



**Review of
Education-Related
Mandates**

February, 2006

**FY 2006
Report
To the
Legislature**

**As required by
Minnesota Statutes
2005
127A.05, Subd. 2**

COMMISSIONER:

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Education-Related
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Minnesota Statutes
127A.05, Subd. 2**

Upon request, this report can be made available in alternative formats.

Cost of Report Preparation

The total cost for the Department of Education to prepare this report was approximately \$600. Most of these costs involved staff time in analyzing data from surveys and preparing the written report. Incidental costs include paper, copying, and other office supplies.

Estimated costs are provided in accordance with Minnesota Statutes 2005, Section 3.197, which requires that, at the beginning of a report to the legislature, the cost of report preparation must be provided.

Commissioner's Review of Mandates

Minnesota Statutes 2005, Section 127A.05, subdivision 2, requires the Commissioner of Education to "...review all education-related mandates in state law and rule once every four years to determine which fail to adequately promote public education in the state." Findings from this review are to be sent to the legislature. Following are findings from this latest review.

In gathering information for this report, MDE surveyed all public school superintendents in the state, heads of major education organizations, and agency staff. This same survey method was used to gather recommendations for the previous report. All public school superintendents were surveyed in the summer of 2005 through one of MDE's weekly e-mail messages. The same request was sent to education organization leaders and others at approximately the same time. As in past surveys, respondents were asked to identify the following:

- Mandates that should be repealed because they do not promote public education
- Mandates that you consider unfunded

Respondents were asked to include the specific state statute or rule citation for all mandates identified. As noted below, a specific citation did not always accompany each identified mandate. When possible, we sought to locate the apparent citation related to the mandate and provide it in the listing. Responses received in this survey were not as numerous as in past years; however, those who did submit responses provided several examples. And, in one case, several superintendents from one region of the state combined their responses in one letter. Also, it should be noted that both MDE in its department bills over the last several legislative sessions and the legislature have sought to repeal what were deemed unnecessary mandates or, at least, clarify certain provisions in ways that fostered easier implementation. Many of these legislative proposals, which might be called "mandate reductions," have become law during this decade.

Mandates cited most frequently are listed first under each of the two categories. Responses are combined under a single topic when possible.

Mandates that do not Promote Public Education

(Citations in parentheses were sometimes provided by respondents; at other times the citations are based on assumptions made by MDE. In some cases, explanatory notes are added to help the reader determine the nature of the mandate being addressed. Quotes or paraphrases are intended to provide the essence of respondent commentary)

Superintendents' Reports on Passage Rates (Minnesota Statutes 2005, Section 123B.143, subd. 1). Cited by several respondents. In general, respondents believe that this accountability measure has no validity, is time-consuming, and any merit it may once have had has been eliminated by newer accountability standards – including those of the federal No Child Left Behind Act. According to one respondent, “This report is no longer useful...time and expense can be reduced for school districts through...elimination of this report.” “Too much guessing regarding the number that will pass the Basic Standards Tests in the future as well as the costs render the results meaningless” according to another.

Structural Balance Reports (Minnesota Statutes 2005, Section 123B.749). Cited by several respondents. Respondents state that they understand the rationale, but that the actual requirement “...falls far short of its intent – it does nothing to change the collective bargaining situation, and nothing short of improvements in PELRA {Public Employee Labor Relations Act} will accomplish that.” As one writer stated: “We are required to spend hours preparing a report that is of no use to anyone, and probably is not used by anyone. With the uncertainty of future funding, school districts are not able to predict or control revenues three years into the future.”

Uniform Financial Accounting and Reporting System (UFARS) (Minnesota Statutes 2005, Section 123B.76; also, note that 127A.17 gives the commissioner broad authority to “...prepare a uniform system of records for public schools and require reports...from schools”). Cited by several respondents. UFARS now requires expenditure reporting by site, “...which takes an extraordinary amount of effort, and is of little or no use to anybody,” according to one respondent. Another maintains that “Districts don’t have the staff to do all the accounting exercises that UFARS requires, and it certainly doesn’t promote education.” A related complaint relates to the Minnesota Activity Fund Accounting Manual (MAFA), which is deemed an “offshoot of UFARS” developed by MDE. “Within the last few years,” it is stated, “the Department of Education has taken some admittedly confusing statutory language about extracurricular and co-curricular activities and created an activity fund manual that is absolutely Byzantine. Why not advocate for clarification of statutes instead?”

Several respondents complain about a proposal thought to be coming from within MDE to modify UFARS by adding seven more digits to the code. Such an increase, it is maintained, would cost significant amounts of money and for little benefit, since the current coding is deemed to be sufficient to track expenditures.

Staff Development Reserve Requirement (Minnesota Statutes 2005, Section 122A.61). Cited by several respondents. Districts are required to reserve two percent of basic general education revenue for staff development and distribute the funds according to a specified allocation scheme. Some respondents maintain that school districts spend more than the two percent on staff development, but since the reserve is mainly controlled by teacher committees, they say that they cannot apply this reserve revenue to expenditures they are already making. As one stated, “Money we spend on staff development days, sabbaticals, curriculum development, mentorship, and many other areas simply doesn’t get counted towards the reserve requirement.” The current reserve requirement, it is maintained, gives teacher committees more money than they can prudently spend, while not recognizing other activities that could be considered staff development. Others suggest that the state increased the allocation for the specific purpose of implementing the graduation standards. But, according to one writer, “Standards have largely been implemented, so the level of staff development monies can now be reduced.”

“The reserve requirement,” one respondent noted, “should be repealed or at least reduced to a more reasonable level, such as 1 percent of the basic formula.” Several other respondents, who combined their recommendations in one letter, proposed reducing the minimum set-aside to one percent.

American Indian Education Committee (Minnesota Statutes 2005, Section 124D.78). Cited by several respondents. Currently, school districts in which there are ten or more American Indian children enrolled and each American Indian school must establish a parent committee. These committees must develop certain recommendations in consultation with the Curriculum Advisory Committee (required by 120B.11). Prior to December 1 of each year, the district and each American Indian school must submit to MDE a copy of a resolution adopted by the parent committee. This resolution must state whether the committee concurs with the educational programs for American Indian children offered by the school. The recommendation from several superintendents, who combined their proposals in one letter, is to change the minimum population from ten total students to 10 percent of a district’s total enrollment as the “triggering number” of students needed to require this advisory committee. Further, it is maintained that most districts are becoming more diverse and are, therefore, already establishing local committees to address educational needs of their minority students. Finally, the respondents question the purpose of this report: “How are the data used and is the input reflective of the entire school system?”

January 15 Contract Settlement Deadline (Minnesota Statutes 2005, Section 123B.05). Cited by several respondents. This law imposes an aid penalty of \$25 per pupil unit on districts that fail to settle their teacher bargaining contracts by January 15 of even-numbered years. Some respondents suggest that a better approach would be to modify the Public Employee Labor Relations Act (PELRA). “Limiting the right to strike,” one school district official argues, “would accomplish far more to achieve timely settlements.”

Public Employee Labor Relations Act (PELRA) (the relevant statute is Chapter 179A; however, the comments also address the January 15 contract deadline and penalty required by 123B.05). Several respondents, combining their recommendations in one letter,

state that there are several potential changes "...that could assist school districts in completing negotiations in a timely manner." They specify the following proposals:

- Eliminate the January 15 date and related penalty
- Implement an August 15 deadline by providing an equitable system, such as 1) last best offer submitted by both parties for binding arbitration; 2) If a qualified economic offer was submitted by the school board, the bargaining unit could not strike; and 3) don't start school in the fall until a settlement has been ratified.
- The state could dictate the total percentage increases within which all settlements would have to remain.

"October 15" Budget Report (Minnesota Statutes 2005, Section 123B.10, requires certain budget reporting by October 1 of each year – it is assumed that this is the report referenced. Cited by several respondents. It is maintained that the report is not meaningful because the information is not accurate. "School districts do not have their audit reports or information from the county and in some cases from the state." Because these data are not available, it is maintained, "...the report is of little value to our communities." Also, the respondents claim that because of the new structural balance reports (required by 123B.749 – see above) to the community, this October budget report can be eliminated. Note: MDE may propose changes in this reporting requirement as part of its 2006 department bill.

"Allocation of General Education Revenue Report" – This is now called "Expenditures by Building" (Minnesota Statutes 2005, Section 123B.76). Note: In 2004, the requirement that districts must allocate general education revenue among buildings was repealed and replaced with what was intended to be requirements that would yield similar information but would be easier to implement. Districts must now report all expenditures for each building to MDE, which then annually reports information showing each district's general fund expenditures per pupil by program category for each building.

Several respondents, who combined their recommendations in one letter, suggest that this report is of little value to the community and, therefore, could be eliminated. "It is a time-consuming report for our already overworked business staff. The reason behind the report was to guarantee that all buildings within a district were receiving an appropriate amount of money based on pupils within the building...the information is already available to MDE based on MARSS data reported by the district. The statute may have had appropriate justification when first enacted. However, it now seems redundant and of little value in enhancing student achievement..." Note: MDE has proposed modifications in this requirement over the past several years, with the intent of simplifying reporting requirements.

Truth in Taxation Meetings (Minnesota Statutes 2005, Section 275.065). Eliminate this meeting requirement. "In light of the state taking over the primary funding for public education," it is maintained, "the only impact local districts have in increasing taxes are those initiatives that are voter approved, such as operating referendums and bond issues." Respondents add that it is costly to prepare for these meetings, but few community members attend.

Fire Marshal Inspections (Minnesota Statutes 2005, Section 299F.47). Current law requires the State Fire Marshal to inspect once every three years every public school facility used for

educational purposes. School districts are charged \$0.014 per square foot for each building inspected. This rate includes two follow-up inspections. If more follow-up inspections or consultations are required, additional charges of \$0.005 per square foot will be made. Charter schools are charged \$100 for each school building inspected, which includes two follow-up inspections or consultations. The Fire Marshal charges \$50 for each additional follow-up inspection. Two respondents call for the elimination of this requirement or funding for its implementation.

“Systems Accountability Report” This is assumed to be the Annual Report on Instruction and Curriculum (Minnesota Statutes 2005, Section 120B.11). “This required report has been made obsolete by the statewide report card...it is redundant and unnecessary,” according to one school district official. Note that, based on recommendations from MDE, this statute was amended in 2005 laws. Changes include some intended to ease the reporting requirements, though the essence of the law remains intact.

Basic Alternative Teacher Compensation Aid (Minnesota Statutes 2005, Sections 126C.10, subds. 34, 35, and 36; 122A.413; 122A.414; 122A.4144; and 122A.415). One respondent argues that this program seems designed to direct additional funds to some districts and not to others. “To qualify for funding,” it is noted, “a great deal of administrative time is required to negotiate a different system for paying teachers. This time and money could be put to better use by developing and implementing a statewide system of teacher evaluation...” The writer suggests that a simpler, more valid alternative would be for the Teacher Advancement Program (TAP) to be adopted across the state.

Minnesota Teacher Recruitment Center. One respondent complained about what he deems is federal funds being used to duplicate a function already performed by others. Federal funds used for this MDE program, the writer concludes, should be used to help in other areas where funding has not kept pace with costs: “Most of our schools have been experiencing reduced entitlements from federal programs.”

Special Education. One respondent detailed several special education mandates that, in his opinion, do not promote public education:

- **Emotional or Behavioral Disorders (Minnesota Rules, Part 3525.1329).** *Subp. 3, Evaluation – A. The evaluation findings in subpart 2a must be supported by current or existing data from... (2), individually administered, standardized, nationally normed tests of intellectual ability and academic achievement.* “This requirement is unnecessary, is redundant to data that typically exists and adds time and cost. The information is NOT necessary for accurate diagnosis and has minimal if any impact on instruction.”
- **Transition and Behavioral Intervention Planning (Minnesota Rules, Part 3525.2900).** *Subp. 4. Transition planning. By grade nine or age 14, whichever comes first, the IEP plan shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment, and community living.* “This rule, which exceeds the Federal requirement that starts at age 16, is often confusing to parents. Its minimal applicability at ages 14 and 15 reduce its impact as well as parent and student interest by the time the student reaches the age of 16. Starting too early

diminishes transition services rather than enhancing them. We should revert to the federal requirement because the Minnesota rule adds cost without benefit to the student or family.”

- **Development of Individualized Education Program Plan (Minnesota Rules, Part 3525.2810).** *Subp. 1 A(2) a statement of measurable annual goals, including benchmarks or short-term objectives, related to meeting the pupil’s needs that result from the pupil’s disability to enable the pupil to be involved in a progress in the general curriculum, and meeting each of the pupil’s other educational needs that result from the pupil’s disability.* “IDEA 2004 no longer requires short-term objectives to be a part of the IEP for most students. Instead, emphasis in IDEA 2004 is placed, and justifiably so, on actual performance on state and district administered tests of achievement. The added paperwork requirement of writing objectives now serves as a waste of time and a diversion from the important focus on objective achievement results.”

In addition, this respondent recommended that MDE and the legislature conduct a review of Minnesota Statutes and Minnesota Rules that exceed IDEA 2004. The goal would be to “...revert to federal legislation and rules in all areas except those that can demonstrate a clear and sustained benefit to students AND for which the state of Minnesota is willing to fund the full cost of implementation.”

Note: MDE has just completed a report specifying state requirements that exceed federal mandates. Based on a requirement in the 2004 reauthorization of the federal Individuals with Disabilities Education Act (IDEA), the department has prepared a public notice (dated January 25, 2006) that identifies state laws and rules that impose requirements not required by federal law or regulation. This may become known as the “608 Report” or “608 Document,” a reference to the section of the federal IDEA law requiring the report.

Mandates Considered Unfunded

(Citations in parentheses were sometimes provided by respondents; at other times the citations are based on assumptions made by MDE. In some cases, explanatory notes are added to help the reader determine the nature of the mandate being addressed. Quotes or paraphrases are intended to provide the essence of the commentary from respondents)

Special Education (Minnesota Statutes 2005, Chapter 125A, and related state rules; also many requirements are required by federal law, especially the Individuals with Disabilities Education Act (IDEA) and related federal regulations). This is the most frequently cited “mandate considered unfunded.” Respondents declare that state appropriations for special education have been frozen for years, a time during which school districts’ special education costs continued to increase. Therefore, “district aid has been prorated dramatically.” One respondent states that “FY 2006 special education aid will likely be prorated at 83.53 percent.” This means that, he continues, “Instead of receiving aid based on 68 percent of salaries of essential personnel that is contemplated in the aid formula, we will get only 56.8 percent of salaries. FY 2007 will no doubt be worse.” Also, respondents maintain that special education excess cost aid, which is to provide relief to those with particularly high costs, is of little help because it is not fully funded either. One writer expresses disappointment over the elimination of

the local special education levy. Without this levy authority, it is maintained, “Districts will have to use more of their general education money for funding special education.” One other respondent adds that, “Special education data should be current, rather than two years old, for reimbursement purposes.”

One respondent detailed two special education mandates deemed “unfunded or significantly underfunded:

- **Individualized Family Service Plan (Minnesota Statutes 2005, Section 125A.32).** “The requirement for offering and IFSP for students with disabilities served by multiple agencies consumes additional staff resource time without added benefit over an IEP. There is no funding to specifically provide for the added costs for staff time to attend meetings, scheduling, and to complete the additional paperwork requirements. In addition, no funding is provided to facilitate the technology connectivity for this process.”
- **Student Academic Achievement and Progress (Minnesota Statutes 2005, Section 120B.35).** “MCAs and BSTs {Minnesota Comprehensive Assessments and Basic Skills Tests} have significantly increased the cost to local school districts for administration and management of the assessment process. Significant accommodations and equipment are often needed for students with disabilities. Funding is seriously lacking or absent all together for carrying out this statute, and the end result is fewer dollars dedicated to instruction.”

In summarizing this issue, one writer states: “Special education is perhaps the most costly of all mandates imposed on school districts. It must be more adequately funded.”

Nonpublic Transportation (Minnesota Statutes 2005, Section 123B.86). School districts are required to transport nonpublic students on an equal basis with public school students. Special categorical funding is provided for this mandate. “However,” one respondent notes, “the funding is based on our average transportation cost for public school students, and the cost of transporting nonpublic school students is considerably higher. The reason for this is that we are limited in our ability to establish attendance areas for nonpublic pupils, while we can and do establish attendance areas for public pupils.” This writer notes that a typical public school elementary attendance area is four or five square miles, while a nonpublic school could draw from the entire district (38 square miles in this example). Finally, this respondent estimates that the estimated FY 2006 costs for nonpublic transportation in his district will exceed the district’s aid by \$148,000. His recommendations: “The nonpublic transportation aid formula should be modified to consider actual costs and pay aid on that basis.”

State Reports* Cited by several respondents. The state’s **Staff Automated Report (STAR)** requires districts to report information on staff. One respondent claims that, “It is time-consuming and burdensome to prepare, and it has never been funded.” Another respondent believes that we should also eliminate **EDRS Reporting**, which he believes “...duplicates what is already reported through UFARS, STAR, and MARSS.”

Note: Staff data collected by MDE through STAR are used in determining potential violations of state licensing requirements – or “licensure/assignment discrepancies,” as stated in the *STAR Manual* (September 2005). Also, MDE uses STAR data in calculating the training and experience index for each school district. Finally, the following federal agencies and organizations rely upon staff information collected by STAR: Office for Civil Rights; National Center for Education Statistics; American Federation of Teachers; National Education Association; and Council for Chief State School Officers.

Data derived from EDRS are used for various purposes, including calculating state and federal special education aid, federal Title I aid, district and school Average Daily Membership (ADM) and Limited English Proficiency (LEP) projections, and transition-disabled expenditures.

* Reporting acronyms: STAR – Staff Automated Report; UFARS – Uniform Financial Accounting and Reporting System; MARSS – Minnesota Automated Reporting Student System; EDRS – Electronic Data Reporting System.

There appears to be no explicit state statute or rule requiring these reports; instead, MDE relies upon broad statutory authority for collecting information. For example, **Minnesota Statutes 2005, Section 125B.07**, specifies department duties regarding data collection. In particular, subdivision 3 of this section requires MDE to develop and operate a computerized data system, and subdivision 6 addresses “essential data” that MDE is to collect relating to each pupil as well as each licensed and unlicensed staff member. Also, **Minnesota Statutes 2005, Section 127A.17**, requires the commissioner to “...prepare a uniform system of records for public schools and require reports from superintendents and principals of schools, teachers, school officials, and the chief officers of public and other educational institutions to give such facts as it may deem of public value.”

The following unfunded mandates, which could not be subsumed within other topics, were outlined by one respondent. No citations were provided, but in some case we have attempted to provide what seems the appropriate reference.

- **Minnesota Standards. (Presumed to be Minnesota Statutes 2005, Chapter 120B, especially Sections 120B.01 through 120B.07 (Academic Standards) and Minnesota Rules, Chapter 3501 (Graduation Standards).** “Costs of curriculum development, new texts, and learning materials,” it is argued, “far out-strip the funding for such things.”
- **Testing Requirements. (Presumed to be Minnesota Statutes 2005, Chapter 120B, especially 120B.30 through 120B.39 (Assessment and Accountability) and Minnesota Rules, Chapter 3501 (Graduation Standards).** “Current tests do not provide useable data to the district for planning purposes or for remediation...our costs have risen each year for the past four years...”
- **Recovery of Community Education funds over 25 percent of Fund Balance (The apparent reference is to Minnesota Statutes 2005, Section 124D.20, subd. 11).** This law, passed a few years’ ago, requires that the sum of average balances during the most recent three-year period in a district’s community education reserve account and unreserved/undesignated community service fund account on June 30 of each year, adjusted for prior year reductions under this provision, must not be greater than 25

percent of the sum of the district's maximum total community education revenue. Some exclusions are permitted. The recent change, it is maintained, "...took away district residents' levy dollars and greatly restricted community education programs."

- **Health and Safety Requirements (the apparent references are to Minnesota Statutes 2005, Sections 123B.57, Capital Expenditure; Health and Safety Program).** Current law provides revenue to each district from a mix of state aid and local levy. Applications to the commissioner must include a health and safety program adopted by the school board. Program contents and revenue uses are specified in the law. The respondent states that, "The formula is all levy and no state aid for many districts. Timelines for compliance do not mesh with those for levies. It is a very complex process."
- **Safety Issues (Respondent appears to be referencing Minnesota Statutes 2005, Sections 126C.44, the "Safe Schools Levy," which is often called the "Crime Levy.")** This law permits districts to levy up to \$27 per adjusted marginal cost pupil units for each school year. Several purposes for use of the resulting revenue are specified). The respondent maintains that, "The crime levy should allow districts to levy what is necessary."
- **Inadequate Transportation Funding for Sparsely Populated Districts.** "The rural transportation funding formula should be updated as well as the special education transportation formula to provide greater funding equity between district-owned and contracted operations."
- **Levy Authority.** In essence, the writer proposes that school districts have greater discretionary levy authority, similar to cities and counties and, thereby, provide adequate funding for the education program without requiring school districts to go to the voters.
- **No Prorating of Aids.** "Programs fully funded as promised should be the standard."
- **New Audit and Accounting Requirements.** "GASB, MAFA, etc have increased costs for inventory, auditors, etc."

State Constitutional Provisions. One respondent cited the following two provisions that, he believes, are not being met:

- **Article XIII, Section 1. Uniform System of Public Schools.** "School district revenue disparities," according to the writer, "makes it clear that the legislature has not established the required 'general and uniform system of public schools' called for by the Constitution of the State of Minnesota."
- **Article XIII, Section 2. Prohibition as to Aiding Sectarian Schools.** Despite this restriction, the respondent says that, "It seems that a lot of nonpublic aids are going to sectarian schools."

The Minnesota education mandates summarized above are those identified by public school superintendents, education organization leaders, and others surveyed by MDE in 2005. As in past surveys done for this agency reporting requirement (Minnesota Statutes, Section 127A.05, subd. 2), respondents were asked to identify the following:

- Mandates that should be repealed because they do not promote public education
- Mandates that you consider unfunded

As noted previously, MDE has requested the repeal or simplification of numerous mandates over the last several legislative sessions. These department proposals were often based on suggestions from school officials, including previous surveys done for this reporting requirement. At this time, the department is again considering a few proposed changes in statutes that might be considered “mandate reductions.” These changes would be included in legislation proposed in the 2006 legislative session.