

By Senator Rodriguez

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1                                   A bill to be entitled  
2       An act relating to postsecondary educational  
3       institutions; amending s. 1005.04, F.S.; revising the  
4       required disclosures specified institutions must make  
5       to each prospective student; creating s. 1005.11,  
6       F.S.; requiring the commission to annually prepare an  
7       accountability report by a specified date; requiring  
8       licensed institutions to annually provide certain data  
9       to the commission by a specified date; requiring  
10      administrative fines for an institution that fails to  
11      timely submit the required data; requiring the  
12      commission to establish certain benchmarks by rule;  
13      amending s. 1005.21, F.S.; revising the membership of  
14      the commission; limiting the terms of commission  
15      members; amending s. 1005.22, F.S.; requiring the  
16      commission to approve an annual budget; providing for  
17      the review of certain complaints; authorizing the  
18      commission, under certain circumstances, to prohibit  
19      the enrollment of new students or to limit the number  
20      of students in a program at a licensed institution;  
21      amending s. 1005.31, F.S.; revising the commission's  
22      evaluation standards for licensure of an institution;  
23      requiring the commission to deny a renewal of an  
24      annual license for institutions whose federal student  
25      loan cohort default rates exceed a specified percent;  
26      authorizing the commission to require certain  
27      institutions to post a surety bond or similar  
28      financial security for specified purposes; requiring  
29      the commission to adopt rules; requiring the

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30 commission to examine an application for licensure and  
31 take certain actions within a specified period;  
32 amending s. 1005.32, F.S.; revising criteria for  
33 independent postsecondary educational institutions to  
34 apply for a license by accreditation; requiring  
35 certain institutions to file a retention and  
36 completion management plan; amending s. 1005.36, F.S.;  
37 revising the criminal penalty for the unlawful closure  
38 of certain institutions; requiring the commission to  
39 create a Closed Institution Panel by a specified date;  
40 providing membership and duties of the panel; amending  
41 s. 1005.37, F.S.; requiring the commission to annually  
42 determine fees to support the Student Protection Fund;  
43 prohibiting the commission from collecting the fees  
44 under certain circumstances; amending s. 1005.39,  
45 F.S.; requiring the commission to determine the  
46 qualifications of certain personnel of licensed  
47 institutions; requiring the commission to annually  
48 verify that certain personnel have completed certain  
49 training by a specified date; authorizing the  
50 provision of continuing education by licensed  
51 institutions under certain circumstances; requiring  
52 that certain evidence be included in initial or  
53 renewal application forms provided by the commission;  
54 amending ss. 1011.81 and 1011.905, F.S.; requiring  
55 that Florida College System institution performance  
56 funding for industry certifications and State  
57 University System university performance funding take  
58 into consideration an institution's federal student

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59 loan cohort default rate; providing an effective date.

60  
61 Be It Enacted by the Legislature of the State of Florida:

62  
63 Section 1. Section 1005.04, Florida Statutes, is amended to  
64 read:

65 1005.04 Fair consumer practices; federal student loan  
66 default rates.—

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

72 (a) Provide each student with an accurate, stand-alone  
73 disclosure statement, in a format prescribed by the commission,  
74 as a condition of any financial obligation of the student to the  
75 institution. The institution must provide the disclosure  
76 statement individually to each student at least 1 week before  
77 enrollment or collection of tuition from the student. The  
78 disclosure statement must include, at a minimum:

79 1. The purpose of the institution, its educational programs  
80 and curricula, and a description of its physical facilities;

81 2. The institution's licensure status with the commission  
82 and its status as an accredited institution or program, as  
83 applicable, by an accrediting agency recognized by the United  
84 States Department of Education, and any effect that  
85 accreditation or lack of accreditation will have on the  
86 student's ability to sit for a professional examination or  
87 qualify for financial aid;

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88           3. The institution's fee schedule; all fees required to be  
89 paid by the student, including tuition, laboratory fees,  
90 graduation fees, and any other nonrefundable fees; and the  
91 institution's policies regarding the retention of student fees  
92 if a student withdraws from the institution;

93           4. The transferability of credits to other institutions and  
94 from other institutions; and

95           5. Requirements or limitations, such as physical or  
96 language capabilities or lack of a criminal record, which will  
97 limit career options related to the student's course of study  
98 ~~Disclose to each prospective student a statement of the purpose~~  
99 ~~of such institution, its educational programs and curricula, a~~  
100 ~~description of its physical facilities, its status regarding~~  
101 ~~licensure, its fee schedule and policies regarding retaining~~  
102 ~~student fees if a student withdraws, and a statement regarding~~  
103 ~~the transferability of credits to and from other institutions.~~  
104 ~~The institution shall make the required disclosures in writing~~  
105 ~~at least 1 week prior to enrollment or collection of any tuition~~  
106 ~~from the prospective student. The required disclosures may be~~  
107 ~~made in the institution's current catalog;~~

108           (b) Use a reliable method to assess, before accepting a  
109 student into a program, the student's ability to complete  
110 successfully the course of study for which he or she has  
111 applied.~~†~~

112           (c) Inform each student accurately about financial  
113 assistance and obligations for repayment of loans; describe any  
114 employment placement services provided and the limitations  
115 thereof; and refrain from promising or implying guaranteed  
116 placement, market availability, or salary amounts.~~†~~

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117 (d) Provide to prospective and enrolled students accurate  
 118 information regarding the relationship of its programs to state  
 119 licensure requirements for practicing related occupations and  
 120 professions in Florida.~~†~~

121 (e) Ensure that all advertisements are accurate and not  
 122 misleading.~~†~~

123 (f) Publish and follow an equitable prorated refund policy  
 124 for all students, and follow both the federal refund guidelines  
 125 for students receiving federal financial assistance and the  
 126 minimum refund guidelines set by commission rule.~~†~~

127 (g) Follow the requirements of state and federal laws that  
 128 require annual reporting with respect to crime statistics and  
 129 physical plant safety and make those reports available to the  
 130 public.~~†~~ and

131 (h) Publish and follow procedures for handling student  
 132 complaints, disciplinary actions, and appeals.

133 (2) ~~In addition,~~ Institutions that are required to be  
 134 licensed by the commission shall disclose to prospective  
 135 students that additional information regarding the institution  
 136 may be obtained by contacting the commission ~~for Independent~~  
 137 ~~Education, Department of Education, Tallahassee.~~

138 Section 2. Section 1005.11, Florida Statutes, is created to  
 139 read:

140 1005.11 Accountability for institutions licensed by the  
 141 Commission for Independent Education.-

142 (1) By March 15 of each year, the Commission for  
 143 Independent Education shall prepare an accountability report for  
 144 licensed institutions. The report must contain, at a minimum,  
 145 the graduation rates, including the number of graduates by

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146 program; the retention rates; and the placement rates for all  
147 licensed institutions.

148 (2) By November 30 of each year, each licensed institution  
149 shall provide data on the graduation rate, retention rate, and  
150 placement rate of the licensed institution to the commission in  
151 a format prescribed by the commission. Placement rates must be  
152 determined using the Florida Education and Training Placement  
153 Information Program methodology. The commission shall establish  
154 a common set of data definitions that are consistent with those  
155 used by the United States Department of Education for  
156 institutional reporting purposes.

157 (3) The commission shall impose an administrative fine of  
158 not more than \$1,000 when a licensed institution fails to timely  
159 submit the required data to the commission pursuant to this  
160 section. Administrative fines collected under this subsection  
161 must be deposited into the Student Protection Fund.

162 (4) The commission shall establish by rule performance  
163 benchmarks to identify high-performing institutions licensed by  
164 the commission. Licensed institutions with graduation rates,  
165 retention rates, and placement rates equal to or higher than the  
166 average rates of all Florida universities, colleges, or career  
167 centers, as appropriate, may receive and use the designation of  
168 "high performing."

169 Section 3. Paragraphs (c) and (d) of subsection (2) and  
170 subsection (3) of section 1005.21, Florida Statutes, are amended  
171 to read:

172 1005.21 Commission for Independent Education.—

173 (2) The Commission for Independent Education shall consist  
174 of seven members who are residents of this state. The commission

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175 shall function in matters concerning independent postsecondary  
176 educational institutions in consumer protection, program  
177 improvement, and licensure for institutions under its purview.  
178 The Governor shall appoint the members of the commission who are  
179 subject to confirmation by the Senate. The membership of the  
180 commission shall consist of:

181 (c) One member who employs graduates of institutions  
182 licensed by the commission. The member may not have any other  
183 relationship with an institution subject to licensure by the  
184 commission except for his or her status as an employer of  
185 graduates of the institution ~~from a public school district or~~  
186 ~~Florida College System institution who is an administrator of~~  
187 ~~career education.~~

188 (d) One member who is a graduate of an institution subject  
189 to licensure by the commission. The member may not have any  
190 other relationship with an institution subject to licensure by  
191 the commission except for his or her status as an alumnus  
192 ~~representative of a college that meets the criteria of s.~~  
193 ~~1005.06(1)(f).~~

194 (3) The members of the commission shall be appointed to 3-  
195 year terms. Members may serve no more than three consecutive  
196 terms or ~~and~~ until their successors are appointed and qualified,  
197 whichever occurs first. If a vacancy on the commission occurs  
198 before the expiration of a term, the Governor shall appoint a  
199 successor to serve the unexpired portion of the term.

200 Section 4. Paragraphs (e) and (k) of subsection (1) of  
201 section 1005.22, Florida Statutes, are amended, and paragraph  
202 (j) is added to subsection (2) of that section, to read:

203 1005.22 Powers and duties of commission.-

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204 (1) The commission shall:

205 (e) Administer the provisions of this chapter. To this end,  
206 the commission has the following administrative powers and  
207 responsibilities:

208 1. The commission shall adopt rules pursuant to ss.  
209 120.536(1) and 120.54 for the operation and establishment of  
210 independent postsecondary educational institutions. The  
211 commission shall submit the rules to the State Board of  
212 Education for approval or disapproval. If the state board does  
213 not act on a rule within 60 days after receiving it, the rule  
214 shall be filed immediately with the Department of State.

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

217 3. The commission shall transmit all fees, donations, and  
218 other receipts of money to the Institutional Assessment Trust  
219 Fund.

220 4. The commission shall expend funds as necessary to assist  
221 in the application and enforcement of its powers and duties. The  
222 Chief Financial Officer shall pay out all moneys and funds as  
223 directed under this chapter upon vouchers approved by the  
224 Department of Education for all lawful purposes necessary to  
225 administering this chapter. The commission shall make annual  
226 reports to the State Board of Education showing in detail  
227 amounts received and all expenditures. The commission shall  
228 include in its annual report to the State Board of Education a  
229 statement of its major activities during the period covered by  
230 the report.

231 (k) Establish and publicize the procedures for receiving  
232 and responding to complaints from students, faculty, and others



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233 concerning institutions or programs under the purview of the  
 234 commission, and keep records of such complaints in order to  
 235 determine the frequency and nature of complaints with respect to  
 236 specific institutions of higher education. The commission shall  
 237 appoint a committee to review any complaint that is not closed  
 238 within 90 days after receipt of the complaint.

239 (2) The commission may:

240 (j) Based on the performance of an institution licensed by  
 241 the commission, prohibit the institution from enrolling new  
 242 students or limit the number of students in a program at the  
 243 institution.

244 Section 5. Present subsections (5) through (15) of section  
 245 1005.31, Florida Statutes, are redesignated as subsections (6)  
 246 through (16), respectively, subsection (2) and present  
 247 subsection (6) of that section are amended, and a new subsection  
 248 (5) is added to that section, to read:

249 1005.31 Licensure of institutions.—

250 (2) The commission shall develop minimum standards ~~by which~~  
 251 to evaluate institutions for licensure. These standards must  
 252 include, at a minimum, at least the institution's name;;  
 253 financial stability;; purpose;; administrative organization;;  
 254 admissions and recruitment;; educational programs and  
 255 curricula;; retention and completion, including a retention and  
 256 completion management plan; career placement; federal student  
 257 loan cohort default rate as calculated by the United States  
 258 Department of Education; faculty;; learning resources;; student  
 259 personnel services;; physical plant and facilities;;  
 260 publications;; and disclosure statements about the status of the  
 261 institution with respect to professional certification and

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262 licensure. The commission may adopt rules to ensure that  
263 institutions licensed under this section meet these standards in  
264 ways that are appropriate to achieve the stated intent of this  
265 chapter, including provisions for nontraditional or distance  
266 education programs and delivery. The commission shall deny a  
267 renewal of an annual license for an institution whose federal  
268 student loan cohort default rate exceeds 30 percent.

269 (5) The commission may require an institution that does not  
270 provide sufficient evidence of financial stability at the time  
271 of application for a provisional license or that is dependent  
272 upon financial resources located outside the United States to  
273 post and maintain a surety bond to assist each enrolled student  
274 in completing the student's program of enrollment in the event  
275 that the institution closes before receiving its first annual  
276 licensure renewal. In lieu of a surety bond, the commission may  
277 require an institution to establish and maintain a cash-deposit  
278 escrow account, or an irrevocable letter of credit, payable to  
279 the commission in an amount not to exceed 50 percent of the  
280 institution's first-year projected revenue. The commission shall  
281 adopt rules to administer this subsection.

282 (7)~~(6)~~ The commission shall ensure through an investigative  
283 process that applicants for licensure meet the standards as  
284 defined in rule. Within 30 days after receipt of an application,  
285 the commission shall examine the application, notify the  
286 applicant of any apparent error or omission, and request any  
287 additional necessary information from the applicant. When the  
288 investigative process is not completed within the time set out  
289 in s. 120.60(1) and the commission has reason to believe that  
290 the applicant does not meet licensure standards, the commission

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291 or the executive director of the commission may issue a 90-day  
292 licensure delay, which shall be in writing and sufficient to  
293 notify the applicant of the reason for the delay. The provisions  
294 of this subsection shall control over any conflicting provisions  
295 of s. 120.60(1).

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

298 1005.32 Licensure by means of accreditation.—

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

302 (e) The institution's federal student loan cohort default  
303 rate, as calculated by the United States Department of  
304 Education, does not exceed 30 percent ~~The institution is a~~  
305 ~~Florida corporation.~~

306 (3) The commission may not require an institution granted a  
307 license by means of accreditation to submit reports that differ  
308 from the reports required by its accrediting association, except  
309 that each institution must file with the commission an annual  
310 audit report and a retention and completion management plan  
311 pursuant to s. 1005.31. The institution shall also follow the  
312 commission's requirements for orderly closing, including  
313 provisions for trainout or refunds and arranging for the proper  
314 disposition of student and institutional records.

315 Section 7. Present subsections (3) and (4) of section  
316 1005.36, Florida Statutes, are redesignated as subsections (4)  
317 and (5), respectively, subsection (2) of that section is  
318 amended, and a new subsection (3) is added to that section, to  
319 read:

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320 1005.36 Institutional closings.-

321 (2) At least 30 days before ~~prior to~~ closing an  
322 institution, its owners, directors, or administrators must ~~shall~~  
323 notify the commission in writing of the closure of the  
324 institution. The owners, directors, and administrators must  
325 organize an orderly closure of the institution, which means at  
326 least providing for the completion of training of its students.  
327 The commission must approve any such plan. An owner, director,  
328 or administrator who fails to notify the commission at least 30  
329 days before ~~prior to~~ the institution's closure, or who fails to  
330 organize the orderly closure of the institution and the trainout  
331 of the students, commits a misdemeanor of the first ~~second~~  
332 degree, punishable as provided in s. 775.082 or s. 775.083.

333 (3) By October 1, 2018, the commission shall establish a  
334 Closed Institution Panel. The panel shall consist of at least  
335 one commission member, one commission staff member, one  
336 accrediting body staff member, and one administrator with  
337 experience in managing licensed institutions. The commission  
338 shall notify the panel upon the closing of a licensed  
339 institution. For any closure that does not comply with the  
340 requirements of subsection (2), or at the discretion of the  
341 commission chair, the panel shall convene to implement measures  
342 to minimize the academic, logistical, and financial impact on  
343 students of the institution. The panel may secure student  
344 records and, to the extent possible, maintain the educational  
345 programs at the institution for at least 30 days after the panel  
346 receives notification that the institution is closing in order  
347 to assist each student with completion of his or her educational  
348 program. The institution that is closing shall pay for all the

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349 expenses incurred by the panel to conduct activities described  
350 in this subsection.

351 Section 8. Section 1005.37, Florida Statutes, is amended to  
352 read:

353 1005.37 Student Protection Fund.—

354 (1) The commission shall establish and administer a  
355 statewide, fee-supported financial program through which funds  
356 will be available to complete the training of a student who  
357 enrolls in a licensed institution ~~nonpublic school~~ that  
358 terminates a program or ceases operation before the student has  
359 completed his or her program of study. The financial program is  
360 named the Student Protection Fund.

361 (2) The commission is authorized to assess a fee from the  
362 licensed institutions ~~schools~~ within its jurisdiction for such  
363 purpose. The commission shall assess a licensed institution  
364 ~~school~~ an additional fee for its eligibility for the Student  
365 Protection Fund. The commission shall annually determine the  
366 fees to support the fund; however, if the fund balance exceeds  
367 \$5 million on November 1 of any year, the commission may not  
368 collect the fees in the next calendar year.

369 (3) If a licensed institution ~~school~~ terminates a program  
370 before all students complete it, the commission shall also  
371 assess that institution ~~school~~ a fee adequate to pay the full  
372 cost to the Student Protection Fund of completing the training  
373 of students.

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

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378 assessments actually received from licensed institutions ~~schools~~  
379 and deposited in the Institutional Assessment Trust Fund to the  
380 credit of the Student Protection Fund.

381 (5) At each commission meeting, the commission shall  
382 consider the need for and shall make required assessments, shall  
383 review the collection status of unpaid assessments and take all  
384 necessary steps to collect them, and shall review all moneys in  
385 the fund and expenses incurred since the last reporting period.  
386 This review must include administrative expenses, moneys  
387 received, and payments made to students or to lending  
388 institutions.

389 (6) Staff of the commission must immediately inform the  
390 commission upon learning of the closing of a licensed  
391 institution ~~school~~ or the termination of a program which ~~that~~  
392 could expose the fund to liability.

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

398 Section 9. Subsections (1), (3), and (4) of section  
399 1005.39, Florida Statutes, are amended to read:

400 1005.39 Continuing education and training for  
401 administrators and faculty.-

402 (1) The commission shall determine whether ~~is authorized to~~  
403 ~~ensure that~~ the administrators of licensed institutions are  
404 qualified to conduct the operations of their respective  
405 positions and shall ~~to~~ require such administrators and faculty  
406 to receive continuing education and training as adopted by rule

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407 of the commission. The positions for which the commission must  
408 ~~may~~ review qualifications and require continuing education and  
409 training may include the positions of chief administrator or  
410 officer, chief campus officer, director of education or  
411 training, placement director, admissions director, and financial  
412 aid director and faculty members. By July 1, 2019, and annually  
413 thereafter, the commission shall verify that all administrators  
414 subject to continuing education requirements have completed  
415 training on state and federal laws and regulations specifically  
416 pertaining to the operation of nonpublic postsecondary  
417 educational institutions.

418 (3) The commission shall adopt general qualifications for  
419 each of the respective positions and establish guidelines for  
420 the minimum amount and type of continuing education and training  
421 to be required. The continuing education and training may be  
422 provided by the commission, appropriate state or federal  
423 agencies, or professional organizations familiar with the  
424 requirements of the particular administrative positions.  
425 Licensed institutions may also provide continuing education upon  
426 approval of the commission. The actual curricula should be left  
427 to the discretion of those agencies, ~~and~~ organizations, and, if  
428 approved, licensed institutions.

429 (4) Evidence of administrator ~~the administrator's~~ and  
430 faculty ~~member's~~ compliance with the continuing education and  
431 training requirements established by the commission shall ~~may~~ be  
432 included in the initial and renewal application forms provided  
433 to ~~by~~ the commission. Actual records of the continuing education  
434 and training received by administrators and faculty shall be  
435 maintained at the institution and available for inspection at

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436 all times.

437 Section 10. Subsection (2) of section 1011.81, Florida  
438 Statutes, is amended to read:

439 1011.81 Florida College System Program Fund.—

440 (2) Performance funding for industry certifications for  
441 Florida College System institutions must take into consideration  
442 an institution's federal student loan cohort default rate and is  
443 contingent upon specific appropriation in the General  
444 Appropriations Act and shall be determined as follows:

445 (a) Occupational areas for which industry certifications  
446 may be earned, as established in the General Appropriations Act,  
447 are eligible for performance funding. Priority shall be given to  
448 the occupational areas emphasized in state, national, or  
449 corporate grants provided to Florida educational institutions.

450 (b) The Chancellor of the Florida College System shall  
451 identify the industry certifications eligible for funding on the  
452 CAPE Postsecondary Industry Certification Funding List approved  
453 by the State Board of Education pursuant to s. 1008.44, based on  
454 the occupational areas specified in the General Appropriations  
455 Act.

456 (c) Each Florida College System institution shall be  
457 provided \$1,000 for each industry certification earned by a  
458 student. The maximum amount of funding appropriated for  
459 performance funding pursuant to this subsection shall be limited  
460 to \$15 million annually. If funds are insufficient to fully fund  
461 the calculated total award, such funds shall be prorated.

462 Section 11. Paragraph (c) of subsection (1) of section  
463 1011.905, Florida Statutes, is amended to read:

464 1011.905 Performance funding for state universities.—



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465 (1) State performance funds for the State University System  
466 shall be based on indicators of system and institutional  
467 attainment of performance expectations. For the 2012-2013  
468 through at least the 2016-2017 fiscal year, the Board of  
469 Governors shall review and rank each state university that  
470 applies for performance funding, as provided in the General  
471 Appropriations Act, based on the following formula:

472 (c) Fifty percent of a state university's score shall be  
473 based on:

474 1. Factors determined by the Board of Governors which  
475 relate to increasing the probability that graduates who have  
476 earned degrees in the programs described in paragraph (a) will  
477 be employed in high-skill, high-wage, and high-demand  
478 employment; and-

479 2. The state university's federal student loan cohort  
480 default rate.

481 Section 12. This act shall take effect July 1, 2018.