

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 a burden of proof; amending s. 1006.75,
16 F.S.; requiring the Board of Governors to publish an
17 online dashboard containing specified data; requiring
18 that such dashboard be made available by a specified
19 date; requiring that each state university board of
20 trustees adopt procedures to connect undergraduate
21 students to certain programs; requiring that the Board
22 of Governors approve such procedures by a specified
23 date; requiring that such procedures include placing a
24 hold on certain student registration under certain
25 circumstances; providing that the Board of Governors

26 | review and approve certain procedures by a specified
27 | date; amending s. 1009.25, F.S.; revising provisions
28 | relating to certain fee exemptions; amending s.
29 | 1009.26, F.S.; requiring a state university to waive
30 | the tuition and fees for certain courses in which
31 | certain resident students are enrolled; providing
32 | applicability; providing specified criteria for such
33 | waiver; requiring the reporting of tuition and fees
34 | waived for state funding purposes; requiring
35 | disbursement to the student upon his or her enrollment
36 | in a program of strategic emphasis; requiring each
37 | state university to report certain information
38 | regarding such waiver to the Board of Governors,
39 | annually; authorizing a state university in compliance
40 | with the waiver provisions to earn incentive funding,
41 | subject to appropriation; requiring the board to adopt
42 | regulations; amending s. 1009.40, F.S.; conforming
43 | cross-references; creating s. 1009.46, F.S.; providing
44 | duties for certain postsecondary educational
45 | institutions relating to state financial aid and
46 | tuition assistance programs; requiring that an
47 | institution that fails to perform its duties be placed
48 | on probation by the Department of Education; providing
49 | duties for the department; amending s. 1009.50, F.S.;
50 | revising provisions relating to funds appropriated for

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

62

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

64

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

67 768.39 Immunity for educational institutions for actions
 68 related to the COVID-19 pandemic.-

69 (1) The Legislature finds that during the COVID-19 public
 70 health emergency, educational institutions had little choice but
 71 to close or restrict access to their campuses in an effort to
 72 protect the health of their students, educators, staff, and
 73 communities. Despite these efforts, more than 120,000 cases of
 74 COVID-19 have been linked to colleges and universities
 75 nationwide, and the deaths of more than 100 college students

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

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

98 | (3) (a) An educational institution that has taken
99 | reasonably necessary actions in compliance with federal, state,
100 | or local guidance to diminish the impact or the spread of COVID-

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

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

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

111 3. Pausing or modifying ancillary student activities and
112 services available through the educational institution.

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

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

123 (4) In any action against an educational institution, the
124 Board of Governors of the State University System, or the State
125 Board of Education for the reimbursement of tuition or fees,

126 invoices, catalogs, and general publications of an educational
127 institution are not evidence of an express or implied contract
128 to provide in-person or on-campus education and related services
129 or access to facilities during the COVID-19 public health
130 emergency.

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

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

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

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

151 convincing evidence to prevail for damages against the
152 institution.

153 Section 2. Section 1006.75, Florida Statutes, is created
154 to read:

155 1006.75 State university career planning and information.—

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

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

165 (b) Median student loan debt.

166 (c) Debt-to-income ratio.

167 (d) Estimated monthly loan payment as a percentage of
168 gross monthly income.

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

171 (2) The online dashboard must be available by January 1,
172 2022. A link to the dashboard shall be prominently displayed on
173 each state university's office of admissions website.

174 (3) (a) Each state university board of trustees shall adopt
175 procedures to connect undergraduate students to career planning,

176 coaching, and related programs during the first academic year of
177 the student's enrollment. Such procedures must be approved by
178 the Board of Governors and include placing a hold on student
179 registration before the end of the first year of each student's
180 enrollment. To lift the hold and register for classes, each
181 student must:

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

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

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

196 1009.25 Fee exemptions.—

197 (1) The following students are exempt from the payment of
198 tuition and fees, including lab fees, at a school district that
199 provides workforce education programs, Florida College System
200 institution, or state university:

201 (c) A student who is, or was at the time he or she reached
 202 18 years of age, in the custody of the Department of Children
 203 and Families or who, after spending at least 6 months in the
 204 custody of the department after reaching 16 years of age, was
 205 placed in a guardianship by the court. Such exemption includes
 206 fees associated with enrollment in applied academics for adult
 207 education instruction. The exemption remains valid until the
 208 student reaches 28 years of age.

209 (d) A student who is, or was at the time he or she reached
 210 18 years of age, in the custody of a relative or nonrelative
 211 under s. 39.5085 or s. 39.6225 or who was adopted from the
 212 Department of Children and Families after May 5, 1997. Such
 213 exemption includes fees associated with enrollment in applied
 214 academics for adult education instruction. The exemption remains
 215 valid until the student reaches 28 years of age.

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

218 1009.26 Fee waivers.—

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

- 224 1. Is a resident for tuition purposes under s. 1009.21.
- 225 2. Has earned at least 60 semester credit hours towards a

226 baccalaureate degree within 2 academic years after initial
227 enrollment at a Florida public postsecondary institution.

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

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

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

246 (d) Each state university shall report to the Board of
247 Governors the number and value of all waivers granted annually
248 under this subsection. A state university in compliance with
249 this subsection may earn incentive funding, subject to
250 appropriation, in addition to the funding provided under s.

251 1001.92.

252 (e) The Board of Governors shall adopt regulations to
 253 administer this subsection.

254 Section 5. Paragraph (a) of subsection (1) of section
 255 1009.40, Florida Statutes, is amended to read:

256 1009.40 General requirements for student eligibility for
 257 state financial aid awards and tuition assistance grants.—

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

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

270 2. Residency in this state for no less than 1 year
 271 preceding the award of aid or a tuition assistance grant for a
 272 program established pursuant to s. 1009.50, s. 1009.505, s.
 273 1009.51, s. 1009.52, s. 1009.53, s. 1009.60, s. 1009.62, s.
 274 1009.72, s. 1009.73, s. 1009.75, s. 1009.77, s. 1009.89, ~~or~~ s.
 275 1009.891, or s. 1009.894. Residency in this state must be for

276 | purposes other than to obtain an education. Resident status for
277 | purposes of receiving state financial aid awards shall be
278 | determined in the same manner as resident status for tuition
279 | purposes pursuant to s. 1009.21.

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

292 | Section 6. Section 1009.46, Florida Statutes, is created
293 | to read:

294 | 1009.46 Duties relating to state financial aid and tuition
295 | assistance programs.-

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

299 | 1. Complete and return the annual application for state
300 | aid funds in the format and by the date established by the

301 Department of Education.

302 2. Maintain complete, accurate, and auditable student

303 records documenting the institution's administration of state

304 financial aid and tuition assistance funds.

305 3. Verify eligibility of enrolled students with the

306 department each academic term.

307 4. Report each student's program of study to the

308 department using the most recent classification of instructional

309 programs taxonomy for the certificate or degree level as

310 developed by the United States Department of Education's

311 National Center for Education Statistics.

312 5. Disburse state financial aid and tuition assistance to

313 eligible students.

314 6. Notify students annually regarding the renewal

315 requirements for each state-funded award for which they are

316 eligible.

317 7. Complete and return to the department all reports for

318 the administration of state funds in the format and by the date

319 established by the department.

320 8. Complete and return to the department all legislatively

321 required reports in the format and by the date established by

322 the department.

323 9. Retain required records for the later of 5 years or

324 until such records are audited and any audit exceptions are

325 resolved.

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

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

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

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

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

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

349 1009.50 Florida Public Student Assistance Grant Program;
350 eligibility for grants.—

351 (4) (a) The funds appropriated for the Florida Public
 352 Student Assistance Grant Program shall be distributed to
 353 eligible institutions in accordance with a formula approved by
 354 the State Board of Education. The formula must consider at least
 355 the prior year's distribution of funds and⁷ the number of
 356 eligible applicants who did not receive awards, ~~the~~
 357 ~~standardization of the expected family contribution, and~~
 358 ~~provisions for unused funds.~~ The formula must account for
 359 changes in the number of eligible students across all student
 360 assistance grant programs established pursuant to this section
 361 and ss. 1009.505, 1009.51, and 1009.52.

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

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

372 1009.505 Florida Public Postsecondary Career Education
 373 Student Assistance Grant Program.—

374 ~~(5) Funds appropriated by the Legislature for state~~
 375 ~~student assistance grants may be deposited in the State Student~~

376 ~~Financial Assistance Trust Fund. Notwithstanding s. 216.301 and~~
 377 ~~pursuant to s. 216.351, any balance in the trust fund at the end~~
 378 ~~of any fiscal year which has been allocated to the Florida~~
 379 ~~Public Postsecondary Career Education Student Assistance Grant~~
 380 ~~Program shall remain therein and shall be available for carrying~~
 381 ~~out the purposes of this section.~~

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

384 1009.51 Florida Private Student Assistance Grant Program;
 385 eligibility for grants.-

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

397 ~~(5) Funds appropriated by the Legislature for Florida~~
 398 ~~private student assistance grants may be deposited in the State~~
 399 ~~Student Financial Assistance Trust Fund. Notwithstanding s.~~
 400 ~~216.301 and pursuant to s. 216.351, any balance in the trust~~

401 ~~fund at the end of any fiscal year which has been allocated to~~
 402 ~~the Florida Private Student Assistance Grant Program shall~~
 403 ~~remain therein and shall be available for carrying out the~~
 404 ~~purposes of this section and as otherwise provided by law.~~

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

407 1009.52 Florida Postsecondary Student Assistance Grant
 408 Program; eligibility for grants.-

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

420 ~~(6) Funds appropriated by the Legislature for Florida~~
 421 ~~postsecondary student assistance grants may be deposited in the~~
 422 ~~State Student Financial Assistance Trust Fund. Notwithstanding~~
 423 ~~s. 216.301 and pursuant to s. 216.351, any balance in the trust~~
 424 ~~fund at the end of any fiscal year which has been allocated to~~
 425 ~~the Florida Postsecondary Student Assistance Grant Program shall~~

426 | ~~remain therein and shall be available for carrying out the~~
427 | ~~purposes of this section and as otherwise provided by law.~~
428 | Section 11. This act shall take effect July 1, 2021.