

CHAMBER ACTION

1 The Choice & Innovation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to public K-12 education; amending s.
7 1003.57, F.S.; providing guidelines for determining the
8 residency of a student who receives special instruction,
9 facilities, or services as an exceptional student;
10 requiring the parent or the placing authority in a
11 parent's state of residence to pay the cost of such
12 instruction, facilities, and services; providing
13 responsibilities of the Department of Education; providing
14 responsibilities of residential facilities that educate
15 exceptional students; providing applicability; defining
16 the term "parent" for purposes of the section; creating s.
17 1003.575, F.S.; requiring the Department of Education to
18 develop an individual education plan form for use in
19 developing and implementing individual education plans for
20 exceptional students; requiring use of the form by school
21 districts; amending s. 1003.58, F.S.; correcting a cross
22 reference; providing an effective date.

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

25

26 Section 1. Section 1003.57, Florida Statutes, is amended
27 to read:

28 1003.57 Exceptional students instruction.--

29 (1) Each district school board shall provide for an
30 appropriate program of special instruction, facilities, and
31 services for exceptional students as prescribed by the State
32 Board of Education as acceptable, including provisions that:

33 (a)~~(1)~~ The district school board provide the necessary
34 professional services for diagnosis and evaluation of
35 exceptional students.

36 (b)~~(2)~~ The district school board provide the special
37 instruction, classes, and services, either within the district
38 school system, in cooperation with other district school
39 systems, or through contractual arrangements with approved
40 private schools or community facilities that meet standards
41 established by the commissioner.

42 (c)~~(3)~~ The district school board annually provide
43 information describing the Florida School for the Deaf and the
44 Blind and all other programs and methods of instruction
45 available to the parent of a sensory-impaired student.

46 (d)~~(4)~~ The district school board, once every 3 years,
47 submit to the department its proposed procedures for the
48 provision of special instruction and services for exceptional
49 students.

50 (e)~~(5)~~ No student be given special instruction or services
51 as an exceptional student until after he or she has been

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52 | properly evaluated, classified, and placed in the manner
53 | prescribed by rules of the State Board of Education. The parent
54 | of an exceptional student evaluated and placed or denied
55 | placement in a program of special education shall be notified of
56 | each such evaluation and placement or denial. Such notice shall
57 | contain a statement informing the parent that he or she is
58 | entitled to a due process hearing on the identification,
59 | evaluation, and placement, or lack thereof. Such hearings shall
60 | be exempt from the provisions of ss. 120.569, 120.57, and
61 | 286.011, except to the extent that the State Board of Education
62 | adopts rules establishing other procedures and any records
63 | created as a result of such hearings shall be confidential and
64 | exempt from the provisions of s. 119.07(1). The hearing must be
65 | conducted by an administrative law judge from the Division of
66 | Administrative Hearings of the Department of Management
67 | Services. The decision of the administrative law judge shall be
68 | final, except that any party aggrieved by the finding and
69 | decision rendered by the administrative law judge shall have the
70 | right to bring a civil action in the circuit court. In such an
71 | action, the court shall receive the records of the
72 | administrative hearing and shall hear additional evidence at the
73 | request of either party. In the alternative, any party aggrieved
74 | by the finding and decision rendered by the administrative law
75 | judge shall have the right to request an impartial review of the
76 | administrative law judge's order by the district court of appeal
77 | as provided by s. 120.68. Notwithstanding any law to the
78 | contrary, during the pendency of any proceeding conducted
79 | pursuant to this section, unless the district school board and

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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80 | the parents otherwise agree, the student shall remain in his or
 81 | her then-current educational assignment or, if applying for
 82 | initial admission to a public school, shall be assigned, with
 83 | the consent of the parents, in the public school program until
 84 | all such proceedings have been completed.

85 | ~~(f)(6)~~ In providing for the education of exceptional
 86 | students, the district school superintendent, principals, and
 87 | teachers shall utilize the regular school facilities and adapt
 88 | them to the needs of exceptional students to the maximum extent
 89 | appropriate. Segregation of exceptional students shall occur
 90 | only if the nature or severity of the exceptionality is such
 91 | that education in regular classes with the use of supplementary
 92 | aids and services cannot be achieved satisfactorily.

93 | ~~(g)(7)~~ In addition to the services agreed to in a
 94 | student's individual education plan, the district school
 95 | superintendent shall fully inform the parent of a student having
 96 | a physical or developmental disability of all available services
 97 | that are appropriate for the student's disability. The
 98 | superintendent shall provide the student's parent with a summary
 99 | of the student's rights.

100 | (2)(a) A student who receives special instruction,
 101 | facilities, or services as an exceptional student is considered
 102 | a resident of the state in which the student's parent is a
 103 | resident. The cost of such instruction, facilities, and services
 104 | for a nonresident student shall be provided by the parent or the
 105 | placing authority in the parent's state of residence, such as a
 106 | public school entity or other placing authority. Nonresident

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107 students may not be reported by any school district for FTE
108 funding in the Florida Education Finance Program.

109 (b) The Department of Education shall provide to each
110 school district a statement of the specific limitations of the
111 school district's financial obligation for exceptional students
112 under federal and state law. The department shall also provide
113 to each school district technical assistance as necessary for
114 developing a local plan to impose on the parent or the placing
115 authority in the parent's state of residence the fiscal
116 responsibility for educating a nonresident exceptional student.

117 (c) The Department of Education shall develop a process by
118 which a school district must review the residency of each
119 exceptional student who lives in a residential facility in this
120 state prior to providing services. The residential facility, not
121 the school district, is responsible for billing and collecting
122 from a nonresident student's parent or placing authority payment
123 for the student's educational and related services.

124 (d) This subsection applies to any nonresident student who
125 receives instruction as an exceptional student in any type of
126 educational facility in this state, including, but not limited
127 to, a public school, a private school, a group home facility as
128 defined in s. 393.063, an intensive residential treatment
129 program for children and adolescents as defined in s. 395.002, a
130 facility as defined in s. 394.455, an intermediate care facility
131 for the developmentally disabled or ICF/DD as defined in s.
132 393.063 or s. 400.960, or a community residential home as
133 defined in s. 419.001.

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134 (3) For purposes of this section, the term "parent" is
 135 defined as either or both parents of a student or any guardian
 136 of a student.

137 Section 2. Section 1003.575, Florida Statutes, is created
 138 to read:

139 1003.575 Individual education plans for exceptional
 140 students.--The Department of Education shall develop an
 141 individual education plan (IEP) form for use in developing and
 142 implementing individual education plans for exceptional
 143 students. The IEP form shall have a streamlined format and, to
 144 provide for the use of an existing IEP form when a student
 145 transfers from one school district to another, the IEP form
 146 developed by the department shall be used in each school
 147 district in the state.

148 Section 3. Subsection (3) of section 1003.58, Florida
 149 Statutes, is amended to read:

150 1003.58 Students in residential care facilities.--Each
 151 district school board shall provide educational programs
 152 according to rules of the State Board of Education to students
 153 who reside in residential care facilities operated by the
 154 Department of Children and Family Services.

155 (3) The district school board shall have full and complete
 156 authority in the matter of the assignment and placement of such
 157 students in educational programs. The parent of an exceptional
 158 student shall have the same due process rights as are provided
 159 under s. 1003.57(1)(e)~~(5)~~.

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161 Notwithstanding the provisions herein, the educational program
162 at the Marianna Sunland Center in Jackson County shall be
163 operated by the Department of Education, either directly or
164 through grants or contractual agreements with other public or
165 duly accredited educational agencies approved by the Department
166 of Education.

167 Section 4. This act shall take effect July 1, 2005.