

1                   A bill to be entitled  
2           An act relating to independent postsecondary  
3           educational institutions; amending s. 1005.04, F.S.;  
4           requiring that certain institutions include specified  
5           information relating to student fees and costs in a  
6           disclosure to prospective students; creating s.  
7           1005.11, F.S.; requiring the Commission for  
8           Independent Education to annually prepare an  
9           accountability report by a specified date; requiring  
10          licensed institutions to annually provide certain data  
11          to the commission by a specified date and authorizing  
12          administrative fines for an institution that fails to  
13          timely submit the data; requiring placement rates to  
14          be determined using a specified methodology; requiring  
15          the commission to establish a common set of data  
16          definitions; requiring the commission to establish  
17          certain benchmarks by rule; providing for the  
18          designation of certain licensed institutions as "high  
19          performing"; amending s. 1005.21, F.S.; revising the  
20          commission's membership; limiting the terms of  
21          commission members; amending s. 1005.22, F.S.;  
22          requiring the commission to approve an annual budget;  
23          providing for the review of certain complaints  
24          concerning institutions or programs which are not  
25          closed within a specified time; authorizing the  
26          commission to prohibit the enrollment of new students,

27 | or limit the number of students in a program at, a  
28 | licensed institution under certain circumstances;  
29 | amending s. 1005.31, F.S.; revising the commission's  
30 | evaluation standards for licensure of an institution;  
31 | requiring certain institutions to post a surety bond  
32 | or similar financial security for specified purposes;  
33 | requiring the commission to adopt rules; requiring the  
34 | commission to examine an application for licensure and  
35 | take certain actions within a specified period;  
36 | amending s. 1005.32, F.S.; deleting a provision  
37 | authorizing an institution that is a Florida  
38 | corporation to apply for licensure by means of  
39 | accreditation; requiring institutions granted  
40 | licensure through accreditation to file a retention  
41 | and completion management plan; amending s. 1005.36,  
42 | F.S.; revising the criminal penalty for the unlawful  
43 | closure of certain institutions; requiring the  
44 | commission to create a Closed Institution Panel;  
45 | providing membership and duties of the panel;  
46 | providing that the panel's activities be conducted at  
47 | the expense of certain institutions; amending s.  
48 | 1005.37, F.S.; requiring the commission to annually  
49 | determine fees to support the Student Protection Fund;  
50 | providing that fees may not be collected under certain  
51 | circumstances; amending s. 1005.39, F.S.; requiring  
52 | the commission to determine whether certain personnel

53 of licensed institutions are qualified and require  
54 certain personnel to complete continuing education and  
55 training; requiring the commission to annually verify  
56 that certain personnel have completed certain training  
57 by a specified date; authorizing continuing education  
58 to be provided by licensed institutions under certain  
59 circumstances; requiring certain evidence be included  
60 in initial or renewal application forms provided by  
61 the commission; providing an effective date.

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

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65 Section 1. Paragraph (a) of subsection (1) of section  
66 1005.04, Florida Statutes, is amended to read:

67 1005.04 Fair consumer practices.—

68 (1) Every institution that is under the jurisdiction of  
69 the commission or is exempt from the jurisdiction or purview of  
70 the commission pursuant to s. 1005.06(1)(c) or (f) and that  
71 either directly or indirectly solicits for enrollment any  
72 student shall:

73 (a) Disclose to each prospective student a statement of  
74 the purpose of such institution, its educational programs and  
75 curricula, a description of its physical facilities, its status  
76 regarding licensure, its fee schedule, including all fees and  
77 costs that will be incurred by a student for completion of a  
78 program at the institution, ~~and~~ policies regarding retaining

79 student fees if a student withdraws, and a statement regarding  
80 the transferability of credits to and from other institutions.  
81 The institution shall make the required disclosures in writing  
82 at least 1 week prior to enrollment or collection of any tuition  
83 from the prospective student. The required disclosures may be  
84 made in the institution's current catalog;

85 Section 2. Section 1005.11, Florida Statutes, is created  
86 to read:

87 1005.11 Accountability for institutions licensed by the  
88 Commission for Independent Education.-

89 (1) By March 15 of each year, the commission shall prepare  
90 an annual accountability report for licensed institutions. The  
91 report must contain, at a minimum, the graduation rates,  
92 including the number of graduates by program, retention rates,  
93 and placement rates for all licensed institutions.

94 (2) By November 30 of each year, each licensed institution  
95 shall provide data to the commission in a format prescribed by  
96 the commission. Placement rates shall be determined using  
97 Florida Education and Training Placement Information Program  
98 methodology. The commission shall establish a common set of data  
99 definitions that are consistent with those used by the United  
100 States Department of Education for institutional reporting  
101 purposes.

102 (3) The commission shall impose an administrative fine of  
103 not more than \$1,000 when a licensed institution fails to timely  
104 submit the required data to the commission pursuant to this

105 section. Administrative fines collected under this subsection  
106 shall be deposited into the Student Protection Fund.

107 (4) The commission shall establish by rule performance  
108 benchmarks to identify high-performing institutions licensed by  
109 the commission. Licensed institutions with graduation rates,  
110 retention rates, and placement rates equal to or higher than the  
111 average rates of all Florida universities, colleges, or career  
112 centers, as appropriate, may receive and use the designation of  
113 "high performing."

114 Section 3. Paragraphs (c) and (d) of subsection (2) and  
115 subsection (3) of section 1005.21, Florida Statutes, are amended  
116 to read:

117 1005.21 Commission for Independent Education.—

118 (2) The Commission for Independent Education shall consist  
119 of seven members who are residents of this state. The commission  
120 shall function in matters concerning independent postsecondary  
121 educational institutions in consumer protection, program  
122 improvement, and licensure for institutions under its purview.  
123 The Governor shall appoint the members of the commission who are  
124 subject to confirmation by the Senate. The membership of the  
125 commission shall consist of:

126 (c) One member who is an employer of graduates of  
127 institutions licensed by the commission. The member may not have  
128 any other relationship with an institution subject to licensure  
129 by the commission except for his or her status as an employer of  
130 graduates of the institution ~~from a public school district or~~

131 ~~Florida College System institution who is an administrator of~~  
 132 ~~career education.~~

133 (d) One member who is a graduate of an institution subject  
 134 to licensure by the commission. The member may not have any  
 135 other relationship with an institution subject to licensure by  
 136 the commission except for his or her status as an alumnus  
 137 ~~representative of a college that meets the criteria of s.~~  
 138 ~~1005.06(1)(f).~~

139 (3) The members of the commission shall be appointed to 3-  
 140 year terms. Members may serve no more than three consecutive  
 141 terms or and until their successors are appointed and qualified,  
 142 whichever occurs first. If a vacancy on the commission occurs  
 143 before the expiration of a term, the Governor shall appoint a  
 144 successor to serve the unexpired portion of the term.

145 Section 4. Paragraphs (e) and (k) of subsection (1) of  
 146 section 1005.22, Florida Statutes, are amended, and paragraph  
 147 (j) is added to subsection (2), to read:

148 1005.22 Powers and duties of commission.—

149 (1) The commission shall:

150 (e) Administer the provisions of this chapter. To this  
 151 end, the commission has the following administrative powers and  
 152 responsibilities:

153 1. The commission shall adopt rules pursuant to ss.  
 154 120.536(1) and 120.54 for the operation and establishment of  
 155 independent postsecondary educational institutions. The  
 156 commission shall submit the rules to the State Board of

157 Education for approval or disapproval. If the state board does  
158 not act on a rule within 60 days after receiving it, the rule  
159 shall be filed immediately with the Department of State.

160 2. The commission shall approve and submit an annual  
161 budget to the State Board of Education.

162 3. The commission shall transmit all fees, donations, and  
163 other receipts of money to the Institutional Assessment Trust  
164 Fund.

165 4. The commission shall expend funds as necessary to  
166 assist in the application and enforcement of its powers and  
167 duties. The Chief Financial Officer shall pay out all moneys and  
168 funds as directed under this chapter upon vouchers approved by  
169 the Department of Education for all lawful purposes necessary to  
170 administering this chapter. The commission shall make annual  
171 reports to the State Board of Education showing in detail  
172 amounts received and all expenditures. The commission shall  
173 include in its annual report to the State Board of Education a  
174 statement of its major activities during the period covered by  
175 the report.

176 (k) Establish and publicize the procedures for receiving  
177 and responding to complaints from students, faculty, and others  
178 concerning institutions or programs under the purview of the  
179 commission, and keep records of such complaints in order to  
180 determine the frequency and nature of complaints with respect to  
181 specific institutions of higher education. Complaints not closed  
182 within 90 days shall be reviewed by a committee appointed by the

183 commission.

184 (2) The commission may:

185 (j) Prohibit a licensed institution from enrolling new  
186 students, or limit the number of students in a program at a  
187 licensed institution, based on the institution's performance.

188 Section 5. Subsections (5) through (16) of section  
189 1005.31, Florida Statutes, are renumbered as subsections (6)  
190 through (17), respectively, subsection (2) and present  
191 subsection (6) are amended, and a new subsection (5) is added to  
192 that section, to read:

193 1005.31 Licensure of institutions.—

194 (2) The commission shall develop minimum standards by  
195 which to evaluate institutions for licensure. These standards  
196 must include, at a minimum, ~~at least~~ the institution's: name,  
197 financial stability, purpose, administrative organization,  
198 admissions and recruitment, educational programs and curricula,  
199 retention ~~and~~ completion, including a retention and completion  
200 management plan, career placement, faculty, learning resources,  
201 student personnel services, physical plant and facilities,  
202 publications, and disclosure statements about the status of the  
203 institution with respect to professional certification and  
204 licensure. The commission may adopt rules to ensure that  
205 institutions licensed under this section meet these standards in  
206 ways that are appropriate to achieve the stated intent of this  
207 chapter, including provisions for nontraditional or distance  
208 education programs and delivery.

209       (5) The commission may require institutions that do not  
 210 provide sufficient evidence of financial stability at the time  
 211 of application for a provisional license or that are dependent  
 212 upon financial resources located outside of the United States to  
 213 post and maintain a surety bond to assist each enrolled student  
 214 in completing his or her program of enrollment in the event that  
 215 the institution closes before receiving its first annual  
 216 licensure renewal. In lieu of a surety bond, the commission may  
 217 require an institution to establish and maintain a cash deposit  
 218 escrow account or an irrevocable letter of credit payable to the  
 219 commission in an amount not to exceed 50 percent of the  
 220 institution's projected revenue for its first year. The  
 221 commission shall adopt rules to implement this subsection.

222       (7)~~(6)~~ The commission shall ensure through an  
 223 investigative process that applicants for licensure meet the  
 224 standards as defined in rule. Within 30 days after receipt of an  
 225 application, the commission shall examine the application,  
 226 notify the applicant of any apparent errors or omissions, and  
 227 request any necessary additional information from the applicant.  
 228 When the investigative process is not completed within the time  
 229 set out in s. 120.60(1) and the commission has reason to believe  
 230 that the applicant does not meet licensure standards, the  
 231 commission or the executive director of the commission may issue  
 232 a 90-day licensure delay, which shall be in writing and  
 233 sufficient to notify the applicant of the reason for the delay.  
 234 The provisions of this subsection shall control over any

235 conflicting provisions of s. 120.60(1).

236 Section 6. Paragraph (e) of subsection (1) and subsection  
237 (3) of section 1005.32, Florida Statutes, are amended to read:

238 1005.32 Licensure by means of accreditation.—

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

242 ~~(e) The institution is a Florida corporation.~~

243 (3) The commission may not require an institution granted  
244 a license by means of accreditation to submit reports that  
245 differ from the reports required by its accrediting association,  
246 except that each institution must file with the commission an  
247 annual audit report and a retention and completion management  
248 plan pursuant to s. 1005.31. The institution must also follow  
249 the commission's requirements for orderly closing, including  
250 provisions for trainout or refunds and arranging for the proper  
251 disposition of student and institutional records.

252 Section 7. Subsections (3) and (4) of section 1005.36,  
253 Florida Statutes, are renumbered as subsections (4) and (5),  
254 respectively, subsection (2) is amended, and a new subsection  
255 (3) is added to that section, to read:

256 1005.36 Institutional closings.—

257 (2) At least 30 days before ~~prior to~~ closing an  
258 institution, its owners, directors, or administrators shall  
259 notify the commission in writing of the closure of the  
260 institution. The owners, directors, and administrators must

261 organize an orderly closure of the institution, which means at  
262 least providing for the completion of training of its students.  
263 The commission must approve any such plan. An owner, director,  
264 or administrator who fails to notify the commission at least 30  
265 days before ~~prior to~~ the institution's closure, or who fails to  
266 organize the orderly closure of the institution and the trainout  
267 of the students, commits a misdemeanor of the first ~~second~~  
268 degree, punishable as provided in s. 775.082 or s. 775.083.

269 (3) By October 1, 2016, the commission shall establish a  
270 Closed Institution Panel. The panel shall consist of at least  
271 one commission member, one commission staff member, one  
272 accrediting body staff member, and one administrator with  
273 experience managing licensed institutions. The commission shall  
274 notify the panel upon the closing of a licensed institution. For  
275 any closure that does not comply with the requirements of  
276 subsection (2), or at the discretion of the commission chair,  
277 the panel shall convene to implement measures to minimize the  
278 academic, logistical, and financial impact on students of the  
279 institution. The panel is authorized to secure student records  
280 and, to the extent possible, maintain the educational programs  
281 at the institution for at least 30 days after it receives  
282 notification that the institution is closing to assist each  
283 student with completion of his or her educational program. The  
284 panel's activities shall be conducted at the expense of the  
285 institution that is closing.

286 Section 8. Section 1005.37, Florida Statutes, is amended

287 to read:

288 1005.37 Student Protection Fund.—

289 (1) The commission shall establish and administer a  
 290 statewide, fee-supported financial program through which funds  
 291 will be available to complete the training of a student who  
 292 enrolls in a licensed institution ~~nonpublic school~~ that  
 293 terminates a program or ceases operation before the student has  
 294 completed his or her program of study. The financial program is  
 295 named the Student Protection Fund.

296 (2) The commission is authorized to assess a fee from the  
 297 licensed institutions ~~schools~~ within its jurisdiction for such  
 298 purpose. The commission shall assess a licensed institution  
 299 ~~school~~ an additional fee for its eligibility for the Student  
 300 Protection Fund. Fees to support the fund shall be determined  
 301 annually by the commission; however, if the fund balance exceeds  
 302 \$5 million on November 1 of any year, the fees may not be  
 303 collected in the next calendar year.

304 (3) If a licensed institution ~~school~~ terminates a program  
 305 before all students complete it, the commission shall also  
 306 assess that institution ~~school~~ a fee adequate to pay the full  
 307 cost to the Student Protection Fund of completing the training  
 308 of students.

309 (4) The fund shall consist entirely of fees assessed to  
 310 licensed institutions ~~schools~~ and shall not be funded under any  
 311 circumstances by public funds, nor shall the commission make  
 312 payments or be obligated to make payments in excess of the

313 assessments actually received from licensed institutions ~~schools~~  
 314 and deposited in the Institutional Assessment Trust Fund to the  
 315 credit of the Student Protection Fund.

316 (5) At each commission meeting, the commission shall  
 317 consider the need for and shall make required assessments, shall  
 318 review the collection status of unpaid assessments and take all  
 319 necessary steps to collect them, and shall review all moneys in  
 320 the fund and expenses incurred since the last reporting period.  
 321 This review must include administrative expenses, moneys  
 322 received, and payments made to students or to lending  
 323 institutions.

324 (6) Staff of the commission must immediately inform the  
 325 commission upon learning of the closing of a licensed  
 326 institution ~~school~~ or the termination of a program that could  
 327 expose the fund to liability.

328 (7) The Student Protection Fund must be actuarially sound,  
 329 periodically audited by the Auditor General in connection with  
 330 his or her audit of the Department of Education, and reviewed to  
 331 determine if additional fees must be charged to licensed  
 332 institutions ~~schools~~ eligible to participate in the fund.

333 Section 9. Subsections (1), (3), and (4) of section  
 334 1005.39, Florida Statutes, are amended to read:

335 1005.39 Continuing education and training for  
 336 administrators and faculty.—

337 (1) The commission shall determine whether ~~is authorized~~  
 338 ~~to ensure that~~ the administrators of licensed institutions are

339 qualified to conduct the operations of their respective  
340 positions and ~~to~~ require such administrators and faculty to  
341 receive continuing education and training as adopted by rule of  
342 the commission. The positions for which the commission must ~~may~~  
343 review qualifications and require continuing education and  
344 training may include the positions of chief administrator or  
345 officer, chief campus officer, director of education or  
346 training, placement director, admissions director, and financial  
347 aid director and faculty members. By July 1, 2017, and annually  
348 thereafter, the commission must verify that all administrators  
349 subject to continuing education requirements have completed  
350 training on state and federal laws and regulations specifically  
351 pertaining to the operation of nonpublic postsecondary  
352 institutions.

353 (3) The commission shall adopt general qualifications for  
354 each of the respective positions and establish guidelines for  
355 the minimum amount and type of continuing education and training  
356 to be required. The continuing education and training may be  
357 provided by the commission, appropriate state or federal  
358 agencies, or professional organizations familiar with the  
359 requirements of the particular administrative positions.  
360 Continuing education may also be provided by licensed  
361 institutions upon approval of the commission. The actual  
362 curricula should be left to the discretion of those agencies,  
363 ~~and~~ organizations, and, if approved, licensed institutions.

364 (4) Evidence of administrator ~~the administrator's~~ and

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365 faculty ~~member's~~ compliance with the continuing education and  
366 training requirements established by the commission must ~~may~~ be  
367 included in the initial and renewal application forms provided  
368 to ~~by~~ the commission. Actual records of the continuing education  
369 and training received by administrators and faculty shall be  
370 maintained at the institution and available for inspection at  
371 all times.

372 Section 10. This act shall take effect July 1, 2016.