

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.; requiring
4 certain institutions to provide each student a
5 specified disclosure statement; requiring the
6 Commission for Independent Education to develop the
7 disclosure statement; creating s. 1005.11, F.S.;
8 requiring the commission 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; requiring the
12 commission to establish a common set of data
13 definitions; authorizing administrative fines for an
14 institution that fails to timely submit the data;
15 requiring the commission to establish certain
16 benchmarks by rule; amending s. 1005.21, F.S.;
17 revising the commission membership; limiting the terms
18 of commission members; amending s. 1005.22, F.S.;
19 requiring the commission to approve an annual budget;
20 providing for the review of certain complaints
21 concerning institutions or programs which are not
22 closed within a specified time; authorizing the
23 commission, under certain circumstances, to prohibit
24 the enrollment of new students, or limit the number of
25 students in a program at a licensed institution;
26 amending s. 1005.31, F.S.; revising the commission's
27 evaluation standards for licensure of an institution;
28 requiring certain institutions to post a surety bond
29 or similar financial security for specified purposes;
30 requiring the commission to adopt rules; requiring the
31 commission to examine an application for licensure and
32 take certain actions within a specified period;

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33 amending s. 1005.32, F.S.; revising the minimum
34 criteria for an independent postsecondary educational
35 institution to apply for a license by accreditation;
36 deleting a provision authorizing certain institutions
37 to apply for licensure by means of accreditation;
38 requiring certain institutions to file a retention and
39 completion management plan; amending s. 1005.36, F.S.;
40 revising the criminal penalty for the unlawful closure
41 of certain institutions; requiring the commission to
42 create a Closed Institution Panel by a specified date;
43 providing membership and duties of the panel; amending
44 s. 1005.37, F.S.; requiring the commission to annually
45 determine fees to support the Student Protection Fund;
46 providing that fees may not be collected under certain
47 circumstances; amending s. 1005.39, F.S.; requiring
48 the commission to determine whether certain personnel
49 of licensed institutions are qualified and to require
50 certain personnel to complete continuing education and
51 training; requiring the commission to annually verify
52 that certain personnel have completed certain training
53 by a specified date; authorizing the provision of
54 continuing education by licensed institutions under
55 certain circumstances; requiring that certain evidence
56 be included in initial or renewal application forms
57 provided by the commission; amending ss. 1011.81 and
58 1011.905, F.S.; requiring that Florida College System
59 institution performance funding for industry
60 certifications and State University System institution
61 performance funding take into consideration an

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62 institution's federal student loan cohort default
63 rate; providing an effective date.
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65 Be It Enacted by the Legislature of the State of Florida:
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67 Section 1. Section 1005.04, Florida Statutes, is amended to
68 read:

69 1005.04 Fair consumer practices; federal student loan
70 default rates.—

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

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

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

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

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91 qualify for financial aid;

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

97 4. The transferability of credits to other institutions and
98 from other institutions; and

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

112 (b) Use a reliable method to assess, before accepting a
113 student into a program, the student's ability to complete
114 successfully the course of study for which he or she has
115 applied.

116 (c) Inform each student accurately about financial
117 assistance and obligations for repayment of loans; describe any
118 employment placement services provided and the limitations
119 thereof; and refrain from promising or implying guaranteed

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120 placement, market availability, or salary amounts.~~†~~

121 (d) Provide to prospective and enrolled students accurate
122 information regarding the relationship of its programs to state
123 licensure requirements for practicing related occupations and
124 professions in Florida.~~†~~

125 (e) Ensure that all advertisements are accurate and not
126 misleading.~~†~~

127 (f) Publish and follow an equitable prorated refund policy
128 for all students, and follow both the federal refund guidelines
129 for students receiving federal financial assistance and the
130 minimum refund guidelines set by commission rule.~~†~~

131 (g) Follow the requirements of state and federal laws that
132 require annual reporting with respect to crime statistics and
133 physical plant safety and make those reports available to the
134 public.~~†~~ and

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

137 (2) ~~In addition,~~ Institutions that are required to be
138 licensed by the Commission for Independent Education shall
139 disclose to prospective students that additional information
140 regarding the institution may be obtained by contacting the
141 ~~commission for Independent Education, Department of Education,~~
142 ~~Tallahassee.~~

143 Section 2. Section 1005.11, Florida Statutes, is created to
144 read:

145 1005.11 Accountability for institutions licensed by the
146 Commission for Independent Education.-

147 (1) By March 15 of each year, the Commission for
148 Independent Education shall prepare an accountability report for

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149 licensed institutions. The report must contain, at a minimum,
150 the graduation rates, including the number of graduates by
151 program; retention rates; and placement rates for all licensed
152 institutions.

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

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

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

173 Section 3. Paragraphs (c) and (d) of subsection (2) and
174 subsection (3) of section 1005.21, Florida Statutes, are amended
175 to read:

176 1005.21 Commission for Independent Education.—

177 (2) The Commission for Independent Education shall consist

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178 of seven members who are residents of this state. The commission
179 shall function in matters concerning independent postsecondary
180 educational institutions in consumer protection, program
181 improvement, and licensure for institutions under its purview.
182 The Governor shall appoint the members of the commission who are
183 subject to confirmation by the Senate. The membership of the
184 commission shall consist of:

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

192 (d) One member who is a graduate of an institution subject
193 to licensure by the commission. The member may not have any
194 other relationship with an institution subject to licensure by
195 the commission except for his or her status as an alumnus
196 ~~representative of a college that meets the criteria of s.~~
197 ~~1005.06(1)(f).~~

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

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

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207 1005.22 Powers and duties of commission.—

208 (1) The commission shall:

209 (e) Administer the provisions of this chapter. To this end,
210 the commission has the following administrative powers and
211 responsibilities:

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

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

221 3. The commission shall transmit all fees, donations, and
222 other receipts of money to the Institutional Assessment Trust
223 Fund.

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

235 (k) Establish and publicize the procedures for receiving

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236 and responding to complaints from students, faculty, and others
237 concerning institutions or programs under the purview of the
238 commission, and keep records of such complaints in order to
239 determine the frequency and nature of complaints with respect to
240 specific institutions of higher education. Complaints not closed
241 within 90 days must be reviewed by a committee appointed by the
242 commission.

243 (2) The commission may:

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

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

252 1005.31 Licensure of institutions.—

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

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

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

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

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

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

301 1005.32 Licensure by means of accreditation.—

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

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

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

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

322 1005.36 Institutional closings.—

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

335 (3) By October 1, 2017, the commission shall establish a
336 Closed Institution Panel. The panel shall consist of at least
337 one commission member, one commission staff member, one
338 accrediting body staff member, and one administrator with
339 experience in managing licensed institutions. The commission
340 shall notify the panel upon the closing of a licensed
341 institution. For any closure that does not comply with the
342 requirements of subsection (2), or at the discretion of the
343 commission chair, the panel shall convene to implement measures
344 to minimize the academic, logistical, and financial impact on
345 students of the institution. The panel is authorized to secure
346 student records and, to the extent possible, maintain the
347 educational programs at the institution for at least 30 days
348 after it receives notification that the institution is closing
349 to assist each student with completion of his or her educational
350 program. The panel's activities shall be conducted at the
351 expense of the institution that is closing.

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

354 1005.37 Student Protection Fund.—

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

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

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

375 (4) The fund shall consist entirely of fees assessed to
376 licensed institutions ~~schools~~ and may ~~shall~~ not be funded under
377 any circumstances by public funds, nor shall the commission make
378 payments or be obligated to make payments in excess of the
379 assessments actually received from licensed institutions ~~schools~~
380 and deposited in the Institutional Assessment Trust Fund to the

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381 credit of the Student Protection Fund.

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

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

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

399 Section 9. Subsections (1), (3), and (4) of section
400 1005.39, Florida Statutes, are amended to read:

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

403 (1) The commission shall determine whether ~~is authorized to~~
404 ~~ensure that~~ the administrators of licensed institutions are
405 qualified to conduct the operations of their respective
406 positions and ~~to~~ require such administrators and faculty to
407 receive continuing education and training as adopted by rule of
408 the commission. The positions for which the commission must ~~may~~
409 review qualifications and require continuing education and

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410 training may include the positions of chief administrator or
411 officer, chief campus officer, director of education or
412 training, placement director, admissions director, and financial
413 aid director and faculty members. By July 1, 2018, and annually
414 thereafter, the commission must verify that all administrators
415 subject to continuing education requirements have completed
416 training on state and federal laws and regulations specifically
417 pertaining to the operation of nonpublic postsecondary
418 institutions.

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

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

438 Section 10. Subsection (2) of section 1011.81, Florida

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439 Statutes, is amended to read:

440 1011.81 Florida College System Program Fund.—

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

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

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

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

463 Section 11. Paragraph (c) of subsection (1) of section
464 1011.905, Florida Statutes, is amended to read:

465 1011.905 Performance funding for state universities.—

466 (1) State performance funds for the State University System
467 shall be based on indicators of system and institutional

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468 attainment of performance expectations. For the 2012-2013
469 through at least the 2016-2017 fiscal year, the Board of
470 Governors shall review and rank each state university that
471 applies for performance funding, as provided in the General
472 Appropriations Act, based on the following formula:

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

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

480 2. An institution's federal student loan cohort default
481 rate.

482 Section 12. This act shall take effect July 1, 2017.