

By Senator Simmons

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1                   A bill to be entitled  
2       An act relating to the Gardiner Scholarship Program;  
3       amending s. 1002.385, F.S.; redefining the terms  
4       "disability" and "IEP"; revising program eligibility  
5       requirements; prohibiting a student who is enrolled in  
6       the Florida School for the Deaf and the Blind from  
7       being eligible for the program; authorizing a parent  
8       to select certain additional specialized services;  
9       revising the date upon which certain private schools  
10      must submit a required report; specifying that certain  
11      actions of the private school are a basis for program  
12      ineligibility; revising funding calculation  
13      requirements; providing an appropriation; providing an  
14      effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18       Section 1. Paragraphs (d) and (h) of subsection (2) and  
19      paragraph (a) of subsection (3) of section 1002.385, Florida  
20      Statutes, are amended, paragraph (e) is added to subsection (4)  
21      of that section, and paragraph (c) of subsection (5) and  
22      subsections (8) and (13) of that section are amended, to read:

23       1002.385 The Gardiner Scholarship.—

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

25       (d) "Disability" means, for a 3- or 4-year-old child or for  
26      a student in kindergarten to grade 12, autism spectrum disorder,  
27      as defined in the Diagnostic and Statistical Manual of Mental  
28      Disorders, Fifth Edition, published by the American Psychiatric  
29      Association; cerebral palsy, as defined in s. 393.063(6); Down

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30 syndrome, as defined in s. 393.063(15); an intellectual  
31 disability, as defined in s. 393.063(24); Phelan-McDermid  
32 syndrome, as defined in s. 393.063(28); Prader-Willi syndrome,  
33 as defined in s. 393.063(29); spina bifida, as defined in s.  
34 393.063(40); being a high-risk child, as defined in s.  
35 393.063(23)(a); muscular dystrophy; ~~and~~ Williams syndrome; a  
36 rare disease or condition, as defined by the Orphan Drug Act of  
37 1983, Pub. L. No. 97-414; anaphylaxis; or identification as  
38 orthopedically impaired, deaf, visually impaired, hospital or  
39 homebound, dual sensory impaired, traumatic brain injured, or  
40 other health impaired, as defined by rules of the State Board of  
41 Education and evidenced by reports from local school districts.

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

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

48 (a) The student:

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

54 3. Has a disability as defined in paragraph (2)(d) or is 5  
55 years of age or older and has previously been identified as a  
56 high-risk child, as defined in s. 393.063(23)(a); and

57 4. Is the subject of an IEP written in accordance with  
58 rules of the State Board of Education or with the applicable

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59 rules of another state or has received a diagnosis of a  
60 disability from a physician who is licensed under chapter 458 or  
61 chapter 459, ~~or~~ a psychologist who is licensed under chapter  
62 490, or a physician who holds an active license issued by  
63 another state or territory of the United States, the District of  
64 Columbia, or the Commonwealth of Puerto Rico.

65 (4) PROGRAM PROHIBITIONS.—A student is not eligible for the  
66 program if he or she is:

67 (e) Enrolled in the Florida School for the Deaf and the  
68 Blind.

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

72 (c) Specialized services by approved providers that are  
73 selected by the parent. These specialized services may include,  
74 but are not limited to:

75 1. Applied behavior analysis services as provided in ss.  
76 627.6686 and 641.31098.

77 2. Services provided by speech-language pathologists as  
78 defined in s. 468.1125.

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

80 4. Services provided by physical therapists as defined in  
81 s. 486.021.

82 5. Services provided by listening and spoken language  
83 specialists and an appropriate acoustical environment for a  
84 child who is deaf or hard of hearing and who has received an  
85 implant or assistive hearing device.

86 6. Services provided by a therapist who is certified by the  
87 Certification Board for Music Therapists or who has credentials

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88 from the Art Therapy Credentials Board.

89 7. Services provided at a center that is a member of the  
90 Professional Association of Therapeutic Horsemanship  
91 International.

92  
93 A provider of any services receiving payments pursuant to this  
94 subsection may not share, refund, or rebate any moneys from the  
95 Gardiner Scholarship with the parent or participating student in  
96 any manner.

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

99 (a) Comply with all requirements for private schools  
100 participating in state school choice scholarship programs  
101 pursuant to s. 1002.421.

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

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

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

109 2. Annually administering or making provision for students  
110 participating in the program in grades 3 through 10 to take one  
111 of the nationally norm-referenced tests identified by the  
112 Department of Education or the statewide assessments pursuant to  
113 s. 1008.22. Students with disabilities for whom standardized  
114 testing is not appropriate are exempt from this requirement. A  
115 participating private school shall report a student's scores to  
116 the parent.

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117 3. Cooperating with the scholarship student whose parent  
118 chooses to have the student participate in the statewide  
119 assessments pursuant to s. 1008.22 or, if a private school  
120 chooses to offer the statewide assessments, administering the  
121 assessments at the school.

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

125 b. A participating private school shall submit a request in  
126 writing to the Department of Education by March 1 of each year  
127 in order to administer the statewide assessments in the  
128 subsequent school year.

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

132 (e) Annually contract with an independent certified public  
133 accountant to perform the agreed-upon procedures developed under  
134 s. 1002.395(6)(o) and produce a report of the results if the  
135 private school receives more than \$250,000 in funds from  
136 scholarships awarded under this section in the 2014-2015 state  
137 fiscal year or a state fiscal year thereafter. A private school  
138 subject to this paragraph must submit the report by September  
139 15, 2015, and annually thereafter by August 15 to the  
140 organization that awarded the majority of the school's  
141 scholarship funds. The agreed-upon procedures must be conducted  
142 in accordance with attestation standards established by the  
143 American Institute of Certified Public Accountants.

144  
145 If ~~The inability of~~ a private school is unable to meet the

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146 requirements of this subsection or has in consecutive years had  
147 material exceptions listed in its agreed-upon procedures  
148 reports, there is ~~constitutes~~ a basis for the ineligibility of  
149 the private school to participate in the program as determined  
150 by the commissioner.

151 (13) FUNDING AND PAYMENT.—

152 (a)1. The maximum funding amount granted for an eligible  
153 student with a disability, pursuant to subsection (3), shall be  
154 equivalent to the base student allocation in the Florida  
155 Education Finance Program multiplied by the appropriate cost  
156 factor for the educational program that ~~which~~ would have been  
157 provided for the student in the district school to which he or  
158 she would have been assigned, multiplied by the district cost  
159 differential.

160 2. In addition, an amount equivalent to a share of the  
161 guaranteed allocation for exceptional students in the Florida  
162 Education Finance Program shall be determined and added to the  
163 amount in subparagraph 1. The calculation shall be based on the  
164 methodology and the data used to calculate the guaranteed  
165 allocation for exceptional students for each district in chapter  
166 2000-166, Laws of Florida. Except as provided in subparagraph  
167 3., the calculation shall be based on the student's grade, the  
168 matrix level of services, and the difference between the 2000-  
169 2001 basic program and the appropriate level of services cost  
170 factor, multiplied by the 2000-2001 base student allocation and  
171 the 2000-2001 district cost differential for the sending  
172 district. The calculated amount must also include an amount  
173 equivalent to the per-student share of supplemental academic  
174 instruction funds, instructional materials funds, technology

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175 funds, and other categorical funds as provided in the General  
176 Appropriations Act.

177 3. ~~Except as otherwise provided in subsection (7),~~ The  
178 calculation for a student ~~all students~~ participating in the  
179 program shall be based on the student's matrix level of  
180 services. The funding for a student without a matrix of services  
181 shall be based on the matrix that assigns the student to support  
182 Level III of services. If a parent chooses to request and  
183 receive a matrix of services from the school district, when the  
184 school district completes the matrix, the amount of the payment  
185 shall be adjusted as needed.

186 (b) The amount of the awarded funds shall be 90 percent of  
187 the calculated amount. One hundred percent of the funds  
188 appropriated for the program shall be released to the department  
189 at the beginning of the first quarter of each fiscal year.

190 (c) Upon notification from the organization that a parent  
191 has filed a final verification document pursuant to paragraph  
192 (3)(b) or upon notification from the organization that a 3- or  
193 4-year-old child's application has been approved for the  
194 program, the department shall release the student's scholarship  
195 funds to the organization to be deposited into the student's  
196 account.

197 (d) For initial eligibility for the program, students  
198 determined eligible by the organization for a Gardiner  
199 Scholarship by:

200 1. September 1 shall receive 100 percent of the total  
201 awarded funds.

202 2. November 1 shall receive 75 percent of the total awarded  
203 funds.

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204           3. February 1 shall receive 50 percent of the total awarded  
205 funds.

206           4. April 1 shall receive 25 percent of the total awarded  
207 funds.

208           (e) A student who is 3 years of age or older after  
209 September 1 and who the organization has determined is eligible  
210 for a Gardiner Scholarship may receive a prorated scholarship  
211 consistent with paragraph (c).

212           (f)~~(e)~~ Accrued interest in the student's account is in  
213 addition to, and not part of, the awarded funds. Program funds  
214 include both the awarded funds and accrued interest.

215           (g)~~(f)~~ The organization may develop a system for payment of  
216 benefits by funds transfer, including, but not limited to, debit  
217 cards, electronic payment cards, or any other means of payment  
218 that the department deems to be commercially viable or cost-  
219 effective. A student's scholarship award may not be reduced for  
220 debit card or electronic payment fees. Commodities or services  
221 related to the development of such a system shall be procured by  
222 competitive solicitation unless they are purchased from a state  
223 term contract pursuant to s. 287.056.

224           (h)~~(g)~~ In addition to funds appropriated for scholarship  
225 awards and subject to a separate, specific legislative  
226 appropriation, an organization may receive an amount equivalent  
227 to not more than 3 percent of the amount of each scholarship  
228 award from state funds for administrative expenses if the  
229 organization has operated as a nonprofit entity for at least the  
230 preceding 3 fiscal years and did not have any findings of  
231 material weakness or material noncompliance in its most recent  
232 audit under s. 1002.395(6)(m). Such administrative expenses must



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233 be reasonable and necessary for the organization's management  
234 and distribution of scholarships under this section. Funds  
235 authorized under this paragraph may not be used for lobbying or  
236 political activity or expenses related to lobbying or political  
237 activity. An organization may not charge an application fee for  
238 a scholarship. Administrative expenses may not be deducted from  
239 funds appropriated for scholarship awards.

240 (i)~~(h)~~ Moneys received pursuant to this section do not  
241 constitute taxable income to the qualified student or parent of  
242 the qualified student.

243 Section 2. For the 2017-2018 fiscal year, the sum of \$200  
244 million in recurring funds from the General Revenue Fund is  
245 appropriated to the Department of Education for scholarship  
246 awards under the Gardiner Scholarship Program. In addition to  
247 the funds appropriated for the scholarship awards, the sum of \$6  
248 million in recurring funds from the General Revenue Fund is  
249 appropriated to the Department of Education for each  
250 scholarship-funding organization's reasonable and necessary  
251 administrative expenses to manage and distribute scholarship  
252 awards under the program; however, the amount paid to each  
253 scholarship-funding organization may not exceed 3 percent of the  
254 amount of each scholarship award.

255 Section 3. This act shall take effect July 1, 2017.