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1                                   A bill to be entitled  
 2           An act relating to instruction for exceptional students;  
 3           amending s. 1003.57, F.S.; providing guidelines for  
 4           determining the residency for a student who receives  
 5           instruction as an exceptional student; requiring the  
 6           student's state of residence to pay the cost of  
 7           instruction, facilities, and services; providing  
 8           responsibilities of the Department of Education; providing  
 9           responsibilities of residential facilities that educate  
 10          exceptional students; providing applicability; amending s.  
 11          1003.58, F.S.; correcting a cross reference; providing an  
 12          effective date.

13

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

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16           Section 1. Section 1003.57, Florida Statutes, is amended  
 17 to read:

18           1003.57 Exceptional students instruction.--

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

23           (a)~~(1)~~ The district school board provide the necessary  
 24 professional services for diagnosis and evaluation of  
 25 exceptional students.

26           (b)~~(2)~~ The district school board provide the special  
 27 instruction, classes, and services, either within the district  
 28 school system, in cooperation with other district school  
 29 systems, or through contractual arrangements with approved

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30 private schools or community facilities that meet standards  
 31 established by the commissioner.

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

36 (d)~~(4)~~ The district school board, once every 3 years,  
 37 submit to the department its proposed procedures for the  
 38 provision of special instruction and services for exceptional  
 39 students.

40 (e)~~(5)~~ No student be given special instruction or services  
 41 as an exceptional student until after he or she has been  
 42 properly evaluated, classified, and placed in the manner  
 43 prescribed by rules of the State Board of Education. The parent  
 44 of an exceptional student evaluated and placed or denied  
 45 placement in a program of special education shall be notified of  
 46 each such evaluation and placement or denial. Such notice shall  
 47 contain a statement informing the parent that he or she is  
 48 entitled to a due process hearing on the identification,  
 49 evaluation, and placement, or lack thereof. Such hearings shall  
 50 be exempt from the provisions of ss. 120.569, 120.57, and  
 51 286.011, except to the extent that the State Board of Education  
 52 adopts rules establishing other procedures and any records  
 53 created as a result of such hearings shall be confidential and  
 54 exempt from the provisions of s. 119.07(1). The hearing must be  
 55 conducted by an administrative law judge from the Division of  
 56 Administrative Hearings of the Department of Management  
 57 Services. The decision of the administrative law judge shall be  
 58 final, except that any party aggrieved by the finding and

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59 decision rendered by the administrative law judge shall have the  
60 right to bring a civil action in the circuit court. In such an  
61 action, the court shall receive the records of the  
62 administrative hearing and shall hear additional evidence at the  
63 request of either party. In the alternative, any party aggrieved  
64 by the finding and decision rendered by the administrative law  
65 judge shall have the right to request an impartial review of the  
66 administrative law judge's order by the district court of appeal  
67 as provided by s. 120.68. Notwithstanding any law to the  
68 contrary, during the pendency of any proceeding conducted  
69 pursuant to this section, unless the district school board and  
70 the parents otherwise agree, the student shall remain in his or  
71 her then-current educational assignment or, if applying for  
72 initial admission to a public school, shall be assigned, with  
73 the consent of the parents, in the public school program until  
74 all such proceedings have been completed.

75 (f)~~(6)~~ In providing for the education of exceptional  
76 students, the district school superintendent, principals, and  
77 teachers shall utilize the regular school facilities and adapt  
78 them to the needs of exceptional students to the maximum extent  
79 appropriate. Segregation of exceptional students shall occur  
80 only if the nature or severity of the exceptionality is such  
81 that education in regular classes with the use of supplementary  
82 aids and services cannot be achieved satisfactorily.

83 (g)~~(7)~~ In addition to the services agreed to in a  
84 student's individual education plan, the district school  
85 superintendent shall fully inform the parent of a student having  
86 a physical or developmental disability of all available services  
87 that are appropriate for the student's disability. The

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88 superintendent shall provide the student's parent with a summary  
89 of the student's rights.

90 (2)(a) A student who receives special instruction,  
91 facilities, or services as an exceptional student is considered  
92 a resident of the state in which the student's parent or  
93 guardian is a resident. Such a student's state of residence must  
94 pay the cost of such instruction, facilities, and services for a  
95 nonresident student who receives instruction in this state as an  
96 exceptional student.

97 (b) The Department of Education shall provide to each  
98 school district a statement of the specific limitations of the  
99 district's financial obligation for exceptional students under  
100 federal and state law. The department shall also provide to each  
101 school district technical assistance as necessary for developing  
102 a local plan to impose on a student's home state the fiscal  
103 responsibility for educating a nonresident exceptional student.

104 (c) The Department of Education shall develop a process by  
105 which a school district must review the residency of each  
106 exceptional student who lives in a residential facility in this  
107 state prior to providing services. The residential facility, not  
108 the district, is responsible for billing and collecting from a  
109 nonresidential student's home state payment for the student's  
110 educational and related services.

111 (d) This subsection applies to any nonresident student who  
112 receives instruction as an exceptional student in any type of  
113 educational facility in this state, including a public school,  
114 private school, or juvenile justice commitment facility.

115 Section 2. Subsection (3) of section 1003.58, Florida  
116 Statutes, is amended to read:

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117           1003.58 Students in residential care facilities.--Each  
118 district school board shall provide educational programs  
119 according to rules of the State Board of Education to students  
120 who reside in residential care facilities operated by the  
121 Department of Children and Family Services.

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

127           Section 3. This act shall take effect July 1, 2004.