By Senator Perry

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

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

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

1002.385 The Gardiner Scholarship.—
(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 if program funds are available and there are no other students on the wait list.

(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 by a hospital in this state which 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) Tuition or fees associated with full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the postsecondary 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; a person who has a bachelor’s degree or a graduate degree in the subject area in which instruction is given; 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, including a coordinated set of activities that are focused on improving the academic and functional achievement of the student to facilitate his or her movement from school to post-school activities and are based on the individual student’s needs. Transition services may be provided by job coaches.

(l) Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(f), 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, Inc.

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

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

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

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

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

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

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 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:

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);

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. Two 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.

(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.

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

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

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

3. Affirm that the parent is responsible for the education of his or her student by, as applicable:
   a. Requiring the student to take an assessment in accordance with paragraph (8)(b);
   b. Providing an annual evaluation in accordance with s. 1002.41(1)(f); or
   c. Requiring the child to take any preassessments and postassessments selected by the provider if the child is 4 years of age and is enrolled in a program provided by an eligible Voluntary Prekindergarten Education Program provider. A student with disabilities for whom a preassessment and postassessment is not appropriate is exempt from this requirement. A participating
provider shall report a student’s scores to the parent.

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

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

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

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

(e) The parent must annually renew participation in the program in order for a student to be eligible to receive funding. A student whose participation in the program is not renewed may continue to spend scholarship funds that are in his or her account from prior years unless the account must be closed pursuant to paragraph (6)(b). 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-

(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 and the student’s account must
be closed pursuant to paragraph (6)(b) 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.

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

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

(i) The parent may not receive a payment, refund, or rebate
from an approved provider of any services under this program.
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 and the student’s account has been closed pursuant to paragraph (6)(b). However, once an eligible expenditure is made pursuant to paragraph (11)(f), the student is eligible for a scholarship based on available funds.

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