A bill to be entitled
An act relating to higher education; creating s. 768.39, F.S.; providing legislative findings; defining the term "educational institution"; prohibiting an educational institution that has taken certain reasonably necessary actions to diminish the impact or spread of COVID-19 from being civilly liable for such actions; specifying that the provision of certain services by educational institutions was impossible during certain periods of time; providing that certain reasonably necessary actions are deemed justified; providing exceptions; providing severability; providing for retroactive applicability; providing an exception for certain civil actions; amending s. 1009.26, F.S.; requiring a state university to waive the tuition and fees for certain courses in which certain resident students are enrolled; requiring a state university to waive the out-of-state fee for a nonresident student who meets certain requirements; providing applicability; providing specified criteria for such waivers; requiring the reporting of tuition and fees waived for state funding purposes; requiring disbursement to the student upon his or her enrollment in a program of strategic emphasis; requiring each state university to report certain information
regarding such waivers to the Board of Governors, annually; authorizing a state university in compliance with the waiver provisions to earn incentive funding, subject to appropriation; requiring the board to adopt regulations; requiring a state university, within the nonresident student enrollment systemwide, to prioritize the enrollment of a student granted such fee waiver over a certain out-of-state student; amending s. 1009.89, F.S.; revising eligibility criteria for the William L. Boyd, IV, Effective Access to Student Education grant program; requiring recipient institutions to submit a specified report to the Department of Education; requiring institutions to meet certain performance benchmarks to remain eligible under the grant program; requiring each recipient institution to report certain data to the department; providing effective dates.

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

Section 1. Effective upon becoming a law, section 768.39, Florida Statutes, is created to read:

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

(1) The Legislature finds that during the COVID-19
pandemic, educational institutions had little choice but to close or restrict access to their campuses in an effort to protect the health of their students, educators, staff, and communities. Despite these efforts, more than 120,000 cases of COVID-19 have been linked to colleges and universities nationwide, and the deaths of more than 100 college students have been attributed to the disease. The Legislature further finds that lawsuits against educational institutions based on their efforts to provide educational services while keeping students, faculty, staff, and communities safe during the COVID-19 public health emergency are without legal precedent. One court has even acknowledged that the "legal system is now feeling COVID-19's havoc with the current wave of class action lawsuits that seek tuition reimbursement related to forced online tutelage." Under these circumstances, the Legislature finds that there is an overpowering public necessity for, and no reasonable alternative to, providing educational institutions with liability protections against lawsuits seeking tuition or fee reimbursements or related damages resulting from the institutions changing the delivery of educational services, limiting access to facilities, or closing campuses during the COVID-19 public health emergency.

(2) For the purposes of this section, the term "educational institution" means any postsecondary institution, whether public or nonpublic.
(3)(a) An educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic include, but are not limited to, any of the following:

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

2. Pausing or modifying ancillary student activities and services available through the educational institution.

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

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

(4) This section does not apply to:

(a) Losses or damages that resulted solely from a breach of an express contractual provision allocating liability.
(b) Losses or damages caused by an act or omission of an educational institution which was in bad faith or malicious.

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

(6) This section shall apply retroactively to causes of actions accruing on or after March 1, 2020, the date of the declaration of the COVID-19 public health emergency by the State Surgeon General, and shall apply prospectively to causes of action that accrue before the end of the academic term during which the emergency declaration expires or is terminated. However, this section does not apply in a civil action against a particular named defendant which is commenced before the effective date of this section.

Section 2. Subsections (18) and (19) are added to section 1009.26, Florida Statutes, to read:

1009.26 Fee waivers.—

(18)(a) Beginning with the 2021-2022 academic year, for every course in a program of strategic emphasis in which a student pays the full tuition and fees, a state university shall waive 100 percent of the tuition and fees for another course in a program of strategic emphasis for a student who:
1. Is a resident for tuition purposes under s. 1009.21.

2. Initially enrolls full-time at a state university for the fall academic term immediately following high school graduation.

3. Earns at least 60 semester credit hours towards a baccalaureate degree within 2 academic years after initial enrollment.

4. Enrolls in a program of strategic emphasis in one of the following categories as adopted by the Board of Governors:
   a. Science, technology, engineering, or math.
   b. Critical workforce education.
   c. Critical workforce healthcare.
   d. Critical workforce and undersupplied.

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

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

(d) Each state university shall report to the Board of Governors the number and value of all waivers granted annually.
under this subsection. A state university in compliance with this subsection may earn incentive funding, subject to appropriation, in addition to the funding provided under s. 1001.92.

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

(19)(a) A state university shall waive the out-of-state fee for a student who:

1. Has a grandparent who is a legal resident as defined in s. 1009.21(1).

2. Earns a high school diploma comparable to a standard Florida high school diploma, or its equivalency, or completes a home education program.

3. a. Achieves an SAT combined score no lower than the 89th national percentile on the SAT;

   b. Achieves an ACT score concordant to the required SAT score in sub-subparagraph a., using the latest published national concordance table developed jointly by the College Board and ACT, Inc.; or

   c. If a state university accepts the Classic Learning Test (CLT) for admission purposes, achieves a CLT score concordant to the required SAT score in sub-subparagraph a., using the latest published scoring comparison developed by Classic Learning Initiatives.

4. Enrolls as a full-time undergraduate student at a state
university in the fall academic term immediately following high
school graduation.

(b) The waiver under this subsection is applicable for up
to 110 percent of the number of required credit hours of the
degree program for which the student is enrolled.

(c) Prior to waiving the out-of-state fee, the state
university shall require the student or the student's parent, if
the student is a dependent child, to provide a written
declaration pursuant to s. 92.525(2) verifying the student's
familial relationship to a grandparent who is a legal resident.

(d) Each state university shall report to the Board of
Governors the number and value of all fee waivers granted
annually under this subsection.

(e) Beginning with students who initially enroll during
the 2021-2022 academic year or thereafter, a state university
shall, within the nonresident student enrollment systemwide,
prioritize the enrollment of a student who is granted a fee
waiver under this subsection over an out-of-state student who is
not eligible for an out-of-state fee waiver.

(f) The Board of Governors shall adopt regulations to
administer this subsection.

Section 3. Subsections (3) and (4) of section 1009.89,
Florida Statutes, are amended, and paragraph (c) is added to
subsection (5), to read:

1009.89 The William L. Boyd, IV, Effective Access to
(3) The department shall issue through the program a William L. Boyd, IV, Effective Access to Student Education grant to any full-time degree-seeking undergraduate student registered at an independent nonprofit college or university which is located in and chartered by the state; which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; which grants baccalaureate degrees; which is not a state university or Florida College System institution; and which has a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious sect. Any independent college or university that was eligible to receive tuition vouchers on January 1, 1989, and which continues to meet the criteria under which its eligibility was established, shall remain eligible to receive William L. Boyd, IV, Effective Access to Student Education grant payments.

(a) By September 1 of each year, recipient institutions must submit an Effective Access to Student Education Grant Program Accountability report to the Department of Education, in a format prescribed by the department, detailing the following metrics for Florida resident students reflecting the prior academic year statistics:

1. Entrance requirements for the year, and if required by
the institution, the minimum test score and grade point average
requirements for freshmen.

2. Percentage of students receiving federal Pell Grant
funds, Florida Bright Futures Scholarship awards, and other
academic aid.

3. Graduation rates; retention rates; job placement rates;
and job placement rates 1 year after graduation.

The report must also include information for each institution on
the total federal loan amounts disbursed and the total number of
students who received federal loans.

(b) To remain eligible, institutions must meet three or
more of the following performance benchmarks as provided in the
annual Effective Access to Student Education Grant Program
Accountability report:

1. A postgraduate employment or continuing education rate
of:
   a. At least 77 percent as submitted in the report dated
      September 2020.
   b. At least 78 and 79 percent as submitted in each
      subsequent annual report, respectively.

2. A graduation rate of:
   a. At least 48 percent as submitted in the report dated
      September 2020.
   b. At least 49 and 50 percent as submitted in each
3. An academic retention rate of:
   a. At least 71 percent as submitted in the report dated September 2020.
   b. At least 72 and 73 percent as submitted in each subsequent annual report, respectively.

4. A student access rate of:
   a. At least 45 percent as submitted in the report dated September 2020.
   b. At least 46 and 47 percent as submitted in each subsequent annual report, respectively.

5. Average disbursement of federal loans per undergraduate recipient of:
   a. No more than $7,320 as submitted in the report dated September 2020.
   b. No more than $7,289 and $7,258 as submitted in each subsequent annual report, respectively.

(4) A person is eligible to receive such William L. Boyd, IV, Effective Access to Student Education grant if:
   (a) He or she meets the general requirements, including residency, for student eligibility as provided in s. 1009.40, except as otherwise provided in this section; and
   (b) He or she is enrolled as a full-time undergraduate student at an eligible college or university in a program of study leading to a baccalaureate degree.
2. He or she is not enrolled in a program of study leading to a degree in theology or divinity; and

3. He or she is making satisfactory academic progress as defined by the State Board of Education college or university in which he or she is enrolled.

4. He or she has not completed more than 110 percent of the degree program in which he or she is enrolled.

(5)

(c) Each recipient institution shall report to the department by September 1 of each year the students eligible for the program for each academic term. Each institution shall also report to the department the necessary demographic and eligibility data for such students.

Section 4. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2021.