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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SEN1/C
05/03/2017 03:58 PM	.	05/05/2017 06:07 PM
	.	

Senator Simmons moved the following:

Senate Amendment (with title amendment)

Delete lines 41 - 342
and insert:

Section 1. Paragraphs (d) and (h) of subsection (2) of section 1002.385, Florida Statutes, are amended, present paragraphs (i) and (j) of that subsection are redesignated as paragraphs (j) and (k), respectively, a new paragraph (i) is added to that subsection, paragraph (a) of subsection (3) of that section is amended, paragraph (e) is added to subsection (4) of that section, and subsection (5), paragraph (b) of



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12 subsection (6), subsection (8), paragraph (f) of subsection
13 (11), and paragraph (j) of subsection (12) of that section are
14 amended, to read:

15 1002.385 The Gardiner Scholarship.—

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

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



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41 (i) "Inactive" means that eligible expenditures have not
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 on or before September 1 of the
49 year in which the student applies for program participation, or
50 is eligible to enroll in kindergarten through grade 12 in a
51 public school in this state;

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

53 4. Is the subject of an IEP written in accordance with
54 rules of the State Board of Education or with the applicable
55 rules of another state or has received a diagnosis of a
56 disability from a physician who is licensed under chapter 458 or
57 chapter 459, ~~or~~ a psychologist who is licensed under chapter
58 490, or a physician who holds an active license issued by
59 another state or territory of the United States, the District of
60 Columbia, or the Commonwealth of Puerto Rico.

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

63 (e) Enrolled in the Florida School for the Deaf and the
64 Blind.

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

68 (a) Instructional materials, including digital devices,
69 digital periphery devices, and assistive technology devices that



70 allow a student to access instruction or instructional content
71 and training on the use of and maintenance agreements for these
72 devices.

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

74 (c) Specialized services by approved providers or by a
75 hospital in this state which ~~that~~ are selected by the parent.

76 These specialized services may include, but are not limited to:

77 1. Applied behavior analysis services as provided in ss.
78 627.6686 and 641.31098.

79 2. Services provided by speech-language pathologists as
80 defined in s. 468.1125.

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

82 4. Services provided by physical therapists as defined in
83 s. 486.021.

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

88 (d) Enrollment in, or tuition or fees associated with
89 enrollment in, a home education program, an eligible private
90 school, an eligible postsecondary educational institution or a
91 program offered by the institution, a private tutoring program
92 authorized under s. 1002.43, a virtual program offered by a
93 department-approved private online provider that meets the
94 provider qualifications specified in s. 1002.45(2)(a), the
95 Florida Virtual School as a private paying student, or an
96 approved online course offered pursuant to s. 1003.499 or s.
97 1004.0961.

98 (e) Fees for nationally standardized, norm-referenced



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99 achievement tests, Advanced Placement Examinations, industry
100 certification examinations, assessments related to postsecondary
101 education, or other assessments.

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

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

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

119 (i) Fees for specialized summer education programs.

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

121 (k) Transition services provided by job coaches.

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

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



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128 pursuant to s. 1002.88.

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

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

135

136 A provider of any services receiving payments pursuant to this
137 subsection may not share, refund, or rebate any moneys from the
138 Gardiner Scholarship with the parent or participating student in
139 any manner. A parent, student, or provider of any services may
140 not bill an insurance company, Medicaid, or any other agency for
141 the same services that are paid through the Gardiner Scholarship
142 funds.

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

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

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

156 b. ~~After~~ Any period of 3 consecutive years after high



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157 school completion or graduation during which the student has not
158 been enrolled in an eligible postsecondary educational
159 institution or a program offered by the institution; or.

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

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

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

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

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

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

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

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

185 3. Cooperating with the scholarship student whose parent



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186 chooses to have the student participate in the statewide
187 assessments pursuant to s. 1008.22 or, if a private school
188 chooses to offer the statewide assessments, administering the
189 assessments at the school.

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

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

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

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

212

213 If The inability of a private school is unable to meet the
214 requirements of this subsection or has in consecutive years had



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215 material exceptions listed in its agreed-upon procedures
216 reports, there is ~~constitutes~~ a basis for the ineligibility of
217 the private school to participate in the program as determined
218 by the commissioner.

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

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



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244
245 A parent who fails to comply with this subsection forfeits the
246 Gardiner Scholarship.

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

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

257
258 ===== T I T L E A M E N D M E N T =====
259 And the title is amended as follows:

260 Delete lines 3 - 15
261 and insert:
262 1002.385, F.S.; redefining the terms "disability" and
263 "IEP"; defining the term "inactive"; prohibiting a
264 student who is enrolled in the Florida School for the
265 Deaf and the Blind from being eligible for the
266 Gardiner Scholarship Program; revising the purposes
267 for which program funds may be used; requiring that a
268 student's account be closed and program funds revert
269 to the state after the account is inactive for a
270 specified number of years; specifying that certain
271 actions of a private school are a basis for program
272 ineligibility; revising parent and student



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273 responsibilities for program participation; revising
274 obligations of scholarship-funding organizations;
275 amending s. 1002.395,