

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Committee
2 Representative Sullivan offered the following:

3
4 **Amendment (with title amendment)**

5 Between lines 39 and 40, insert:

6 Section 1. Paragraphs (i) and (j) of subsection (2) of
7 section 1002.385, Florida Statutes, are redesignated as
8 paragraphs (j) and (k), respectively, paragraphs (d) and (h) of
9 subsection (2), paragraph (a) of subsection (3), subsection (5),
10 paragraph (b) of subsection (6), subsection (8), paragraphs (e)
11 and (f) of subsection (11), paragraph (j) of subsection (12),
12 and paragraph (a) of subsection (13) are amended, and a new
13 paragraph (i) is added to subsection (2) of that section, to
14 read:

15 1002.385 The Gardiner Scholarship.—

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

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17 (d) "Disability" means, for a 3- or 4-year-old child or
18 for a student in kindergarten to grade 12, autism spectrum
19 disorder, as defined in the Diagnostic and Statistical Manual of
20 Mental Disorders, Fifth Edition, published by the American
21 Psychiatric Association; cerebral palsy, as defined in s.
22 393.063(6); Down syndrome, as defined in s. 393.063(15); an
23 intellectual disability, as defined in s. 393.063(24); Phelan-
24 McDermid syndrome, as defined in s. 393.063(28); Prader-Willi
25 syndrome, as defined in s. 393.063(29); spina bifida, as defined
26 in s. 393.063(40); being a high-risk child, as defined in s.
27 393.063(23)(a); muscular dystrophy; rare diseases which affect
28 patient populations of fewer than 200,000 individuals in the
29 United States; anaphylaxis; and Williams syndrome or
30 identification as orthopedically impaired, deaf, visually
31 impaired, dual sensory impaired, traumatic brain injured, other
32 health impaired, as defined by rules of the State Board of
33 Education and evidenced by reports from the local school
34 district, or a student who is hospital or homebound, with a
35 medically diagnosed physical or psychiatric condition or illness
36 as defined by rules of the State Board of Education, and will be
37 confined to the home or hospital for more than 6 months.

38 (h) "IEP" means individual education plan, regardless of
39 whether the plan has been reviewed or revised within the last 12
40 months.

41 (i) "Inactive" means that no eligible expenditures have

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42 been made from an account funded pursuant to paragraph (13)(d).

43 (3) PROGRAM ELIGIBILITY.—A parent of a student with a
44 disability may request and receive from the state a Gardiner
45 Scholarship for the purposes specified in subsection (5) if:

46 (a) The student:

47 1. Is a resident of this state;

48 2. Is ~~3 or 4~~ years of age or older when ~~on or before~~
49 ~~September 1 of the year in which~~ the student applies for program
50 participation or is eligible to enroll in kindergarten through
51 grade 12 in a public school in this state; and

52 3. Meets one or more of the following criteria:

53 a. Has a disability as defined in paragraph (2)(d) which
54 is documented by an IEP or by a diagnosis of a disability from a
55 physician who is licensed under chapter 458 or chapter 459 or a
56 psychologist who is licensed under chapter 490;

57 b. Is currently participating in the program, is 5 years
58 of age or older, and has previously been identified as a high-
59 risk child, as defined in s. 393.063(23)(a); or and

60 c.4. Is the subject of an IEP written in accordance with
61 rules of the State Board of Education or with the applicable
62 rules of another state. However, a student with an IEP whose
63 sole exceptionality is gifted is not eligible for the Gardiner
64 Scholarship ~~has received a diagnosis of a disability from a~~
65 ~~physician who is licensed under chapter 458 or chapter 459 or a~~
66 ~~psychologist who is licensed under chapter 490.~~

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67 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must
68 be used to meet the individual educational needs of an eligible
69 student and may be spent for the following purposes:

70 (a) Instructional materials, including digital devices,
71 digital periphery devices, and assistive technology devices that
72 allow a student to access instruction or instructional content
73 and training on the use of and maintenance agreements for these
74 devices.

75 (b) Curriculum as defined in paragraph (2) (b).

76 (c) Specialized services by approved providers or a
77 Florida hospital that are selected by the parent. These
78 specialized services may include, but are not limited to:

79 1. Applied behavior analysis services as provided in ss.
80 627.6686 and 641.31098.

81 2. Services provided by speech-language pathologists as
82 defined in s. 468.1125.

83 3. Occupational therapy services as defined in s. 468.203.

84 4. Services provided by physical therapists as defined in
85 s. 486.021.

86 5. Services provided by listening and spoken language
87 specialists and an appropriate acoustical environment for a
88 child who is deaf or hard of hearing and who has received an
89 implant or assistive hearing device.

90 (d) Enrollment in, or tuition or fees associated with
91 enrollment in, a home education program, an eligible private

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92 school, an eligible postsecondary educational institution or a
93 program offered by the institution, a private tutoring program
94 authorized under s. 1002.43, a virtual program offered by a
95 department-approved private online provider that meets the
96 provider qualifications specified in s. 1002.45(2)(a), the
97 Florida Virtual School as a private paying student, or an
98 approved online course offered pursuant to s. 1003.499 or s.
99 1004.0961.

100 (e) Fees for nationally standardized, norm-referenced
101 achievement tests, Advanced Placement Examinations, industry
102 certification examinations, assessments related to postsecondary
103 education, or other assessments.

104 (f) Contributions to the Stanley G. Tate Florida Prepaid
105 College Program pursuant to s. 1009.98 or the Florida College
106 Savings Program pursuant to s. 1009.981, for the benefit of the
107 eligible student.

108 (g) Contracted services provided by a public school or
109 school district, including classes. A student who receives
110 services under a contract under this paragraph is not considered
111 enrolled in a public school for eligibility purposes as
112 specified in subsection (4).

113 (h) Tuition and fees for part-time tutoring services
114 provided by a person who holds a valid Florida educator's
115 certificate pursuant to s. 1012.56; a person who holds an
116 adjunct teaching certificate pursuant to s. 1012.57; or a person

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117 who has demonstrated a mastery of subject area knowledge
118 pursuant to s. 1012.56(5). As used in this paragraph, the term
119 "part-time tutoring services" does not qualify as regular school
120 attendance as defined in s. 1003.01(13)(e).

121 (i) Fees for specialized summer education programs.

122 (j) Fees for specialized after-school education programs.

123 (k) Transition services provided by job coaches.

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

127 (m) Tuition and fees associated with programs offered by
128 Voluntary Prekindergarten Education Program providers approved
129 pursuant to s. 1002.55 and school readiness providers approved
130 pursuant to s. 1002.88.

131 (n) Fees for services provided at a center that is a
132 member of the Professional Association of Therapeutic
133 Horsemanship International.

134 (o) Fees for services provided by a therapist who is
135 certified by the Certification Board for Music Therapists or
136 credentialed by the Art Therapy Credentials Board.

137
138 A provider of any services receiving payments pursuant to this
139 subsection may not share, refund, or rebate any moneys from the
140 Gardiner Scholarship with the parent or participating student in
141 any manner. A parent, student, or provider of any services may

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142 not bill an insurance company, Medicaid, or any other agency for
143 the same services that are paid for using Gardiner Scholarship
144 funds.

145 (6) TERM OF THE PROGRAM.—For purposes of continuity of
146 educational choice and program integrity:

147 (b)1. A student's scholarship account must be closed and
148 any remaining funds, including, but not limited to,
149 contributions made to the Stanley G. Tate Florida Prepaid
150 College Program or earnings from or contributions made to the
151 Florida College Savings Program using program funds pursuant to
152 paragraph (5) (f), shall revert to the state after ~~upon~~:

153 a. Denial or revocation of program eligibility by the
154 commissioner for fraud or abuse, including, but not limited to,
155 the student or student's parent accepting any payment, refund,
156 or rebate, in any manner, from a provider of any services
157 received pursuant to subsection (5); ~~or~~

158 b. ~~After~~ Any period of 3 consecutive years after high
159 school completion or graduation during which the student has not
160 been enrolled in an eligible postsecondary educational
161 institution or a program offered by the institution; or

162 c. Three consecutive fiscal years in which an account has
163 been inactive.

164 2. The commissioner must notify the parent and the
165 organization when a Gardiner Scholarship account is closed and
166 program funds revert to the state.

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167 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
168 eligible private school may be sectarian or nonsectarian and
169 shall:

170 (a) Comply with all requirements for private schools
171 participating in state school choice scholarship programs
172 pursuant to s. 1002.421.

173 (b) Provide to the organization, upon request, all
174 documentation required for the student's participation,
175 including the private school's and student's fee schedules.

176 (c) Be academically accountable to the parent for meeting
177 the educational needs of the student by:

178 1. At a minimum, annually providing to the parent a
179 written explanation of the student's progress.

180 2. Annually administering or making provision for students
181 participating in the program in grades 3 through 10 to take one
182 of the nationally norm-referenced tests identified by the
183 Department of Education or the statewide assessments pursuant to
184 s. 1008.22. Students with disabilities for whom standardized
185 testing is not appropriate are exempt from this requirement. A
186 participating private school shall report a student's scores to
187 the parent.

188 3. Cooperating with the scholarship student whose parent
189 chooses to have the student participate in the statewide
190 assessments pursuant to s. 1008.22 or, if a private school
191 chooses to offer the statewide assessments, administering the

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192 assessments at the school.

193 a. A participating private school may choose to offer and
194 administer the statewide assessments to all students who attend
195 the private school in grades 3 through 10.

196 b. A participating private school shall submit a request
197 in writing to the Department of Education by March 1 of each
198 year in order to administer the statewide assessments in the
199 subsequent school year.

200 (d) Employ or contract with teachers who have regular and
201 direct contact with each student receiving a scholarship under
202 this section at the school's physical location.

203 (e) Provide a report from ~~Annually contract with an~~
204 independent certified public accountant who performs ~~to perform~~
205 the agreed-upon procedures developed under s. 1002.395(6)(o) ~~and~~
206 ~~produce a report of the results~~ if the private school receives
207 more than \$250,000 in funds from scholarships awarded under this
208 section in ~~the 2014-2015 state fiscal year or~~ a state fiscal
209 year ~~thereafter~~. A private school subject to this paragraph must
210 submit the report by August 15, 2017 ~~September 15, 2015~~, and
211 annually thereafter to the organization that awarded the
212 majority of the school's scholarship funds. The agreed-upon
213 procedures must be conducted in accordance with attestation
214 standards established by the American Institute of Certified
215 Public Accountants.

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217 ~~If The inability of a private school is unable to meet the~~
218 ~~requirements of this subsection or has consecutive years of~~
219 ~~material exceptions listed in the report required under~~
220 ~~paragraph (e), the commissioner may determine that constitutes a~~
221 ~~basis for the ineligibility of the private school is ineligible~~
222 ~~to participate in the program as determined by the commissioner.~~

223 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
224 PARTICIPATION.—A parent who applies for program participation
225 under this section is exercising his or her parental option to
226 determine the appropriate placement or the services that best
227 meet the needs of his or her child. The scholarship award for a
228 student is based on a matrix that assigns the student to support
229 Level III services. If a parent receives an IEP and a matrix of
230 services from the school district pursuant to subsection (7),
231 the amount of the payment shall be adjusted as needed, when the
232 school district completes the matrix.

233 (e) The parent must annually renew participation in the
234 program. Notwithstanding any changes to the student's IEP, a
235 student who was previously eligible for participation in the
236 program shall remain eligible to apply for renewal. ~~However, for~~
237 ~~a high-risk child to continue to participate in the program in~~
238 ~~the school year after he or she reaches 6 years of age, the~~
239 ~~child's application for renewal of program participation must~~
240 ~~contain documentation that the child has a disability defined in~~
241 ~~paragraph (2) (d) other than high-risk status.~~

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242 (f) The parent is responsible for procuring the services
243 necessary to educate the student. If a parent does not procure
244 the necessary educational services for the student and the
245 student's account has been inactive for 2 consecutive fiscal
246 years, the student is ineligible for additional scholarship
247 payments until the scholarship funding organization verifies
248 that expenditures from the account have occurred. When the
249 student receives a Gardiner Scholarship, the district school
250 board is not obligated to provide the student with a free
251 appropriate public education. For purposes of s. 1003.57 and the
252 Individuals with Disabilities in Education Act, a participating
253 student has only those rights that apply to all other
254 unilaterally parentally placed students, except that, when
255 requested by the parent, school district personnel must develop
256 an individual education plan or matrix level of services.

257
258 A parent who fails to comply with this subsection forfeits the
259 Gardiner Scholarship.

260 (12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS.—An
261 organization may establish Gardiner Scholarships for eligible
262 students by:

263 (j) Documenting each scholarship student's eligibility for
264 a fiscal year before granting a scholarship for that fiscal year
265 pursuant to paragraph (3) (b). A student is ineligible for a
266 scholarship if the student's account has been inactive for 2

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267 consecutive fiscal years. However, once an eligible expenditure
268 is made pursuant to paragraph (11)(f), the student is eligible
269 for a scholarship based on available funds.

270 (13) FUNDING AND PAYMENT.—

271 (a)1. The maximum funding amount granted for an eligible
272 student with a disability, pursuant to subsection (3), shall be
273 equivalent to the base student allocation in the Florida
274 Education Finance Program multiplied by the appropriate cost
275 factor for the educational program that ~~which~~ would have been
276 provided for the student in the district school to which he or
277 she would have been assigned, multiplied by the district cost
278 differential.

279 2. In addition, an amount equivalent to a share of the
280 guaranteed allocation for exceptional students in the Florida
281 Education Finance Program shall be determined and added to the
282 amount in subparagraph 1. The calculation shall be based on the
283 methodology and the data used to calculate the guaranteed
284 allocation for exceptional students for each district in chapter
285 2000-166, Laws of Florida. Except as provided in subparagraph
286 3., the calculation shall be based on the student's grade, the
287 matrix level of services, and the difference between the 2000-
288 2001 basic program and the appropriate level of services cost
289 factor, multiplied by the 2000-2001 base student allocation and
290 the 2000-2001 district cost differential for the sending
291 district. The calculated amount must also include an amount

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292 equivalent to the per-student share of supplemental academic
293 instruction funds, instructional materials funds, technology
294 funds, and other categorical funds as provided in the General
295 Appropriations Act.

296 3. Beginning with the 2017-2018 fiscal year and each
297 fiscal year thereafter, the calculation for a new student
298 entering the program shall be based on the student's matrix
299 level of services. The funding for a student without a matrix of
300 services ~~Except as otherwise provided in subsection (7), the~~
301 ~~calculation for all students participating in the program shall~~
302 be based on the matrix that assigns the student to support Level
303 III of services. If a parent chooses to request and receive a
304 matrix of services from the school district, when the school
305 district completes the matrix, the amount of the payment shall
306 be adjusted as needed.

307 -----
308
309 **T I T L E A M E N D M E N T**

310 Remove line 3 and insert:

311 1002.385, F.S.; revising definitions for the Gardiner
312 Scholarship Program; defining the term "inactive" for the
313 purposes of the program; revising student eligibility criteria;
314 authorizing program funds to be used for specified purposes and
315 by specified entities; prohibiting billing of certain entities
316 for services paid for through the program; revising private

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317 | school eligibility requirements; providing that consecutive
318 | years of certain material exceptions constitutes program
319 | ineligibility for certain private schools; prohibiting certain
320 | students from receiving additional scholarship payments until
321 | certain conditions are met; revising funding calculations;
322 | amending s. 1002.39, F.S.; revising student eligibility criteria