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

Amendment (with title amendment)
Between lines 39 and 40, insert:
Section 1. Paragraphs (i) and (j) of subsection (2) of section 1002.385, Florida Statutes, are redesignated as paragraphs (j) and (k), respectively, paragraphs (d) and (h) of subsection (2), paragraph (a) of subsection (3), subsection (5), paragraph (b) of subsection (6), subsection (8), paragraphs (e) and (f) of subsection (11), paragraph (j) of subsection (12), and paragraph (a) of subsection (13) are amended, and a new paragraph (i) is added to subsection (2) of that section, to read:

1002.385 The Gardiner Scholarship.—
(2) DEFINITIONS.—As used in this section, the term:
(d) "Disability" means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy, as defined in s. 393.063(6); Down syndrome, as defined in s. 393.063(15); an intellectual disability, as defined in s. 393.063(24); Phelan-McDermid syndrome, as defined in s. 393.063(28); Prader-Willi syndrome, as defined in s. 393.063(29); spina bifida, as defined in s. 393.063(40); being a high-risk child, as defined in s. 393.063(23)(a); muscular dystrophy; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States; anaphylaxis; and Williams syndrome or identification as orthopedically impaired, deaf, visually impaired, dual sensory impaired, traumatic brain injured, other health impaired, as defined by rules of the State Board of Education and evidenced by reports from the local school district, or a student who is hospital or homebound, with a medically diagnosed physical or psychiatric condition or illness as defined by rules of the State Board of Education, and will be confined to the home or hospital for more than 6 months.

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

(i) "Inactive" means that no eligible expenditures have
been made from an account funded pursuant to paragraph (13)(d).

(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 or older when 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; and
      3. Meets one or more of the following criteria:
         a. Has a disability as defined in paragraph (2)(d) which is documented by an IEP or by a diagnosis of a disability from a physician who is licensed under chapter 458 or chapter 459 or a psychologist who is licensed under chapter 490;
         b. Is currently participating in the program, is 5 years of age or older, and has previously been identified as a high-risk child, as defined in s. 393.063(23)(a); or and
         c. 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. However, a student with an IEP whose sole exceptionality is gifted is not eligible for the Gardiner Scholarship has received a diagnosis of a disability from a physician who is licensed under chapter 458 or chapter 459 or a psychologist who is licensed under chapter 490.
(5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be used to meet the individual educational needs of an eligible student and may be spent for the following purposes:

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

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

(c) Specialized services by approved providers or a Florida hospital that are selected by the parent. These specialized services may include, but are not limited to:
   1. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.
   2. Services provided by speech-language pathologists as defined in s. 468.1125.
   3. Occupational therapy services as defined in s. 468.203.
   4. Services provided by physical therapists as defined in s. 486.021.
   5. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing and who has received an implant or assistive hearing device.

(d) Enrollment in, or tuition or fees associated with enrollment in, a home education program, an eligible private
school, an eligible postsecondary educational institution or a
program offered by the institution, a private tutoring program
authorized under s. 1002.43, a virtual program offered by a
department-approved private online provider that meets the
provider qualifications specified in s. 1002.45(2)(a), the
Florida Virtual School as a private paying student, or an
approved online course offered pursuant to s. 1003.499 or s.
1004.0961.

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

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

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

(h) Tuition and fees for part-time tutoring services
provided by a person who holds a valid Florida educator's
certificate pursuant to s. 1012.56; a person who holds an
adjunct teaching certificate pursuant to s. 1012.57; or a person
who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5). As used in this paragraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

(i) Fees for specialized summer education programs.

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

(k) Transition services provided by job coaches.

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

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

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

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

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

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

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

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

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

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

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

2. The commissioner must notify the parent and the organization when a Gardiner Scholarship account is closed and program funds revert to the state.
(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and shall:

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

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

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

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

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

3. Cooperating with the scholarship student whose parent chooses to have the student participate in the statewide assessments pursuant to s. 1008.22 or, if a private school chooses to offer the statewide assessments, administering the...
assessments at the school.
   
   a. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10.
   
   b. A participating private school shall submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.
   
   (d) Employ or contract with teachers who have regular and direct contact with each student receiving a scholarship under this section at the school's physical location.
   
   (e) Provide a report from an independent certified public accountant who performs to perform the agreed-upon procedures developed under s. 1002.395(6)(o) and produce a report of the results if the private school receives more than $250,000 in funds from scholarships awarded under this section in the 2014-2015 state fiscal year or a state fiscal year thereafter. A private school subject to this paragraph must submit the report by August 15, 2017, September 15, 2015, and annually thereafter to the organization that awarded the majority of the school's scholarship funds. The agreed-upon procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.
If the inability of a private school is unable to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (e), the commissioner may determine that constitutes a basis for the ineligibility of the private school is ineligible to participate in the program as determined by the commissioner.

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

(e) The parent must annually renew participation in the program. Notwithstanding any changes to the student's IEP, a student who was previously eligible for participation in the program shall remain eligible to apply for renewal. However, for a high-risk child to continue to participate in the program in the school year after he or she reaches 6 years of age, the child's application for renewal of program participation must contain documentation that the child has a disability defined in paragraph (2)(d) other than high-risk status.
(f) The parent is responsible for procuring the services necessary to educate the student. If a parent does not procure the necessary educational services for the student and the student's account has been inactive for 2 consecutive fiscal years, the student is ineligible for additional scholarship payments until the scholarship funding organization verifies that expenditures from the account have occurred. When the student receives a Gardiner Scholarship, the district school board is not obligated to provide the student with a free appropriate public education. For purposes of s. 1003.57 and the Individuals with Disabilities in Education Act, a participating student has only those rights that apply to all other unilaterally parentally placed students, except that, when requested by the parent, school district personnel must develop an individual education plan or matrix level of services. A parent who fails to comply with this subsection forfeits the Gardiner Scholarship.

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

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

(13) FUNDING AND PAYMENT.—

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

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

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

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**TITLE AMENDMENT**

Remove line 3 and insert:

1002.385, F.S.; revising definitions for the Gardiner Scholarship Program; defining the term "inactive" for the purposes of the program; revising student eligibility criteria; authorizing program funds to be used for specified purposes and by specified entities; prohibiting billing of certain entities for services paid for through the program; revising private
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school eligibility requirements; providing that consecutive
years of certain material exceptions constitutes program
ineligibility for certain private schools; prohibiting certain
students from receiving additional scholarship payments until
certain conditions are met; revising funding calculations;
amending s. 1002.39, F.S.; revising student eligibility criteria