

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 the definition of  
4       "curriculum"; revising eligibility requirements for  
5       the Gardiner Scholarship program; deleting provisions  
6       relating to final verification documents; revising  
7       authorized uses of program funds; revising the number  
8       of consecutive fiscal years an account must be  
9       inactive before the remaining funds revert to the  
10      state; conforming a provision to changes made by the  
11      act; deleting a requirement pertaining to compliance  
12      statements; authorizing certain students to continue  
13      spending scholarship funds under certain  
14      circumstances; providing that a student's account must  
15      be closed under certain circumstances; revising an  
16      obligation of scholarship-funding organizations with  
17      respect to student eligibility; conforming a provision  
18      to changes made by the act; providing an effective  
19      date.

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

22  
23       Section 1. Paragraph (b) of subsection (2), subsections (3)  
24      and (5), paragraph (b) of subsection (6), paragraph (e) of  
25      subsection (9), paragraphs (a), (e), and (f) of subsection (11),  
26      paragraph (j) of subsection (12), and paragraph (c) of  
27      subsection (13) of section 1002.385, Florida Statutes, are  
28      amended to read:

29       1002.385 The Gardiner Scholarship.—

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

(b) "Curriculum" means a complete course of study for a particular content area or grade level, including any required supplemental materials, teachers' manuals, and associated online instruction.

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

(a) 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 paragraph (2) (d); 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 state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

A student with a disability who meets the requirements of this paragraph, but who turns 3 years of age after September 1, may be determined to be eligible for a Gardiner Scholarship on or after his or her third birthday and may be awarded a scholarship if program funds are available.

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59 (b) The parent has applied to an eligible nonprofit  
60 scholarship-funding organization to participate in the program  
61 by February 1 before the school year in which the student will  
62 participate or an alternative date as set by the organization  
63 for any vacant, funded slots. The request must be communicated  
64 directly to the organization in a manner that creates a written  
65 or electronic record of the request and the date of receipt of  
66 the request. ~~In addition to the application and any~~  
67 ~~documentation required by the organization or by State Board of~~  
68 ~~Education rule, the parent may submit a final verification~~  
69 ~~document pursuant to this paragraph to receive scholarship funds~~  
70 ~~in the student's account before the department confirms program~~  
71 ~~eligibility pursuant to paragraph (9)(c). The final verification~~  
72 ~~document must consist of one of the following items applicable~~  
73 ~~to the student:~~

74 1. ~~A completed withdrawal form from the school district, if~~  
75 ~~the student was enrolled in a public school before the~~  
76 ~~determination of program eligibility.~~

77 2. ~~A letter of admission or enrollment from an eligible~~  
78 ~~private school for the fiscal year in which the student wishes~~  
79 ~~to participate and, if applicable, a copy of the notification~~  
80 ~~from the private school that the student has withdrawn from the~~  
81 ~~John M. McKay Scholarships for Students with Disabilities~~  
82 ~~Program or the Florida Tax Credit Scholarship Program.~~

83 3. ~~A copy of the notice of the parent's intent to establish~~  
84 ~~and maintain a home education program required by s.~~  
85 ~~1002.41(1)(a) or the annual educational evaluation of the~~  
86 ~~student in a home education program, which is required by s.~~  
87 ~~1002.41(2).~~

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

91 (a) Instructional materials, including digital devices,  
92 digital periphery devices, and assistive technology devices that  
93 allow a student to access instruction or instructional content  
94 and training on the use of and maintenance agreements for these  
95 devices.

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

97 (c) Specialized services by approved providers or by a  
98 hospital in this state which are selected by the parent. These  
99 specialized services may include, but are not limited to:

100 1. Applied behavior analysis services as provided in ss.  
101 627.6686 and 641.31098.

102 2. Services provided by speech-language pathologists as  
103 defined in s. 468.1125.

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

105 4. Services provided by physical therapists as defined in  
106 s. 486.021.

107 5. Services provided by listening and spoken language  
108 specialists and an appropriate acoustical environment for a  
109 child who is deaf or hard of hearing and who has received an  
110 implant or assistive hearing device.

111 (d) Tuition or fees associated with full-time or part-time  
112 enrollment in a home education program, an eligible private  
113 school, an eligible postsecondary educational institution or a  
114 program offered by the postsecondary institution, a private  
115 tutoring program authorized under s. 1002.43, a virtual program  
116 offered by a department-approved private online provider that

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117 meets the provider qualifications specified in s. 1002.45(2)(a),  
118 the Florida Virtual School as a private paying student, or an  
119 approved online course offered pursuant to s. 1003.499 or s.  
120 1004.0961.

121 (e) Fees for nationally standardized, norm-referenced  
122 achievement tests, Advanced Placement Examinations, industry  
123 certification examinations, assessments related to postsecondary  
124 education, or other assessments.

125 (f) Contributions to the Stanley G. Tate Florida Prepaid  
126 College Program pursuant to s. 1009.98 or the Florida College  
127 Savings Program pursuant to s. 1009.981, for the benefit of the  
128 eligible student.

129 (g) Contracted services provided by a public school or  
130 school district, including classes. A student who receives  
131 services under a contract under this paragraph is not considered  
132 enrolled in a public school for eligibility purposes as  
133 specified in subsection (4).

134 (h) Tuition and fees for part-time tutoring services  
135 provided by a person who holds a valid Florida educator's  
136 certificate pursuant to s. 1012.56; a person who holds an  
137 adjunct teaching certificate pursuant to s. 1012.57; a person  
138 who has a bachelor's degree or a graduate degree in the subject  
139 area in which instruction is given; or a person who has  
140 demonstrated a mastery of subject area knowledge pursuant to s.  
141 1012.56(5). As used in this paragraph, the term "part-time  
142 tutoring services" does not qualify as regular school attendance  
143 as defined in s. 1003.01(13)(e).

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

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

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146 (k) Transition services, including a coordinated set of  
147 activities that are focused on improving the academic and  
148 functional achievement of the student to facilitate his or her  
149 movement from school to post-school activities and are based on  
150 the individual student's needs. Transition services may be  
151 provided by job coaches.

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

155 (m) Tuition and fees associated with programs offered by  
156 Voluntary Prekindergarten Education Program providers approved  
157 pursuant to s. 1002.55 and school readiness providers approved  
158 pursuant to s. 1002.88.

159 (n) Fees for services provided at a center that is a member  
160 of the Professional Association of Therapeutic Horsemanship  
161 International.

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

165 (p) Tuition or fees associated with enrollment in a  
166 nationally or internationally recognized research-based training  
167 program for a child with a neurological disorder or brain  
168 damage.

169  
170 A provider of any services receiving payments pursuant to this  
171 subsection may not share, refund, or rebate any moneys from the  
172 Gardiner Scholarship with the parent or participating student in  
173 any manner. A parent, student, or provider of any services may  
174 not bill an insurance company, Medicaid, or any other agency for

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175 the same services that are paid for using Gardiner Scholarship  
176 funds.

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

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

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

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

194 c. Two ~~Three~~ consecutive fiscal years in which an account  
195 has been inactive.

196 2. The commissioner must notify the parent and the  
197 organization when a Gardiner Scholarship account is closed and  
198 program funds revert to the state.

199 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department  
200 shall:

201 (e) Compare the list of students participating in the  
202 program with the public school student enrollment lists,  
203 Voluntary Prekindergarten Education Program enrollment lists,

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204 and the list of students participating in school choice  
205 scholarship programs established pursuant to this chapter before  
206 each scholarship award is provided to the organization, and  
207 subsequently throughout the school year, to avoid duplicate  
208 payments and confirm program eligibility. ~~A parent who files a~~  
209 ~~final verification pursuant to paragraph (3) (b) shall receive~~  
210 ~~scholarship funds before the department confirms program~~  
211 ~~eligibility.~~

212 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
213 PARTICIPATION.—A parent who applies for program participation  
214 under this section is exercising his or her parental option to  
215 determine the appropriate placement or the services that best  
216 meet the needs of his or her child. The scholarship award for a  
217 student is based on a matrix that assigns the student to support  
218 Level III services. If a parent receives an IEP and a matrix of  
219 services from the school district pursuant to subsection (7),  
220 the amount of the payment shall be adjusted as needed, when the  
221 school district completes the matrix.

222 (a) To satisfy or maintain program eligibility, including  
223 eligibility to receive and spend program payments, the parent  
224 must sign an agreement with the organization and annually submit  
225 a ~~notarized~~, sworn compliance statement to the organization to:

226 1. Affirm that the student is enrolled in a program that  
227 meets regular school attendance requirements as provided in s.  
228 1003.01(13) (b) - (d).

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

232 3. Affirm that the parent is responsible for the education



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233 of his or her student by, as applicable:

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

236 b. Providing an annual evaluation in accordance with s.  
237 1002.41(1) (f); or

238 c. Requiring the child to take any preassessments and  
239 postassessments selected by the provider if the child is 4 years  
240 of age and is enrolled in a program provided by an eligible  
241 Voluntary Prekindergarten Education Program provider. A student  
242 with disabilities for whom a preassessment and postassessment is  
243 not appropriate is exempt from this requirement. A participating  
244 provider shall report a student's scores to the parent.

245 4. Affirm that the student remains in good standing with  
246 the provider or school if those options are selected by the  
247 parent.

248 (e) The parent must annually renew participation in the  
249 program for a student to be eligible to receive scholarship  
250 funding. A student whose participation in the program is not  
251 renewed may continue to spend scholarship funds that are in his  
252 or her account from prior years unless the account must be  
253 closed pursuant to paragraph (6) (b). Notwithstanding any changes  
254 to the student's IEP, a student who was previously eligible for  
255 participation in the program shall remain eligible to apply for  
256 renewal. However, for a high-risk child to continue to  
257 participate in the program in the school year after he or she  
258 reaches 6 years of age, the child's application for renewal of  
259 program participation must contain documentation that the child  
260 has a disability defined in paragraph (2) (d) other than high-  
261 risk status.

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262 (f) The parent is responsible for procuring the services  
263 necessary to educate the student. If a parent does not procure  
264 the necessary educational services for the student and the  
265 student's account has been inactive for 2 consecutive fiscal  
266 years, then the student's account must be closed pursuant to  
267 paragraph (6) (b) ~~student is ineligible for additional~~  
268 ~~scholarship payments until the scholarship funding organization~~  
269 ~~verifies that expenditures from the account have occurred.~~ When  
270 the student receives a Gardiner Scholarship, the district school  
271 board is not obligated to provide the student with a free  
272 appropriate public education. For purposes of s. 1003.57 and the  
273 Individuals with Disabilities in Education Act, a participating  
274 student has only those rights that apply to all other  
275 unilaterally parentally placed students, except that, when  
276 requested by the parent, school district personnel must develop  
277 an individual education plan or matrix level of services.

278

279 A parent who fails to comply with this subsection forfeits the  
280 Gardiner Scholarship.

281 (12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS.—An  
282 organization may establish Gardiner Scholarships for eligible  
283 students by:

284 (j) Documenting each scholarship student's eligibility for  
285 a fiscal year before granting a scholarship for that fiscal year  
286 pursuant to paragraph (3) (b). A student is ineligible for  
287 scholarship funding ~~a scholarship~~ if the student's account has  
288 been inactive for 2 consecutive fiscal years and the student's  
289 account has been closed pursuant to paragraph (6) (b). ~~However,~~  
290 ~~once an eligible expenditure is made pursuant to paragraph~~

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291 ~~(11)(f), the student is eligible for a scholarship based on~~  
292 ~~available funds.~~

293 (13) FUNDING AND PAYMENT.—

294 (c) ~~Upon notification from the organization that a parent~~  
295 ~~has filed a final verification document pursuant to paragraph~~  
296 ~~(3)(b) or upon~~ notification from the organization that an ~~a 3-~~  
297 ~~or 4-year-old child's~~ application has been approved for the  
298 program, the department shall release the student's scholarship  
299 funds to the organization to be deposited into the student's  
300 account.

301 Section 2. This act shall take effect July 1, 2021.