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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3752**

March 4, 2008

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The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act  
1.2 relating to higher education; providing equal access to instructional materials  
1.3 for blind students; providing civil remedies; proposing coding for new law in  
1.4 Minnesota Statutes, chapter 135A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [135A.27] EQUAL ACCESS TO INSTRUCTIONAL MATERIALS IN  
1.7 HIGHER EDUCATION.

1.8 Subdivision 1. **Short title.** This section may be cited as the "Equal Access to  
1.9 Instructional Materials in Higher Education Act."

1.10 Subd. 2. **Purpose.** The Equal Access to Instructional Materials in Higher Education  
1.11 Act provides instructional materials in an accessible format to blind and other eligible  
1.12 students as defined in this act at the same time as the corresponding printed instructional  
1.13 material is made available. The Equal Access to Instructional Materials in Higher  
1.14 Education Act benefits blind and other eligible students by:

1.15 (1) improving literacy;

1.16 (2) enhancing performance in higher education;

1.17 (3) improving employability; and

1.18 (4) reducing the cost of acquiring instructional materials in accessible formats,  
1.19 including Braille.

1.20 Subd. 3. **Definitions.** (a) The following terms have the meaning given to them  
1.21 for the purposes of this section.

1.22 (b) "Accessible format" means one of several alternatives to traditional print,  
1.23 including Braille, audio recordings, large print, and computer text files.

2.1 (c) "Braille" means the tactile system of reading and writing used by persons who  
2.2 are blind, as defined by the Braille Authority of North America.

2.3 (d) "Educational institution" means all public and private postsecondary educational  
2.4 institutions in Minnesota.

2.5 (e) "Eligible student" means a person who is accepted by, enrolled at, or attending  
2.6 an educational institution and who is also eligible to receive services from the National  
2.7 Library Service for the Blind and Physically Handicapped of the Library of Congress.

2.8 (f) "Instructional materials" means textbooks, including teacher's editions, and  
2.9 other materials that are required or essential for success in a course of study, including  
2.10 computerized, electronic, or Internet-based course materials, assignments, and tests.

2.11 (g) "Office" means the Minnesota Office of Higher Education.

2.12 (h) "Structural integrity" means the entire contents of the printed instructional  
2.13 materials, including the text of the material, sidebars, table of contents, chapter headings  
2.14 and subheadings, footnotes, captions, indexes, glossaries, bibliographies, pictures,  
2.15 illustrations, graphs, and charts, organized in a manner consistent with the original printed  
2.16 instructional materials.

2.17 (i) "Textbook" means a book, a system of instructional materials, or a combination  
2.18 of a book and supplementary instructional material that conveys information to the student  
2.19 or otherwise contributes to the learning process, including electronic textbooks.

2.20 Subd. 4. **Instructional materials.** (a) A publisher that prints instructional materials  
2.21 for eligible students attending educational institutions must provide:

2.22 (1) an electronic file of printed instructional materials in a computer or electronic  
2.23 file that can be easily converted to the accessible format of the student's choice to the  
2.24 educational institution's designated coordinator, upon request of the eligible student; or

2.25 (2) an accessible copy of the electronic file of the instructional materials directly  
2.26 to the eligible student in a format of the student's choice.

2.27 (b) The format used by the publisher must include any nationally recognized or  
2.28 generally accepted standard for conversion of files to Braille, such as DAISY 3.0.

2.29 (c) If no nationally recognized or generally accepted standard is appropriate,  
2.30 publishers must provide the file in another mutually agreed upon computer or electronic  
2.31 format, such as Microsoft Word or LaTeX.

2.32 (d) The educational institution may:

2.33 (1) use the computer or electronic version of the printed instructional materials that is  
2.34 provided by the publisher to produce the accessible version of the instructional materials;

2.35 (2) supply the material to a third-party transcription company which will in turn  
2.36 produce the accessible version of the instructional materials; or

3.1 (3) supply the electronic or computer file directly to the eligible student.

3.2 If the publisher does not supply the accessible instructional materials directly to the  
3.3 eligible student, the educational institution must supply the instructional material to the  
3.4 eligible student in the accessible format of the student's choice.

3.5 (e) The computer or electronic version of the printed instructional materials supplied  
3.6 by the publisher must:

3.7 (1) comply with any applicable federal standard;

3.8 (2) otherwise maintain the structural integrity of the printed instructional materials;

3.9 (3) include copies of all pictures, illustrations, graphs, and charts, organized in a  
3.10 manner consistent with the original printed instructional materials; and

3.11 (4) include corrections and revisions as necessary.

3.12 (f) The publisher must provide the computer or electronic version of the printed  
3.13 instructional materials to the eligible student or educational institution at no additional cost  
3.14 and within ten business days after receipt of a written request that does all of the following:

3.15 (1) certifies that the eligible student has purchased the printed instructional materials;

3.16 (2) certifies that the student is an eligible student as defined in subdivision 3; and

3.17 (3) certifies that the printed instructional materials are for use by the eligible student  
3.18 in connection with a course at the educational institution.

3.19 (g) A publisher may require that the request include a statement signed by both the  
3.20 eligible student and the educational institution agreeing that:

3.21 (1) the educational institution will not copy, publish, or in any other way distribute  
3.22 the accessible version of the instructional materials for use by anyone other than the  
3.23 original eligible student, except that the educational institution may provide the accessible  
3.24 version of the instructional materials to another eligible student who has made a request  
3.25 pursuant to paragraph (f) and who has signed a statement agreeing to the terms contained  
3.26 in this section, unless it is otherwise permitted by federal law; and

3.27 (2) the eligible student will not copy, publish, or in any other way distribute the  
3.28 accessible version of the printed instructional materials to any other person.

3.29 (h) A publisher who manufactures instructional materials using any type of video or  
3.30 audio format, CD ROM, or other digital format for eligible students attending educational  
3.31 institutions shall, upon request, provide an accessible version of the instructional materials,  
3.32 subject to the same conditions and limitations for printed instructional materials.

3.33 (i) Nothing in this act shall be deemed to authorize any use of instructional materials  
3.34 that would constitute an infringement of copyright pursuant to applicable federal copyright  
3.35 law.

4.1 Subd. 5. **Guidelines.** The office, in consultation with representatives from  
4.2 educational institutions, must adopt guidelines consistent with the Equal Access to  
4.3 Instructional Materials in Higher Education Act for the implementation and administration  
4.4 of this act. The guidelines must address all of the following:

4.5 (1) procedures for the suspension of publishers that fail to comply with the  
4.6 provisions of the Equal Access to Instructional Materials in Higher Education Act;

4.7 (2) an administrative complaint process to be followed for complaints against a  
4.8 publisher or institution of higher education;

4.9 (3) development of a list of approved third-party transcription companies for use  
4.10 by educational institutions; and

4.11 (4) any other matters the office deems necessary or appropriate to carry out the  
4.12 purposes of the Equal Access to Instructional Materials in Higher Education Act.

4.13 Subd. 6. **Private right of action.** An eligible student who contends that there has  
4.14 been a violation of the Equal Access to Instructional Materials in Higher Education Act  
4.15 has the right to pursue a private right of action in a court of competent jurisdiction if  
4.16 the eligible student has exhausted the administrative complaint process. Organizations  
4.17 representing the interests of persons who are blind or other eligible students shall have  
4.18 standing to assert any right afforded in the Equal Access to Instructional Materials in  
4.19 Higher Education Act and shall be subject to the same requirements and terms as an  
4.20 eligible student. If the eligible student or organization should prevail in a lawsuit, the  
4.21 eligible student or organization shall be entitled to injunctive and monetary relief and  
4.22 attorney fees and costs incurred in the litigation.