

By Senator Perry

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1                   A bill to be entitled  
2       An act relating to the Gardiner Scholarship; amending  
3       s. 1002.385, F.S.; revising eligibility requirements  
4       for the Gardiner Scholarship Program; revising an  
5       authorized use of scholarship funds; providing that  
6       scholarship funds may be spent for tuition and fees  
7       associated with programs relating to art, music, or  
8       theater; providing requirements for instructors of  
9       such programs; revising terms under which a student's  
10      scholarship account is closed and program funds revert  
11      to the state; authorizing certain students to continue  
12      spending scholarship funds under certain  
13      circumstances; revising a certain obligation of  
14      scholarship-funding organizations; providing an  
15      effective date.

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

18  
19       Section 1. Paragraph (a) of subsection (3), subsection (5),  
20      paragraph (b) of subsection (6), subsection (11), and paragraph  
21      (j) of subsection (12) of section 1002.385, Florida Statutes,  
22      are amended to read:

23       1002.385 The Gardiner Scholarship.—

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

27       (a) The student:

- 28       1. Is a resident of this state;  
29       2. Is 3 or 4 years of age on or before September 1 of the

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30 year in which the student applies for program participation, or  
31 is eligible to enroll in kindergarten through grade 12 in a  
32 public school in this state;

33 3. Has a disability as defined in paragraph (2) (d); and

34 4. Is the subject of an IEP written in accordance with  
35 rules of the State Board of Education or with the applicable  
36 rules of another state or has received a diagnosis of a  
37 disability from a physician who is licensed under chapter 458 or  
38 chapter 459, a psychologist who is licensed under chapter 490,  
39 or a physician who holds an active license issued by another  
40 state or territory of the United States, the District of  
41 Columbia, or the Commonwealth of Puerto Rico.

42  
43 A student with a disability who meets the requirements of this  
44 paragraph, but who turns 3 years of age after September 1, may  
45 be determined to be eligible for a Gardiner Scholarship on or  
46 after his or her third birthday if program funds are available  
47 and there are no other students on the wait list.

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

51 (a) Instructional materials, including digital devices,  
52 digital periphery devices, and assistive technology devices that  
53 allow a student to access instruction or instructional content  
54 and training on the use of and maintenance agreements for these  
55 devices.

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

57 (c) Specialized services by approved providers or by a  
58 hospital in this state which are selected by the parent. These

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59 specialized services may include, but are not limited to:

60 1. Applied behavior analysis services as provided in ss.  
61 627.6686 and 641.31098.

62 2. Services provided by speech-language pathologists as  
63 defined in s. 468.1125.

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

65 4. Services provided by physical therapists as defined in  
66 s. 486.021.

67 5. Services provided by listening and spoken language  
68 specialists and an appropriate acoustical environment for a  
69 child who is deaf or hard of hearing and who has received an  
70 implant or assistive hearing device.

71 (d) Tuition or fees associated with full-time or part-time  
72 enrollment in a home education program, an eligible private  
73 school, an eligible postsecondary educational institution or a  
74 program offered by the postsecondary institution, a private  
75 tutoring program authorized under s. 1002.43, a virtual program  
76 offered by a department-approved private online provider that  
77 meets the provider qualifications specified in s. 1002.45(2)(a),  
78 the Florida Virtual School as a private paying student, or an  
79 approved online course offered pursuant to s. 1003.499 or s.  
80 1004.0961.

81 (e) Fees for nationally standardized, norm-referenced  
82 achievement tests, Advanced Placement Examinations, industry  
83 certification examinations, assessments related to postsecondary  
84 education, or other assessments.

85 (f) Contributions to the Stanley G. Tate Florida Prepaid  
86 College Program pursuant to s. 1009.98 or the Florida College  
87 Savings Program pursuant to s. 1009.981, for the benefit of the

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88 eligible student.

89 (g) Contracted services provided by a public school or  
90 school district, including classes. A student who receives  
91 services under a contract under this paragraph is not considered  
92 enrolled in a public school for eligibility purposes as  
93 specified in subsection (4).

94 (h) Tuition and fees for part-time tutoring services  
95 provided by a person who holds a valid Florida educator's  
96 certificate pursuant to s. 1012.56; a person who holds an  
97 adjunct teaching certificate pursuant to s. 1012.57; a person  
98 who has a bachelor's degree or a graduate degree in the subject  
99 area in which instruction is given; or a person who has  
100 demonstrated a mastery of subject area knowledge pursuant to s.  
101 1012.56(5). As used in this paragraph, the term "part-time  
102 tutoring services" does not qualify as regular school attendance  
103 as defined in s. 1003.01(13)(e).

104 (i) Fees for ~~specialized~~ summer education programs.

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

106 (k) Transition services, including a coordinated set of  
107 activities that are focused on improving the academic and  
108 functional achievement of the student to facilitate his or her  
109 movement from school to post-school activities and are based on  
110 the individual student's needs. Transition services may be  
111 provided by job coaches.

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

115 (m) Tuition and fees associated with programs offered by  
116 Voluntary Prekindergarten Education Program providers approved

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117 pursuant to s. 1002.55 and school readiness providers approved  
118 pursuant to s. 1002.88.

119 (n) Fees for services provided at a center that is a member  
120 of the Professional Association of Therapeutic Horsemanship  
121 International.

122 (o) Fees for services provided by a therapist who is  
123 certified by the Certification Board for Music Therapists or  
124 credentialed by the Art Therapy Credentials Board, Inc.

125 (p) Tuition or fees associated with enrollment in a  
126 nationally or internationally recognized research-based training  
127 program for a child with a neurological disorder or brain  
128 damage.

129 (q) Tuition and fees associated with a student's  
130 participation in a series of classes or lessons relating to art,  
131 music, or theater. The instructor of the classes or lessons  
132 must:

133 1. Hold a valid or expired Florida educator's certificate  
134 pursuant to s. 1012.56 in art, music, or theater;

135 2. Have 3 years of employment experience in art, music, or  
136 theater, as demonstrated by employment records;

137 3. Hold a baccalaureate degree or higher from a  
138 postsecondary educational institution with a major in music,  
139 art, theater, or drama; or

140 4. Hold a certification or national accreditation in music,  
141 art, theater, or drama.

142  
143 A provider of any services receiving payments pursuant to this  
144 subsection may not share, refund, or rebate any moneys from the  
145 Gardiner Scholarship with the parent or participating student in

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146 any manner. A parent, student, or provider of any services may  
147 not bill an insurance company, Medicaid, or any other agency for  
148 the same services that are paid for using Gardiner Scholarship  
149 funds.

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

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

158 a. Denial or revocation of program eligibility by the  
159 commissioner for fraud or abuse, including, but not limited to,  
160 the student or student's parent accepting any payment, refund,  
161 or rebate, in any manner, from a provider of any services  
162 received pursuant to subsection (5);

163 b. Any period of 3 consecutive years after high school  
164 completion or graduation during which the student has not been  
165 enrolled in an eligible postsecondary educational institution or  
166 a program offered by the institution; or

167 c. Two ~~Three~~ consecutive fiscal years in which an account  
168 has been inactive.

169 2. The commissioner must notify the parent and the  
170 organization when a Gardiner Scholarship account is closed and  
171 program funds revert to the state.

172 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
173 PARTICIPATION.—A parent who applies for program participation  
174 under this section is exercising his or her parental option to

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175 determine the appropriate placement or the services that best  
176 meet the needs of his or her child. The scholarship award for a  
177 student is based on a matrix that assigns the student to support  
178 Level III services. If a parent receives an IEP and a matrix of  
179 services from the school district pursuant to subsection (7),  
180 the amount of the payment shall be adjusted as needed, when the  
181 school district completes the matrix.

182 (a) To satisfy or maintain program eligibility, including  
183 eligibility to receive and spend program payments, the parent  
184 must sign an agreement with the organization and annually submit  
185 a notarized, sworn compliance statement to the organization to:

186 1. Affirm that the student is enrolled in a program that  
187 meets regular school attendance requirements as provided in s.  
188 1003.01(13)(b)-(d).

189 2. Affirm that the program funds are used only for  
190 authorized purposes serving the student's educational needs, as  
191 described in subsection (5).

192 3. Affirm that the parent is responsible for the education  
193 of his or her student by, as applicable:

194 a. Requiring the student to take an assessment in  
195 accordance with paragraph (8)(b);

196 b. Providing an annual evaluation in accordance with s.  
197 1002.41(1)(f); or

198 c. Requiring the child to take any preassessments and  
199 postassessments selected by the provider if the child is 4 years  
200 of age and is enrolled in a program provided by an eligible  
201 Voluntary Prekindergarten Education Program provider. A student  
202 with disabilities for whom a preassessment and postassessment is  
203 not appropriate is exempt from this requirement. A participating

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204 provider shall report a student's scores to the parent.

205 4. Affirm that the student remains in good standing with  
206 the provider or school if those options are selected by the  
207 parent.

208 (b) The parent must file an application for initial program  
209 participation with an organization by the dates established  
210 pursuant to this section.

211 (c) The parent must notify the school district that the  
212 student is participating in the Gardiner Scholarship Program if  
213 the parent chooses to enroll the student in a home education  
214 program as provided in s. 1002.41. This notification is not in  
215 lieu of the required notification a parent must submit to the  
216 district when establishing a home education program pursuant to  
217 s. 1002.41(1)(a).

218 (d) The parent must enroll his or her child in a program  
219 from a Voluntary Prekindergarten Education Program provider  
220 authorized under s. 1002.55, a school readiness provider  
221 authorized under s. 1002.88, or an eligible private school if  
222 either option is selected by the parent.

223 (e) The parent must annually renew participation in the  
224 program in order for a student to be eligible to receive  
225 funding. A student whose participation in the program is not  
226 renewed may continue to spend scholarship funds that are in his  
227 or her account from prior years unless the account must be  
228 closed pursuant to paragraph (6)(b). Notwithstanding any changes  
229 to the student's IEP, a student who was previously eligible for  
230 participation in the program shall remain eligible to apply for  
231 renewal. However, for a high-risk child to continue to  
232 participate in the program in the school year after he or she



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233 reaches 6 years of age, the child's application for renewal of  
234 program participation must contain documentation that the child  
235 has a disability defined in paragraph (2)(d) other than high-  
236 risk status.

237 (f) The parent is responsible for procuring the services  
238 necessary to educate the student. If a parent does not procure  
239 the necessary educational services for the student and the  
240 student's account has been inactive for 2 consecutive fiscal  
241 years, the student is ineligible and the student's account must  
242 be closed pursuant to paragraph (6)(b) for additional  
243 ~~scholarship payments until the scholarship funding organization~~  
244 ~~verifies that expenditures from the account have occurred.~~ When  
245 the student receives a Gardiner Scholarship, the district school  
246 board is not obligated to provide the student with a free  
247 appropriate public education. For purposes of s. 1003.57 and the  
248 Individuals with Disabilities in Education Act, a participating  
249 student has only those rights that apply to all other  
250 unilaterally parentally placed students, except that, when  
251 requested by the parent, school district personnel must develop  
252 an individual education plan or matrix level of services.

253 (g) The parent is responsible for all eligible expenses in  
254 excess of the amount of the Gardiner Scholarship.

255 (h) The parent may not transfer any prepaid college plan or  
256 college savings plan funds contributed pursuant to paragraph  
257 (5)(f) to another beneficiary while the plan contains funds  
258 contributed pursuant to this section.

259 (i) The parent may not receive a payment, refund, or rebate  
260 from an approved provider of any services under this program.

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262 A parent who fails to comply with this subsection forfeits the  
263 Gardiner Scholarship.

264 (12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS.—An  
265 organization may establish Gardiner Scholarships for eligible  
266 students by:

267 (j) Documenting each scholarship student's eligibility for  
268 a fiscal year before granting a scholarship for that fiscal year  
269 pursuant to paragraph (3) (b). A student is ineligible for a  
270 scholarship if the student's account has been inactive for 2  
271 consecutive fiscal years and the student's account has been  
272 closed pursuant to paragraph (6) (b). ~~However, once an eligible~~  
273 ~~expenditure is made pursuant to paragraph (11) (f), the student~~  
274 ~~is eligible for a scholarship based on available funds.~~

275 Section 2. This act shall take effect July 1, 2020.