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To: The Honorable Vanessa E. Atterbearsy
Chair, Ways and Means Committee

From: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

Re: HB 1255 – Education – Physical Restraint and Seclusion – Limitations, Reporting, and
Training – **Support**

The Office of Attorney General urges this Committee to favorably report HB 1255. If passed, the bill would accomplish four important goals. First, the bill would prohibit a public agency from using seclusion as a behavioral health intervention for a student. Second, it would prohibit a public agency from using physical restraint or a nonpublic school from using physical restraint or seclusion as a behavioral health intervention for a student, except under limited circumstances. Third, it would require the State Department of Education to develop an accountability system to measure compliance with anti-seclusion regulations. Finally, it would require the adoption of positive behavioral intervention training for educators.

Under the Due Process Clause of the Fourteenth Amendment, a person has constitutionally protected liberty interests to be free from unreasonable bodily restraints. *See* U.S. Const. amend. XIV; *see also Youngberg v. Romeo*, 457 U.S. 307 (1982). In *Youngberg*, the Supreme Court held the respondent had a constitutionally protected liberty interest under the due process clause of the Fourteenth Amendment to freedom from unreasonable bodily restraints, and such minimally adequate training as reasonably might be required to protect these interests. 457 U.S. 307.

This bill would reduce the use of practices (i.e., restraint and seclusion) which can negatively impact the physical and emotional well-being of the student. It would also require training for the adoption of the positive behavioral interventions. This makes this bill consistent with both the Due Process Clause of the Fourteenth Amendment and the Supreme Court's holding in *Youngberg*. *See* U.S. Const. amend. XIV; *see also* 457 U.S. 307.

For the foregoing reasons, the Office of the Attorney General urges a favorable report of House Bill 1255.

cc: Committee Members