A bill to be entitled
An act relating to school choice; creating s. 1002.394, F.S.; the Family Empowerment Scholarship Program; providing definitions; providing student eligibility requirements for the program; providing criteria for a student to be ineligible for the program; providing a limit on the number of scholarships the Department of Education may provide through the program; providing approved uses for program funds; requiring a scholarship to remain in force until certain conditions are met; providing school district obligations; providing eligibility requirements for private schools to participate in the program; providing private school obligations; providing department obligations; providing parent and student responsibilities for participation in the program; providing eligible nonprofit scholarship-funding organizations obligations; providing for an eligible student to be reported for funding to the department; providing for the calculation of funding for an eligible student; providing for funding of an eligible student; providing auditor general obligations; providing the state is not liable for certain actions under the program; prohibiting certain entities from imposing certain regulations on private
schools; requiring rulemaking; amending s. 1002.395, F.S.; revising eligibility requirements for the Florida Tax Credit Scholarship Program; revising eligible nonprofit scholarship-funding organization obligations; revising the purpose of a project grant awarded to a state university relating to certain students' performance on certain assessments; revising the formula for calculation of a scholarship through the program; amending s. 212.099, F.S.; revising a definition; deleting a provision authorizing certain eligible contributions to be used for the Gardiner Scholarship Program; amending s. 1002.20, F.S.; conforming provisions to changes made by the act; amending s. 1002.40, F.S.; revising the calculation of a maximum award under the Hope Scholarship Program; providing that a certain percentage of specified contributions may be carried forward to the following state fiscal year; providing requirements for contributions that are carried forward; requiring certain eligible contributions be used to fund scholarships through the Florida Tax Credit Scholarship Program; revising a specified form to include information relating to the Florida Tax Credit Scholarship Program; amending ch. 2018-6, 2018, Laws of Florida; authorizing the Department of Revenue to
adopt emergency rules to administer specified provisions; providing an effective date.

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

Section 1. Section 1002.394, Florida Statutes, is created to read:

1002.394 Family Empowerment Scholarship Program.—The Family Empowerment Scholarship Program is established to provide educational options to students.

(1) DEFINITIONS.—As used in this section, the term:
(a) "Department" means the Department of Education.
(b) "Eligible nonprofit scholarship-funding organization" has the same meaning as provided in s. 1002.395(2)(f).
(c) "Eligible private school" has the same meaning as provided in s. 1002.395(2)(g).
(d) "Parent" means a resident of this state who is a parent, as defined in s. 1000.21.
(e) "Program" means the Family Empowerment Scholarship Program.

(2) INITIAL SCHOLARSHIP ELIGIBILITY.—A scholarship shall be awarded to a student who was counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding, received a scholarship from an eligible nonprofit scholarship-funding organization or
from the state during the previous school year, or is eligible
to enter kindergarten, and who:
   (a) Is on the direct certification list;
   (b) Is currently placed, or during the previous state
fiscal year was placed, in foster care or in out-of-home care as
defined in s. 39.01;
   (c) Is a sibling of a student who is participating in the
scholarship program under this subsection and resides in the
same household as the sibling; or
   (d) Has a household income level that does not exceed:
      1. Three hundred percent of the federal poverty level for
the 2019-2020 school year.
      2. Three hundred twenty-five percent of the federal
poverty level for the 2020-2021 school year.
      3. Three hundred fifty percent of the federal poverty
level for the 2021-2022 school year.
      4. Three hundred seventy-five percent of the federal
poverty level beginning with the 2022-2023 school year and
thereafter.

Priority shall be given to students whose household income
levels do not exceed 185 percent of the federal poverty level or
who are in foster care or out-of-home care.

(3) PROGRAM PROHIBITIONS; LIMITATIONS.—
   (a) A student is not eligible for a scholarship while the
student is:

1. Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

2. Receiving an educational scholarship under chapter 1002;

3. Participating in a home education program as defined in s. 1002.01(1);

4. Participating in a private tutoring program under s. 1002.43;

5. Participating in a virtual school or distance learning program that receives state funding due to the student's participation unless the participation is limited to no more than two courses per school year; or


(b) The number of new scholarships that the department may authorize in any school year may not exceed 1 percent of the total public school enrollment for that school year.

(4) AUTHORIZED USES OF PROGRAM FUNDS.—A parent participating in the program shall use the funds deposited into his or her eligible student’s account for tuition and fees associated with an eligible private school.

(5) TERM OF THE PROGRAM.—For purposes of continuity of educational choice, a Family Empowerment Scholarship shall
remain in force until the student returns to public school or
graduates from high school, whichever occurs first. A student
who enrolls in a public school or public school program is
considered to have returned to a public school for the purpose
of determining the end of the account's term.

(6) SCHOOL DISTRICT OBLIGATIONS.—
(a) Each school district shall report all students who are
receiving a scholarship under this section separately from other
students reported for purposes of the Florida Education Finance
Program.
(b) For each student participating in the program in an
eligible private school who chooses to participate in the
statewide assessments under s. 1008.22 or the Florida Alternate
Assessment, the school district in which the student resides
must notify the student and his or her parent about the
locations and times for the administration of all statewide
assessments.

(7) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
eligible private school may be sectarian or nonsectarian and
shall:
(a) Comply with all requirements for private schools
participating in state school choice scholarship programs under
this section and s. 1002.421.
(b)1. Annually administer or make provisions for students
participating in the program in grades 3 through 10 to take one
of the nationally norm-referenced tests identified by the department or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school shall report a student's scores to his or her parent.

2. Administer the statewide assessments pursuant to s. 1008.22 if the private school chooses to offer the statewide assessments. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10 and must submit a request in writing to the department by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

If a private school fails to meet the requirements of this subsection or s. 1002.421, the Commissioner of Education may determine that the private school is ineligible to participate in the program.

(8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

(a) Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication.

(b) Maintain a list of nationally norm-referenced tests
identified for purposes of satisfying the testing requirement in paragraph (9)(e). The tests must meet industry standards of quality in accordance with State Board of Education rule.

(c) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the program, the private schools in which the students are enrolled, and other information deemed necessary by the department.

(d) Notify eligible scholarship-funding organizations of the total number of initial scholarship awards available and the deadline for submitting students determined to be eligible by an eligible nonprofit scholarship-funding organization.

(e) Notify eligible scholarship-funding organizations of students who are eligible for an initial scholarship award on a first-come, first-served basis, based upon the following order of priority:

1. New applicants whose household income levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.

2. A sibling of a student who is participating in the scholarship program under this subsection and resides in the same household as the sibling.

(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for program participation under this section is exercising his or her parental option to
determine the appropriate placement or the services that best meet the needs of his or her student.

(a) The parent must select an eligible private school and apply for the admission of his or her student.

(b) The parent must inform the student's school district when the parent withdraws his or her student to attend an eligible private school.

(c) Any student participating in the scholarship program must remain in attendance at the private school throughout the school year unless excused by the school for illness or other good cause.

(d) Each parent and each student has an obligation to the private school to comply with the private school's published policies.

(e) The parent shall ensure that his or her student participating in the scholarship program takes the norm-referenced assessment offered by the private school. The parent may also choose to have his or her student participate in the statewide assessments pursuant to s. 1008.22. If the parent requests that his or her student take statewide assessments pursuant to s. 1008.22 and the private school has not chosen to offer and administer the statewide assessments, the parent is responsible for transporting the student to the assessment site designated by the school district.

(f) The parent may not receive a payment, refund, or
rebate from a private school under this program. A parent who fails to comply with this subsection forfeits program participation.

(10) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization may establish scholarships for eligible students by:

(a) Receiving applications and determining student eligibility in accordance with the requirements of this section.

(b) Notifying parents of their receipt of a scholarship.

(c) Establishing a date by which the parent of a participating student must confirm continuing participation in the program.

(d) Awarding scholarship funds to eligible students in the following order of priority:

1. Eligible students who received a scholarship from an eligible nonprofit scholarship-funding organization or from the state during the previous school year.

2. New applicants awarded scholarships under paragraph (8)(e).

(e) Preparing and submitting quarterly reports to the department pursuant to paragraph (8)(c). In addition, an eligible nonprofit scholarship-funding organization must, in a timely manner, submit any information requested by the department relating to the program.
(f) Notifying the department of any violation of this section by a private school or parent.

(11) FUNDING AND PAYMENT.—

(a) Students determined to be eligible by an eligible nonprofit scholarship-funding organization shall be reported to the department in the manner prescribed by the department and shall be funded through the Florida Education Finance Program. The scholarship amount awarded to an eligible student shall be calculated based upon the grade level and school district in which the student resides as 97 percent of the district average for the basic program identified in s. 1011.62(1)(c).1.

(b) Following notification by an eligible nonprofit scholarship-funding organization of the number of eligible students, the department shall transfer, from General Revenue funds only, the amount calculated pursuant to paragraph (a) to the eligible nonprofit scholarship-funding organization for quarterly deposit into the student's account. For a student exiting a Department of Juvenile Justice commitment program who participates in the scholarship program, the amount of the scholarship shall be calculated based upon the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice.

(c) The eligible nonprofit scholarship-funding organization may develop a system for the payment of tuition and fees by funds transfer, including, but not limited to, debit
cards, electronic payment cards, or any other means of payment that the department deems to be commercially viable or cost-effective. A student's scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such system shall be procured by competitive solicitation unless the commodities or services are purchased from a state term contract pursuant to s. 287.056.

(12) OBLIGATIONS OF THE AUDITOR GENERAL.—

(a) The Auditor General shall conduct an annual operational audit of accounts and records of each eligible nonprofit scholarship-funding organization that participates in the program. As part of this audit, the Auditor General shall verify, at a minimum, the total number of students served and transmit that information to the department. The Auditor General shall provide the commissioner with a copy of each annual operational audit performed pursuant to this paragraph within 10 days after the audit is finalized.

(b) The Auditor General shall notify the department of any eligible nonprofit scholarship-funding organization that fails to comply with a request for information.

(13) LIABILITY.—The state is not liable for the award of or any use of awarded funds under this section.

(14) SCOPE OF AUTHORITY.—This section does not expand the regulatory authority of this state, its officers, or any school district to impose additional regulation on participating
private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

(15) RULES.—The State Board of Education shall adopt rules to administer this section.

Section 2. Paragraph (b) of subsection (3), paragraphs (d) and (e) of subsection (6), paragraph (f) of subsection (9), and paragraph (a) of subsection (11) of section 1002.395, Florida Statutes, are amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

(b) Beginning with the 2019-2020 school year, a student is eligible for a Florida tax credit scholarship under this section if the student has not received a scholarship under this chapter and meets one or more of the following criteria:

1. The student is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level; or

2. The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in s. 39.01; or

3. The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.

A student who initially receives a scholarship based on
eligibility under subparagraph (b)2. remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level. A sibling of a student who is participating in the scholarship program under this subsection is eligible for a scholarship if the student resides in the same household as the sibling.

(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization:

(d) Must provide scholarships, from eligible contributions, to eligible students for the cost of:
1. Tuition and fees for an eligible private school; or
2. Transportation to a Florida public school that is located outside the district in which the student resides or to a lab school as defined in s. 1002.32.

(e) Must award scholarships to students based on the following priority:
1. Give first priority to Eligible students who received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year.
2. New Beginning in the 2016-2017 school year, an eligible nonprofit scholarship-funding organization shall give priority to new applicants whose household income levels do not exceed
185 percent of the federal poverty level or who are in foster care or out-of-home care.

3. New applicants whose household income levels are greater than 185 percent of the federal poverty level but do not exceed 260 percent of the federal poverty level.

Information and documentation provided to the Department of Education and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times in accordance with s. 213.053.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(f) Issue a project grant award to a state university, to which participating private schools participating in a scholarship program under this section and ss. 1002.394 and 1002.40 must report the scores of participating students on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10. The project term is 2 years, and the amount of the project is up to $250,000 per year. The project grant award must be reissued in 2-year intervals in accordance with this paragraph.

1. The state university must annually report to the Department of Education on the student performance of participating students:
a. On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students' performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program. To minimize costs and reduce time required for the state university's analysis and evaluation, the Department of Education shall coordinate with the state university to provide data to the state university in order to conduct analyses of matched students from public school assessment data and calculate control group student performance using an agreed-upon methodology with the state university; and

b. On an individual school basis. The annual report must include student performance for each participating private school in which at least 51 percent of the total enrolled students in the private school participated in a scholarship program under this section, s. 1002.394, or s. 1002.40 the Florida Tax Credit Scholarship Program in the prior school year. The report shall be according to each participating private school, and for participating students, in which there are at least 30 participating students who have scores for tests administered. If the state university determines that the 30-participating-student cell size may be reduced without disclosing personally identifiable information, as described in 34 C.F.R. s. 99.12, of a participating student, the state
university may reduce the participating-student cell size, but
the cell size must not be reduced to less than 10 participating
students. The department shall provide each private school's
prior school year's student enrollment information to the state
university no later than June 15 of each year, or as requested
by the state university.

2. The sharing and reporting of student performance data
under this paragraph must be in accordance with requirements of
ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family
Educational Rights and Privacy Act, and the applicable rules and
regulations issued pursuant to such requirements thereeto, and
shall be for the sole purpose of creating the annual report
required by subparagraph 1. All parties must preserve the
confidentiality of such information as required by law. The
annual report must not disaggregate data to a level that will
identify individual participating schools, except as required
under sub-subparagraph 1.b., or disclose the academic level of
individual students.

3. The annual report required by subparagraph 1. shall be
published by the Department of Education on its website.

(11) SCHOLARSHIP AMOUNT AND PAYMENT.—

(a) Except as provided in subparagraph 2., The scholarship
amount provided to any student for any single school year by an
eligible nonprofit scholarship-funding organization from
eligible contributions shall be for total costs authorized under
paragraph (6)(d), not to exceed annual limits, which shall be
determined as follows:

1. Beginning with the 2019-2020 school year, the
scholarship amount awarded to an eligible student shall be
calculated based upon the grade level and school district in
which the student resides as 97 percent of the district average
for the basic program identified in s. 1011.62(1)(c)1.

   1.a. The base amount awarded to a student enrolled in an
eligible private school shall be determined as a percentage of
the unweighted FTE funding amount for that state fiscal year and
thereafter as follows:

   (I) Eighty-eight percent for a student enrolled in
kindergarten through grade 5.

   (II) Ninety-two percent for a student enrolled in grade 6
through grade 8.

   (III) Ninety-six percent for a student enrolled in grade 9
through grade 12.

2.b. The scholarship amount awarded to a student enrolled
in a Florida public school that is located outside the district
in which the student resides or in a lab school as defined in s.
1002.32, is limited to $750.

2. The annual limit for a scholarship under sub-
subparagraph 1.a. shall be reduced by:

   a. Twelve percent if the student's household income level
is greater than or equal to 200 percent, but less than 215
percent, of the federal poverty level.

b. Twenty-six percent if the student's household income level is greater than or equal to 215 percent, but less than 230 percent, of the federal poverty level.

c. Forty percent if the student's household income level is greater than or equal to 230 percent, but less than 245 percent, of the federal poverty level.

d. Fifty percent if the student's household income level is greater than or equal to 245 percent, but less than or equal to 260 percent, of the federal poverty level.

Section 3. Paragraph (b) of subsection (1) and subsection (7) of section 212.099, Florida Statutes, are amended to read:

212.099 Credit for contributions to eligible nonprofit scholarship-funding organizations Florida Sales Tax Credit Scholarship Program.—

(1) As used in this section, the term:

(b) "Eligible contribution" or "contribution" means a monetary contribution from an eligible business to an eligible nonprofit scholarship-funding organization to be used pursuant to s. 1002.385 or s. 1002.395. The eligible business making the contribution may not designate a specific student as the beneficiary of the contribution.

(7)(a) Eligible contributions may be used to fund the program established under s. 1002.395 if funds appropriated in a state fiscal year for the program are
insufficient to fund eligible students.

(b) If the conditions in paragraph (a) are met, the organization shall first use eligible contributions received during a state fiscal year to fund scholarships for students in the priority set forth in s. 1002.385(12)(d). Remaining contributions may be used to fund scholarships for students eligible pursuant to s. 1002.395(3)(b)1. or 2.

(b)(c) The organization shall separately account for each scholarship funded pursuant to this section.

(d) Notwithstanding s. 1002.385(6)(b), any funds remaining from a closed scholarship account funded pursuant to this section shall be used to fund other scholarships pursuant to s. 1002.385.

(c)(e) The organization may, subject to the limitations of s. 1002.395(6)(j)1., use up to 3 percent of eligible contributions received during the state fiscal year in which such contributions are collected for administrative expenses.

Section 4. Paragraph (b) of subsection (6) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:
(6) EDUCATIONAL CHOICE.—
(b) Private educational choices.—Parents of public school students may seek private educational choice options under certain programs established under chapter 1002.

1. Under the McKay Scholarships for Students with Disabilities Program, the parent of a public school student with a disability may request and receive a McKay Scholarship for the student to attend a private school in accordance with s. 1002.39.

2. Under the Florida Tax Credit Scholarship Program, the parent of a student who qualifies for free or reduced-price school lunch or who is currently placed, or during the previous state fiscal year was placed, in foster care as defined in s. 39.01 may seek a scholarship from an eligible nonprofit scholarship-funding organization in accordance with s. 1002.395.

3. Under the Florida Personal Learning Scholarship Accounts Program, the parent of a student with a qualifying disability may apply for a personal learning scholarship to be used for individual educational needs in accordance with s. 1002.385.

Section 5. Paragraph (a) of subsection (11) and paragraph (a) of subsection (13) of section 1002.40, Florida Statutes are amended, and paragraph (i) is added to subsection (11) of that section, to read:

1002.40 The Hope Scholarship Program.—
(11) FUNDING AND PAYMENT.—

(a) The maximum amount awarded to a student enrolled in an eligible private school shall be calculated based upon the grade level and school district in which the student resides as 97 percent of the district average for the basic program identified in s. 1011.62(1)(c)1. determined as a percentage of the unweighted FTE funding amount for that state fiscal year and thereafter as follows:

1. Eighty-eight percent for a student enrolled in kindergarten through grade 5.

2. Ninety-two percent for a student enrolled in grade 6 through grade 8.

3. Ninety-six percent for a student enrolled in grade 9 through grade 12.

(i) Notwithstanding s. 1002.395(6)(j)2., no more than 5 percent of net eligible contributions may be carried forward to the following state fiscal year by an eligible scholarship-funding organization. All amounts carried forward, for audit purposes, must be specifically identified for particular students by student name and the name of the school to which the student is admitted, subject to the requirements of ss. 1002.21 and 1002.22 and 20 U.S.C. s. 1232g, and the applicable rules and regulations issued pursuant to such requirements. Any amounts carried forward shall be expended for annual scholarships or partial-year scholarships in the following state fiscal year.
Net eligible contributions remaining on June 30 of each year which are in excess of the 5 percent that may be carried forward shall be transferred to other eligible nonprofit scholarship-funding organizations participating in the Hope Scholarship Program to provide scholarships for eligible students. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into the scholarship account of eligible students. All transferred amounts received by an eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit requirement under s. 1002.395(6)(m). If no other eligible nonprofit scholarship-funding organization participates in the Hope Scholarship Program, net eligible contributions in excess of the 5 percent may be used to fund scholarships for students eligible under s. 1002.395(3).

(13) SCHOLARSHIP FUNDING TAX CREDITS.—

(a) A tax credit is available under s. 212.1832(1) for use by a person that makes an eligible contribution. Eligible contributions shall be used to fund scholarships under this section and may be used to fund scholarships under s. 1002.395. Each eligible contribution is limited to a single payment of $105 per motor vehicle purchased at the time of purchase of a motor vehicle or a single payment of $105 per motor vehicle purchased at the time of registration of a motor vehicle that was not purchased from a dealer, except that a contribution may
not exceed the state tax imposed under chapter 212 that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Payments of contributions shall be made to a dealer at the time of purchase of a motor vehicle or to a designated agent or private tag agent at the time of registration of a motor vehicle that was not purchased from a dealer. An eligible contribution shall be accompanied by a contribution election form provided by the Department of Revenue. The form shall include, at a minimum, the following brief description of the Hope Scholarship Program and the Florida Tax Credit Scholarship Program: "THE HOPE SCHOLARSHIP PROGRAM PROVIDES A PUBLIC SCHOOL STUDENT WHO WAS SUBJECTED TO AN INCIDENT OF VIOLENCE OR BULLYING AT–SCHOOL THE OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE PRIVATE SCHOOL RATHER THAN REMAIN IN AN UNSAFE SCHOOL. THE FLORIDA TAX CREDIT SCHOLARSHIP PROGRAM PROVIDES A LOW-INCOME STUDENT THE OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE PRIVATE SCHOOL." The form shall also include, at a minimum, a section allowing the consumer to designate, from all participating scholarship funding organizations, which organization will receive his or her donation. For purposes of this subsection, the term "purchase" does not include the lease or rental of a motor vehicle.

Section 6. Subsection (1) of section 49 of chapter 2018-6, 2018, Laws of Florida, is amended to read:
Section 49. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of administering the provisions of this act and s. 1002.40, Florida Statutes, as amended by this act.

Section 7. This act shall take effect upon becoming a law.