

1 A bill to be entitled
2 An act relating to higher education; creating s.
3 768.39, F.S.; providing legislative findings; defining
4 the term "educational institution"; providing that the
5 Board of Governors and the State Board of Education
6 are afforded certain immunity protections; prohibiting
7 an educational institution that has taken certain
8 reasonably necessary actions to diminish the impact or
9 spread of COVID-19 from being civilly liable for such
10 actions; specifying that the provision of certain
11 services by educational institutions was impossible
12 during certain periods of time; providing that certain
13 reasonably necessary actions are deemed justified;
14 providing exceptions; providing severability;
15 providing for retroactive applicability; providing an
16 exception for certain civil actions; amending s.
17 1006.75, F.S.; requiring the Board of Governors to
18 publish an online dashboard containing specified data;
19 requiring that such dashboard be made available by a
20 specified date; requiring that each state university
21 board of trustees adopt procedures to connect
22 undergraduate students to certain programs; requiring
23 that the Board of Governors approve such procedures by
24 a specified date; requiring that such procedures
25 include placing a hold on certain student registration

26 | under certain circumstances; providing that the Board
27 | of Governors review and approve certain procedures by
28 | a specified date; amending s. 1009.25, F.S.; revising
29 | provisions relating to certain fee exemptions;
30 | amending s. 1009.26, F.S.; requiring a state
31 | university to waive the tuition and fees for certain
32 | courses in which certain resident students are
33 | enrolled; providing applicability; providing specified
34 | criteria for such waiver; requiring the reporting of
35 | tuition and fees waived for state funding purposes;
36 | requiring disbursement to the student upon his or her
37 | enrollment in a program of strategic emphasis;
38 | requiring each state university to report certain
39 | information regarding such waiver to the Board of
40 | Governors, annually; authorizing a state university in
41 | compliance with the waiver provisions to earn
42 | incentive funding, subject to appropriation; requiring
43 | the board to adopt regulations; amending s. 1009.40,
44 | F.S.; conforming cross-references; creating s.
45 | 1009.46, F.S.; providing duties for certain
46 | postsecondary educational institutions relating to
47 | state financial aid and tuition assistance programs;
48 | requiring that an institution that fails to perform
49 | its duties be placed on probation by the Department of
50 | Education; providing duties for the department;

51 amending s. 1009.50, F.S.; revising provisions
52 relating to funds appropriated for the Florida Public
53 Assistance Grant Program; removing provisions
54 authorizing that certain funds be deposited into a
55 specified trust fund; amending s. 1009.505, F.S.;
56 revising provisions relating to the Florida Public
57 Postsecondary Career Education Student Assistance
58 Grant Program; amending s. 1009.51, F.S.; revising
59 provisions relating to the Florida Private Student
60 Assistance Grant Program; amending s. 1009.52, F.S.;
61 revising provisions relating to the Florida
62 Postsecondary Student Assistance Grant Program;
63 providing an effective date.

64
65 Be It Enacted by the Legislature of the State of Florida:

66
67 Section 1. Section 768.39, Florida Statutes, is created to
68 read:

69 768.39 Immunity for educational institutions for actions
70 related to the COVID-19 pandemic.-

71 (1) The Legislature finds that during the COVID-19 public
72 health emergency, educational institutions had little choice but
73 to close or restrict access to their campuses in an effort to
74 protect the health of their students, educators, staff, and
75 communities. Despite these efforts, more than 120,000 cases of

76 COVID-19 have been linked to colleges and universities
77 nationwide, and the deaths of more than 100 college students
78 have been attributed to the disease. The Legislature further
79 finds that lawsuits against educational institutions based on
80 their efforts to provide educational services while keeping
81 students, faculty, staff, and communities safe during the COVID-
82 19 public health emergency are without legal precedent. One
83 court has even acknowledged that the "legal system is now
84 feeling COVID-19's havoc with the current wave of class action
85 lawsuits that seek tuition reimbursement related to forced
86 online tutelage." Under these circumstances, the Legislature
87 finds that there is an overpowering public necessity for, and no
88 reasonable alternative to, providing educational institutions
89 with liability protections against lawsuits seeking tuition or
90 fee reimbursements or related damages resulting from the
91 institutions changing the delivery of educational services,
92 limiting access to facilities, or closing campuses during the
93 COVID-19 public health emergency.

94 (2) For the purposes of this section, the term
95 "educational institution" means any postsecondary institution,
96 whether public or nonpublic. The Board of Governors of the State
97 University System and the State Board of Education are also
98 included within the immunity protections afforded by this
99 section.

100 (3) (a) An educational institution that has taken

101 reasonably necessary actions in compliance with federal, state,
102 or local guidance to diminish the impact or the spread of COVID-
103 19 may not be held liable for, and shall be immune from, any
104 civil damages, equitable relief, or other remedies relating to
105 such actions. Reasonably necessary actions taken while a state
106 of emergency was declared for this state for the COVID-19
107 pandemic include, but are not limited to, any of the following:

108 1. Shifting in-person instruction to online or remote
109 instruction for any period of time;

110 2. Closing or modifying the provision of facilities, other
111 than housing or dining facilities, on the campus of the
112 educational institution; or

113 3. Pausing or modifying ancillary student activities and
114 services available through the educational institution.

115 (b) The provision of in-person or on-campus education and
116 related services is deemed to have been impossible for
117 educational institutions during any period of time in which such
118 institutions took reasonably necessary actions described in
119 paragraph (a) to protect students, staff, and educators in
120 response to the COVID-19 public health emergency.

121 (c) As a result of the various governmental orders and the
122 need for educational institutions to protect their communities,
123 the reasonably necessary actions described in paragraph (a) are
124 deemed justified.

125 (4) In any action against an educational institution, the

126 Board of Governors of the State University System, or the State
127 Board of Education for the reimbursement of tuition or fees,
128 invoices, catalogs, and general publications of an educational
129 institution are not evidence of an express or implied contract
130 to provide in-person or on-campus education and related services
131 or access to facilities during the COVID-19 public health
132 emergency.

133 (5) (a) This section does not apply to losses or damages
134 that resulted solely from a breach of an express contractual
135 provision allocating liability.

136 (b) This section does not apply to losses or damages
137 caused by an act or omission of a college or university which
138 was in bad faith or malicious.

139 (6) If any aspect of the immunity under subsection (3) is
140 limited by a court or by operation of law from applying to
141 certain types of claims or causes of action, the immunity under
142 this section must still be provided to the fullest extent
143 authorized by law to any other types of claims or causes of
144 action.

145 (7) If an educational institution is required by federal,
146 state, or local order or a directive of the Board of Governors
147 of the State University System or the State Board of Education
148 issued in response to the COVID-19 public health emergency to
149 alter the mode of delivery of instruction and related services
150 or access to facilities, the burden of proof for any plaintiff

151 bringing an action against the educational institution for
152 compliance with such order or directive shall be by clear and
153 convincing evidence to prevail for damages against the
154 institution.

155 Section 2. Section 1006.75, Florida Statutes, is created
156 to read:

157 1006.75 State university career planning and information.—

158 (1) To assist students and families in making better-
159 informed decisions about educational options and future
160 employment opportunities, the Board of Governors of the State
161 University System shall publicly publish an online dashboard.
162 The dashboard must present data, by academic discipline, of
163 graduates of state universities, including at least the
164 following information:

165 (a) Post-graduation median salary 1, 5, and 10 years after
166 graduation.

167 (b) Median student loan debt.

168 (c) Debt-to-income ratio.

169 (d) Estimated monthly loan payment as a percentage of
170 gross monthly income.

171 (e) The percentage of graduates who have continued their
172 education beyond the baccalaureate level.

173 (2) The online dashboard must be available by January 1,
174 2022. A link to the dashboard shall be prominently displayed on
175 each state university's office of admissions website.

176 (3) (a) Each state university board of trustees shall adopt
177 procedures to connect undergraduate students to career planning,
178 coaching, and related programs during the first academic year of
179 the student's enrollment. Such procedures must be approved by
180 the Board of Governors and include placing a hold on student
181 registration before the end of the first year of each student's
182 enrollment. To lift the hold and register for classes, each
183 student must:

- 184 1. Register with the university's career center.
185 2. Complete a career readiness training module provided by
186 the career center.
187 3. Be directed to the dashboard established in subsection
188 (1).
189 4. Affirmatively indicate that he or she has been provided
190 with the information required under this paragraph and is aware
191 of the employment and wage prospects for his or her declared
192 major.

193 (b) The Board of Governors of the State University System
194 shall review and approve each university's procedures by March
195 1, 2022.

196 Section 3. Paragraphs (c) and (d) of subsection (1) of
197 Section 1009.25, Florida Statutes, are amended:

198 1009.25 Fee exemptions.—

199 (1) The following students are exempt from the payment of
200 tuition and fees, including lab fees, at a school district that

201 provides workforce education programs, Florida College System
202 institution, or state university:

203 (c) A student who is, or was at the time he or she reached
204 18 years of age, in the custody of the Department of Children
205 and Families or who, after spending at least 6 months in the
206 custody of the department after reaching 16 years of age, was
207 placed in a guardianship by the court. Such exemption includes
208 fees associated with enrollment in applied academics for adult
209 education instruction. The exemption remains valid until the
210 student reaches 28 years of age.

211 (d) A student who is, or was at the time he or she reached
212 18 years of age, in the custody of a relative or nonrelative
213 under s. 39.5085 or s. 39.6225 or who was adopted from the
214 Department of Children and Families after May 5, 1997. Such
215 exemption includes fees associated with enrollment in applied
216 academics for adult education instruction. The exemption remains
217 valid until the student reaches 28 years of age.

218 Section 4. Subsection (18) is added to section 1009.26,
219 Florida Statutes, to read:

220 1009.26 Fee waivers.—

221 (18) (a) Beginning with the 2021-2022 academic year, for
222 every course in a Program of Strategic Emphasis, as identified
223 in subparagraph 3., in which a student is enrolled, a state
224 university shall waive 100 percent of the tuition and fees for
225 an equivalent course in such program for a student who:

226 1. Is a resident for tuition purposes under s. 1009.21.

227 2. Has earned at least 60 semester credit hours towards a
228 baccalaureate degree within 2 academic years after initial
229 enrollment at a Florida public postsecondary institution.

230 3. Enrolls in one of eight Programs of Strategic Emphasis
231 as adopted by the Board of Governors. The Board of Governors
232 shall adopt eight Programs of Strategic Emphasis in science,
233 technology, engineering, or math for which a student may be
234 eligible to receive the tuition and fee waiver authorized by
235 this subsection. The programs identified by the board must
236 reflect the priorities of the state and be offered at a majority
237 of state universities.

238 (b) A waiver granted under this subsection is applicable
239 only for upper-level courses and up to 110 percent of the number
240 of required credit hours of the baccalaureate degree program for
241 which the student is enrolled.

242 (c) Upon enrollment in a program of strategic emphasis,
243 the tuition and fees waived under this subsection must be
244 reported for state funding purposes under ss. 1009.534 and
245 1009.535 and must be disbursed to the student. The amount
246 disbursed to the student shall be equal to the award amount the
247 student has received under s. 1009.534(2) or s. 1009.535(2).

248 (d) Each state university shall report to the Board of
249 Governors the number and value of all waivers granted annually
250 under this subsection. A state university in compliance with

251 this subsection may earn incentive funding, subject to
252 appropriation, in addition to the funding provided under s.
253 1001.92.

254 (e) The Board of Governors shall adopt regulations to
255 administer this subsection.

256 Section 5. Paragraph (a) of subsection (1) of section
257 1009.40, Florida Statutes, is amended to read:

258 1009.40 General requirements for student eligibility for
259 state financial aid awards and tuition assistance grants.—

260 (1)(a) The general requirements for eligibility of
261 students for state financial aid awards and tuition assistance
262 grants consist of the following:

263 1. Achievement of the academic requirements of and
264 acceptance at a state university or Florida College System
265 institution; a nursing diploma school approved by the Florida
266 Board of Nursing; a Florida college or university which is
267 accredited by an accrediting agency recognized by the State
268 Board of Education; a Florida institution the credits of which
269 are acceptable for transfer to state universities; a career
270 center; or a private career institution accredited by an
271 accrediting agency recognized by the State Board of Education.

272 2. Residency in this state for no less than 1 year
273 preceding the award of aid or a tuition assistance grant for a
274 program established pursuant to s. 1009.50, s. 1009.505, s.
275 1009.51, s. 1009.52, s. 1009.53, s. 1009.60, s. 1009.62, s.

276 | 1009.72, s. 1009.73, s. 1009.75, s. 1009.77, s. 1009.89, ~~or~~ s.
277 | 1009.891, or s. 1009.894. Residency in this state must be for
278 | purposes other than to obtain an education. Resident status for
279 | purposes of receiving state financial aid awards shall be
280 | determined in the same manner as resident status for tuition
281 | purposes pursuant to s. 1009.21.

282 | 3. Submission of certification attesting to the accuracy,
283 | completeness, and correctness of information provided to
284 | demonstrate a student's eligibility to receive state financial
285 | aid awards or tuition assistance grants. Falsification of such
286 | information shall result in the denial of a pending application
287 | and revocation of an award or grant currently held to the extent
288 | that no further payments shall be made. Additionally, students
289 | who knowingly make false statements in order to receive state
290 | financial aid awards or tuition assistance grants commit a
291 | misdemeanor of the second degree subject to the provisions of s.
292 | 837.06 and shall be required to return all state financial aid
293 | awards or tuition assistance grants wrongfully obtained.

294 | Section 6. Section 1009.46, Florida Statutes, is created
295 | to read:

296 | 1009.46 Duties relating to state financial aid and tuition
297 | assistance programs.—

298 | (1) (a) Each postsecondary educational institution that
299 | receives state funds for state financial aid and tuition
300 | assistance programs shall:

- 301 1. Complete and return the annual application for state
302 aid funds in the format and by the date established by the
303 Department of Education.
- 304 2. Maintain complete, accurate, and auditable student
305 records documenting the institution's administration of state
306 financial aid and tuition assistance funds.
- 307 3. Verify eligibility of enrolled students with the
308 department each academic term.
- 309 4. Report each student's program of study to the
310 department using the most recent classification of instructional
311 programs taxonomy for the certificate or degree level as
312 developed by the United States Department of Education's
313 National Center for Education Statistics.
- 314 5. Disburse state financial aid and tuition assistance to
315 eligible students.
- 316 6. Notify students annually regarding the renewal
317 requirements for each state-funded award for which they are
318 eligible.
- 319 7. Complete and return to the department all reports for
320 the administration of state funds in the format and by the date
321 established by the department.
- 322 8. Complete and return to the department all legislatively
323 required reports in the format and by the date established by
324 the department.
- 325 9. Retain required records for the later of 5 years or

326 until such records are audited and any audit exceptions are
327 resolved.

328 10. Refund to the department any undisbursed advances
329 within 60 days after the end of the regular registration period
330 each fall and spring term, within 30 days after the end of the
331 summer term, or within 60 days after the date a student's
332 ineligibility is determined.

333 (b) The requirements in paragraph (a) do not preclude
334 higher standards specified in other sections of this part or the
335 rules of the State Board of Education.

336 (c) An institution that fails to perform its duties in
337 administering state financial aid or tuition assistance programs
338 must be placed on probation by the department.

339 1. The department shall provide allocations on a
340 reimbursement basis to a participating institution that fails to
341 timely remit undisbursed funds for the previous academic year.

342 2. The department may suspend or revoke an institution's
343 eligibility to participate in state-funded programs if the
344 institution fails to provide the required audits, fails to
345 resolve audit findings, or fails to timely provide statutorily
346 required reports by established deadlines.

347 Section 7. Subsection (6) of section 1009.50, Florida
348 Statutes, is renumbered as subsection (5), and paragraph (a) of
349 subsection (4) and subsection (5) of that section are amended to
350 read:

351 1009.50 Florida Public Student Assistance Grant Program;
352 eligibility for grants.—

353 (4) (a) The funds appropriated for the Florida Public
354 Student Assistance Grant Program shall be distributed to
355 eligible institutions in accordance with a formula approved by
356 the State Board of Education. The formula must consider at least
357 the prior year's distribution of funds and, the number of
358 eligible applicants who did not receive awards, ~~the~~
359 ~~standardization of the expected family contribution, and~~
360 ~~provisions for unused funds~~. The formula must account for
361 changes in the number of eligible students across all student
362 assistance grant programs established pursuant to this section
363 and ss. 1009.505, 1009.51, and 1009.52.

364 ~~(5) Funds appropriated by the Legislature for state~~
365 ~~student assistance grants may be deposited in the State Student~~
366 ~~Financial Assistance Trust Fund. Notwithstanding s. 216.301 and~~
367 ~~pursuant to s. 216.351, any balance in the trust fund at the end~~
368 ~~of any fiscal year which has been allocated to the Florida~~
369 ~~Public Student Assistance Grant Program shall remain therein and~~
370 ~~shall be available for carrying out the purposes of this~~
371 ~~section.~~

372 Section 8. Subsection (5) of section 1009.505, Florida
373 Statutes, is amended to read:

374 1009.505 Florida Public Postsecondary Career Education
375 Student Assistance Grant Program.—

376 ~~(5) Funds appropriated by the Legislature for state~~
 377 ~~student assistance grants may be deposited in the State Student~~
 378 ~~Financial Assistance Trust Fund. Notwithstanding s. 216.301 and~~
 379 ~~pursuant to s. 216.351, any balance in the trust fund at the end~~
 380 ~~of any fiscal year which has been allocated to the Florida~~
 381 ~~Public Postsecondary Career Education Student Assistance Grant~~
 382 ~~Program shall remain therein and shall be available for carrying~~
 383 ~~out the purposes of this section.~~

384 Section 9. Paragraph (a) of subsection (4) and subsection
 385 (5) of section 1009.51, Florida Statutes, are amended to read:

386 1009.51 Florida Private Student Assistance Grant Program;
 387 eligibility for grants.—

388 (4) (a) The funds appropriated for the Florida Private
 389 Student Assistance Grant Program shall be distributed to
 390 eligible institutions in accordance with a formula approved by
 391 the State Board of Education. The formula must consider at least
 392 the prior year's distribution of funds and, the number of
 393 eligible applicants who did not receive awards, ~~the~~
 394 ~~standardization of the expected family contribution, and~~
 395 ~~provisions for unused funds.~~ The formula must account for
 396 changes in the number of eligible students across all student
 397 assistance grant programs established pursuant to this section
 398 and ss. 1009.50, 1009.505, and 1009.52.

399 ~~(5) Funds appropriated by the Legislature for Florida~~
 400 ~~private student assistance grants may be deposited in the State~~

401 ~~Student Financial Assistance Trust Fund. Notwithstanding s.~~
402 ~~216.301 and pursuant to s. 216.351, any balance in the trust~~
403 ~~fund at the end of any fiscal year which has been allocated to~~
404 ~~the Florida Private Student Assistance Grant Program shall~~
405 ~~remain therein and shall be available for carrying out the~~
406 ~~purposes of this section and as otherwise provided by law.~~

407 Section 10. Paragraph (a) of subsection (4) and subsection
408 (6) of section 1009.52, Florida Statutes, are amended to read:

409 1009.52 Florida Postsecondary Student Assistance Grant
410 Program; eligibility for grants.—

411 (4) (a) The funds appropriated for the Florida
412 Postsecondary Student Assistance Grant Program shall be
413 distributed to eligible institutions in accordance with a
414 formula approved by the State Board of Education. The formula
415 must consider at least the prior year's distribution of funds
416 and, the number of eligible applicants who did not receive
417 awards, ~~the standardization of the expected family contribution,~~
418 ~~and provisions for unused funds.~~ The formula must account for
419 changes in the number of eligible students across all student
420 assistance grant programs established pursuant to this section
421 and ss. 1009.50, 1009.505, and 1009.51.

422 ~~(6) Funds appropriated by the Legislature for Florida~~
423 ~~postsecondary student assistance grants may be deposited in the~~
424 ~~State Student Financial Assistance Trust Fund. Notwithstanding~~
425 ~~s. 216.301 and pursuant to s. 216.351, any balance in the trust~~

426 | ~~fund at the end of any fiscal year which has been allocated to~~
427 | ~~the Florida Postsecondary Student Assistance Grant Program shall~~
428 | ~~remain therein and shall be available for carrying out the~~
429 | ~~purposes of this section and as otherwise provided by law.~~

430 | Section 11. This act shall take effect July 1, 2021.