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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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05/01/2013 01:24 PM

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Senator Flores moved the following:

1           **Senate Amendment to Amendment (317092) (with title**  
2 **amendment)**

3  
4           Between lines 367 and 368

5 insert:

6           Section 9. Section 1008.331, Florida Statutes, is amended  
7 to read:

8           1008.331 Supplemental educational services in Title I  
9 schools; school district, provider, and department  
10 responsibilities.—

11           (1) ACCOUNTABILITY.—A provider may offer supplemental  
12 educational services pursuant to this section only if it is a  
13 state-approved supplemental educational services provider that:



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- 14           (a) Demonstrates financial stability;  
15           (b) Maintains a parental complaint resolution process;  
16           (c) Uses research-based instructional methods that are  
17 consistent with the instruction provided by the district;  
18           (d) Aligns curricula to the Next Generation Sunshine State  
19 Standards; and  
20           (e) Submits to the department an application to be a state-  
21 approved supplemental educational services provider.

22           1. The application must require that the following persons  
23 meet the background screening requirements of s. 435.04:

- 24           a. The board of directors;  
25           b. The managing members;  
26           c. The owner if it is a sole proprietor; and  
27           d. Any person who has direct contact with students,  
28 including volunteers.

29           2. The provider shall post on its website the name of each  
30 person who has direct contact with students.

31           ~~(2)~~ ~~(1)~~ INCENTIVES.—A provider or school district may not  
32 provide incentives to entice a student or a student's parent to  
33 choose a provider. After a provider has been chosen, the student  
34 may be awarded incentives for performance or attendance, the  
35 total value of which may not exceed \$50 per student per year.

36           ~~(3)~~ ~~(2)~~ RESPONSIBILITIES OF SCHOOL DISTRICT AND PROVIDER.—

37           (a) School districts must create a streamlined parent  
38 enrollment and provider selection process for supplemental  
39 educational services and ensure that the process enables  
40 eligible students to begin receiving supplemental educational  
41 services no later than October 15 of each school year.

42           (b) Supplemental educational services enrollment forms must



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43 be made freely available to the parents of eligible students and  
44 providers both prior to and after the start of the school year.

45 (c) School districts must provide notification to parents  
46 of students eligible to receive supplemental educational  
47 services prior to and after the start of the school year.  
48 Notification shall include contact information for state-  
49 approved providers as well as the enrollment form, clear  
50 instructions, and timeline for the selection of providers and  
51 commencement of services.

52 (d) State-approved supplemental educational services  
53 providers must be able to provide services to eligible students  
54 no later than October 15 of each school year contingent upon  
55 their receipt of their district-approved student enrollment  
56 lists at least 20 days prior to the start date.

57 (e) In the event that the contract with a state-approved  
58 provider is signed less than 20 days prior to October 15, the  
59 provider shall be afforded no less than 20 days from the date  
60 the contract was executed to begin delivering services.

61 (f) A school district must hold open student enrollment for  
62 supplemental educational services unless or until it has  
63 obtained a written election to receive or reject services from  
64 parents in accordance with paragraph (4) (a) ~~(3) (a)~~.

65 (g) School districts, using the same policies applied to  
66 other organizations that have access to school sites, shall  
67 provide access to school facilities to providers that wish to  
68 use these sites for supplemental educational services. A school  
69 district with a student population in excess of 300,000 may only  
70 charge a state-approved supplemental educational services  
71 provider facility rental fees for the actual hours that the



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72 classrooms are used for tutoring by the provider.

73 (h) School districts must inform parents of their student's  
74 progress or require providers to inform parents of their  
75 student's progress.

76 (i) School districts must notify the department of any  
77 providers that are found to have:

78 1. Forged, altered, or falsified attendance reports or  
79 enrollment forms in a systemic or egregious manner;

80 2. Failed to respond to parental complaints in a timely  
81 manner; or

82 3. Violated accountability requirements in a systemic or  
83 egregious manner.

84 (j) School districts must establish a parental complaint  
85 procedure.

86 (4) ~~(3)~~ COMPLIANCE; PENALTIES FOR NONCOMPLIANCE.-

87 (a) Compliance is met when the school district has obtained  
88 evidence of reception or rejection of services from the parents  
89 of at least a majority of the students receiving free or  
90 reduced-price lunch in Title I schools that are eligible for  
91 parental choice of transportation or supplemental educational  
92 services unless a waiver is granted by the State Board of  
93 Education. A waiver shall only be granted if there is clear and  
94 convincing evidence of the district's efforts to secure evidence  
95 of the parent's decision. Requirements for parental election to  
96 receive supplemental educational services shall not exceed the  
97 election requirements for the free and reduced-price lunch  
98 program.

99 (b) A provider must be able to deliver supplemental  
100 educational services to school districts in which the provider



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101 is approved by the state. If a state-approved provider withdraws  
102 from offering services to students in a school district in which  
103 it is approved and in which it has signed either a contract to  
104 provide services or a letter of intent and the minimums per site  
105 set by the provider have been met, the school district must  
106 report the provider to the department. The provider shall be  
107 immediately removed from the state-approved list for the current  
108 school year for that school district. Upon the second such  
109 withdrawal in any school district, the provider shall be  
110 ineligible to provide services in the state the following 2  
111 years ~~year~~.

112 (5) ~~(4)~~ REALLOCATION OF FUNDS.—If a school district has not  
113 spent the required supplemental educational services set-aside  
114 funding, the district may apply to the Department of Education  
115 after January 1 for authorization to reallocate the funds. If  
116 the Commissioner of Education does not approve the reallocation  
117 of funds, the district may appeal to the State Board of  
118 Education. The State Board of Education must consider the appeal  
119 within 60 days of its receipt, and the decision of the state  
120 board shall be final.

121 (6) ~~(5)~~ RESPONSIBILITIES OF THE DEPARTMENT OF EDUCATION.—

122 (a) By May 1 of each year, each supplemental educational  
123 services provider must report to the Department of Education,  
124 unless a prior agreement has been made with the local school  
125 district, in an electronic form prescribed by the department,  
126 the following information regarding services provided to public  
127 school students in the district:

128 1. Student learning gains as demonstrated by mastery of  
129 applicable benchmarks or access points set forth in the Sunshine



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130 State Standards;

131 2. Student attendance and completion data;

132 3. Parent satisfaction survey results;

133 4. School district satisfaction survey results received  
134 directly from the school district; and

135 5. Satisfaction survey results received directly from the  
136 school district which were completed by principals in whose  
137 schools onsite supplemental educational services were provided.

138

139 The department shall post a uniform survey on its Internet  
140 website to be completed online by principals and school  
141 districts.

142 (b) The department shall evaluate each state-approved  
143 provider using the information received pursuant to paragraph  
144 (a) and assign a service designation of excellent, satisfactory,  
145 or unsatisfactory for the prior school year. However, if the  
146 student population served by the provider does not meet the  
147 minimum sample size necessary, based on accepted professional  
148 practice for statistical reliability and the prevention of the  
149 unlawful release of personally identifiable student information,  
150 the provider will not receive a service designation. The State  
151 Board of Education shall specify, by rule, the threshold  
152 requirements for assigning the service designations; however,  
153 the service designations must be based primarily on student  
154 learning gains. By July 1 of each year, the department must  
155 report the service designation to the supplemental educational  
156 services providers, the school districts, parents, and the  
157 public.

158 (c) ~~For the 2012-2013 school year, school districts shall~~



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159 ~~use an amount equivalent to 15 percent of the Title I, Part A~~  
160 ~~funds allocated to Title I schools to meet the requirements for~~  
161 ~~supplemental educational services.~~ Supplemental educational  
162 services shall be provided in Title I schools to students who  
163 are performing at Level 1 or Level 2 on the FCAT. Each school  
164 district shall contract with supplemental educational service  
165 providers that have been approved by the department. Each school  
166 district shall reserve an amount equal to 8 percent of the  
167 amount that the school district receives under Title I, Part A  
168 of the federal Elementary and Secondary Education Act, for each  
169 fiscal year, for supplemental educational services pursuant to  
170 this section to be provided by state-approved providers,  
171 including school districts.

172 (d) The State Board of Education shall adopt rules pursuant  
173 to ss. 120.536(1) and 120.54 to administer the provisions of  
174 this subsection.

175 (e) The board's rules shall establish an internal complaint  
176 procedure to resolve disputes regarding the state approval  
177 process, the termination of state approval, and the assignment  
178 of a service designation. The internal complaint procedure must  
179 provide for an informal review by a hearing officer who is  
180 employed by the department and, if requested, a formal review by  
181 a hearing officer who is employed by the department, and shall  
182 recommend a resolution of the dispute to the Commissioner of  
183 Education. The internal complaint procedure is exempt from the  
184 provisions of chapter 120. The decision by the commissioner  
185 shall constitute final action.

186 (f) By September 1, 2011, the department shall approve and  
187 a district may select acceptable premethods and postmethods for



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188 measuring student learning gains, including standardized  
189 assessments, diagnostic assessments, criterion-referenced and  
190 skills-based assessments, or other applicable methods  
191 appropriate for each grade level, for use by supplemental  
192 educational services providers and local school districts in  
193 determining student learning gains. Each method must be able to  
194 measure student progress toward mastering the benchmarks or  
195 access points set forth in the Sunshine State Standards and the  
196 student's supplemental educational services plan. The use of a  
197 diagnostic and assessment instrument, which is aligned to a  
198 provider's curriculum, is an acceptable premethod and postmethod  
199 if the provider can demonstrate that the assessment meets the  
200 requirements in this paragraph and is not deemed unreliable or  
201 invalid by the department.

202 (g) As a condition for state approval, a provider must use  
203 a method for measuring student learning gains which results in  
204 reliable and valid results as approved by the department.

205 (h) The provider shall report data on individual student  
206 learning gains to the department, unless a prior agreement has  
207 been made with the local school district to report such student  
208 achievement data. The report must include individual student  
209 learning gains as demonstrated by mastery of applicable  
210 benchmarks or access points set forth in the Sunshine State  
211 Standards.

212 (i) The department shall create an external complaint  
213 procedure for complaints against state-approved supplemental  
214 educational services providers. If the department finds that a  
215 state-approved supplemental educational services provider is  
216 found to have violated a provision specified in paragraph





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217 (3) (i), the department shall terminate the provider pursuant to  
218 the internal complaint procedure in this subsection.

219 (7) ~~(6)~~ RULES.—The State Board of Education may adopt rules  
220 pursuant to ss. 120.536(1) and 120.54 to implement the  
221 provisions of this section and may enforce the provisions of  
222 this section pursuant to s. 1008.32.

223

224 ===== T I T L E A M E N D M E N T =====

225 And the title is amended as follows:

226 Delete line 450

227 and insert:

228 districts to adopt policies; amending s. 1008.331,  
229 F.S.; establishing requirements that a provider must  
230 meet in order to offer supplemental educational  
231 services; revising the responsibilities of school  
232 districts and the Department of Education; requiring  
233 school districts to provide certain notice to parents  
234 or to the department; requiring the department to  
235 reserve certain funds; requiring the department to  
236 create an external complaint procedure for complaints  
237 against state-approved supplemental educational  
238 services providers; requiring the department