or
7 engagement in an occupation whose practice in this state does
8 not require a degree.

9 (b) The program awards a diploma, as defined in s.
10 246.203(6), for successful completion, including any program
11 that is organized to give students an option of exiting at a
12 specified point and receiving a diploma, or continuing and
13 receiving a degree, as defined in s. 246.021(5).

14 246.217 License period and renewals.--

15 (1) All license applications shall be submitted on
16 notarized forms prepared and furnished by the board.

17 (2) Each new nonpublic school approved by the board
18 shall be issued a temporary or provisional license valid for a
19 maximum of 1 year. Staff of the board shall conduct a site
20 visit and evaluation within the first 6 months of operation of
21 an institution issued such a license.

22 (3)(a) A nonpublic school that seeks renewal of
23 licensure upon completion of the term of the temporary or
24 provisional license may apply for a regular license. The
25 board shall adopt rules for the provision of regular annual
26 licensure and regular biennial licensure. The requirements
27 for each such form of regular licensure shall be incorporated
28 into the rules of the board.

29 (b) The board may renew a provisional or regular
30 license as a provisional license for specific purposes
31 enumerated by the board. Redesignation from regular to

1 provisional licensure shall not require disciplinary
2 proceedings pursuant to s. 246.226.

3 (4)(a) The board may extend a license for a maximum of
4 4 months. The fees for any license so extended shall be
5 prorated. The board may also extend a provisional license for
6 a maximum of 1 additional year to an institution that cannot
7 comply with licensure requirements based on extenuating
8 circumstances. The affected institution shall be responsible
9 for demonstrating that it has made a good faith effort to meet
10 the requirements of the board. The board shall be responsible
11 for determining institutional compliance with such
12 requirements.

13 (b) A license which is in effect at the time that a
14 nonpublic school is served with an administrative complaint or
15 a notice of denial of license renewal shall be deemed to
16 remain in effect, subject to s. 246.2265, until final agency
17 action is taken. If an administrative complaint is served at
18 the time the application for license renewal is filed with the
19 board, the license shall be deemed to remain in effect,
20 subject to s. 246.2265, until final agency action is taken.

21 (5) The board shall adopt rules regarding amended
22 licensure for institutions that seek to modify existing
23 courses or programs of study, to add one or more new courses
24 or programs of study, or to expand educational programs. A
25 nonpublic school licensed pursuant to ss. 246.201-246.231
26 shall receive approval for an amended license prior to
27 implementation of such modification.

28 246.219 License fees.--

29 (1) Each initial application for a license to operate
30 a nonpublic postsecondary career school shall be accompanied
31 by a license fee of not less than \$500, and each application

1 for the renewal of such license shall be accompanied by an
2 annual license fee of at least \$300, provided that the fee for
3 a biennial license shall be at least \$600. A fee shall be
4 charged for a supplementary application for the approval of
5 any additional field or course of instruction. Such fees
6 shall be delineated, by rule, by the board.

7 (2) Fees for agents representing schools shall be at
8 least \$50 for the initial license and at least \$25 for renewal
9 of the license, excluding the cost of obtaining criminal
10 justice information. Applicants shall bear the cost of
11 obtaining such information.

12 (3) The board shall adopt rules establishing a charge
13 of at least \$250 for a delinquent application for license
14 renewal.

15 (4) All license fees shall be transmitted by the board
16 through the Department of Education to be deposited in the
17 Institutional Assessment Trust Fund created by s. 246.31.

18 246.220 Surety bonds or insurance.--Surety bonds or
19 insurance shall not be required of any school licensed by the
20 State Board of Nonpublic Career Education, except as may be
21 required by the board to insure the train-out of projected or
22 currently enrolled students, issuance of refunds to projected
23 or currently enrolled students, payment of liabilities to the
24 Student Protection Fund, or for the retrieval or safekeeping
25 of student records.

26 246.222 School administrator training.--

27 (1) The board is authorized to ensure that the
28 administrators of licensed schools are qualified to conduct
29 the operations of their respective positions and to require
30 such administrators to receive continuing education and
31 training as adopted by rule of the board. The positions for

1 which the board may review qualifications and require
2 continuing education and training may include the positions of
3 school director, director of education or training, placement
4 director, admissions director, and financial aid director.

5 (2) The training of each administrator shall be the
6 type of training necessary to assure compliance with board
7 statutes and rules and with those of other state or federal
8 agencies in relation to the responsibilities of the respective
9 positions.

10 (3) The board shall adopt general qualifications for
11 each of the respective positions and establish guidelines for
12 the minimum amount and type of continuing education and
13 training to be required. The continuing education and
14 training may be provided by the board, appropriate state or
15 federal agencies, or professional organizations familiar with
16 the requirements of the particular administrative positions.
17 The actual curriculums should be left to the discretion of
18 those agencies and organizations.

19 (4) Evidence of the administrator's compliance with
20 the continuing education and training requirements established
21 by the board may be included in the initial and renewal
22 application forms provided by the board. Actual records of the
23 continuing education and training received by administrators
24 shall be maintained at the school and available for inspection
25 at all times.

26 (5) Qualifications of administrators in their
27 respective fields, as well as continuing education and
28 training, may be established by the board as a condition of an
29 application for licensure by a new school or for renewal of a
30 license.

31 246.2235 School closings.--

1 (1) The intent of ss. 246.201-246.231 is to provide
2 for the protection of the health, education, and welfare of
3 the citizens of Florida. The Legislature finds that the
4 actions of school owners and operators in closing licensed
5 schools and not providing for the proper train-out or
6 appropriate refund of fees paid by students constitutes a
7 serious detriment to the educational delivery system in the
8 state. The Legislature further finds that measures need to be
9 taken to prevent such closures without proper train-outs or
10 refunds and to prohibit school owners who have unlawfully
11 closed a school from operating a similar licensed school in
12 the state. Furthermore, the Legislature finds that when a
13 licensed school ceases operation, it is essential that student
14 records be immediately conveyed to or placed within control of
15 the state. The opportunity for students to continue their
16 education or otherwise be able to assess and provide
17 documentation of their educational status is for the board to
18 have control over all student records upon closure of the
19 school.

20 (2) Upon closure of a licensed institution, all
21 student records shall become property of the state and shall
22 be conveyed to the board office or to another location
23 designated by the board or its executive director. Copies of
24 records shall be made available to bankruptcy trustees, upon
25 request, and to the student. Confidentiality of the records
26 shall be maintained, to the extent required by law. Any
27 school owner, director, or administrator who knowingly
28 destroys, abandons, or fails to convey or provide for the
29 safekeeping of school and student records is subject to the
30 board's seeking civil penalties in an amount not to exceed
31 \$10,000 from each individual. The board is authorized to use

1 moneys in the Student Protection Fund to facilitate the
2 retrieval or safekeeping of records at a school that has
3 closed.

4 (3) A licensed school, through its owners, directors,
5 and administrators, is required to immediately notify the
6 board in writing of the closure of the school. Furthermore,
7 such owners, directors, and administrators must organize an
8 orderly closure of the school, including, but not limited to,
9 the train-out of its students. An owner, director, or
10 administrator who fails to notify the board immediately of the
11 school closure, or fails to organize the orderly closure of
12 the school and train-out of the students, is guilty of a
13 misdemeanor of the second degree, punishable as provided in s.
14 775.082 or s. 775.083.

15 (4) The board may conduct an investigation to
16 determine if an applicant for a new school license, or the
17 school's owners, directors, or administrators, either closed a
18 school previously, failed to train-out students or issue
19 appropriate refunds, or had its license to operate a school in
20 this state or an out-of-state school revoked or denied.

21 (5) Any person convicted of crime relating to the
22 unlawful operation or management of a school shall not be
23 eligible for a license to own, operate, or manage, or be a
24 registered agent for, a licensed school in this state, or be a
25 director or officer in a corporation owning or operating a
26 licensed school. Such person shall not be allowed to operate
27 or serve in a management or supervisory position in a licensed
28 school.

29 (6) The board is authorized to deny an application for
30 a new school license if the board determines that the
31 applicant, its owners, officers, directors, or administrators

1 were previously operating a school in this or in another state
2 contrary to the health, education, and welfare of the citizens
3 of that state. Factors which may be considered by the board
4 include, but are not limited to, the denial or revocation of a
5 school license, prior criminal or civil administrative
6 proceedings regarding the operation and management of a
7 school, other types of criminal proceedings involving fraud,
8 deceit, dishonesty, or moral turpitude, failure of the school
9 to be properly closed, including training-out or providing for
10 the train-out of its students, and failure to issue
11 appropriate refunds, if any. The board may require an
12 applicant, its owners, officers, directors, or administrators
13 to provide the board with information under oath regarding the
14 prior operation of a school and criminal justice information,
15 the cost of which shall be borne by the applicant in addition
16 to the other license fees.

17 (7) The board is authorized to refer matters it deems
18 appropriate to the Department of Legal Affairs or the state
19 attorney for investigation and prosecution.

20 246.225 No tax exemptions.--The granting of a license
21 or accreditation under ss. 246.201-246.231 shall not be
22 considered an accreditation for the purpose of tax exemption
23 under state law.

24 246.226 Disciplinary proceedings.--

25 (1)(a) The board shall cause to be investigated any
26 suspected violation of a provision of ss. 246.201-246.231 or
27 rule of the board. Regardless of the source of information
28 regarding the violation, an investigation may be continued
29 until it is completed and an investigative report is presented
30 to a probable cause panel of the board.

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1 (b) Any institution or individual that is the subject
2 of an investigation by the board shall be notified by the
3 board of the investigation and the substance of the complaint
4 that prompted the investigation. Notification may be withheld
5 upon the recommendation of the executive director and
6 concurrence of the chair of the board if both parties agree
7 that notification would impede the investigation. The board
8 may also withhold notification to a person under investigation
9 for an act which constitutes a criminal offense.

10 (2) The board shall investigate complaints in a timely
11 manner. The complaint and all information obtained by the
12 board during the resultant investigation shall be confidential
13 and exempt from the provisions of s. 119.07(1) for a maximum
14 of 10 days after the probable cause panel declares a finding
15 of probable cause. The board may provide information obtained
16 pursuant to this subsection to any law enforcement or
17 regulatory agency. The board may utilize consultants who
18 possess expertise or specialized knowledge regarding the
19 substance of the investigation. Any such consultants shall be
20 subject to the provisions of this subsection. A consultant so
21 utilized shall prepare and submit an investigative report that
22 contains the investigative findings and recommendations
23 concerning the existence of probable cause to the probable
24 cause panel. The probable cause panel may request additional
25 investigative information within 15 days of receipt of an
26 investigative report. The panel shall make its determination
27 of probable cause no later than 30 days after it receives the
28 final investigative report.

29 (3) The determination of probable cause shall be made
30 by a majority vote of the probable cause panel. The panel
31 shall be composed pursuant to board rule. The proceedings of

1 such panel shall be exempt from the provisions of ss. 120.525
2 and 286.011 until the panel declares a finding of probable
3 cause. After the panel declares a finding of probable cause,
4 the board may issue an administrative complaint and prosecute
5 such complaint pursuant to the provisions of chapter 120.

6 (4) The board members who did not serve on the
7 probable cause panel shall review the recommended order of the
8 administrative law judge and shall issue a final order for
9 each such hearing. Such order shall constitute final agency
10 action.

11 (5) Upon written request by an informant, the board
12 shall notify the informant of the status of an investigation,
13 civil action, or administrative proceeding. The findings of
14 the probable cause panel shall not be disclosed until the
15 information is no longer confidential.

16 (6) A privilege against civil liability is granted to
17 any informant or any witness who provides information in good
18 faith for an investigation or proceeding conducted pursuant to
19 this section.

20 (7) The board may deny initial licensure, renewal
21 licensure, or amended licensure on the basis of all
22 information available to the board. Such actions shall not be
23 considered disciplinary and shall not require probable cause
24 proceedings.

25 246.2265 Additional regulatory powers while
26 disciplinary proceedings are pending; cease and desist
27 orders.--

28 (1) The board may, in conjunction with an
29 administrative complaint or notice of denial of licensure,
30 issue cease and desist orders for the purpose of protecting
31 the health, safety, and welfare of students, prospective

1 students, and the general public. Such orders may be
2 mandatory or prohibitory in form and may order a nonpublic
3 postsecondary career institution, officer, employee, or agent
4 to:

5 (a) Cease and desist from specified conduct which
6 relates to acts or omissions stated in the administrative
7 complaint or notice of denial of licensure; or

8 (b) Cease and desist from failing to engage in
9 specified conduct which is necessary to achieve or preserve
10 the regulatory purposes of ss. 246.201-246.231.

11 (2) Cease and desist orders may include, but not be
12 limited to, orders to:

13 (a) Cease the enrollment of new students or limit
14 enrollment to those students who can be adequately served
15 within the current facilities of the institution by the
16 current officers and employees, or to limit enrollment to
17 those students who meet more restrictive admissions standards.

18 (b) Modify curricula or methods of instruction, as
19 needed, to ensure that currently enrolled students receive the
20 education or training of the type and quality represented in
21 the institutional catalog.

22 (c) Cease from advertising, to advertise only with
23 prior approval of the board, or to publish or broadcast
24 corrective or clarifying advertising, as needed, to overcome
25 the effects of previous allegedly deceptive or misleading
26 advertising.

27 (3) Cease and desist orders issued pursuant to this
28 section shall take effect immediately upon issuance and shall
29 remain in effect until the board takes final agency action. A
30 cease and desist order shall be reviewable at the request of
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1 the institution, officer, employee, or agent to whom it is
2 directed as follows:

3 (a) If formal proceedings have been requested and the
4 matter has been referred to the Division of Administrative
5 Hearings, a motion to abate or modify the cease and desist
6 order may be filed with the division. Any interlocutory order
7 of the presiding administrative law judge shall be binding on
8 the parties until final agency action is taken by the board.

9 (b) If informal proceedings before the board have been
10 requested, the board may, at any regular board meeting,
11 consider and determine a request from the affected party to
12 abate or modify the cease and desist order.

13 (c) If a party is aggrieved by a cease and desist
14 order after seeking to have the order abated or modified
15 pursuant to paragraph (a) or paragraph (b), the party may seek
16 interlocutory judicial review by the appropriate district
17 court of appeal pursuant to the applicable rules of appellate
18 procedure.

19 (4) The executive director of the board, with the
20 approval of the chair of the board, may issue and deliver a
21 cease and desist order to a nonpublic postsecondary career
22 institution.

23 246.227 Injunctive relief; unlicensed operation of a
24 school; cease and desist notice; civil penalty.--

25 (1) The board may obtain an injunction or take any
26 action it deems necessary against any school or agent in
27 violation of ss. 246.201-246.231, but no such proceedings and
28 no orders issued therein or as a result thereof shall bar the
29 imposition of any other penalties which may be imposed for the
30 violation of this act.

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1 (2) An unlicensed nonpublic postsecondary career
2 institution required to be licensed pursuant to ss.
3 246.201-246.231 that advertises or causes advertisements to be
4 made public through which students are solicited for
5 enrollment or are offered diplomas shall be in violation of
6 the provisions of ss. 246.201-246.231. A licensed nonpublic
7 postsecondary career institution that is under temporary or
8 permanent injunction against operating or offering diplomas
9 that advertises or causes advertisements to be made public
10 through which students are solicited for enrollment or are
11 offered diplomas shall be in violation of such injunctive
12 order upon presentation to the court of the advertisement.

13 (3) The executive director of the board, with the
14 approval of the chair of the board, may issue and deliver a
15 cease and desist order to any nonpublic postsecondary career
16 institution or agent required to be licensed pursuant to ss.
17 246.201-246.231 that is not so licensed. The board may file,
18 in the name of the state, a proceeding which seeks issuance of
19 an injunction against any person in violation of any provision
20 of such order.

21 (4) In addition to or in lieu of any remedy provided
22 in this section, the board may seek the imposition of a civil
23 penalty through the circuit court for any violation for which
24 the board may issue a notice to cease and desist under this
25 section. The civil penalty shall be no less than \$500 and no
26 more than \$5,000 for each offense. The court may also award
27 to the prevailing party court costs and reasonable attorney's
28 fees and, in the event the board prevails, may also award
29 reasonable costs of investigation.

30 246.228 Grounds for disciplinary action; action by the
31 board.--

1 (1) The following acts shall constitute grounds for
2 which the disciplinary actions specified in subsection (2) may
3 be taken:

4 (a) Attempting to obtain, obtaining, or renewing a
5 license to operate a school by bribery, by fraudulent
6 misrepresentation, or through an error of the board.

7 (b) Having a license to operate a school revoked,
8 suspended, or otherwise acted against, including the denial of
9 licensure, by the licensing authority of another state,
10 territory, or country.

11 (c) Pleading nolo contendere to or being found guilty,
12 regardless of adjudication, of a crime in any jurisdiction.

13 (d) Aiding, assisting, procuring, or advising any
14 unlicensed person to operate a school contrary to this chapter
15 or to a rule of the board.

16 (e) Delegating professional responsibilities to a
17 person when the licensee delegating such responsibilities
18 knows or has reason to know that such person is not qualified
19 by training, experience, or licensure to perform them.

20 (f) Violating any provision of this section or rule of
21 the board, the penalty for which is a disciplinary action set
22 forth in subsection (2), or any lawful order of the board
23 previously entered in a disciplinary hearing or failing to
24 comply with a lawfully issued subpoena of the board.

25 (g) Conspiring with another licensee or with any other
26 person to commit an act, or committing an act, which would
27 tend to coerce, intimidate, or preclude another licensee from
28 lawfully advertising his or her services.

29 (h) False, deceptive, or misleading advertising.

30 (i) Committing other acts prohibited by rule of the
31 board.

1 (2) The board shall enter a final order either
2 dismissing the complaint or imposing one or more of the
3 following penalties:

4 (a) Denial of an application for licensure.

5 (b) Revocation or suspension of a license.

6 (c) Imposition of an administrative fine of no less
7 than \$100 and no more than \$1,000 for each count or separate
8 offense. Such fine shall be deposited in the Institutional
9 Assessment Trust Fund pursuant to s. 246.31.

10 (d) Placement of the licensee on probation for a
11 period of time and subject to such conditions as the board may
12 specify.

13 (e) Issuance of a written reprimand to the school.
14 Such reprimand shall be posted in a prominent place at the
15 school for such period of time as the board may specify.

16 246.229 Enforcement.--The Department of Legal Affairs
17 or the state attorney shall have authority to enforce ss.
18 246.201-246.231.

19 246.231 Penalties.--Any person who violates or fails
20 to comply with ss. 246.201-246.231 or any of the rules
21 promulgated thereunder:

22 (1) For the first conviction, is guilty of a
23 misdemeanor of the second degree, punishable as provided in s.
24 775.082 or s. 775.083.

25 (2) For a second or subsequent conviction, is guilty
26 of a misdemeanor of the first degree, punishable as provided
27 in s. 775.082 or s. 775.083.

28 (3) May have his or her license revoked.

29 Section 5. This act shall take effect upon becoming a
30 law.

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HOUSE SUMMARY

Expands the definition of "school" to include flight training schools and fixed based operators for purposes of regulation and licensure of nonpublic postsecondary career schools by the State Board of Nonpublic Career Education. Requires flight training schools and fixed based operators licensed by the board to collect and maintain specified information about their students. Requires specified scores on the Test of English as a Foreign Language. Provides penalties for violation or failure to comply. Removes an exemption from licensure for a flight training school or fixed based operator regulated by the Federal Aviation Administration or other agency.