

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Toledo offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. 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 public health emergency, 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

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14 COVID-19 have been linked to colleges and universities
15 nationwide, and the deaths of more than 100 college students
16 have been attributed to the disease. The Legislature further
17 finds that lawsuits against educational institutions based on
18 their efforts to provide educational services while keeping
19 students, faculty, staff, and communities safe during the COVID-
20 19 public health emergency are without legal precedent. One
21 court has even acknowledged that the "legal system is now
22 feeling COVID-19's havoc with the current wave of class action
23 lawsuits that seek tuition reimbursement related to forced
24 online tutelage." Under these circumstances, the Legislature
25 finds that there is an overpowering public necessity for, and no
26 reasonable alternative to, providing educational institutions
27 with liability protections against lawsuits seeking tuition or
28 fee reimbursements or related damages resulting from the
29 institutions changing the delivery of educational services,
30 limiting access to facilities, or closing campuses during the
31 COVID-19 public health emergency.

32 (2) For the purposes of this section, the term
33 "educational institution" means any postsecondary institution,
34 whether public or nonpublic. The Board of Governors of the State
35 University System and the State Board of Education are also
36 included within the immunity protections afforded by this
37 section.

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38 (3) (a) An educational institution that has taken
39 reasonably necessary actions in compliance with federal, state,
40 or local guidance to diminish the impact or the spread of COVID-
41 19 may not be held liable for, and shall be immune from, any
42 civil damages, equitable relief, or other remedies relating to
43 such actions. Reasonably necessary actions taken while a state
44 of emergency was declared for this state for the COVID-19
45 pandemic include, but are not limited to, any of the following:

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

48 2. Closing or modifying the provision of facilities, other
49 than housing or dining facilities, on the campus of the
50 educational institution; or

51 3. Pausing or modifying ancillary student activities and
52 services available through the educational institution.

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

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

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63 (4) In any action against an educational institution, the
64 Board of Governors of the State University System, or the State
65 Board of Education for the reimbursement of tuition or fees,
66 invoices, catalogs, and general publications of an educational
67 institution are not evidence of an express or implied contract
68 to provide in-person or on-campus education and related services
69 or access to facilities during the COVID-19 public health
70 emergency.

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

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

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

83 (7) If an educational institution is required by federal,
84 state, or local order or a directive of the Board of Governors
85 of the State University System or the State Board of Education
86 issued in response to the COVID-19 public health emergency to
87 alter the mode of delivery of instruction and related services

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88 or access to facilities, the burden of proof for any plaintiff
89 bringing an action against the educational institution for
90 compliance with such order or directive shall be by clear and
91 convincing evidence to prevail for damages against the
92 institution.

93 Section 2. Section 1006.75, Florida Statutes, is created
94 to read:

95 1006.75 State university career planning and information.-

96 (1) To assist students and families in making better-
97 informed decisions about educational options and future
98 employment opportunities, the Board of Governors of the State
99 University System shall publicly publish an online dashboard.
100 The dashboard must present data, by academic discipline, of
101 graduates of state universities, including at least the
102 following information:

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

105 (b) Median student loan debt.

106 (c) Debt-to-income ratio.

107 (d) Estimated monthly loan payment as a percentage of
108 gross monthly income.

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

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111 (2) The online dashboard must be available by January 1,
112 2022. A link to the dashboard shall be prominently displayed on
113 each state university's office of admissions website.

114 (3) (a) Each state university board of trustees shall adopt
115 procedures to connect undergraduate students to career planning,
116 coaching, and related programs during the first academic year of
117 the student's enrollment. Such procedures must be approved by
118 the Board of Governors and include placing a hold on student
119 registration before the end of the first year of each student's
120 enrollment. To lift the hold and register for classes, each
121 student must:

122 1. Register with the university's career center.

123 2. Complete a career readiness training module provided by
124 the career center.

125 3. Be directed to the dashboard established in subsection
126 (1).

127 4. Affirmatively indicate that he or she has been provided
128 with the information required under this paragraph and is aware
129 of the employment and wage prospects for his or her declared
130 major.

131 (b) The Board of Governors of the State University System
132 shall review and approve each university's procedures by March
133 1, 2022.

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

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136 1009.25 Fee exemptions.—

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

141 (c) A student who is, or was at the time he or she reached
142 18 years of age, in the custody of the Department of Children
143 and Families or who, after spending at least 6 months in the
144 custody of the department after reaching 16 years of age, was
145 placed in a guardianship by the court. Such exemption includes
146 fees associated with enrollment in applied academics for adult
147 education instruction. The exemption remains valid until the
148 student reaches 28 years of age.

149 (d) A student who is, or was at the time he or she reached
150 18 years of age, in the custody of a relative or nonrelative
151 under s. 39.5085 or s. 39.6225 or who was adopted from the
152 Department of Children and Families after May 5, 1997. Such
153 exemption includes fees associated with enrollment in applied
154 academics for adult education instruction. The exemption remains
155 valid until the student reaches 28 years of age.

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

158 1009.26 Fee waivers.—

159 (18) (a) Beginning with the 2021-2022 academic year, for
160 every course in a Program of Strategic Emphasis, as identified

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161 in subparagraph 3., in which a student is enrolled, a state
162 university shall waive 100 percent of the tuition and fees for
163 an equivalent course in such program for a student who:

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

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

168 3. Enrolls in one of eight Programs of Strategic Emphasis
169 as adopted by the Board of Governors. The Board of Governors
170 shall adopt eight Programs of Strategic Emphasis in science,
171 technology, engineering, or math for which a student may be
172 eligible to receive the tuition and fee waiver authorized by
173 this subsection. The programs identified by the board must
174 reflect the priorities of the state and be offered at a majority
175 of state universities.

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

180 (c) Upon enrollment in a program of strategic emphasis,
181 the tuition and fees waived under this subsection must be
182 reported for state funding purposes under ss. 1009.534 and
183 1009.535 and must be disbursed to the student. The amount
184 disbursed to the student shall be equal to the award amount the
185 student has received under s. 1009.534(2) or s. 1009.535(2).

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186 (d) Each state university shall report to the Board of
187 Governors the number and value of all waivers granted annually
188 under this subsection. A state university in compliance with
189 this subsection may earn incentive funding, subject to
190 appropriation, in addition to the funding provided under s.
191 1001.92.

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

194 Section 5. Paragraph (a) of subsection (1) of section
195 1009.40, Florida Statutes, is amended to read:

196 1009.40 General requirements for student eligibility for
197 state financial aid awards and tuition assistance grants.—

198 (1) (a) The general requirements for eligibility of
199 students for state financial aid awards and tuition assistance
200 grants consist of the following:

201 1. Achievement of the academic requirements of and
202 acceptance at a state university or Florida College System
203 institution; a nursing diploma school approved by the Florida
204 Board of Nursing; a Florida college or university which is
205 accredited by an accrediting agency recognized by the State
206 Board of Education; a Florida institution the credits of which
207 are acceptable for transfer to state universities; a career
208 center; or a private career institution accredited by an
209 accrediting agency recognized by the State Board of Education.

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210 2. Residency in this state for no less than 1 year
211 preceding the award of aid or a tuition assistance grant for a
212 program established pursuant to s. 1009.50, s. 1009.505, s.
213 1009.51, s. 1009.52, s. 1009.53, s. 1009.60, s. 1009.62, s.
214 1009.72, s. 1009.73, s. 1009.75, s. 1009.77, s. 1009.89, ~~or~~ s.
215 1009.891, or s. 1009.894. Residency in this state must be for
216 purposes other than to obtain an education. Resident status for
217 purposes of receiving state financial aid awards shall be
218 determined in the same manner as resident status for tuition
219 purposes pursuant to s. 1009.21.

220 3. Submission of certification attesting to the accuracy,
221 completeness, and correctness of information provided to
222 demonstrate a student's eligibility to receive state financial
223 aid awards or tuition assistance grants. Falsification of such
224 information shall result in the denial of a pending application
225 and revocation of an award or grant currently held to the extent
226 that no further payments shall be made. Additionally, students
227 who knowingly make false statements in order to receive state
228 financial aid awards or tuition assistance grants commit a
229 misdemeanor of the second degree subject to the provisions of s.
230 837.06 and shall be required to return all state financial aid
231 awards or tuition assistance grants wrongfully obtained.

232 Section 6. Section 1009.46, Florida Statutes, is created
233 to read:

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234 1009.46 Duties relating to state financial aid and tuition
235 assistance programs.—

236 (1) (a) Each postsecondary educational institution that
237 receives state funds for state financial aid and tuition
238 assistance programs shall:

239 1. Complete and return the annual application for state
240 aid funds in the format and by the date established by the
241 Department of Education.

242 2. Maintain complete, accurate, and auditable student
243 records documenting the institution's administration of state
244 financial aid and tuition assistance funds.

245 3. Verify eligibility of enrolled students with the
246 department each academic term.

247 4. Report each student's program of study to the
248 department using the most recent classification of instructional
249 programs taxonomy for the certificate or degree level as
250 developed by the United States Department of Education's
251 National Center for Education Statistics.

252 5. Disburse state financial aid and tuition assistance to
253 eligible students.

254 6. Notify students annually regarding the renewal
255 requirements for each state-funded award for which they are
256 eligible.

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257 7. Complete and return to the department all reports for
258 the administration of state funds in the format and by the date
259 established by the department.

260 8. Complete and return to the department all legislatively
261 required reports in the format and by the date established by
262 the department.

263 9. Retain required records for the later of 5 years or
264 until such records are audited and any audit exceptions are
265 resolved.

266 10. Refund to the department any undisbursed advances
267 within 60 days after the end of the regular registration period
268 each fall and spring term, within 30 days after the end of the
269 summer term, or within 60 days after the date a student's
270 ineligibility is determined.

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

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

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

280 2. The department may suspend or revoke an institution's
281 eligibility to participate in state-funded programs if the

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282 institution fails to provide the required audits, fails to
283 resolve audit findings, or fails to timely provide statutorily
284 required reports by established deadlines.

285 Section 7. Subsection (6) of section 1009.50, Florida
286 Statutes, is renumbered as subsection (5), and paragraph (a) of
287 subsection (4) and subsection (5) of that section are amended to
288 read:

289 1009.50 Florida Public Student Assistance Grant Program;
290 eligibility for grants.—

291 (4) (a) The funds appropriated for the Florida Public
292 Student Assistance Grant Program shall be distributed to
293 eligible institutions in accordance with a formula approved by
294 the State Board of Education. The formula must consider at least
295 the prior year's distribution of funds and, the number of
296 eligible applicants who did not receive awards, ~~the~~
297 ~~standardization of the expected family contribution, and~~
298 ~~provisions for unused funds.~~ The formula must account for
299 changes in the number of eligible students across all student
300 assistance grant programs established pursuant to this section
301 and ss. 1009.505, 1009.51, and 1009.52.

302 ~~(5) Funds appropriated by the Legislature for state~~
303 ~~student assistance grants may be deposited in the State Student~~
304 ~~Financial Assistance Trust Fund. Notwithstanding s. 216.301 and~~
305 ~~pursuant to s. 216.351, any balance in the trust fund at the end~~
306 ~~of any fiscal year which has been allocated to the Florida~~

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307 ~~Public Student Assistance Grant Program shall remain therein and~~
308 ~~shall be available for carrying out the purposes of this~~
309 ~~section.~~

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

312 1009.505 Florida Public Postsecondary Career Education
313 Student Assistance Grant Program.—

314 ~~(5) Funds appropriated by the Legislature for state~~
315 ~~student assistance grants may be deposited in the State Student~~
316 ~~Financial Assistance Trust Fund. Notwithstanding s. 216.301 and~~
317 ~~pursuant to s. 216.351, any balance in the trust fund at the end~~
318 ~~of any fiscal year which has been allocated to the Florida~~
319 ~~Public Postsecondary Career Education Student Assistance Grant~~
320 ~~Program shall remain therein and shall be available for carrying~~
321 ~~out the purposes of this section.~~

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

324 1009.51 Florida Private Student Assistance Grant Program;
325 eligibility for grants.—

326 (4) (a) The funds appropriated for the Florida Private
327 Student Assistance Grant Program shall be distributed to
328 eligible institutions in accordance with a formula approved by
329 the State Board of Education. The formula must consider at least
330 the prior year's distribution of funds and, the number of
331 eligible applicants who did not receive awards, ~~the~~

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332 ~~standardization of the expected family contribution, and~~
333 ~~provisions for unused funds.~~ The formula must account for
334 changes in the number of eligible students across all student
335 assistance grant programs established pursuant to this section
336 and ss. 1009.50, 1009.505, and 1009.52.

337 ~~(5) Funds appropriated by the Legislature for Florida~~
338 ~~private student assistance grants may be deposited in the State~~
339 ~~Student Financial Assistance Trust Fund. Notwithstanding s.~~
340 ~~216.301 and pursuant to s. 216.351, any balance in the trust~~
341 ~~fund at the end of any fiscal year which has been allocated to~~
342 ~~the Florida Private Student Assistance Grant Program shall~~
343 ~~remain therein and shall be available for carrying out the~~
344 ~~purposes of this section and as otherwise provided by law.~~

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

347 1009.52 Florida Postsecondary Student Assistance Grant
348 Program; eligibility for grants.-

349 (4) (a) The funds appropriated for the Florida
350 Postsecondary Student Assistance Grant Program shall be
351 distributed to eligible institutions in accordance with a
352 formula approved by the State Board of Education. The formula
353 must consider at least the prior year's distribution of funds
354 and, the number of eligible applicants who did not receive
355 awards, ~~the standardization of the expected family contribution,~~
356 ~~and provisions for unused funds.~~ The formula must account for

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357 changes in the number of eligible students across all student
358 assistance grant programs established pursuant to this section
359 and ss. 1009.50, 1009.505, and 1009.51.

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

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

369
370 -----
371 **T I T L E A M E N D M E N T**

372 Remove everything before the enacting clause and insert:

373 A bill to be entitled

374 An act relating to higher education; creating s.
375 768.39, F.S.; providing legislative findings; defining
376 the term "educational institution"; providing that the
377 Board of Governors and the State Board of Education
378 are afforded certain immunity protections; prohibiting
379 an educational institution that has taken certain
380 reasonably necessary actions to diminish the impact or
381 spread of COVID-19 from being civilly liable for such

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382 actions; specifying that the provision of certain
383 services by educational institutions was impossible
384 during certain periods of time; providing that certain
385 reasonably necessary actions are deemed justified;
386 providing exceptions; providing severability;
387 providing for retroactive applicability; providing an
388 exception for certain civil actions; amending s.
389 1006.75, F.S.; requiring the Board of Governors to
390 publish an online dashboard containing specified data;
391 requiring that such dashboard be made available by a
392 specified date; requiring that each state university
393 board of trustees adopt procedures to connect
394 undergraduate students to certain programs; requiring
395 that the Board of Governors approve such procedures by
396 a specified date; requiring that such procedures
397 include placing a hold on certain student registration
398 under certain circumstances; providing that the Board
399 of Governors review and approve certain procedures by
400 a specified date; amending s. 1009.25, F.S.; revising
401 provisions relating to certain fee exemptions;
402 amending s. 1009.26, F.S.; requiring a state
403 university to waive the tuition and fees for certain
404 courses in which certain resident students are
405 enrolled; providing applicability; providing specified
406 criteria for such waiver; requiring the reporting of

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407 tuition and fees waived for state funding purposes;
408 requiring disbursement to the student upon his or her
409 enrollment in a program of strategic emphasis;
410 requiring each state university to report certain
411 information regarding such waiver to the Board of
412 Governors, annually; authorizing a state university in
413 compliance with the waiver provisions to earn
414 incentive funding, subject to appropriation; requiring
415 the board to adopt regulations; amending s. 1009.40,
416 F.S.; conforming cross-references; creating s.
417 1009.46, F.S.; providing duties for certain
418 postsecondary educational institutions relating to
419 state financial aid and tuition assistance programs;
420 requiring that an institution that fails to perform
421 its duties be placed on probation by the Department of
422 Education; providing duties for the department;
423 amending s. 1009.50, F.S.; revising provisions
424 relating to funds appropriated for the Florida Public
425 Assistance Grant Program; removing provisions
426 authorizing that certain funds be deposited into a
427 specified trust fund; amending s. 1009.505, F.S.;
428 revising provisions relating to the Florida Public
429 Postsecondary Career Education Student Assistance
430 Grant Program; amending s. 1009.51, F.S.; revising
431 provisions relating to the Florida Private Student

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432 Assistance Grant Program; amending s. 1009.52, F.S.;

433 revising provisions relating to the Florida

434 Postsecondary Student Assistance Grant Program;

435 providing an effective date.

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