

CHAMBER ACTION

1 The Education Appropriations 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 an exceptional student with a disability who
9 resides in a residential facility and receives special
10 instruction or services; requiring the placing authority
11 in a parent's state of residence to pay the cost of such
12 instruction, facilities, and services for a nonresident
13 exceptional student with a disability; providing
14 requirements of the Department of Education and school
15 districts with respect to financial obligations; providing
16 responsibilities of residential facilities that educate
17 exceptional students with disabilities; providing
18 applicability; defining the term "parent" for purposes of
19 the section; creating s. 1003.575, F.S.; requiring the
20 Department of Education to coordinate the development of
21 an individual education plan form for use in developing
22 and implementing individual education plans for
23 exceptional students; requiring the form to be available

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24 to school districts to facilitate the use of an individual
 25 education plan when a student transfers; amending s.
 26 1003.58, F.S.; correcting a cross reference; providing an
 27 effective date.

28

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

30

31 Section 1. Section 1003.57, Florida Statutes, is amended
 32 to read:

33 1003.57 Exceptional students instruction.--

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

38 (a)~~(1)~~ The district school board provide the necessary
 39 professional services for diagnosis and evaluation of
 40 exceptional students.

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

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

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51 (d)~~(4)~~ The district school board, once every 3 years,
52 submit to the department its proposed procedures for the
53 provision of special instruction and services for exceptional
54 students.

55 (e)~~(5)~~ No student be given special instruction or services
56 as an exceptional student until after he or she has been
57 properly evaluated, classified, and placed in the manner
58 prescribed by rules of the State Board of Education. The parent
59 of an exceptional student evaluated and placed or denied
60 placement in a program of special education shall be notified of
61 each such evaluation and placement or denial. Such notice shall
62 contain a statement informing the parent that he or she is
63 entitled to a due process hearing on the identification,
64 evaluation, and placement, or lack thereof. Such hearings shall
65 be exempt from the provisions of ss. 120.569, 120.57, and
66 286.011, except to the extent that the State Board of Education
67 adopts rules establishing other procedures and any records
68 created as a result of such hearings shall be confidential and
69 exempt from the provisions of s. 119.07(1). The hearing must be
70 conducted by an administrative law judge from the Division of
71 Administrative Hearings of the Department of Management
72 Services. The decision of the administrative law judge shall be
73 final, except that any party aggrieved by the finding and
74 decision rendered by the administrative law judge shall have the
75 right to bring a civil action in the circuit court. In such an
76 action, the court shall receive the records of the
77 administrative hearing and shall hear additional evidence at the
78 request of either party. In the alternative, any party aggrieved

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

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79 | by the finding and decision rendered by the administrative law
 80 | judge shall have the right to request an impartial review of the
 81 | administrative law judge's order by the district court of appeal
 82 | as provided by s. 120.68. Notwithstanding any law to the
 83 | contrary, during the pendency of any proceeding conducted
 84 | pursuant to this section, unless the district school board and
 85 | the parents otherwise agree, the student shall remain in his or
 86 | her then-current educational assignment or, if applying for
 87 | initial admission to a public school, shall be assigned, with
 88 | the consent of the parents, in the public school program until
 89 | all such proceedings have been completed.

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

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

105 | (2)(a) An exceptional student with a disability who
 106 | resides in a residential facility and receives special

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107 instruction or services is considered a resident of the state in
108 which the parent is a resident. The cost of such instruction,
109 facilities, and services for a nonresident exceptional student
110 with a disability shall be provided by the placing authority,
111 such as a public school entity, other placing authority, or
112 parent, in the parent's state of residence. A nonresident
113 exceptional student with a disability who resides in a
114 residential facility may not be reported by any school district
115 for FTE funding in the Florida Education Finance Program.

116 (b) The Department of Education shall provide to each
117 school district a statement of the specific limitations of the
118 district's financial obligation for exceptional students with
119 disabilities under federal and state law. The department shall
120 also provide to each school district technical assistance as
121 necessary for developing a local plan to impose on a parent's
122 state of residence the fiscal responsibility for educating a
123 nonresident exceptional student with a disability.

124 (c) The Department of Education shall develop a process by
125 which a school district must, before providing services to an
126 exceptional student with a disability who resides in a
127 residential facility in this state, review the residency of the
128 student. The residential facility, not the district, is
129 responsible for billing and collecting from the parent's state
130 of residence for the nonresident student's educational and
131 related services.

132 (d) This subsection applies to any nonresident exceptional
133 student with a disability who resides in a residential facility
134 and who receives instruction as an exceptional student with a

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135 disability in any type of residential facility in this state,
 136 including, but not limited to, a private school, a group home
 137 facility as defined in s. 393.063, an intensive residential
 138 treatment program for children and adolescents as defined in s.
 139 395.002, a facility as defined in s. 394.455, an intermediate
 140 care facility for the developmentally disabled or ICF/DD as
 141 defined in s. 393.063 or s. 400.960, or a community residential
 142 home as defined in s. 419.001.

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

146 Section 2. Section 1003.575, Florida Statutes, is created
 147 to read:

148 1003.575 Individual education plans for exceptional
 149 students.--The Department of Education shall coordinate the
 150 development of an individual education plan (IEP) form for use
 151 in developing and implementing individual education plans for
 152 exceptional students. The IEP form shall have a streamlined
 153 format and shall be compatible with federal standards. The
 154 department shall make the IEP form available to each school
 155 district in the state to facilitate the use of an existing IEP
 156 when a student transfers from one school district to another.

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

159 1003.58 Students in residential care facilities.--Each
 160 district school board shall provide educational programs
 161 according to rules of the State Board of Education to students

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162 | who reside in residential care facilities operated by the
163 | Department of Children and Family Services.

164 | (3) The district school board shall have full and complete
165 | authority in the matter of the assignment and placement of such
166 | students in educational programs. The parent of an exceptional
167 | student shall have the same due process rights as are provided
168 | under s. 1003.57(1)(e)~~(5)~~.

169 |

170 | Notwithstanding the provisions herein, the educational program
171 | at the Marianna Sunland Center in Jackson County shall be
172 | operated by the Department of Education, either directly or
173 | through grants or contractual agreements with other public or
174 | duly accredited educational agencies approved by the Department
175 | of Education.

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