

HB487

2022

1 A bill to be entitled
2 An act relating to the state scholarship programs;
3 amending s. 1002.38, F.S.; renaming the "Opportunity
4 Scholarship Program" as the "Bethune Opportunity
5 Scholarship Program"; amending s. 1002.394, F.S.;
6 renaming the "Family Empowerment Scholarship Program"
7 as the "Bethune Family Empowerment Scholarship
8 Program"; amending s. 1002.395, F.S.; renaming the
9 "Florida Tax Credit Scholarship Program" as the
10 "Bethune Tax Credit Scholarship Program"; amending s.
11 1002.40, F.S.; renaming the "Hope Scholarship Program"
12 as the "Bethune Hope Scholarship Program"; amending s.
13 1002.411, F.S.; renaming "reading scholarship
14 accounts" as "Bethune reading scholarship accounts";
15 conforming provisions to changes made by the act;
16 amending ss. 213.053, 1002.20, and 1009.971, F.S.;
17 conforming provisions to changes made by the act;
18 providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:
21

22 Section 1. Paragraph (c) of subsection (3) of section
23 1002.38, Florida Statutes, is amended to read:

24 1002.38 Bethune Opportunity Scholarship Program.—

25 (3) SCHOOL DISTRICT OBLIGATIONS.—

26 (c) For students in the school district who are
 27 participating in the state Bethune Opportunity Scholarship
 28 Program, the school district shall provide locations and times
 29 to take all statewide assessments required pursuant to s.
 30 1008.22.

31 Section 2. Subsection (1), paragraph (1) of subsection
 32 (2), paragraphs (d) and (e) of subsection (7), paragraph (a) of
 33 subsection (8), and subsection (9) of section 1002.394, Florida
 34 Statutes, are amended to read:

35 1002.394 The Bethune Family Empowerment Scholarship
 36 Program.—

37 (1) PURPOSE.—The Bethune Family Empowerment Scholarship
 38 Program is established to provide children of families in this
 39 state which have limited financial resources with educational
 40 options to achieve success in their education.

41 (2) DEFINITIONS.—As used in this section, the term:

42 (1) "Program" means the Bethune Family Empowerment
 43 Scholarship Program.

44 (7) SCHOOL DISTRICT OBLIGATIONS.—

45 (d) The school district in which a participating student
 46 resides must notify the student and his or her parent about the
 47 locations and times to take all statewide assessments under s.
 48 1008.22 if the student chooses to participate in such
 49 assessments. Upon the request of the department, a school
 50 district shall coordinate with the department to provide to a

51 participating private school the statewide assessments
52 administered under s. 1008.22 and any related materials for
53 administering the assessments. For a student who participates in
54 the Bethune Family Empowerment Scholarship Program whose parent
55 requests that the student take the statewide assessments under
56 s. 1008.22, the district in which the student attends a private
57 school shall provide locations and times to take all statewide
58 assessments. A school district is responsible for implementing
59 test administrations at a participating private school,
60 including the:

- 61 1. Provision of training for private school staff on test
62 security and assessment administration procedures;
- 63 2. Distribution of testing materials to a private school;
- 64 3. Retrieval of testing materials from a private school;
- 65 4. Provision of the required format for a private school
66 to submit information to the district for test administration
67 and enrollment purposes; and
- 68 5. Provision of any required assistance, monitoring, or
69 investigation at a private school.

70 (e) Each school district must publish information about
71 the Bethune Family Empowerment Scholarship Program on the
72 district's website homepage. At a minimum, the published
73 information must include a website link to the Bethune Family
74 Empowerment Scholarship Program published on the Department of
75 Education website as well as a telephone number and e-mail that

76 students and parents may use to contact relevant personnel in
77 the school district to obtain information about the scholarship.

78 (8) DEPARTMENT OF EDUCATION OBLIGATIONS.—

79 (a) The department shall:

80 1. Publish and update, as necessary, information on the
81 department website about the Bethune Family Empowerment
82 Scholarship Program, including, but not limited to, student
83 eligibility criteria, parental responsibilities, and relevant
84 data.

85 2. Cross-check before each distribution of funds the list
86 of participating scholarship students with the public school
87 enrollment lists before each scholarship payment to avoid
88 duplication.

89 3. Maintain and publish a list of nationally norm-
90 referenced tests identified for purposes of satisfying the
91 testing requirement in subparagraph (9)(c)1. The tests must meet
92 industry standards of quality in accordance with state board
93 rule.

94 4. Notify eligible nonprofit scholarship-funding
95 organizations of the deadlines for submitting the verified list
96 of students determined to be eligible for a scholarship.

97 5. Notify each school district of a parent's participation
98 in the scholarship program for purposes of paragraph (7)(f).

99 6. Deny or terminate program participation upon a parent's
100 failure to comply with subsection (10).

101 7. Notify the parent and the organization when a
 102 scholarship account is closed and program funds revert to the
 103 state.

104 8. Notify an eligible nonprofit scholarship-funding
 105 organization of any of the organization's or other
 106 organization's identified students who are receiving
 107 scholarships under this chapter.

108 9. Maintain on its website a list of approved providers as
 109 required by s. 1002.66, eligible postsecondary educational
 110 institutions, eligible private schools, and eligible
 111 organizations and may identify or provide links to lists of
 112 other approved providers.

113 10. Require each organization to verify eligible
 114 expenditures before the distribution of funds for any
 115 expenditures made pursuant to subparagraphs (4) (b)1. and 2.
 116 Review of expenditures made for services specified in
 117 subparagraphs (4) (b)3.-15. may be completed after the purchase
 118 is made.

119 11. Investigate any written complaint of a violation of
 120 this section by a parent, a student, a private school, a public
 121 school, a school district, an organization, a provider, or
 122 another appropriate party in accordance with the process
 123 established under s. 1002.421.

124 12. Require quarterly reports by an organization, which
 125 must include, at a minimum, the number of students participating

126 in the program; the demographics of program participants; the
127 disability category of program participants; the matrix level of
128 services, if known; the program award amount per student; the
129 total expenditures for the purposes specified in paragraph
130 (4)(b); the types of providers of services to students; and any
131 other information deemed necessary by the department.

132 13. Notify eligible nonprofit scholarship funding
133 organizations that scholarships may not be awarded in a school
134 district in which the award will exceed 99 percent of the school
135 district's share of state funding through the Florida Education
136 Finance Program as calculated by the department.

137 (9) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
138 eligible to participate in the Bethune Family Empowerment
139 Scholarship Program, a private school may be sectarian or
140 nonsectarian and must:

141 (a) Comply with all requirements for private schools
142 participating in state school choice scholarship programs
143 pursuant to s. 1002.421.

144 (b) Provide to the organization all documentation required
145 for a student's participation, including the private school's
146 and student's fee schedules, at least 30 days before any
147 quarterly scholarship payment is made for the student pursuant
148 to paragraph (12)(a). A student is not eligible to receive a
149 quarterly scholarship payment if the private school fails to
150 meet this deadline.

151 (c)1. Annually administer or make provision for students
152 participating in the program in grades 3 through 10 to take one
153 of the nationally norm-referenced tests that are identified by
154 the department pursuant to paragraph (8) (a) or to take the
155 statewide assessments pursuant to s. 1008.22. Students with
156 disabilities for whom the physician or psychologist who issued
157 the diagnosis or the IEP team determines that standardized
158 testing is not appropriate are exempt from this requirement. A
159 participating private school shall report a student's scores to
160 his or her parent. By August 15 of each year, a participating
161 private school must report the scores of all participating
162 students to a state university as described in s.
163 1002.395(9) (f).

164 2. Administer the statewide assessments pursuant to s.
165 1008.22 if the private school chooses to offer the statewide
166 assessments. A participating private school may choose to offer
167 and administer the statewide assessments to all students who
168 attend the private school in grades 3 through 10 and must submit
169 a request in writing to the department by March 1 of each year
170 in order to administer the statewide assessments in the
171 subsequent school year.

172
173 If a private school fails to meet the requirements of this
174 subsection or s. 1002.421, the commissioner may determine that
175 the private school is ineligible to participate in the

176 scholarship program.

177 Section 3. Paragraph (a) of subsection (3) and paragraph
 178 (f) of subsection (9) of section 1002.395, Florida Statutes, are
 179 amended to read:

180 1002.395 Bethune ~~Florida~~ Tax Credit Scholarship Program.—

181 (3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

182 (a) The Bethune ~~Florida~~ Tax Credit Scholarship Program is
 183 established.

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

186 (f) Issue a project grant award to a state university, to
 187 which participating private schools must report the scores of
 188 participating students on the nationally norm-referenced tests
 189 or the statewide assessments administered by the private school
 190 in grades 3 through 10. The project term is 2 years, and the
 191 amount of the project is up to \$250,000 per year. The project
 192 grant award must be reissued in 2-year intervals in accordance
 193 with this paragraph.

194 1. The state university must annually report to the
 195 Department of Education on the student performance of
 196 participating students:

197 a. On a statewide basis. The report shall also include, to
 198 the extent possible, a comparison of scholarship students'
 199 performance to the statewide student performance of public
 200 school students with socioeconomic backgrounds similar to those

201 of students participating in the scholarship program. To
202 minimize costs and reduce time required for the state
203 university's analysis and evaluation, the Department of
204 Education shall coordinate with the state university to provide
205 data to the state university in order to conduct analyses of
206 matched students from public school assessment data and
207 calculate control group student performance using an agreed-upon
208 methodology with the state university; and

209 b. On an individual school basis. The annual report must
210 include student performance for each participating private
211 school in which at least 51 percent of the total enrolled
212 students in the private school participated in the Bethune
213 ~~Florida~~ Tax Credit Scholarship Program in the prior school year.
214 The report shall be according to each participating private
215 school, and for participating students, in which there are at
216 least 30 participating students who have scores for tests
217 administered. If the state university determines that the 30-
218 participating-student cell size may be reduced without
219 disclosing personally identifiable information, as described in
220 34 C.F.R. s. 99.12, of a participating student, the state
221 university may reduce the participating-student cell size, but
222 the cell size must not be reduced to less than 10 participating
223 students. The department shall provide each private school's
224 prior school year's student enrollment information to the state
225 university no later than June 15 of each year, or as requested

226 | by the state university.

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

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

240 | Section 4. Subsection (1), paragraph (i) of subsection
241 | (2), paragraph (i) of subsection (11), and paragraph (a) of
242 | subsection (13) of section 1002.40, Florida Statutes, are
243 | amended to read:

244 | 1002.40 The Bethune Hope Scholarship Program.—

245 | (1) PURPOSE.—The Bethune Hope Scholarship Program is
246 | established to provide the parent of a public school student who
247 | was subjected to an incident listed in subsection (3) an
248 | opportunity to transfer the student to another public school or
249 | to request a scholarship for the student to enroll in and attend
250 | an eligible private school.

251 (2) DEFINITIONS.—As used in this section, the term:
 252 (i) "Program" means the Bethune Hope Scholarship Program.
 253 (11) FUNDING AND PAYMENT.—
 254 (i) Notwithstanding s. 1002.395(6)(j)2., no more than 5
 255 percent of net eligible contributions may be carried forward to
 256 the following state fiscal year by an eligible scholarship-
 257 funding organization. For audit purposes, all amounts carried
 258 forward must be specifically identified for individual students
 259 by student name and by the name of the school to which the
 260 student is admitted, subject to the requirements of ss. 1002.21
 261 and 1002.22 and 20 U.S.C. s. 1232g, and the applicable rules and
 262 regulations issued pursuant to such requirements. Any amounts
 263 carried forward shall be expended for annual scholarships or
 264 partial-year scholarships in the following state fiscal year.
 265 Net eligible contributions remaining on June 30 of each year
 266 which are in excess of the 5 percent that may be carried forward
 267 shall be transferred to other eligible nonprofit scholarship-
 268 funding organizations participating in the Bethune Hope
 269 Scholarship Program to provide scholarships for eligible
 270 students. All transferred funds must be deposited by each
 271 eligible nonprofit scholarship-funding organization receiving
 272 such funds into the scholarship account of eligible students.
 273 All transferred amounts received by an eligible nonprofit
 274 scholarship-funding organization must be separately disclosed in
 275 the annual financial audit requirement under s. 1002.395(6)(m).

276 If no other eligible nonprofit scholarship-funding organization
277 participates in the Bethune Hope Scholarship Program, net
278 eligible contributions in excess of the 5 percent may be used to
279 fund scholarships for students eligible under s. 1002.395 only
280 after fully exhausting all contributions made in support of
281 scholarships under that section in accordance with the priority
282 established in s. 1002.395(6)(e) prior to awarding any initial
283 scholarships.

284 (13) SCHOLARSHIP FUNDING TAX CREDITS.—

285 (a) A tax credit is available under s. 212.1832(1) for use
286 by a person that makes an eligible contribution. Eligible
287 contributions shall be used to fund scholarships under this
288 section and may be used to fund scholarships under s. 1002.395.
289 Each eligible contribution is limited to a single payment of
290 \$105 per motor vehicle purchased at the time of purchase of a
291 motor vehicle or a single payment of \$105 per motor vehicle
292 purchased at the time of registration of a motor vehicle that
293 was not purchased from a dealer, except that a contribution may
294 not exceed the state tax imposed under chapter 212 that would
295 otherwise be collected from the purchaser by a dealer,
296 designated agent, or private tag agent. Payments of
297 contributions shall be made to a dealer at the time of purchase
298 of a motor vehicle or to a designated agent or private tag agent
299 at the time of registration of a motor vehicle that was not
300 purchased from a dealer. An eligible contribution shall be

301 accompanied by a contribution election form provided by the
302 Department of Revenue. The form shall include, at a minimum, the
303 following brief description of the Bethune Hope Scholarship
304 Program and the Bethune ~~Florida~~ Tax Credit Scholarship Program:
305 "THE BETHUNE HOPE SCHOLARSHIP PROGRAM PROVIDES A PUBLIC SCHOOL
306 STUDENT WHO WAS SUBJECTED TO AN INCIDENT OF VIOLENCE OR BULLYING
307 AT SCHOOL THE OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND
308 AN ELIGIBLE PRIVATE SCHOOL RATHER THAN REMAIN IN AN UNSAFE
309 SCHOOL ENVIRONMENT. THE BETHUNE ~~FLORIDA~~ TAX CREDIT SCHOLARSHIP
310 PROGRAM PROVIDES A LOW-INCOME STUDENT THE OPPORTUNITY TO APPLY
311 FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE PRIVATE SCHOOL." The
312 form shall also include, at a minimum, a section allowing the
313 consumer to designate, from all participating scholarship
314 funding organizations, which organization will receive his or
315 her donation. For purposes of this subsection, the term
316 "purchase" does not include the lease or rental of a motor
317 vehicle.

318 Section 5. Subsections (1) and (2), paragraph (a) of
319 subsection (3), subsection (4), paragraph (b) of subsection (7),
320 and subsection (8) of section 1002.411, Florida Statutes, are
321 amended to read:

322 1002.411 Bethune reading scholarship accounts.—

323 (1) BETHUNE READING SCHOLARSHIP ACCOUNTS.—Bethune reading
324 scholarship accounts are established to provide educational
325 options for students.

326 (2) ELIGIBILITY.—Contingent upon available funds, and on a
327 first-come, first-served basis, each student in grades 3 through
328 5 who is enrolled in a Florida public school is eligible for a
329 Bethune reading scholarship account if the student scored below
330 a Level 3 on the grade 3 or grade 4 statewide, standardized
331 English Language Arts (ELA) assessment in the prior school year.
332 An eligible student who is classified as an English Language
333 Learner and is enrolled in a program or receiving services that
334 are specifically designed to meet the instructional needs of
335 English Language Learner students shall receive priority.

336 (3) PARENT AND STUDENT RESPONSIBILITIES FOR
337 PARTICIPATION.—

338 (a) For an eligible student to receive a Bethune reading
339 scholarship account, the student's parent must:

340 1. Submit an application to an eligible nonprofit
341 scholarship-funding organization by the deadline established by
342 such organization; and

343 2. Submit eligible expenses to the eligible nonprofit
344 scholarship-funding organization for reimbursement of qualifying
345 expenditures, which may include:

346 a. Instructional materials.

347 b. Curriculum. As used in this sub-subparagraph, the term
348 "curriculum" means a complete course of study for a particular
349 content area or grade level, including any required supplemental
350 materials and associated online instruction.

351 c. Tuition and fees for part-time tutoring services
 352 provided by a person who holds a valid Florida educator's
 353 certificate pursuant to s. 1012.56, a person who holds a
 354 baccalaureate or graduate degree in the subject area, a person
 355 who holds an adjunct teaching certificate pursuant to s.
 356 1012.57, or a person who has demonstrated a mastery of subject
 357 area knowledge pursuant to s. 1012.56(5).

358 d. Fees for summer education programs designed to improve
 359 reading or literacy skills.

360 e. Fees for after-school education programs designed to
 361 improve reading or literacy skills.

362
 363 A provider of any services receiving payments pursuant to this
 364 subparagraph may not share any moneys from the Bethune reading
 365 scholarship with, or provide a refund or rebate of any moneys
 366 from such scholarship to, the parent or participating student in
 367 any manner. A parent, student, or provider of any services may
 368 not bill an insurance company, Medicaid, or any other agency for
 369 the same services that are paid for using Bethune reading
 370 scholarship funds.

371 (4) ADMINISTRATION.—An eligible nonprofit scholarship-
 372 funding organization participating in the Bethune ~~Florida~~ Tax
 373 Credit Scholarship Program established by s. 1002.395 may
 374 establish Bethune reading scholarship accounts for eligible
 375 students in accordance with the requirements of eligible

376 nonprofit scholarship-funding organizations under this chapter.

377 (7) ACCOUNT FUNDING AND PAYMENT.—

378 (b) One hundred percent of the funds appropriated for the
 379 Bethune reading scholarship accounts shall be released to the
 380 department at the beginning of the first quarter of each fiscal
 381 year.

382 (8) LIABILITY.—No liability shall arise on the part of the
 383 state based on the award or use of a Bethune reading scholarship
 384 account.

385 Section 6. Paragraph (d) of subsection (21) of section
 386 213.053, Florida Statutes, is amended to read:

387 213.053 Confidentiality and information sharing.—

388 (21)

389 (d) Any taxpayer information contained in the list may be
 390 used by the eligible nonprofit scholarship-funding organization
 391 only to notify the taxpayer of the opportunity to make an
 392 eligible contribution to the Bethune ~~Florida~~ Tax Credit
 393 Scholarship Program under s. 1002.395. Any information furnished
 394 to an eligible nonprofit scholarship-funding organization under
 395 this subsection may not be further disclosed by the organization
 396 except as provided in this paragraph.

397 Section 7. Paragraph (a) of subsection (6) of section
 398 1002.20, Florida Statutes, is amended to read:

399 1002.20 K-12 student and parent rights.—Parents of public
 400 school students must receive accurate and timely information

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401 regarding their child's academic progress and must be informed
402 of ways they can help their child to succeed in school. K-12
403 students and their parents are afforded numerous statutory
404 rights including, but not limited to, the following:

405 (6) EDUCATIONAL CHOICE.—

406 (a) Public educational school choices.—Parents of public
407 school students may seek any public educational school choice
408 options that are applicable and available to students throughout
409 the state. These options may include controlled open enrollment,
410 single-gender programs, lab schools, virtual instruction
411 programs, charter schools, charter technical career centers,
412 magnet schools, alternative schools, special programs, auditory-
413 oral education programs, advanced placement, dual enrollment,
414 International Baccalaureate, International General Certificate
415 of Secondary Education (pre-AICE), CAPE digital tools, CAPE
416 industry certifications, early college programs, Advanced
417 International Certificate of Education, early admissions, credit
418 by examination or demonstration of competency, the New World
419 School of the Arts, the Florida School for the Deaf and the
420 Blind, and the Florida Virtual School. These options may also
421 include the public educational choice options of the Bethune
422 Opportunity Scholarship Program and the McKay Scholarships for
423 Students with Disabilities Program.

424 Section 8. Paragraph (aa) of subsection (4) of section
425 1009.971, Florida Statutes, is amended to read:

426 | 1009.971 Florida Prepaid College Board.—

427 | (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.—The
 428 | board shall have the powers and duties necessary or proper to
 429 | carry out the provisions of ss. 1009.97-1009.988, including, but
 430 | not limited to, the power and duty to:

431 | (aa) Adopt rules relating to the purchase and use of a
 432 | prepaid college plan authorized under s. 1009.98 or a college
 433 | savings plan authorized under s. 1009.981 for the Bethune Family
 434 | Empowerment Scholarship Program pursuant to s. 1002.394, which
 435 | may include, but need not be limited to:

436 | 1. The use of such funds for postsecondary education
 437 | programs for students with disabilities;

438 | 2. Effective procedures that allow program funds to be
 439 | used in conjunction with other funds used by a parent in the
 440 | purchase of a prepaid college plan or a college savings plan;

441 | 3. The tracking and accounting of program funds separately
 442 | from other funds contributed to a prepaid college plan or a
 443 | college savings plan;

444 | 4. The reversion of program funds, including, but not
 445 | limited to, earnings from contributions to the Florida College
 446 | Savings Plan;

447 | 5. The use of program funds only after private payments
 448 | have been used for prepaid college plan or college savings plan
 449 | expenditures;

450 | 6. Contracting with each eligible nonprofit scholarship-

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451 funding organization to establish mechanisms to implement s.
452 1002.394, including, but not limited to, identifying the source
453 of funds being deposited in the plans; and

454 7. The development of a written agreement that defines the
455 owner and beneficiary of an account and outlines
456 responsibilities for the use of the advance payment contract
457 funds or savings program funds.

458 Section 9. This act shall take effect July 1, 2022.