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SENATE JOINT RESOLUTION NO. 235

Offered January 24, 2000

*Requesting the Administrative Law Committee to study the issues relating to the hearing officer system and appeals of special education decisions.*

Patrons—Edwards, Marsh, Maxwell and Miller, Y.B.

Referred to Committee on Rules

WHEREAS, Virginia has had a law requiring education of disabled children since 1972, prior to the enactment of the comprehensive federal law; and

WHEREAS, comprehensive and detailed federal law relating to special education was first approved in 1974, thus providing disabled children with the right to be educated in free, appropriate programs; and

WHEREAS, the federal law has evolved and now requires much due process for the parents of children identified as disabled; and

WHEREAS, in Virginia, the hearing officer system administered by the Virginia Supreme Court has, for many years, provided much of this required due process; and

WHEREAS, although the hearing officers were never intended to serve only special education, they are, at this time, primarily utilized for special education hearings and grievance/disciplinary hearings for the Department of Employee Relations Counselors; and

WHEREAS, some problems with the hearing officer system vis-a-vis the special education hearings have been evident for some time, including insufficient training and a lack of expertise in special education law; and

WHEREAS, the Board of Education has recently proposed significant revisions of the Commonwealth's special education regulations; and

WHEREAS, the revisions of the special education regulations do include some improvements in the hearing officer system as it relates to special education, e.g., training will be improved; and

WHEREAS, in addition the Joint Legislative Audit and Review Commission has examined the hearing officer system; and

WHEREAS, none of these efforts has resolved the many problems that parents of disabled children and their attorneys have experienced with the hearing officer system; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Administrative Law Committee be requested to study the issues relating to the hearing officer system and appeals of special education decisions. The Administrative Law Committee is requested to consult with the parents of disabled children and their attorneys concerning the problems experienced and to address any allegations of inappropriate ex parte contact, judge shopping techniques, insufficient training in conducting the hearings, and the lack of hearing officer expertise in the relevant law. Technical assistance shall be provided to the Department of Education, the Joint Legislative Audit and Review Commission, and the Supreme Court of Virginia.

All agencies of the Commonwealth shall provide assistance to the Administrative Law Committee for this study, upon request.

The Administrative Law Committee shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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