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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **2867**

February 11, 2010

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Read First Time and Referred to the K-12 Education Policy and Oversight

March 17, 2010

Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to education; clarifying the definition of a child with a disability;
1.3 specifying obligations to children with disabilities; amending Minnesota Statutes
1.4 2008, section 125A.03; Minnesota Statutes 2009 Supplement, section 125A.02,
1.5 subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2009 Supplement, section 125A.02, subdivision 1,
1.8 is amended to read:

1.9 Subdivision 1. **Child with a disability.** "Child with a disability" means a child
1.10 identified under federal and state special education law as having a hearing impairment,
1.11 blindness, visual disability, speech or language impairment, physical disability, other
1.12 health impairment, mental disability, emotional/behavioral disorder, specific learning
1.13 disability, autism, traumatic brain injury, multiple disabilities, or deafblind disability
1.14 who needs special education and related services, as determined by the rules of the
1.15 commissioner, ~~is a child with a disability~~. A licensed physician, an advanced practice
1.16 nurse, or a licensed psychologist is qualified to make a diagnosis and determination
1.17 of attention deficit disorder or attention deficit hyperactivity disorder for purposes of
1.18 identifying a child with a disability.

1.19 **EFFECTIVE DATE.** This section is effective July 1, 2010.

1.20 Sec. 2. Minnesota Statutes 2008, section 125A.03, is amended to read:

1.21 **125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.**

1.22 (a) ~~As defined~~ Except as provided in paragraph (b), every district must provide or
1.23 make available special ~~instruction~~ education and related services, either within the district

2.1 or in another district, for ~~all children~~ every child with a disability, ~~including providing~~
2.2 ~~required services under Code of Federal Regulations, title 34, section 300.121, paragraph~~
2.3 ~~(d), to those children suspended or expelled from school for more than ten school days in~~
2.4 ~~that school year, who are residents~~ is a resident of the district ~~and who are disabled as set~~
2.5 ~~forth in section 125A.02~~ until that child becomes 21 years old or receives a regular high
2.6 school diploma, whichever comes first. For purposes of state and federal special education
2.7 ~~laws, The phrase "special instruction education and related services" in the state Education~~
2.8 ~~Code means a free and appropriate public education provided to an eligible child with~~
2.9 ~~disabilities and includes special education and related services defined in the Individuals~~
2.10 ~~with Disabilities Education Act, subpart A, section 300.24~~ a disability.

2.11 (b) ~~Notwithstanding any age limits in laws to the contrary, special instruction and~~
2.12 ~~services must be provided from birth until July 1 after the child with a disability becomes~~
2.13 ~~21 years old but shall not extend beyond secondary school or its equivalent, except as~~
2.14 ~~provided in section 124D.68, subdivision 2. If a child with a disability becomes 21 years~~
2.15 ~~old during the school year, the district shall continue to make available special education~~
2.16 ~~and related services until the last day of the school year, or until the day the child receives~~
2.17 ~~a regular high school diploma, whichever comes first.~~

2.18 (c) ~~For purposes of this section and section 121A.41, subdivision 7, paragraph (a),~~
2.19 ~~clause (2), "school year" means the days of student instruction designated by the school~~
2.20 ~~board as the regular school year in the annual calendar adopted under section 120A.41.~~

2.21 (d) ~~A district shall identify, locate, and evaluate children with a disability in the~~
2.22 ~~district who are in need of special education and related services. Local health, education,~~
2.23 ~~and social service agencies must refer children under age five who are known to need or~~
2.24 ~~suspected of needing special instruction education and related services to the school~~
2.25 ~~district. Districts with less than the minimum number of eligible children with a disability~~
2.26 ~~as determined by the commissioner must cooperate with other districts to maintain a full~~
2.27 ~~range of programs for education and services for children with a disability. This section~~
2.28 ~~does not alter the compulsory attendance requirements of section 120A.22.~~

2.29 (e) ~~To the extent that a parent unilaterally enrolls a child with a disability in a~~
2.30 ~~nonpublic school or facility located within the district, the district must ensure that all~~
2.31 ~~such children have an opportunity to participate in special education and related services.~~
2.32 ~~The amount the district spends to provide these services must be at least equal to the~~
2.33 ~~proportionate amount of federal funds made available for children with disabilities who~~
2.34 ~~are unilaterally enrolled in a nonpublic school or facility located in the district.~~

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