

January 23, 2009

Dear Senator Lourey,

Thank you for taking the time to read this letter. I am writing in regards to legislative mandates put on local government entities, i.e. school boards. I received a list of these mandates which I have attached to this mailing for your review.

As a new school board member I am quickly learning what the board can and can't do and it is really frustrating at times when our state government has "tied our hands". I support the repeal of these mandates. Senator Lourey we are living in a time of change, from a national level, to a state level and a local level. Minnesotans especially Minnesota educators are on the edge of their seats wondering what the state plans to do with the budget. If educational funding gets cut, this will force many districts to make budget cuts. Why is it easier for government to make cuts rather than create opportunities? As a school board member I promised early in my campaign that I would do everything in my power to save the jobs of our district employees. Most of these mandates "tie" the hands of the school district from making necessary moves to ensure jobs are saved. Please support the "untying" of local government and support these mandate repeals. Let local school districts make their own decisions on what's best for our children/district. In times of tough budgets, school districts need all the flexibility they can get to meet student needs for achievement. Most of these mandates prevent districts from focusing on student needs. Let's move away from social control and give our educators the resources to teach our children at a high level they deserve.

Again Senator I thank you for your time. I again ask that you look over these mandates and consider their repeal.

Thank you

Patrick S. Poirier  
Barnum School District No. 91

# Legislative Mandates (2009)

## 13D.01 The Minnesota Open Meeting Law

This statute requires the recording and storage of all closed meetings at the expense of the public body. Districts should be able to charge for staff time used to collect, redact and copy requested materials.

## 13D.02 Meetings Conducted by Interactive TV; Conditions

The statute should be amended to allow school board meetings to be conducted by any medium which provides a visual and audio link rather than just limiting it to interactive television.

## 62E.02 Definitions

Changes the definition of "dependent" to mean a spouse or unmarried child under the age of 25, or a dependent child of any age who is disabled. Should align definition of dependent with federal language.

## 120A.40 School Calendar

This statute does not allow districts to begin an elementary or secondary year before Labor Day. Elected school board members should be able to determine the starting and ending date of the district's school calendar.

## 120A.24 and 120A.26 Reporting and Enforcement; Prosecution

This statute creates a list of requirements for superintendents to fulfill in relation to reporting nonpublic, home school or other institution where children are receiving instruction.

## 120A.41 Length of School Year; Days of Instruction

A school board's annual school calendar must include at least the number of days of student instruction the board formally adopted as its school calendar at the beginning of the 1996-1997 school year. This limits districts authority to reduce the number of days to reduce building, transportation and labor costs.

## 120B.021 Required Academic Standards (Arts)

Middle schools must offer three and students must complete two of those courses. High schools must offer at least three and students must complete one credit in the five different areas mentioned: media arts, dance, music, theater and visual arts. Districts could be allowed to reduce the offerings in this area to match the number of credit requirements.

## 120B.024 Graduation Requirements; course credits

This statute requires students to successfully complete X number of credits in order to graduate. Perhaps the legislature should explore reducing the number of credits required, i.e. minimum level and allow school boards to require additional credits for graduation. This would allow greater flexibility for districts in terms of meeting staffing requirements.

### 120B.11 School District Process

This statute requires school boards to establish an instructional and advisory committee. It also requires school boards to use statewide reporting procedures. School boards must publish the report in local newspaper and make a copy available to the public. Thorough review should be given to all publication requirements.

### 120B.39 Uniform forms for State Exams in High School

Is this statute still relevant?

### 121A.035 Crisis Management Policy

Suggest reducing the number of lock-down and fire drills from mandatory five to two per year while retaining one tornado drill requirement. Will still provide necessary training, but result in more academic learning time for teachers and students.

### 121A.037 School Safety Drills

See statute above (M.S. 121A.035)

### 121A.06 Reports of Dangerous Weapon Incidents in School

Requires districts by July 31 of each year, to report incidents involving the use or possession of dangerous weapons in school zones to the commissioner. Does the department have the staff needed to collect this information? Is the data meaningful?

### 121A.15 Health Standards; Immunizations; School Children

Immunization is required and not fully funded. Eliminate Subd. 3(d) which gives that parent the right to refuse immunization due to conscientiously held beliefs. This would reduce the risk of spread of viruses and require all students who attend Minnesota's public schools to be immunized.

### 121A.19 Developmental Screening Aid

The tiered screening aid per child does not cover the costs associated with screening requirements. Statute does allow for the use of general fund revenue to be used for this purpose. This likely means that districts are using general fund revenue for this program while taking it away for other programs. We should make it a set amount for each child that is capable between the ages of 3-5 rather than penalizing school districts if three year old children are not prepared to complete the screening.

### 121A.21 School Health Services

Requires a board of a district with 1,000 pupils or more in average daily membership to employ at least one full-time equivalent licensed school nurse.

### 121A.25-121A.29 Chemical Abuse Preassessment Team and Community Advisory Team

Requires school districts that participate in a chemical abuse program to establish a chemical abuse preassessment team. In addition, the school board is required to establish a school and community advisory team to address chemical abuse problems in the district. In addition, this report ought to be shared with law enforcement.

#### 121A.30 Pesticide Application at Schools

School districts must notify about the estimated application schedule, state long term health effects and inform parents that they may request a schedule for application.

#### 121A.585 Notice of Recording Device on School Bus

If a video or audio recording device is placed on a school bus, the bus must also contain a sign or signs which notify riders that their conversations or actions may be taped or recorded.

#### 122A.32 Requirement for Assessment Professionals

Requires districts with 10,000 pupils or more that have hired an individual to administer or interpret individual aptitude, intelligence or personality tests; that this person must hold a graduate level degree.

#### 122A.44 Contracting with Teachers; Substitute Teachers

This statute limits a school board hiring of substitute teachers.

#### 122A.46 Subd. 4 Extended Leaves of Absence

This piece deals with the seniority and continuing contract rights. Allows teachers to maintain their seniority and continuing contract rights after they have taken an extended leave of absence.

#### 122A.48 Teacher Early Retirement Incentive

This statute needs to be amended or repealed to address the need of school boards. Licensed teachers are deciding to retire in the middle of the academic year which disrupts the educational process for students and school districts.

#### 122A.50 Preparation Time

All collective bargaining agreements must include provisions for preparation time.

#### 122A.51 Teacher Lunch Period

A school district must provide a duty free lunch period through board policy or negotiated agreement.

#### 122A.61 Reserved Revenue for Staff Development

Districts are required to reserve at least two percent of basic revenue for in-service, staff development. Identifies how money must be allocated: 50% school site(s), 25% school district use and 25% best practice grants. Districts should be given more discretion with the amount of money expended in the area of staff development.

#### 122A.628 Schools Mentoring Schools: Regional Sites

Funding for program no longer exists. Either eliminate or thoroughly review intent of legislation to determine whether investment resulted in improved student achievement.

### 122A.75 Administrators Academy

An institute for school principals already exists under M.S. 122A.74. Review intent of the legislation. Either eliminate duplicative missions or consider merging the two.

### 123A.19 Teaching Positions Subd. 3 (b)

Limits hiring authority of boards. Essentially, tells educational districts in what manner they must hire. More flexibility is needed.

### 123A.30 Subd. 6 Agreements for Secondary Education

A district must provide severance pay to a teacher who is placed on ULA after a board has entered into one or more agreements providing for instruction of its secondary school due to a pairing agreement.

### 123A.33 Employees of Cooperative Districts Upon Dissolution or Withdrawal

This statute has a number of requirements regarding licensed and unlicensed personnel. Rather than affording and/or mandating employment rights, a better approach would be to allow for negotiations at the local level

### 123B.02 Subd. 15

The law requires districts to negotiate the number and identity of 403(b) vendors. School districts had the authority to limit the number and identity of vendors unilaterally. The 2008 change will cost district time and possibly administrative expenses because it is now a term and condition of employment.

### 123B.04 Subd. 2 Site Decision Making Agreement

Requires principal or building leader to be a part of the site-decision making team. Requires diversity to be reflected on the site team. In addition, the statute requires the agreement to delegate powers, duties and broad management responsibilities to site teams and involve staff members, students and parents.

### 123B.05 Contract Deadline and Penalty

While the intentions of this statute are understood, this statute puts school boards at a disadvantage. Teachers have continuing contract rights. Let the marketplace work.

### 123B.10 Publishing Requirements

Mandate to publish minutes and budget information in legal newspaper despite few reading them. Give districts the option to publish minutes on their web site with a simple notice in the newspaper stating the Web address where the information can be found. This can save big bucks for some districts.

### 120B.11 Review of Curriculum, instruction and student achievement Subd. 5

Assess number of reports that districts are required to complete in terms reporting student progress and achievement. Eliminate excessive printing and mailing cost requirements. Subd. 6 Eliminate the annual requirement to provide high school graduates or GED recipients the opportunity to report to the board.

123B.143 Superintendent

Eliminate the annual report requirement identifying the expenditures that the district requires to ensure an 80 percent student passage rate on the MCA-IIs taken in eighth grade, identifying the highest student passage rate the district expects it will be able to attain on the MCA-IIs by grade 12, and the amount of expenditures that the district requires to attain the targeted student passage rate.

123B.57 Capital Expenditures; Health and Safety

Eliminate the requirement for review and comment by commissioner on health and safety projects over \$500,000.

123B.59 Alt Facilities Bonding and Levy Program

Eliminate commissioner review and \$500,000 limit.

123B.71 Review and Comment for School District Construction

Eliminate the requirement for review and comment by commissioner for new construction, expansion, or remodeling of an educational facility that requires an expenditure in excess of \$500,000 per school site.

123B.76 Expenditures; Reporting

Eliminate reporting by building. Reporting should be done by district with the option of reporting by building.

123B.79 Permanent Fund Transfers

Allow all districts flexibility of exchanging money in operating and non-operating funds. More flexibility is given to those districts that are in statutory operating debt and those that are reorganizing.

123B.88 Transportation of Nonpublic School and Charter School Students

A district shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by the school board because of distance or traffic condition in like manner and form as provided in sections 123B.88 and 123B.92, when applicable.

If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Option one: Allow school districts that provide transportation services to charter and nonpublic students to charge for the full cost of transporting students to their sites.

Option two: Eliminate all transportation requirements. Parents/guardians would be required to provide transportation for students.

Option three: Clarify that school districts may charge for school bus transportation through the school fee law.

123B.90 School Bus Safety Training

Each district must provide public school pupils enrolled in grades kindergarten through 10 with age-appropriate school bus safety training. The training must be results-oriented and shall consist of both classroom instruction and practical training using a school bus.

123B.92 Subd 5 District Reports

Review all requirements that exist within this subdivision. Language is very prescriptive in the reporting of expenditures related to transportation. Question the necessity of these requirements for districts when revenue for transportation has been rolled into the general fund.

124D.03 Enrollment Options

Statute is in conflict with graduation incentives program. This means that school districts are required to accept students who have been expelled in other districts.

124D.05, Subd. 3 Attending School in Another State; Severance Pay

Requires school districts to pay severance pay to a teacher who is placed on ULA by a district as a result of an agreement under this section.

124D.10 Subd. 20 Leave to Teach in a Charter School

Schools must grant leave to a teacher who makes a written request for extended leave of absence to teacher at a charter school.

124D.122 Establishment of Flexible Learning Year Program

Eliminate the requirement that districts seek Commissioner approval on flexible learning year program. Authority should be given to local school boards and their community.

124D.19 Community Education Programs

Consider granting greater flexibility to school districts in terms of hiring community education directors.

124D.68 Graduation Incentives Programs

Give districts more latitude whether to accept eligible pupils in Subd. 2.

124D.117 Districts to Offer School Breakfast Program

Requires districts to offer school breakfast program if the district has thirty three percent free and reduced population.

125A.76 Maintenance of Effort - Special Education

This provision results in an inefficient use of funds as it applies to school districts.

126C.12 Learning and Development Revenue Amount and Use.

Revenue must be used to reduce and maintain the districts instructor to learner ratios in grades K-6 to 1-17 on average. Priority of this revenue must begin in kindergarten and grade 1. A district must not increase the district wide instructor to learner ratio in K-6. In addition, only those licensed by the board of teaching and whose duties are full-time teaching may be counted in the ratio calculation. Less than full-time instructors may be counted based on the number of hours they teach in K-6. Statute should be limited to efforts in reducing class size in classes K-3 only.

126C.17 School District Operating Referendum Elections

Allow school districts to have operating levy referendums on ANY election day: Township Elections, Primary Election Day OR General Election.

Also, eliminate the requirement that the board must prepare and deliver by first class mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. Alternative approaches to notifying the public should be considered.

126C.44 Safe School Levy

Limits school district discretion on what this local levy may be spent. Second, requires a maintenance of effort by school districts that forces school districts to spend money in the specific area of support services.

171.02 Type III School Bus Drivers

Law requires all school district employees to undergo training to drive a station wagon, van and/or suburban, a.k.a. a type III vehicle. Annual training requirements should be reconsidered or based upon driver license renewal or changes in driving laws.

197.46 Veteran's Preference Act

Amend the present law so that a veteran would be provided with same removal or discharge procedures as other district employees. Employees with veteran status should be required to choose between arbitrator and veteran's panel prior to judgment.

179A.07 Subd. 6 Time-off

Employer must afford "reasonable" time off to elected officers or appointed representatives of the exclusive representative.

177.42-43 Prevailing Wage

Requires districts to pay higher wages which causes the cost of construction or remodeling to increase.

179A.03 Subd. 14 Definitions

Eliminate the requirement that a substitute teacher becomes a public employee after 30 days. Also, evaluate the Bureau of Mediation ruling that requires districts to treat a substitute as public employee day one if the district knows that the substitute will be with the district beyond the 30 days.

#### 205A.12 Subd. 7 Election Districts

Allow school districts an option to go from election districts to at-large seats by simply passing a resolution with 2/3 majority.

#### 256.962 Minnesota Health Care Plan Outreach

At the beginning of each school year, a school district is required to provide information to each student on the availability of health care coverage through the Minnesota Health Care Programs. Incentive money for districts was unallotted in December 2008.

#### 275.065 Proposed Property taxes; Notice

Review requirements that school districts must undergo to meet the statutory requirements in the Truth in Taxation hearings. Costs associated to meeting notices and other publications need to be reviewed to see if there is a more efficient way to share this information with the public since few, if any, members of the public ever attend these meetings.

#### 471.345 School District Contract and Bidding Procedures

Sets thresholds for bidding procedures. Dollar amounts have been recently adjusted, but do remove some flexibility for local government officials in order to meet the requirements spelled out in this statute. Also, law establishes areas where bids are required.

#### 461.71 Insurance Continuation

Statute should be amended to allow districts to separate the insurance pools - active employees and retirees. This would separate the active employees from retirees; thus, reducing costs for active employees and school districts.

### **Special Education Funding and Policy**

Special education should be fully funded and the Federal Government should maintain the promise to fund 40% of the costs. Districts are required to pay for excess costs of home school, charter and non-public special education students. This should be done by the state rather than penalizing the school district.

Require MDE memos related to special education to undergo legislative review and approval prior to implementation. Rule by memo, a.k.a. unpromulgated rulemaking authority, increases the number of special education requirements for school districts.

State and federal special education statutes should be aligned. Some state requirements exceed federal law which results in additional requirements and time commitments for school districts. Serious consideration should be given by the legislature to reduce additional requirements that exist through state statute while maintaining the quality educational experience that all Minnesota students deserve.

#### 125A.02 Child with a Disability Defined

The definition of "child with a disability" should be amended to incorporate the language in the federal IDEA. The reference to eligibility based upon the "standards of the commissioner" should be removed. As amended, the state eligibility criteria would need to reflect that eligibility for special education must be based upon three things: (1) the presence of one or more disabilities; (2) adverse affect on educational performance; and (3) as a result of the disability, the student *needs* special education.

#### 125A.03 Special Instruction for Children with a Disability

Subdivision (b) establishes that if a student turns 21 during a school year, the student is entitled to continue to receive services until the end of that school year. This age cut-off differs from that found in the definition of "pupil" in the Minnesota Pupil Fair Dismissal Act, Minn. Stat. § 121A.41, Subd. 7. The two age limits need to be reconciled. Section 125A.03 also needs to be modified to reflect that services to students enrolled in private schools shall be provided in accordance with federal law.

#### 125A.07 Rules of Commissioner

As stated above, the MDE has not fulfilled its mandatory federal obligation to minimize state rules in Minnesota. The statute should be modified to require the MDE to minimize the state rules and keep to a minimum future rules governing special education.

#### 125A.08 School District Obligations

Federal law requires consideration of transition services for student with disabilities beginning at age 16, when students are in high school. This statute and other state laws require transition services beginning at grade 9 — or approximately age 14. Minnesota should modify the transition services requirement to fit the federal standard. Section 125A.08 and other related statutes also need to be amended to remove the requirement that IEPs contain short-term objectives. Federal special education law has eliminated the requirement of short-term objectives for most students in order to relieve teachers from unnecessary paperwork burdens. Minnesota law should be amended to conform to the federal standard.

#### 125A.091 Alternative Dispute Resolution and Due Process Hearings

This section needs to be amended. A number of provisions in the statute substantially exceed federal law.

#### 125A.18 Special Instruction/Nonpublic Schools

As stated above, the statute needs to be revised to reflect that special education services to private school students shall only be given as provided under federal IDEA standards.

#### 125A.515 Placement of Students; Approval of Education Program

This statute is poorly written and must be significantly revised in order to be understandable by the special education community in Minnesota. Many terms of the statute are not defined and is excessively prescriptive in nature.

#### 125A.57 Definition

This statute defines "assistive technology" for purposes of state law. The definition does not incorporate the updated federal IDEA definition and arguably could include surgically implanted devices such as cochlear implants. This statute needs to be revised to conform to federal IDEA standards.

#### 121A.41 Pupil Fair Dismissal Act

Subdivision 7 needs to be revised to be consistent with Section 125A.03. The portions of subdivision 10 that pertain to discipline of special education students should be repealed in favor of following the federal law regarding discipline of special education students.

#### 121A.43 Exclusion and Expulsion of Pupils with a Disability

The standards set forth in this provision reflect outdated provisions of the federal law that have been repealed. As a result, this provision creates a double standard and an increased potential for confusion and litigation over the differences in federal and state law. This statute should be repealed in favor of the federal standard.

#### Minn. R. 3525.00210, Subp. 34 Definition of Parent

The current state rule substantially deviates from federal law and makes it more difficult to use a foster parent as a "parent" for special education purposes. The rule should be repealed in favor of the federal standard.

#### Minn. R. 3525.0400 Least Restrictive Environment

The rule should be repealed in favor of the specific least restrictive environment regulation under the IDEA.

#### Minn. R. 3525.0755 Extended School Year Services

The rule should be repealed in favor of federal interpretations of the ESY standard.

#### Minn. R. 3525.1100 State and District Responsibility for Total Special Education System

The rule should be repealed as an unnecessary paperwork burden. The MDE can establish a model TSES Manual for use by all school districts. School districts should not be required to prepare their own manuals and have them reviewed for compliance purposes.

#### Minn. R. 3525.2340 Case Loads

The rule should be repealed. Case load requirements are creating significant staffing problems for school districts.

#### Minn. R. 3525.2380 Variances from Ratios

The rule, which is connected to the case load requirements, should also be repealed.

Minn. R. 3525.2435 Effort to Locate Parent

The rule should be repealed in favor of the federal standard. (Federal law already has a provision requiring this to occur).

Minn. R. 3525.2440 Surrogate Parent Appointment

The surrogate parent rule should be repealed in favor of the federal standard. Current state law makes it much more difficult to appoint a surrogate parent.

Minn. R. 3525.2445 Consultation with County Social Services

This rule can significantly delay the appointment of a surrogate parent, to the detriment of special education students. The rule should be repealed in favor of the federal standard.

Minn. R. 3525.3010 Educational Placement

The rule should be repealed since it refers to repealed portions of federal law and it is redundant to requirements already set forth under federal law.

Minn. R. 3525.3100 Follow Up Review Requirements

The rule should be repealed since there is no similar requirement under federal law and the provision has the potential to either exceed or fall short of federal requirements.

Minn. R. 3525.3600 Prior Written Notice

The rule adds substantial additional requirements to the prior written notice. The rule should be repealed in favor of the federal standard.

Minn. R. 3525.3900 Initiating a Due Process Hearing

The rule adds substantial additional requirements not found in federal law which result in excessive paperwork burdens for school districts. The rule should be repealed in favor of the federal standard.

Minn. R. 3525.4750 and 3525.4770 Concerning Expedited Hearings

The rule should be repealed in favor of the federal expedited hearing standard. The state rule establishes extremely narrow and untenable deadlines that greatly exceed the requirements of federal law.