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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **1701**

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The bill was read for the first time and referred to the Committee on K-12 Education Policy and Oversight

1.1 A bill for an act
1.2 relating to education; clarifying school district obligations to children with
1.3 disabilities; amending Minnesota Statutes 2008, section 125A.57, subdivision 2;
1.4 proposing coding for new law in Minnesota Statutes, chapter 125A; repealing
1.5 Minnesota Statutes 2008, section 125A.03.

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

1.7 Section 1. [125A.031] GENERAL SCHOOL DISTRICT OBLIGATIONS TO
1.8 CHILDREN WITH DISABILITIES.

1.9 (a) A school district must identify, locate, and evaluate every resident child with
1.10 a disability who is in need of special education and related services, including a child
1.11 under age 3.

1.12 (b) A school district must make available a free appropriate public education to:

1.13 (1) a resident child with a disability under 21 years old who has not received a
1.14 regular high school diploma; and

1.15 (2) for the duration of the school year, a resident child with a disability who becomes
1.16 21 years old during that school year but has not received a regular high school diploma.

1.17 (c) A school district must ensure that a resident child with a disability who is enrolled
1.18 in a nonpublic school or facility is provided special education and related services,
1.19 consistent with the child's individualized education plan, at no cost to the child's parent if
1.20 the district places the child in the nonpublic school or facility to meet the requirements
1.21 of this section or applicable federal law.

1.22 (d) To the extent that a parent unilaterally enrolls a resident child with a disability in
1.23 a nonpublic school or facility located within the district, the district must ensure that all
1.24 such children have an opportunity to participate in special education and related services.
1.25 The amount the district spends to provide these services must be at least equal to the

2.1 proportionate amount of federal funds made available for resident children with disabilities
2.2 who are unilaterally enrolled in a nonpublic school or facility located in the district.

2.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.4 Sec. 2. Minnesota Statutes 2008, section 125A.57, subdivision 2, is amended to read:

2.5 Subd. 2. **Assistive technology device.** "Assistive technology device" means any
2.6 item, piece of equipment, software, or product system, whether acquired commercially off
2.7 the shelf, modified, or customized, that is used to increase, maintain, or improve functional
2.8 capabilities of ~~children with disabilities~~ a child with a disability. The term does not include
2.9 a medical device that is surgically implanted or a replacement of such a device.

2.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.11 Sec. 3. **REPEALER.**

2.12 Minnesota Statutes 2008, section 125A.03, is repealed.

125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.

(a) As defined in paragraph (b), every district must provide special instruction and services, either within the district or in another district, for all children with a disability, including providing required services under Code of Federal Regulations, title 34, section 300.121, paragraph (d), to those children suspended or expelled from school for more than ten school days in that school year, who are residents of the district and who are disabled as set forth in section 125A.02. For purposes of state and federal special education laws, the phrase "special instruction and services" in the state Education Code means a free and appropriate public education provided to an eligible child with disabilities and includes special education and related services defined in the Individuals with Disabilities Education Act, subpart A, section 300.24.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until July 1 after the child with a disability becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the commissioner must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.