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A bill to be entitled
An act relating to scholarship programs; amending s. 1002.394, F.S.; amending authorized uses of funds; amending eligibility of students; amending s. 1002.395; amending authorized uses of funds; amending eligibility of students; providing an effective date.

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

Section 1. Subsections (3), (4) and subsection (12) of section 1002.394, Florida Statutes, are amended to read:
1002.394 The Family Empowerment Scholarship Program.—
(3) SCHOLARSHIP ELIGIBILITY.—
(a) A parent of a student may request and receive from the state a Family Empowerment – Educational Options scholarship for the purposes specified in paragraph (4)(a) if:
1. The student is on the direct certification list pursuant to s. 1002.395(2)(c) or the student’s household income level does not exceed 185 percent of the federal poverty level;
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;
3. The student’s household income level does not exceed 375 percent of the federal poverty level or an adjusted maximum percent of the federal poverty level that is increased by 25 percentage points in the fiscal year following any fiscal year in which more than 5 percent of the available scholarships authorized under paragraph (12)(a) have not been funded;
4. The student is a sibling of a student who is participating in the scholarship program under this subsection and such siblings reside in the same household;

5. The student is a dependent child of a member of the United States Armed Forces; or

6. The student is a dependent child of a law enforcement officer, firefighter, emergency medical technician, paramedic, as provided in s. 112.1815 and includes 911 public safety telecommunicators as defined in s. 401.465.

Priority must be given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

(b) A parent of a student with a disability may request and receive from the state a Family Empowerment – Gardiner-McKay scholarship for the purposes specified in paragraph (4)(b) if the student:

1. Is a resident of this state;
2. Is 3 or 4 years of age on or before September 1 of the year in which the student applies for program participation or is eligible to enroll in kindergarten through grade 12 in a public school in this state;
3. Has a disability as defined in subsection (2); and
4. Is the subject of an IEP written in accordance with rules of the State Board of Education or with the applicable rules of another state or has received a diagnosis of a disability from a physician who is licensed under chapter 458 or chapter 459, a psychologist who is licensed under chapter 490, or a physician who holds an active license issued by another
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state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) An approved student who does not receive a scholarship must be placed on the wait list in the order in which the student is approved. An eligible student who does not receive a scholarship within the fiscal year must be retained on the wait list for the subsequent year.

(4) AUTHORIZED USES OF PROGRAM FUNDS.—

(a) Program funds awarded to a student determined eligible pursuant to paragraph (3)(a) may be used for:

1. Tuition and fees at an eligible private school.

2. Transportation to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned or to a lab school as defined in s. 1002.32 if the student is determined eligible pursuant to subparagraph (3)(a)1. or subparagraph (3)(a)2.

3. Instructional materials.

4. Curriculum as defined in subsection (2).

5. Tuition or fees associated with full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, a private tutoring program authorized under s. 1002.43, a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a), the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.
6. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

7. Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981 for the benefit of the eligible student.

8. Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (6).

9. Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator’s certificate pursuant to s. 1012.56, a person who holds an adjunct teaching certificate pursuant to s. 1012.57, a person who has a bachelor’s degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5), or a person certified by a nationally or internationally recognized research-based training program as approved by the department. As used in this paragraph, the term “part-time tutoring services” does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

10. Fees for summer education programs.

11. Fees for after-school education programs.

12. Transition services provided by job coaches.
13. Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(f), if this option is chosen for a home education student.

(b) Program funds awarded to a student with a disability determined eligible pursuant to paragraph (3)(b) may be used for the following purposes:

1. Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices.

2. Curriculum as defined in subsection (2).

3. Specialized services by approved providers or by a hospital in this state which are selected by the parent. These specialized services may include, but are not limited to:
   a. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.
   b. Services provided by speech-language pathologists as defined in s. 468.1125(8).
   c. Occupational therapy as defined in s. 468.203.
   d. Services provided by physical therapists as defined in s. 486.021(8).
   e. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who has a hearing impairment, including deafness, and who has received an implant or assistive hearing device.

4. Tuition or fees associated with full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a...
program offered by the postsecondary educational institution, a private tutoring program authorized under s. 1002.43, a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a), the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

5. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

6. Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981 for the benefit of the eligible student.

7. Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (6).

8. Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator’s certificate pursuant to s. 1012.56, a person who holds an adjunct teaching certificate pursuant to s. 1012.57, a person who has a bachelor’s degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5), or a person certified by a nationally or internationally recognized research-based training program as
approved by the department. As used in this paragraph, the term “part-time tutoring services” does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

9. Fees for specialized summer education programs.

10. Fees for specialized after-school education programs.

11. Transition services provided by job coaches.

12. Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(f), if this option is chosen for a home education student.

13. Tuition and fees associated with programs offered by Voluntary Prekindergarten Education Program providers approved pursuant to s. 1002.55 and school readiness providers approved pursuant to s. 1002.88.

14. Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.

15. Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

(6) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a Family Empowerment Scholarship while he or she is:

(a) Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school authorized under s. 1002.32, or a charter school authorized under this chapter. For purposes of this paragraph, a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program is considered to be a student enrolled in a public school;
(b) Enrolled in a school operating for the purpose of providing educational services to youth in a Department of Juvenile Justice commitment program;

(c) Receiving any other educational scholarship pursuant to this chapter;

(d) Not having regular and direct contact with his or her private school teachers pursuant to s. 1002.421(1)(i), unless he or she is eligible pursuant to paragraph (3)(b) and enrolled in the private school’s transition-to-work program pursuant to subsection (16) or a home education program pursuant to s. 1002.41;

(e) Participating in a private tutoring program pursuant to s. 1002.43 unless he or she is determined eligible pursuant to paragraph (3)(b); or

(f) Participating in virtual instruction pursuant to s. 1002.455.

(12) SCHOLARSHIP FUNDING AND PAYMENT.–

(a)1. Scholarships for students determined eligible pursuant to paragraph (3)(a) are established for up to 18,000 students annually beginning in the 2019-2020 school year. Beginning in the 2020-2021 school year, the maximum number of students participating in the scholarship program under this section shall annually increase by 3.0 percent of the state’s total full-time equivalent student membership. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:

a. Is a dependent child of a law enforcement officer, firefighter, emergency medical technician, paramedic, as
provided in s. 112.1815 and includes 911 public safety
telecommunicators as defined in s. 401.465 or a member of the
United States Armed Forces, a foster child, or an adopted child;
or
b. Is determined eligible pursuant to subparagraph (3)(a)1.
or subparagraph (3)(a)2. and either spent the prior school year
in attendance at a Florida public school or, beginning in the
2022-2023 school year, is eligible to enroll in kindergarten.
For purposes of this subparagraph, the term “prior school year
in attendance” means that the student was enrolled and reported
by a school district for funding during either the preceding
October or February full-time equivalent student membership
surveys in kindergarten through grade 12, which includes time
spent in a Department of Juvenile Justice commitment program if
funded under the Florida Education Finance Program.
2. The scholarship amount provided to a student for any
single school year shall be for tuition and fees for an eligible
private school, not to exceed annual limits, which shall be
determined in accordance with this subparagraph. The calculated
scholarship amount for a participating student shall be based
upon the grade level and school district in which the student
was assigned as 100 percent of the funds per unweighted full-
time equivalent in the Florida Education Finance Program for a
student in the basic program established pursuant to s.
1011.62(1)(c)1., plus a per-full-time equivalent share of funds
for all categorical programs as funded in the General
Appropriations Act, except for the exceptional student education
guaranteed allocation established pursuant to s. 1011.62(1)(e),
the Supplemental Allocation for Juvenile Justice Education
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Programs established pursuant to s. 1011.62(9), the Turnaround School Supplemental Services Allocation established pursuant to s. 1011.62(17), and the Student Transportation categorical established pursuant to s. 1011.68.

3. The amount of the scholarship shall be the calculated amount or the amount of the private school’s tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school and any costs to provide a digital device, including Internet access, if necessary, to the student may be paid from the total amount of the scholarship.

4. A scholarship of $750 or an amount equal to the school district expenditure per student riding a school bus, as determined by the department, whichever is greater, may be awarded to a student who is determined eligible pursuant to subparagraph (3)(a)1. or subparagraph (3)(a)2. and enrolled in a Florida public school that is different from the school to which the student was assigned or in a lab school as defined in s. 1002.32 if the school district does not provide the student with transportation to the school.

5. The organization must provide the department with the documentation necessary to verify the student’s participation. Upon receiving the documentation, the department shall transfer, from state funds only, the amount calculated pursuant to subparagraph 2. to the organization for quarterly disbursement to parents of participating students each school year in which the scholarship is in force. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the Family Empowerment Scholarship calculated pursuant to subparagraph 2.
must be transferred from the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the organization must receive all documentation required for the student’s participation, including the private school’s and the student’s fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

6. The initial payment shall be made after the organization’s verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student’s parent or by funds transfer or any other means of payment that the department deems to be commercially viable or cost-effective. If the payment is made by warrant, the warrant must be delivered by the organization to the private school of the parent’s choice, and the parent shall restrictively endorse the warrant to the private school. An organization shall ensure that the parent to whom the warrant is made has restrictively endorsed the warrant to the private school for deposit into the account of the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(b)1. Scholarships for students determined eligible pursuant to paragraph (3)(b) are established for up to 26,500 students annually beginning in the 2022-2023 school year. Beginning in the 2023-2024 school year, the maximum number of students participating in the scholarship program under this section shall annually increase by 3.0 percent of the
state’s total exceptional student education full-time equivalent student membership, not including gifted students. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:

a. Received specialized instructional services under the Voluntary Prekindergarten Education Program pursuant to s. 1002.66 during the previous school year and the student has a current IEP developed by the district school board in accordance with rules of the State Board of Education;

b. Is a dependent child of a law enforcement officer, firefighter, emergency medical technician, paramedic, as provided in s. 112.1815 and includes 911 public safety telecommunicators as defined in s. 401.465 or a member of the United States Armed Forces, a foster child, or an adopted child;

c. Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of this subparagraph, the term “prior school year in attendance” means that the student was enrolled and reported by:

(I) A school district for funding during either the preceding October or February full-time equivalent student membership surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

(II) The Florida School for the Deaf and the Blind during the preceding October or February full-time equivalent student membership surveys in kindergarten through grade 12;
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(III) A school district for funding during the preceding October or February full-time equivalent student membership surveys, was at least 4 years of age when enrolled and reported, and was eligible for services under s. 1003.21(1)(e); or

(IV) Received a John M. McKay Scholarship for Students with Disabilities in the 2021–2022 school year.

2. For a student who has a Level I to Level III matrix of services or a diagnosis by a physician or psychologist, the calculated scholarship amount for a student participating in the program must be based upon the grade level and school district in which the student would have been enrolled as the total funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic exceptional student education program pursuant to s. 1011.62(1)(c)1. and (e)1.c., plus a per full-time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act, not including the Supplemental Allocation for Juvenile Justice Education Programs established pursuant to s. 1011.62(9), the Turnaround School Supplemental Services Allocation established pursuant to s. 1011.62(17), and the Student Transportation Categorical established pursuant to s. 1011.68., except that for the exceptional student education guaranteed allocation, as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be allocated based on the school district’s average exceptional student education guaranteed allocation funds per exceptional student education full-time equivalent student.

3. For a student with a Level IV or Level V matrix of services, the calculated scholarship amount must be based upon...
the school district to which the student would have been assigned as the total funds per full-time equivalent for the Level IV or Level V exceptional student education program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act, not including the Supplemental Allocation for Juvenile Justice Education Programs established pursuant to s. 1011.62(9), the Turnaround School Supplemental Services Allocation established pursuant to s. 1011.62(17), and the Student Transportation categorical established pursuant to s. 1011.68.

4. For a student who received a Gardiner Scholarship pursuant to s. 1002.385 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

5. For a student who received a John M. McKay Scholarship pursuant to s. 1002.39 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

6. The organization must provide the department with the documentation necessary to verify the student’s participation.

7. Upon receiving the documentation, the department shall release, from state funds only, the student’s scholarship funds to the organization, to be deposited into the student’s account in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

CODING: Words **stricken** are deletions; words **underlined** are additions.
8. Accrued interest in the student’s account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest.

9. The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment which 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 a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

10. Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

Section 2. Subsections (3), (4), and (6) of Section 1002.395, Florida Statutes, are amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

(a) The Florida Tax Credit Scholarship Program is established.

(b) A student is eligible for a Florida tax credit scholarship under this section if the student 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 375 percent of the federal poverty level or an adjusted maximum percent of the federal poverty level authorized under s. 1002.394(3)(a)3.; 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.

Priority must be given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care. A student who initially receives a scholarship based on eligibility under this paragraph remains eligible to participate until he or she 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.

(4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a scholarship while he or she is:

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

(b) Receiving a scholarship from another eligible nonprofit scholarship-funding organization under this section;

(c) Receiving an educational scholarship pursuant to this chapter;

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

(e) Participating in a private tutoring program pursuant to s. 1002.43.
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(f) Participating in a virtual school, correspondence
school, or distance learning program that receives state funding
pursuant to the student’s participation unless the participation
is limited to no more than two courses per school year; or

(g) Enrolled in the Florida School for the Deaf and the
Blind.

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

(a) Must comply with the antidiscrimination provisions of
42 U.S.C. s. 2000d.

(b) Must comply with the following background check
requirements:

1. All owners and operators as defined in subparagraph
(2)(i)1. are, before employment or engagement to provide
services, subject to level 2 background screening as provided
under chapter 435. The fingerprints for the background screening
must be electronically submitted to the Department of Law
Enforcement and can be taken by an authorized law enforcement
agency or by an employee of the eligible nonprofit scholarship-
funding organization or a private company who is trained to take
fingerprints. However, the complete set of fingerprints of an
owner or operator may not be taken by the owner or operator. The
results of the state and national criminal history check shall
be provided to the Department of Education for screening under
chapter 435. The cost of the background screening may be borne
by the eligible nonprofit scholarship-funding organization or
the owner or operator.
2. Every 5 years following employment or engagement to provide services or association with an eligible nonprofit scholarship-funding organization, each owner or operator must meet level 2 screening standards as described in s. 435.04, at which time the nonprofit scholarship-funding organization shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for level 2 screening. If the fingerprints of an owner or operator are not retained by the Department of Law Enforcement under subparagraph 3., the owner or operator must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the eligible nonprofit scholarship-funding organization shall request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under subparagraph 3.

3. Fingerprints submitted to the Department of Law Enforcement as required by this paragraph must be retained by the Department of Law Enforcement in a manner approved by rule and entered in the statewide automated biometric identification system authorized by s. 943.05(2)(b). The fingerprints must thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051.

4. The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under subparagraph 3. Any arrest record
that is identified with an owner’s or operator’s fingerprints
must be reported to the Department of Education. The Department
of Education shall participate in this search process by paying
an annual fee to the Department of Law Enforcement and by
informing the Department of Law Enforcement of any change in the
employment, engagement, or association status of the owners or
operators whose fingerprints are retained under subparagraph 3.
The Department of Law Enforcement shall adopt a rule setting the
amount of the annual fee to be imposed upon the Department of
Education for performing these services and establishing the
procedures for the retention of owner and operator fingerprints
and the dissemination of search results. The fee may be borne by
the owner or operator of the nonprofit scholarship-funding
organization.

5. A nonprofit scholarship-funding organization whose owner
or operator fails the level 2 background screening is not
eligible to provide scholarships under this section.

6. A nonprofit scholarship-funding organization whose owner
or operator in the last 7 years has filed for personal
bankruptcy or corporate bankruptcy in a corporation of which he
or she owned more than 20 percent shall not be eligible to
provide scholarships under this section.

7. In addition to the offenses listed in s. 435.04, a
person required to undergo background screening pursuant to this
part or authorizing statutes must not have an arrest awaiting
final disposition for, must not have been found guilty of, or
entered a plea of nolo contendere to, regardless of
adjudication, and must not have been adjudicated delinquent, and
the record must not have been sealed or expunged for, any of the
following offenses or any similar offense of another jurisdiction:

- a. Any authorizing statutes, if the offense was a felony.
- b. This chapter, if the offense was a felony.
- c. Section 409.920, relating to Medicaid provider fraud.
- d. Section 409.9201, relating to Medicaid fraud.
- e. Section 741.28, relating to domestic violence.
- f. Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.
- g. Section 817.234, relating to false and fraudulent insurance claims.
- h. Section 817.505, relating to patient brokering.
- i. Section 817.568, relating to criminal use of personal identification information.
- j. Section 817.60, relating to obtaining a credit card through fraudulent means.
- k. Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.
- l. Section 831.01, relating to forgery.
- m. Section 831.02, relating to uttering forged instruments.
- n. Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.
- o. Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.
- p. Section 831.30, relating to fraud in obtaining medicinal drugs.
- q. Section 831.31, relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or
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deliver any counterfeit controlled substance, if the offense was
a felony.

(c) Must not have an owner or operator who owns or operates
an eligible private school that is participating in the
scholarship program.

(d) Must provide scholarships, from eligible contributions,
to eligible students for the cost of:

1. Tuition and fees for an eligible private school;

2. Transportation to a Florida public school in which a
student is enrolled and that is different from the school to
which the student was assigned or to a lab school as defined in
s. 1002.32.

3. Instructional materials.

4. Curriculum as defined in s. 1002.394(2)(b).

5. Tuition or fees associated with full-time or part-time
enrollment in a home education program, an eligible private
school, an eligible postsecondary educational institution or a
program offered by the postsecondary educational institution, a
private tutoring program authorized under s. 1002.43, a virtual
program offered by a department-approved private online provider
that meets the provider qualifications specified in s.
1002.45(2)(a), the Florida Virtual School as a private paying
student, or an approved online course offered pursuant to s.
1003.499 or s. 1004.0961.

6. Fees for nationally standardized, norm-referenced
achievement tests, Advanced Placement Examinations, industry
certification examinations, assessments related to postsecondary
education, or other assessments.
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7. Contributions to the Stanley G. Tate Florida Prepaid
College Program pursuant to s. 1009.98 or the Florida College
Savings Program pursuant to s. 1009.981 for the benefit of the
eligible student.

8. Contracted services provided by a public school or
school district, including classes. A student who receives
services under a contract under this paragraph is not considered
enrolled in a public school for eligibility purposes as
specified in subsection (6).

9. Tuition and fees for part-time tutoring services
provided by a person who holds a valid Florida educator’s
certificate pursuant to s. 1012.56, a person who holds an
adjunct teaching certificate pursuant to s. 1012.57, a person
who has a bachelor’s degree or a graduate degree in the subject
area in which instruction is given, a person who has
demonstrated a mastery of subject area knowledge pursuant to s.
1012.56(5), or a person certified by a nationally or
internationally recognized research-based training program as
approved by the department. As used in this paragraph, the term
“part-time tutoring services” does not qualify as regular school
attendance as defined in s. 1003.01(13)(e).

10. Fees for summer education programs.

11. Fees for after-school education programs.

12. Transition services provided by job coaches.

13. Fees for an annual evaluation of educational progress
by a state-certified teacher under s. 1002.41(1)(f), if this
option is chosen for a home education student.

(e) Must give first priority to eligible renewal students
who received a scholarship from an eligible nonprofit
scholarship-funding organization or from the State of Florida during the previous school year. The eligible nonprofit scholarship-funding organization must fully apply and exhaust all funds available under this section and s. 1002.40(11)(i) for renewal scholarship awards before awarding any initial scholarships.

(f) Must provide a renewal or initial scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority pursuant to paragraph (e). Each eligible nonprofit scholarship-funding organization must refer any student eligible for a scholarship pursuant to this section who did not receive a renewal or initial scholarship based solely on the lack of available funds under this section and s. 1002.40(11)(i) to another eligible nonprofit scholarship-funding organization that may have funds available.

(g) May not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator.

(h) Must allow a student in foster care or out-of-home care or a dependent child of a parent who is a member of the United States Armed Forces to apply for a scholarship at any time.

(i) Must allow an eligible student to attend any eligible private school and must allow a parent to transfer a scholarship during a school year to any other eligible private school of the parent’s choice.

(j)1. May use eligible contributions received pursuant to this section and ss. 212.099, 212.1832, and 1002.40 during the state fiscal year in which such contributions are collected for administrative expenses if the organization has operated as an
eligible nonprofit scholarship-funding organization for at least the preceding 3 fiscal years and did not have any findings of material weakness or material noncompliance in its most recent audit under paragraph (m). Administrative expenses from eligible contributions may not exceed 3 percent of the total amount of all scholarships funded by an eligible scholarship-funding organization under this chapter. Such administrative expenses must be reasonable and necessary for the organization’s management and distribution of scholarships funded under this chapter. Administrative expenses may include developing or contracting with rideshare programs or facilitating carpool strategies for recipients of a transportation scholarship. No funds authorized under this subparagraph shall be used for lobbying or political activity or expenses related to lobbying or political activity. Up to one-third of the funds authorized for administrative expenses under this subparagraph may be used for expenses related to the recruitment of contributions from taxpayers. An eligible nonprofit scholarship-funding organization may not charge an application fee.

2. Must expend for annual or partial-year scholarships an amount equal to or greater than 75 percent of the net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year. 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. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g,
and the applicable rules and regulations issued pursuant thereto. Any amounts carried forward shall be expended for annual or partial-year scholarships in the following state fiscal year. No later than September 30 of each year, net eligible contributions remaining on June 30 of each year that are in excess of the 25 percent that may be carried forward shall be used to provide scholarships to eligible students or transferred to other eligible nonprofit scholarship-funding organizations to provide scholarships for eligible students. An eligible nonprofit scholarship-funding organization may exceed the 25 percent limit on any amounts carried forward, if all eligible nonprofit scholarship-funding organizations are in excess of the 25 percent carried forward and all eligible scholarships have been provided. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into its scholarship account. All transferred amounts received by any eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit required under paragraph (m).

3. Must, before granting a scholarship for an academic year, document each scholarship student’s eligibility for that academic year. A scholarship-funding organization may not grant multiyear scholarships in one approval process.

(k) Must maintain separate accounts for scholarship funds and operating funds.

(l) With the prior approval of the Department of Education, may transfer funds to another eligible nonprofit scholarship-funding organization if additional funds are required to meet scholarship demand at the receiving nonprofit scholarship-funding organization.
funding organization. A transfer is limited to the greater of $500,000 or 20 percent of the total contributions received by the nonprofit scholarship-funding organization making the transfer. All transferred funds must be deposited by the receiving nonprofit scholarship-funding organization into its scholarship accounts. All transferred amounts received by any nonprofit scholarship-funding organization must be separately disclosed in the annual financial and compliance audit required in this section.

(m) Must provide to the Auditor General and the Department of Education a report on the results of an annual financial audit of its accounts and records conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules promulgated by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. Audit reports must be provided to the Auditor General and the Department of Education within 180 days after completion of the eligible nonprofit scholarship-funding organization’s fiscal year. The Auditor General shall review all audit reports submitted pursuant to this paragraph. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the scholarship-funding organization does not comply with the Auditor General’s request, the Auditor General shall notify the Legislative Auditing Committee.
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(n) Must prepare and submit quarterly reports to the Department of Education pursuant to paragraph (9)(i). In addition, an eligible nonprofit scholarship-funding organization must submit in a timely manner any information requested by the Department of Education relating to the scholarship program.

(o)1. a. Must participate in the joint development of agreed-upon procedures during the 2009-2010 state fiscal year. The agreed-upon procedures must uniformly apply to all private schools and must determine, at a minimum, whether the private school has been verified as eligible by the Department of Education under s. 1002.421; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses. During the development of the procedures, the participating scholarship-funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant’s performance of the procedures. The procedures and guidelines shall be provided to private schools and the Commissioner of Education by March 15, 2011.

b. Must participate in a joint review of the agreed-upon procedures and guidelines developed under sub-subparagraph a., by February of each biennium, if the scholarship-funding organization provided more than $250,000 in scholarship funds to an eligible private school under this chapter during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools and the Commissioner of Education by March 15 of the year in which the revisions were completed. The revised
agreed-upon procedures shall take effect the subsequent school year. For the 2018-2019 school year only, the joint review of the agreed-upon procedures must be completed and the revisions submitted to the commissioner no later than September 15, 2018. The revised procedures are applicable to the 2018-2019 school year.

c. Must monitor the compliance of a private school with s. 1002.421(1)(q) if the scholarship-funding organization provided the majority of the scholarship funding to the school. For each private school subject to s. 1002.421(1)(q), the appropriate scholarship-funding organization shall annually notify the Commissioner of Education by October 30 of:

(I) 1. A private school’s failure to submit a report required under s. 1002.421(1)(q); or

(II) 2. Any material exceptions set forth in the report required under s. 1002.421(1)(q).

2. Must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools and the Department of Education when jointly developing the agreed-upon procedures and guidelines under sub-subparagraph 1.a. and conducting a review of those procedures and guidelines under sub-subparagraph 1.b.

(p) Must maintain the surety bond or letter of credit required by subsection (15). The amount of the surety bond or letter of credit may be adjusted quarterly to equal the actual amount of undisbursed funds based upon submission by the organization of a statement from a certified public accountant verifying the amount of undisbursed funds. The requirements of this paragraph are waived if the cost of acquiring a surety bond
or letter of credit exceeds the average 10-year cost of acquiring a surety bond or letter of credit by 200 percent. The requirements of this paragraph are waived for a state university; or an independent college or university which is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(q) Must provide to the Auditor General any information or documentation requested in connection with an operational audit of a scholarship-funding organization conducted pursuant to s. 11.45.

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.

Section 3. This act shall take effect July 1, 2023.