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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3176**

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

A bill for an act

relating to education finance; modifying charter school provisions; creating a commission; permitting certain charter schools to borrow money; amending Minnesota Statutes 2008, sections 124D.11, subdivisions 4, 7, by adding subdivisions; 326B.103, subdivision 11; Minnesota Statutes 2009 Supplement, sections 124D.10, subdivisions 3, 4, 4a, 6, 8, 17, 23, 23a; 124D.11, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 124D; repealing Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 17a.

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

Section 1. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 3, is amended to read:

Subd. 3. **Authorizer.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

"Application" to receive approval as an authorizer means the proposal an eligible authorizer submits to the commissioner under paragraph (c) before that authorizer is able to submit any affidavit to charter to a school.

"Application" under subdivision 4 means the charter school business plan a school developer submits to an authorizer for approval to establish a charter school that documents the school developer's mission statement, school purposes, program design, financial plan, governance and management structure, and background and experience, plus any other information the authorizer requests. The application also shall include a "statement of assurances" of legal compliance prescribed by the commissioner.

"Affidavit" means a written statement the authorizer submits to the commissioner for approval to establish a charter school under subdivision 4 attesting to its review and approval process before chartering a school.

2.1 ~~"Affidavit" means the form an authorizer submits to the commissioner that is a~~
2.2 ~~precondition to a charter school organizing an affiliated nonprofit building corporation~~
2.3 ~~under subdivision 17a.~~

2.4 (b) The following organizations may authorize one or more charter schools:

2.5 (1) a school board; intermediate school district school board; education district
2.6 organized under sections 123A.15 to 123A.19;

2.7 (2) a charitable organization under section 501(c)(3) of the Internal Revenue Code
2.8 of 1986, excluding a nonpublic sectarian or religious institution, any person other than a
2.9 natural person that directly or indirectly, through one or more intermediaries, controls,
2.10 is controlled by, or is under common control with the nonpublic sectarian or religious
2.11 institution, and any other charitable organization under this clause that in the federal IRS
2.12 Form 1023, Part IV, describes activities indicating a religious purpose, that:

2.13 (i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on
2.14 Foundations;

2.15 (ii) is registered with the attorney general's office;

2.16 (iii) reports an end-of-year fund balance of at least \$2,000,000; and

2.17 (iv) is incorporated in the state of Minnesota;

2.18 (3) a Minnesota private college, notwithstanding clause (2), that grants two- or
2.19 four-year degrees and is registered with the Minnesota Office of Higher Education under
2.20 chapter 136A; community college, state university, or technical college governed by the
2.21 Board of Trustees of the Minnesota State Colleges and Universities; or the University of
2.22 Minnesota; or

2.23 (4) a nonprofit corporation subject to chapter 317A, described in section 317A.905,
2.24 and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code
2.25 of 1986, may authorize one or more charter schools if the charter school has operated
2.26 for at least three years under a different authorizer and if the nonprofit corporation has
2.27 existed for at least 25 years.

2.28 (5) no more than three single-purpose sponsors that are charitable, nonsectarian
2.29 organizations formed under section 501(c)(3) of the Internal Revenue Code of 1986 and
2.30 incorporated in the state of Minnesota whose sole purpose is to charter schools. Eligible
2.31 organizations interested in being approved as a sponsor under this paragraph must submit a
2.32 proposal to the commissioner that includes the provisions of paragraph (c) and a five-year
2.33 financial plan. Such authorizers shall consider and approve applications using the criteria
2.34 provided in subdivision 4 and shall not limit the applications it solicits, considers, or
2.35 approves to any single curriculum, learning program, or method.

3.1 (c) An eligible authorizer under this subdivision must apply to the commissioner for
3.2 approval as an authorizer before submitting any affidavit to the commissioner to charter
3.3 a school. The application for approval as a charter school authorizer must demonstrate
3.4 the applicant's ability to implement the procedures and satisfy the criteria for chartering a
3.5 school under this section. The commissioner must approve or disapprove an application
3.6 within 60 business days of the application deadline. If the commissioner disapproves
3.7 the application, the commissioner must notify the applicant of the deficiencies and the
3.8 applicant then has 20 business days to address the deficiencies to the commissioner's
3.9 satisfaction. Failing to address the deficiencies to the commissioner's satisfaction makes
3.10 an applicant ineligible to be an authorizer. The commissioner, in establishing criteria for
3.11 approval, must consider the applicant's:

- 3.12 (1) capacity and infrastructure;
- 3.13 (2) application criteria and process;
- 3.14 (3) contracting process;
- 3.15 (4) ongoing oversight and evaluation processes; and
- 3.16 (5) renewal criteria and processes.

3.17 (d) The affidavit to be submitted to and evaluated by the commissioner must include
3.18 at least the following:

3.19 (1) how chartering schools is a way for the organization to carry out its mission;

3.20 (2) a description of the capacity of the organization to serve as a sponsor, including
3.21 the personnel who will perform the sponsoring duties, their qualifications, the amount of
3.22 time they will be assigned to this responsibility, and the financial resources allocated
3.23 by the organization to this responsibility;

3.24 (3) a description of the application and review process the authorizer will use to make
3.25 decisions regarding the granting of charters, which will include at least the following:

3.26 (i) how the statutory purposes defined in subdivision 1 are addressed;

3.27 (ii) the mission, goals, program model, and student performance expectations;

3.28 (iii) an evaluation plan for the school that includes criteria for evaluating educational,
3.29 organizational, and fiscal plans;

3.30 (iv) the school's governance plan;

3.31 (v) the financial management plan; and

3.32 (vi) the administration and operations plan;

3.33 (4) a description of the type of contract it will arrange with the schools it charters
3.34 that meets the provisions of subdivision 6 and defines the rights and responsibilities of the
3.35 charter school for governing its educational program, controlling its funds, and making
3.36 school management decisions;

4.1 (5) the process to be used for providing ongoing oversight of the school consistent
4.2 with the contract expectations specified in clause (4) that assures that the schools chartered
4.3 are complying with both the provisions of applicable law and rules, and with the contract;

4.4 (6) the process for making decisions regarding the renewal or termination of
4.5 the school's charter based on evidence that demonstrates the academic, organizational,
4.6 and financial competency of the school, including its success in increasing student
4.7 achievement and meeting the goals of the charter school agreement; and

4.8 (7) an assurance specifying that the organization is committed to serving as a
4.9 sponsor for the full five-year term.

4.10 A disapproved applicant under this paragraph may resubmit an application during a
4.11 future application period.

4.12 (e) The authorizer must participate in department-approved training.

4.13 (f) An authorizer that chartered a school before August 1, 2009, must apply by
4.14 June 30, 2011, to the commissioner for approval, under paragraph (c), to continue as an
4.15 authorizer under this section. For purposes of this paragraph, an authorizer that fails to
4.16 submit a timely application is ineligible to charter a school.

4.17 (g) The commissioner shall review an authorizer's performance every five years in
4.18 a manner and form determined by the commissioner and may review an authorizer's
4.19 performance more frequently at the commissioner's own initiative or at the request of a
4.20 charter school operator, charter school board member, or other interested party. The
4.21 commissioner, after completing the review, shall transmit a report with findings to the
4.22 authorizer. If, consistent with this section, the commissioner finds that an authorizer
4.23 has not fulfilled the requirements of this section, the commissioner may subject the
4.24 authorizer to corrective action, which may include terminating the contract with the
4.25 charter school board of directors of a school it chartered. The commissioner must notify
4.26 the authorizer in writing of any findings that may subject the authorizer to corrective
4.27 action and the authorizer then has 15 business days to request an informal hearing before
4.28 the commissioner takes corrective action.

4.29 (h) The commissioner may at any time take corrective action against an authorizer,
4.30 including terminating an authorizer's ability to charter a school for:

4.31 (1) failing to demonstrate the criteria under paragraph (c) under which the
4.32 commissioner approved the authorizer;

4.33 (2) violating a term of the chartering contract between the authorizer and the charter
4.34 school board of directors; or

4.35 (3) unsatisfactory performance as an approved authorizer.

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

5.1 Sec. 2. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 4, is
5.2 amended to read:

5.3 Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from
5.4 a school developer, may charter a licensed teacher under section 122A.18, subdivision
5.5 1, or a group of individuals that includes one or more licensed teachers under section
5.6 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the
5.7 authorizer's affidavit under paragraph (b). The school must be organized and operated
5.8 as a ~~cooperative under chapter 308A~~ or nonprofit corporation under chapter 317A and
5.9 the provisions under the applicable chapter shall apply to the school except as provided
5.10 in this section.

5.11 Notwithstanding sections 465.717 and 465.719, a school district, subject to this
5.12 section and section 124D.11, may create a corporation for the purpose of establishing a
5.13 charter school.

5.14 (b) Before the operators may establish and operate a school, the authorizer must file
5.15 an affidavit with the commissioner stating its intent to charter a school. An authorizer
5.16 must file a separate affidavit for each school it intends to charter. The affidavit must
5.17 state the terms and conditions under which the authorizer would charter a school and
5.18 how the authorizer intends to oversee the fiscal and student performance of the charter
5.19 school and to comply with the terms of the written contract between the authorizer
5.20 and the charter school board of directors under subdivision 6. The commissioner must
5.21 approve or disapprove the authorizer's affidavit within 60 business days of receipt of the
5.22 affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify
5.23 the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business
5.24 days to address the deficiencies. If the authorizer does not address deficiencies to the
5.25 commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain
5.26 commissioner approval precludes an authorizer from chartering the school that is the
5.27 subject of this affidavit.

5.28 (c) The authorizer may prevent an approved charter school from opening for
5.29 operation if, among other grounds, the charter school violates this section or does not meet
5.30 the ready-to-open standards that are part of the authorizer's oversight and evaluation
5.31 process or are stipulated in the charter school contract.

5.32 (d) The operators authorized to organize and operate a school, before entering into a
5.33 contract or other agreement for professional or other services, goods, or facilities, must
5.34 incorporate as a ~~cooperative under chapter 308A~~ or as a nonprofit corporation under
5.35 chapter 317A and must establish a board of directors composed of at least five members
5.36 who are not related parties until a timely election for members of the ongoing charter

6.1 school board of directors is held according to the school's articles and bylaws under
6.2 paragraph (f). A charter school board of directors must be composed of at least five
6.3 members who are not related parties. Staff members employed at the school, including
6.4 teachers providing instruction under a contract with a cooperative, and all parents or legal
6.5 guardians of children enrolled in the school are the voters eligible to elect the members
6.6 of the school's board of directors. A charter school must notify eligible voters of the
6.7 school board election dates at least 30 days before the election. Board of director meetings
6.8 must comply with chapter 13D.

6.9 (e) Upon the request of an individual, the charter school must make available in
6.10 a timely fashion the minutes of meetings of the board of directors, and of members
6.11 and committees having any board-delegated authority; financial statements showing all
6.12 operations and transactions affecting income, surplus, and deficit during the school's last
6.13 annual accounting period; and a balance sheet summarizing assets and liabilities on the
6.14 closing date of the accounting period. A charter school also must post on its official Web
6.15 site information identifying its authorizer and indicate how to contact that authorizer and
6.16 include that same information about its authorizer in other school materials that it makes
6.17 available to the public.

6.18 (f) Every charter school board member shall attend department-approved training
6.19 on board governance, the board's role and responsibilities, employment policies and
6.20 practices, and financial management. A board member who does not begin the required
6.21 training within six months of being seated and complete the required training within 12
6.22 months of being seated on the board is ineligible to continue to serve as a board member.

6.23 (g) The ongoing board must be elected before the school completes its third year
6.24 of operation. Board elections must be held during a time when school is in session. The
6.25 charter school board of directors shall be composed of at least five nonrelated members
6.26 and include: (i) at least one licensed teacher employed at the school or a licensed teacher
6.27 providing instruction under a contract between the charter school and a cooperative; (ii) the
6.28 parent or legal guardian of a student enrolled in the charter school; and (iii) an interested
6.29 community member who is not employed by the charter school and does not have a
6.30 child enrolled in the school. The board may be a teacher majority board composed of
6.31 teachers described in this paragraph. The chief financial officer and the chief administrator
6.32 are ex-officio nonvoting board members. Board bylaws shall outline the process and
6.33 procedures for changing the board's governance model, consistent with chapter 317A. A
6.34 board may change its governance model only:

7.1 (1) by a majority vote of the board of directors and the licensed teachers employed
7.2 by the school, including licensed teachers providing instruction under a contract between
7.3 the school and a cooperative; and

7.4 (2) with the authorizer's approval.

7.5 Any change in board governance must conform with the board structure established
7.6 under this paragraph.

7.7 (h) The granting or renewal of a charter by an authorizer must not be conditioned
7.8 upon the bargaining unit status of the employees of the school.

7.9 (i) The granting or renewal of a charter school by an authorizer must not be
7.10 contingent on the charter school being required to contract, lease, or purchase services
7.11 from the authorizer. Any potential contract, lease, or purchase of service from an
7.12 authorizer must be disclosed to the commissioner, accepted through an open bidding
7.13 process, and be a separate contract from the charter contract. The school must document
7.14 the open bidding process. An authorizer must not enter into a contract to provide
7.15 management and financial services for a school that it authorizes, unless the school
7.16 documents that it received at least two competitive bids.

7.17 (j) An authorizer may permit the board of directors of a charter school to expand
7.18 the operation of the charter school to additional sites or to add additional grades at the
7.19 school beyond those described in the authorizer's original affidavit as approved by
7.20 the commissioner only after submitting a supplemental affidavit for approval to the
7.21 commissioner in a form and manner prescribed by the commissioner. The supplemental
7.22 affidavit must show that:

7.23 (1) the expansion proposed by the charter school is supported by need and projected
7.24 enrollment;

7.25 (2) the charter school expansion is warranted, at a minimum, by longitudinal data
7.26 demonstrating students' improved academic performance and growth on statewide
7.27 assessments under chapter 120B;

7.28 (3) the charter school is fiscally sound and has the financial capacity to implement
7.29 the proposed expansion; and

7.30 (4) the authorizer finds that the charter school has the management capacity to
7.31 carry out its expansion.

7.32 (k) The commissioner shall have 30 business days to review and comment on the
7.33 supplemental affidavit. The commissioner shall notify the authorizer of any deficiencies in
7.34 the supplemental affidavit and the authorizer then has 30 business days to address, to the
7.35 commissioner's satisfaction, any deficiencies in the supplemental affidavit. The school

8.1 may not expand grades or add sites until the commissioner has approved the supplemental
8.2 affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

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

8.4 Sec. 3. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 4a, is
8.5 amended to read:

8.6 Subd. 4a. **Conflict of interest.** (a) An individual is prohibited from serving as a
8.7 member of the charter school board of directors if the individual, an immediate family
8.8 member, or the individual's partner is an owner, employee or agent of, or a contractor with
8.9 a for-profit or nonprofit entity or an individual with whom the charter school contracts,
8.10 directly or indirectly, for professional services, goods, or facilities. A violation of this
8.11 prohibition renders a contract voidable at the option of the commissioner or the charter
8.12 school board of directors. A member of a charter school board of directors who violates
8.13 this prohibition is individually liable to the charter school for any damage caused by
8.14 the violation.

8.15 (b) No member of the board of directors, employee, officer, or agent of a charter
8.16 school shall participate in selecting, awarding, or administering a contract if a conflict
8.17 of interest exists. A conflict exists when:

- 8.18 (1) the board member, employee, officer, or agent;
8.19 (2) the immediate family of the board member, employee, officer, or agent;
8.20 (3) the partner of the board member, employee, officer, or agent; or
8.21 (4) an organization that employs, or is about to employ any individual in clauses
8.22 (1) to (3),

8.23 has a financial or other interest in the entity with which the charter school is contracting.
8.24 A violation of this prohibition renders the contract void.

8.25 (c) Any employee, agent, or board member of the authorizer who participates
8.26 in the initial review, approval, ongoing oversight, evaluation, or the charter renewal or
8.27 nonrenewal process or decision is ineligible to serve on the board of directors of a school
8.28 chartered by that authorizer.

8.29 (d) An individual may serve as a member of the board of directors if no conflict of
8.30 interest under paragraph (a) exists.

8.31 (e) A charter school board member or employee must not receive any remuneration
8.32 in conjunction with a financial transaction involving the charter school.

9.1 ~~(e)~~ (f) The conflict of interest provisions under this subdivision do not apply to
 9.2 compensation paid to a teacher employed by the charter school who also serves as a
 9.3 member of the board of directors.

9.4 ~~(f) The conflict of interest provisions under this subdivision do not apply to a teacher~~
 9.5 ~~who provides services to a charter school through a cooperative formed under chapter~~
 9.6 ~~308A when the teacher also serves on the charter school board of directors.~~

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

9.8 Sec. 4. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 6, is
 9.9 amended to read:

9.10 Subd. 6. **Charter contract.** The authorization for a charter school must be in the
 9.11 form of a written contract signed by the authorizer and the board of directors of the charter
 9.12 school. The contract must be completed within 45 business days of the commissioner's
 9.13 approval of the authorizer's affidavit. The authorizer shall submit to the commissioner a
 9.14 copy of the signed charter contract within ten business days of its execution. The contract
 9.15 for a charter school must be in writing and contain at least the following:

9.16 (1) a declaration of the purposes in subdivision 1 that the school intends to carry out
 9.17 and how the school will report its implementation of those purposes;

9.18 (2) a description of the school program and the specific academic and nonacademic
 9.19 outcomes that pupils must achieve;

9.20 (3) a statement of admission policies and procedures;

9.21 (4) a governance, management, and administration plan for the school;

9.22 (5) signed agreements from charter school board members to comply with all
 9.23 federal and state laws governing organizational, programmatic, and financial requirements
 9.24 applicable to charter schools;

9.25 (6) the criteria, processes, and procedures that the authorizer will use for ongoing
 9.26 oversight of operational, financial, and academic performance;

9.27 (7) the performance evaluation that is a prerequisite for reviewing a charter contract
 9.28 under subdivision 15;

9.29 (8) types and amounts of insurance liability coverage to be obtained by the charter
 9.30 school;

9.31 (9) the term of the contract, which may be up to three years for an initial contract
 9.32 plus an additional preoperational planning year, and up to five years for a renewed contract
 9.33 if warranted by the school's academic, financial, and operational performance;

9.34 (10) how the board of directors or the operators of the charter school will provide
 9.35 special instruction and services for children with a disability under sections 125A.03

10.1 to 125A.24, and 125A.65, a description of the financial parameters within which the
 10.2 charter school will operate to provide the special instruction and services to children
 10.3 with a disability;

10.4 (11) the process and criteria the authorizer intends to use to monitor and evaluate the
 10.5 fiscal and student performance of the charter school, consistent with subdivision 15; and

10.6 (12) the plan for an orderly closing of the school under chapter ~~308A~~ or 317A, if the
 10.7 closure is a termination for cause, a voluntary termination, or a nonrenewal of the contract,
 10.8 and that includes establishing the responsibilities of the school board of directors and the
 10.9 authorizer and notifying the commissioner, authorizer, school district in which the charter
 10.10 school is located, and parents of enrolled students about the closure, the transfer of student
 10.11 records to students' resident districts, and procedures for closing financial operations.

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

10.13 Sec. 5. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 8, is
 10.14 amended to read:

10.15 Subd. 8. **Federal, state, and local requirements.** (a) A charter school shall meet all
 10.16 federal, state, and local health and safety requirements applicable to school districts.

10.17 (b) A school must comply with statewide accountability requirements governing
 10.18 standards and assessments in chapter 120B.

10.19 (c) A school sponsored by a school board may be located in any district, unless the
 10.20 school board of the district of the proposed location disapproves by written resolution.

10.21 (d) A charter school must be nonsectarian in its programs, admission policies,
 10.22 employment practices, and all other operations. A sponsor may not authorize a charter
 10.23 school or program that is affiliated with a nonpublic sectarian school or a religious
 10.24 institution. A charter school student must be released for religious instruction, consistent
 10.25 with section 120A.22, subdivision 12, clause (3).

10.26 (e) Charter schools must not be used as a method of providing education or
 10.27 generating revenue for students who are being home-schooled.

10.28 (f) The primary focus of a charter school must be to provide a comprehensive
 10.29 program of instruction for at least one grade or age group from five through 18 years
 10.30 of age. Instruction may be provided to people younger than five years and older than
 10.31 18 years of age.

10.32 (g) A charter school may not charge tuition.

10.33 (h) A charter school is subject to and must comply with chapter 363A and section
 10.34 121A.04.

11.1 (i) A charter school is subject to and must comply with the Pupil Fair Dismissal
 11.2 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections
 11.3 123B.34 to 123B.39.

11.4 (j) A charter school is subject to the same financial audits, audit procedures, and
 11.5 audit requirements as a district. Audits must be conducted in compliance with generally
 11.6 accepted governmental auditing standards, the Federal Single Audit Act, if applicable,
 11.7 and section 6.65. A charter school is subject to and must comply with sections 15.054;
 11.8 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 471.38; 471.391; 471.392; and
 11.9 471.425. The audit must comply with the requirements of sections 123B.75 to 123B.83,
 11.10 except to the extent deviations are necessary because of the program at the school.
 11.11 Deviations must be approved by the commissioner and authorizer. The Department of
 11.12 Education, state auditor, legislative auditor, or authorizer may conduct financial, program,
 11.13 or compliance audits. A charter school determined to be in statutory operating debt under
 11.14 sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

11.15 (k) A charter school is a district for the purposes of tort liability under chapter 466.

11.16 (l) A charter school must comply with chapters 13 and 13D; and sections 120A.22,
 11.17 subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

11.18 (m) A charter school is subject to the Pledge of Allegiance requirement under
 11.19 section 121A.11, subdivision 3.

11.20 (n) A charter school offering online courses or programs must comply with section
 11.21 124D.095.

11.22 (o) A charter school and charter school board of directors are subject to chapter 181.

11.23 (p) A charter school must comply with section 120A.22, subdivision 7, governing
 11.24 the transfer of students' educational records and sections 138.163 and 138.17 governing
 11.25 the management of local records.

11.26 (q) A charter school eligible to seek endorsement from the charter school facilities
 11.27 commission under section 124D.1105 must receive a positive review and comment under
 11.28 section 123B.71, subdivision 8, for facilities projects in excess of \$1,400,000 and must
 11.29 submit a proposal to the commissioner that contains the information required under
 11.30 section 123B.71, subdivision 9, to be eligible to sell bonds under section 124D.1108.

11.31 Sec. 6. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 17, is
 11.32 amended to read:

11.33 Subd. 17. **Leased space.** (a) A charter school may lease space from an independent
 11.34 or special school board eligible to be an authorizer, other public organization, private,
 11.35 nonprofit nonsectarian organization, private property owner, or a sectarian organization if

12.1 the leased space is constructed as a school facility. A charter school may not lease space
12.2 from any organization whose purpose is to provide a facility for the charter school or
12.3 which has financed the acquisition of the school facility through rent paid by the charter
12.4 school from building lease aid under section 124D.11, subdivision 4. The department must
12.5 review and approve or disapprove leases in a timely manner.

12.6 (b) If an independent or special school board finds it advantageous to enter into a
12.7 lease agreement with a charter school, it may request the Department of Education to
12.8 count the charter school student data as part of the school district data for the purposes of
12.9 determining adequate yearly progress. As part of the district's request to the Department
12.10 of Education, it must provide the department with the resolution from the district school
12.11 board and a resolution from the charter school board stating the agreement for inclusion
12.12 of the charter school data into the district data for the purposes of determining adequate
12.13 yearly progress.

12.14 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
12.15 and later.

12.16 Sec. 7. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 23, is
12.17 amended to read:

12.18 Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a)
12.19 The duration of the contract with an authorizer must be for the term contained in the
12.20 contract according to subdivision 6. The authorizer may or may not renew a contract at
12.21 the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally
12.22 terminate a contract during the term of the contract for any ground listed in paragraph
12.23 (b). At least 60 days before not renewing or terminating a contract, the authorizer shall
12.24 notify the board of directors of the charter school of the proposed action in writing. The
12.25 notice shall state the grounds for the proposed action in reasonable detail and that the
12.26 charter school's board of directors may request in writing an informal hearing before the
12.27 authorizer within 15 business days of receiving notice of nonrenewal or termination of the
12.28 contract. Failure by the board of directors to make a written request for a hearing within
12.29 the 15-business-day period shall be treated as acquiescence to the proposed action. Upon
12.30 receiving a timely written request for a hearing, the authorizer shall give ten business days'
12.31 notice to the charter school's board of directors of the hearing date. The authorizer shall
12.32 conduct an informal hearing before taking final action. The authorizer shall take final
12.33 action to renew or not renew a contract no later than 20 business days before the proposed
12.34 date for terminating the contract or the end date of the contract.

12.35 (b) A contract may be terminated or not renewed upon any of the following grounds:

- 13.1 (1) failure to meet the requirements for pupil performance contained in the contract;
- 13.2 (2) failure to meet generally accepted standards of fiscal management;
- 13.3 (3) violations of law; or
- 13.4 (4) other good cause shown.

13.5 If a contract is terminated or not renewed under this paragraph, the school must be

13.6 dissolved according to the applicable provisions of chapter ~~308A~~ or 317A.

13.7 (c) If the sponsor and the charter school board of directors mutually agree to

13.8 terminate or not renew the contract, a change in sponsors is allowed if the commissioner

13.9 approves the transfer to a different eligible authorizer to authorize the charter school.

13.10 Both parties must jointly submit their intent in writing to the commissioner to mutually

13.11 terminate the contract. The sponsor that is a party to the existing contract at least must

13.12 inform the approved different eligible sponsor about the fiscal and operational status

13.13 and student performance of the school. Before the commissioner determines whether

13.14 to approve a transfer of authorizer, the commissioner first must determine whether the

13.15 charter school and prospective new authorizer can identify and effectively resolve those

13.16 circumstances causing the previous authorizer and the charter school to mutually agree to

13.17 terminate the contract. If no transfer of sponsor is approved, the school must be dissolved

13.18 according to applicable law and the terms of the contract.

13.19 (d) The commissioner, after providing reasonable notice to the board of directors of

13.20 a charter school and the existing authorizer, and after providing an opportunity for a public

13.21 hearing, may terminate the existing contract between the authorizer and the charter school

13.22 board if the charter school has a history of:

- 13.23 (1) failure to meet pupil performance requirements contained in the contract;
- 13.24 (2) financial mismanagement or failure to meet generally accepted standards of
- 13.25 fiscal management; or
- 13.26 (3) repeated or major violations of the law.

13.27 (e) If the commissioner terminates a charter school contract under subdivision 3,

13.28 paragraph (g), the commissioner shall provide the charter school with information about

13.29 other eligible authorizers.

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

13.31 Sec. 8. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 23a,

13.32 is amended to read:

13.33 Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from

13.34 entering a lease of real property with a related party unless the lessor is a nonprofit

14.1 corporation under chapter 317A ~~or a cooperative under chapter 308A~~, and the lease cost is
 14.2 reasonable under section 124D.11, subdivision 4, clause (1).

14.3 (b) For purposes of this section and section 124D.11:

14.4 (1) "related party" means an affiliate or immediate relative of the other party in
 14.5 question, an affiliate of an immediate relative, or an immediate relative of an affiliate;

14.6 (2) "affiliate" means a person that directly or indirectly, through one or more
 14.7 intermediaries, controls, is controlled by, or is under common control with another person;

14.8 (3) "immediate family" means an individual whose relationship by blood, marriage,
 14.9 adoption, or partnering is no more remote than first cousin;

14.10 (4) "person" means an individual or entity of any kind; and

14.11 (5) "control" means the ability to affect the management, operations, or policy
 14.12 actions or decisions of a person, whether through ownership of voting securities, by
 14.13 contract, or otherwise.

14.14 (c) A lease of real property to be used for a charter school, not excluded in paragraph
 14.15 (a), must contain the following statement: "This lease is subject to Minnesota Statutes,
 14.16 section 124D.10, subdivision 23a."

14.17 (d) If a charter school enters into as lessee a lease with a related party and the
 14.18 charter school subsequently closes, the commissioner has the right to recover from the
 14.19 lessor any lease payments in excess of those that are reasonable under section 124D.11,
 14.20 subdivision 4, clause (1).

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

14.22 **Sec. 9. [124D.101] VACANT BUILDING INVENTORY.**

14.23 The Department of Administration, in conjunction with the Department of
 14.24 Education, shall annually publish a list of vacant and unused buildings and vacant and
 14.25 unused portions of buildings that are owned by the state or by school districts in the
 14.26 state and that may be suitable for the operation of a charter school. The Department of
 14.27 Education shall make the list available to applicants for charter schools and to existing
 14.28 charter schools. The list shall include the address of each building, a short description of
 14.29 the building, and the name of the owner of the building. Nothing in this section requires
 14.30 the owner of a building on the list to sell or lease the building or a portion of the building
 14.31 to a charter school or to any other school or to any other prospective buyer or tenant.

14.32 **Sec. 10.** Minnesota Statutes 2008, section 124D.11, subdivision 4, is amended to read:

14.33 **Subd. 4. Building lease aid.** (a) When a charter school finds it economically
 14.34 advantageous to rent or lease a building or land for any instructional purposes and it

15.1 determines that the total operating capital revenue under section 126C.10, subdivision 13,
15.2 is insufficient for this purpose, it may apply to the commissioner for building lease aid
15.3 for this purpose. The commissioner must review and either approve or deny a lease aid
15.4 application using the following criteria:

15.5 (1) the reasonableness of the price based on current market values;

15.6 (2) the extent to which the lease conforms to applicable state laws and rules; ~~and~~

15.7 (3) the appropriateness of the proposed lease in the context of the space needs and
15.8 financial circumstances of the charter school; and

15.9 (4) any other information the commissioner requests of the charter school in order to
15.10 implement this subdivision including, at a minimum, the following:

15.11 (i) the owner of the building;

15.12 (ii) a list of the lessor's current board members or principals, whichever applies;

15.13 (iii) a copy of the lessor's annual audit or annual report, whichever applies;

15.14 (iv) the terms of the proposed lease and a copy of the proposed lease;

15.15 (v) the enrollment projections of the school;

15.16 (vi) the long-range strategic and financial plan of the school; and

15.17 (vii) a copy of the state fire marshal's fire inspection report or orders and

15.18 accompanying documentation of costs associated with bringing the proposed lease site
15.19 up to code.

15.20 (b) If the commissioner determines that a charter school has not provided
15.21 information required under this subdivision, the commissioner must deny the charter
15.22 school's lease aid application under this subdivision.

15.23 (c) If the commissioner determines that the primary purpose of the organization
15.24 proposing to lease a building or land to the charter school was established to provide a
15.25 facility for the charter school, the commissioner must deny the charter school's lease aid
15.26 application under this subdivision.

15.27 (d) A charter school must not use the building lease aid it receives for custodial,
15.28 maintenance service, utility, or other operating costs. The amount of building lease aid per
15.29 pupil unit served for a charter school for any year shall not exceed the lesser of ~~(a)~~ (1) 90
15.30 percent of the approved cost or ~~(b)~~ (2) the product of the pupil units served for the current
15.31 school year times ~~the greater of the charter school's building lease aid per pupil unit served~~
15.32 for fiscal year 2003, excluding the adjustment under Laws 2002, chapter 392, article 6,
15.33 section 4, or \$1,200. A charter school that receives facilities aid under subdivision 4a is
15.34 not eligible for building lease aid under this subdivision.

15.35 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
15.36 and later.

16.1 Sec. 11. Minnesota Statutes 2008, section 124D.11, is amended by adding a
16.2 subdivision to read:

16.3 Subd. 4a. **Facilities aid.** An endorsed charter school under section 124D.1106 is
16.4 eligible to receive facilities aid under this subdivision in the first fiscal year in which the
16.5 school must make principal and interest payments on an outstanding debt obligation.

16.6 Facilities aid under this section shall not exceed the lesser of:

16.7 (1) 84 percent of the amount needed to meet when due the principal and interest
16.8 payments on the obligations of the charter school for eligible projects endorsed by the
16.9 Charter School Facilities Commission under section 124D.1106; or

16.10 (2) the product of the pupil units served for the current school year times \$1,120.

16.11 Aid received under this section may be used only to pay the principal and interest
16.12 obligations of the charter school for eligible projects endorsed by the Charter School
16.13 Facilities Commission.

16.14 Sec. 12. Minnesota Statutes 2008, section 124D.11, is amended by adding a
16.15 subdivision to read:

16.16 Subd. 4b. **Charter school facilities credit enhancement account.** (a) A charter
16.17 school credit enhancement account is created in the special revenue fund for the purpose
16.18 of providing credit enhancement to charter school facilities.

16.19 (b) For fiscal year 2011 and later, an amount equal to six percent of an endorsed
16.20 charter school's principal and interest payments for bonds sold under section 124D.1108
16.21 shall be credited to the charter school facilities credit enhancement account.

16.22 (c) When the principal and interest payments on an endorsed charter school's debt
16.23 obligation has been satisfied, any remaining funds credited to the charter school facilities
16.24 credit enhancement account on behalf of that specific charter school's debt obligation
16.25 shall credit to the general fund.

16.26 (d) The charter school facilities credit enhancement account may receive grants or
16.27 gifts and must be used for the purpose of the account under paragraph (a).

16.28 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
16.29 and later.

16.30 Sec. 13. Minnesota Statutes 2008, section 124D.11, is amended by adding a
16.31 subdivision to read:

16.32 Subd. 4c. **Sale or transfer of assets.** The commissioner must approve the sale or
16.33 transfer of any property financed by facilities aid under subdivision 4a.

17.1 Sec. 14. Minnesota Statutes 2008, section 124D.11, subdivision 7, is amended to read:

17.2 Subd. 7. **Use of state money.** Money received from the state may not be used to
17.3 purchase land or buildings unless endorsed by the Charter School Facilities Commission
17.4 under section 124D.1106 for the purpose of making principal or interest payments on a
17.5 debt obligation. The school may own land and buildings if obtained through nonstate
17.6 sources.

17.7 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
17.8 and later.

17.9 Sec. 15. Minnesota Statutes 2009 Supplement, section 124D.11, subdivision 9, is
17.10 amended to read:

17.11 Subd. 9. **Payment of aids to charter schools.** (a) Notwithstanding section 127A.45,
17.12 subdivision 3, aid payments for the current fiscal year to a charter school shall be of an
17.13 equal amount on each of the 24 payment dates.

17.14 (b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing
17.15 operation on or prior to June 30 of a school year, for the payment periods occurring after
17.16 the school ceases serving students, the commissioner shall withhold the estimated state aid
17.17 owed the school. The charter school board of directors and authorizer must submit to the
17.18 commissioner a closure plan under chapter 308A or 317A, and financial information about
17.19 the school's liabilities and assets. After receiving the closure plan, financial information,
17.20 an audit of pupil counts, documentation of lease expenditures, and monitoring of special
17.21 education expenditures, the commissioner may release cash withheld and may continue
17.22 regular payments up to the current year payment percentages if further amounts are
17.23 owed. If, based on audits and monitoring, the school received state aid in excess of the
17.24 amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid
17.25 overpayment. For a charter school ceasing operations prior to, or at the end of, a school
17.26 year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may
17.27 be made after receiving the closure plan, audit of pupil counts, monitoring of special
17.28 education expenditures, documentation of lease expenditures, and school submission of
17.29 Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the
17.30 final year of operation. Final payment may be made upon receipt of audited financial
17.31 statements under section 123B.77, subdivision 3.

17.32 (c) If a charter school fails to comply with the commissioner's directive to return,
17.33 for cause, federal or state funds administered by the department, the commissioner may
17.34 withhold an amount of state aid sufficient to satisfy the directive.

18.1 (d) If, within the timeline under section 471.425, a charter school fails to pay the state
18.2 of Minnesota, a school district, intermediate school district, or service cooperative after
18.3 receiving an undisputed invoice for goods and services, the commissioner may withhold
18.4 an amount of state aid sufficient to satisfy the claim and shall distribute the withheld
18.5 aid to the interested state agency, school district, intermediate school district, or service
18.6 cooperative. An interested state agency, school district, intermediate school district, or
18.7 education cooperative shall notify the commissioner when a charter school fails to pay an
18.8 undisputed invoice within 75 business days of when it received the original invoice.

18.9 (e) Notwithstanding section 127A.45, subdivision 3, and paragraph (a), 80 percent
18.10 of the start-up cost aid under subdivision 8 shall be paid within 45 days after the first day
18.11 of student attendance for that school year.

18.12 (f) In order to receive state aid payments under this subdivision, a charter school in
18.13 its first three years of operation must submit a school calendar in the form and manner
18.14 requested by the department and a quarterly report to the Department of Education. The
18.15 report must list each student by grade, show the student's start and end dates, if any,
18.16 with the charter school, and for any student participating in a learning year program,
18.17 the report must list the hours and times of learning year activities. The report must be
18.18 submitted not more than two weeks after the end of the calendar quarter to the department.
18.19 The department must develop a Web-based reporting form for charter schools to use
18.20 when submitting enrollment reports. A charter school in its fourth and subsequent year of
18.21 operation must submit a school calendar and enrollment information to the department in
18.22 the form and manner requested by the department.

18.23 (g) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter
18.24 school and satisfaction of creditors, cash ~~and~~, investment balances, facilities, and all other
18.25 assets remaining shall be returned to the state.

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

18.27 **Sec. 16. [124D.1105] CHARTER SCHOOL FACILITIES COMMISSION.**

18.28 **Subdivision 1. Membership.** The Charter School Facilities Commission shall
18.29 consist of eight members, five of which are appointed by the governor with the advice and
18.30 consent of the senate, the commissioner of management and budget or the commissioner's
18.31 designee, and the commissioner of education or the commissioner's designee.

18.32 All members to be appointed by the governor shall be residents of the state. At least
18.33 two members must reside outside the metropolitan area as defined in section 473.121,
18.34 subdivision 2. At least one of the members shall be a person having a favorable reputation
18.35 for skill, knowledge, and experience in the field of state and municipal finance; at least

19.1 one of the members shall be a person having a favorable reputation for skill, knowledge,
19.2 and experience in the building construction field; at least one of the members shall be a
19.3 person having a favorable reputation for skill, knowledge, and experience in the field of
19.4 school facilities finance; at least one member shall be a representative of a member of the
19.5 Minnesota Association of Charter Schools; and at least one member shall be an expert
19.6 in education finance from the Department of Education.

19.7 Subd. 2. **Minnesota School Boards Association.** The president of the Minnesota
19.8 School Boards Association, or the president's designee, shall serve without compensation
19.9 as an advisory, nonvoting member of the board.

19.10 Subd. 3. **Term; compensation; removal.** The membership terms, compensation,
19.11 removal of members, and filling of vacancies for board members other than the
19.12 commissioner of management and budget, the commissioner of education, representative
19.13 of the Department of Education, and the president of the Minnesota School Boards
19.14 Association, shall be as provided in section 15.0575. The commission shall elect a chair at
19.15 its first meeting and shall determine a rotation for the chair.

19.16 Subd. 4. **Duties; applications.** The commission shall determine which charter
19.17 schools are in a financial and academic position to pursue the construction or purchase
19.18 of a building. The commission shall review applications for authority to issue bonds for
19.19 specific projects. The commission shall solicit applications from charter schools on an
19.20 annual basis. The annual application deadline must be determined by the commission.
19.21 Charter schools may apply annually to the commission, unless otherwise directed by
19.22 the commission.

19.23 Subd. 5. **Considerations of the commission; submission requirements.** (a)
19.24 A charter school that has been enrolling students for five or more years may seek
19.25 endorsement from the commission to buy an existing building and must submit to the
19.26 commission the following information:

19.27 (1) a statement from the Department of Education that a satisfactory percentage of
19.28 students at the school are making high growth on statewide tests under section 120B.299,
19.29 subdivision 9;

19.30 (2) documentation that the school's charter has been renewed;

19.31 (3) financial statements showing that the charter school has had a net positive
19.32 unreserved general fund balance as of June 30 in the preceding five fiscal years;

19.33 (4) a long-range strategic and financial plan, including the physical space needs
19.34 of the school;

19.35 (5) a feasibility study of available buildings;

20.1 (6) documents showing sustainable enrollment projections and the need to renovate
20.2 or purchase an existing facility to serve as a school;

20.3 (7) a statement adopted by the charter school's board of directors guaranteeing that
20.4 the building and any assets related to it will revert to the state in the event of the charter
20.5 school closing;

20.6 (8) a statement from the authorizer indicating its support of the charter school's
20.7 proposed facility; and

20.8 (9) for projects in excess of \$1,400,000, a positive review and comment from the
20.9 commissioner of education under section 123B.71.

20.10 (b) A charter school that has been enrolling students for eight or more years may
20.11 seek endorsement from the commission to construct a facility and must submit to the
20.12 commission the following information:

20.13 (1) a statement from the Department of Education that a satisfactory percentage of
20.14 students at the school are making high growth on statewide tests according to section
20.15 120B.299, subdivision 9;

20.16 (2) documentation that the school's charter has been renewed;

20.17 (3) financial statements showing that the charter school has had a net positive
20.18 unreserved general fund balance as of June 30 in the preceding eight fiscal years;

20.19 (4) a long-range strategic and financial plan, including the physical needs of the
20.20 school;

20.21 (5) a feasibility study of facility options, including evidence of the lack of existing
20.22 facilities available to serve as a school;

20.23 (6) documents showing sustainable enrollment projections and the need to construct
20.24 a new school facility;

20.25 (7) a statement adopted by the charter school's board of directors guaranteeing that
20.26 the building and any assets related to it will revert to the state in the event of the charter
20.27 school closing;

20.28 (8) a statement from the authorizer indicating its support of the charter school's
20.29 proposed facility; and

20.30 (9) for projects in excess of \$1,400,000, a positive review and comment from the
20.31 commissioner of education under section 123B.71.

20.32 Subd. 6. **Determination.** The commission may make additional requests of the
20.33 charter school to make their decision. The commission must use the criteria submitted
20.34 as required by subdivision 5 and any additional information the commission receives to
20.35 make a determination about whether or not to allow the charter school to purchase or
20.36 construct a school facility and use debt financing to pay for the costs of a school facility.

21.1 The commission must notify the charter school of their determination within 90 business
21.2 days of the application deadline. The decision of the commission is final.

21.3 **Sec. 17. [124D.1106] ENDORSED CHARTER SCHOOL BORROWING;**
21.4 **DEFINITIONS.**

21.5 Subdivision 1. **Endorsement.** Within five business days after securing the terms of
21.6 the debt obligation financing, the charter school must request review of the financing by
21.7 the commission and submit information required by the commission. The commission
21.8 must evaluate the debt obligation proposed to be sold, including the amount, date,
21.9 maturity, form, denomination, and other details of the bonds. Within 14 business days
21.10 after receiving the information from the charter school, the commission must either
21.11 give a charter school final approval or deny the school the authority to sell bonds. The
21.12 commission shall not approve the sale of bonds by a charter school if the projected
21.13 facilities aid receivable under section 124D.11, subdivision 4a, is less than 84 percent of
21.14 the principal and interest payments on the proposed debt obligation in any fiscal year.
21.15 The decision of the commission is final.

21.16 Subd. 2. **Definition.** For the purpose of sections 124D.1106 to 124D.1109, an
21.17 "endorsed charter school" is one that has received final approval from the commission
21.18 under subdivision 1.

21.19 **Sec. 18. [124D.1107] AUTHORITY TO BORROW MONEY; LIMITATIONS.**

21.20 The board of an endorsed charter school may borrow money in the manner and
21.21 subject to the limitations set forth in section 124D.1108 in anticipation of the receipt of
21.22 charter school facilities aid under section 124D.11, subdivision 4a. Commitments for
21.23 borrowing under this subdivision shall not require principal or interest payments in excess
21.24 of 30 years from the date of initial sale of the bonds.

21.25 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
21.26 and later.

21.27 **Sec. 19. [124D.1108] ENDORSED CHARTER SCHOOL BONDS; REPAYMENT.**

21.28 Subdivision 1. **Enabling resolution; form.** The board of an endorsed charter school
21.29 may authorize and effect borrowing for the purposes of purchasing or constructing a
21.30 school facility consistent with its endorsement under section 124D.1105, and may issue
21.31 bonds upon passage of a resolution specifying the amount and purposes for which it deems
21.32 borrowing is necessary. The resolution must be adopted by a vote of at least two-thirds
21.33 of its members. The board must fix the amount, date, maturity, form, denomination, and

22.1 other details of the debt obligation, not inconsistent with this section. The board must fix
 22.2 the date and place for receipt of bids for the purchase of bonds and direct the clerk to give
 22.3 notice of the date and place for bidding.

22.4 Subd. 2. **Repayment; maturity; interest.** The proceeds of future state aid receipts
 22.5 or other school funds that may become available must be applied to the extent necessary
 22.6 to repay such bonds and the full faith and credit of the endorsed charter school must be
 22.7 pledged to payment of the bonds. The bonds must be sold at public sale at not less than
 22.8 par. The bonds must bear interest after maturity until paid at the rate they bore before
 22.9 maturity and any interest accruing before or after maturity must be paid for any available
 22.10 school funds.

22.11 Sec. 20. **[124D.1109] STATE PAYMENT OF ENDORSED CHARTER SCHOOL**
 22.12 **DEBT OBLIGATION UPON POTENTIAL DEFAULT; REPAYMENT; STATE**
 22.13 **OBLIGATION NOT DEBT.**

22.14 Subdivision 1. **Definitions.** For the purposes of this section, the term "debt
 22.15 obligation" means a bond issued under section 124D.1107.

22.16 Subd. 2. **Notifications; payment; appropriation.** (a) If an endorsed charter school
 22.17 believes that it may be unable to make a principal or interest payment on an outstanding
 22.18 debt obligation on the date that payment is due, it must notify the commissioner as soon
 22.19 as possible, but not less than 15 business days before the date that principal or interest
 22.20 payment is due. The notice must include the name of the endorsed charter school, an
 22.21 identification of the debt obligation issue in question, the date the payment is due, the
 22.22 amount of principal and interest due on the payment date, the amount of principal or
 22.23 interest that the endorsed charter school will be unable to repay on that date, the paying
 22.24 agent for the debt obligation, the wire transfer instructions to transfer funds to that paying
 22.25 agent, and an indication as to whether a payment is being requested by the endorsed
 22.26 charter school under this section. If a paying agent becomes aware of a potential default,
 22.27 it shall inform the commissioner of that fact. After receipt of a notice that requests a
 22.28 payment under this section, after consultation with the endorsed charter school and the
 22.29 paying agent, and after verification of the accuracy of the information provided, the
 22.30 commissioner shall notify the commissioner of management and budget of the potential
 22.31 default. The notice must include a final figure as to the amount due that the endorsed
 22.32 charter school will be unable to repay on the date due.

22.33 (b) Except as provided in subdivision 6, upon receipt of this notice from the
 22.34 commissioner of education, the commissioner of management and budget shall issue a
 22.35 warrant and authorize the commissioner of education to pay to the paying agent for the

23.1 debt obligation the specified amount on or before the date due. The amounts needed for
23.2 the purposes of this subdivision are annually appropriated to the department from the
23.3 charter school credit enhancement account in the special revenue fund.

23.4 (c) The Departments of Education and Management and Budget must jointly
23.5 develop detailed procedures for endorsed charter schools to notify the state that they
23.6 have obligated themselves to be bound by the provisions of this section, procedures for
23.7 endorsed charter schools and paying agents to notify the state of potential defaults and to
23.8 request state payment under this section, and procedures for the state to expedite payments
23.9 to prevent defaults. The procedures are not subject to chapter 14.

23.10 Subd. 3. **Endorsed charter school bound; interest rate on state-paid amount.** If,
23.11 at the request of an endorsed charter school, the state has paid part or all of the principal or
23.12 interest due on an endorsed charter school's debt obligation on a specific date, the endorsed
23.13 charter school is bound by all provisions of this section and the amount paid shall bear
23.14 taxable interest from the date paid until the date of repayment at the invested cash rate as it
23.15 is certified by the commissioner of management and budget. Interest shall only accrue
23.16 on the amounts paid and outstanding, less the reduction in aid under subdivision 4, and
23.17 other payments received from the endorsed charter school.

23.18 Subd. 4. **Aid reduction for repayment.** (a) Except as provided in this subdivision,
23.19 the state must reduce the state aid payable to the endorsed charter school under section
23.20 124D.11 by the amount paid by the state under this section on behalf of the endorsed
23.21 charter school, plus the interest due on it, and the amount reduced must revert from the
23.22 appropriate account to the charter school facilities credit enhancement account. No federal
23.23 aid payments shall be reduced.

23.24 (b) If, after review of the financial situation of the endorsed charter school, the
23.25 commissioner advises the commissioner of management and budget that a total reduction
23.26 of aids would cause an undue hardship on or an undue disruption of the educational
23.27 program of the endorsed charter school, the commissioner, with the approval of the
23.28 commissioner of management and budget, may establish a different schedule for reduction
23.29 of aids to repay the state. The amount of aids to be reduced is decreased by any amounts
23.30 repaid to the state by the endorsed charter school from other revenue sources.

23.31 Subd. 5. **Mandatory plan; technical assistance.** If the state makes payments on
23.32 behalf of an endorsed charter school under this section or the endorsed charter school
23.33 defaults in the payment of principal or interest on an outstanding debt obligation, it must
23.34 submit a plan to the commissioner for approval specifying the measures it intends to
23.35 implement to resolve the issues that led to its inability to make the payment and to prevent
23.36 further defaults. The department must provide technical assistance to the endorsed charter

24.1 school in preparing its plan. If the commissioner determines that an endorsed charter
 24.2 school's plan is not adequate, the commissioner shall notify the endorsed charter school
 24.3 that the plan has been disapproved, the reasons for the disapproval, and that the state shall
 24.4 not make future payments under this section for debt obligations issued after the date
 24.5 specified in that notice until its plan is approved. The commissioner may also notify the
 24.6 endorsed charter school that until its plan is approved, other aids due to the endorsed
 24.7 charter school will be withheld after a date specified in the notice.

24.8 Subd. 6. **State bond rating.** If the commissioner of management and budget
 24.9 determines that issuing warrants under subdivision 2 would adversely affect the credit
 24.10 rating of the state, the commissioner shall not issue warrants for the payment of principal
 24.11 or interest on debt obligations under this section.

24.12 Subd. 7. **Continuing disclosure agreements.** The commissioner of management
 24.13 and budget may enter into written agreements or contracts relating to the continuing
 24.14 disclosure of information needed to facilitate the ability of endorsed charter schools to
 24.15 issue debt obligations according to federal securities laws, rules, and regulations, including
 24.16 Securities and Exchange Commission rules and regulations, section 240.15c2-12. The
 24.17 agreements or contracts may be in any form the commissioner of management and budget
 24.18 deems reasonable and in the state's best interests.

24.19 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
 24.20 and later.

24.21 Sec. 21. Minnesota Statutes 2008, section 326B.103, subdivision 11, is amended to
 24.22 read:

24.23 Subd. 11. **Public building.** "Public building" means a building and its grounds the
 24.24 cost of which is paid for by the state or a state agency regardless of its cost, and a public
 24.25 school ~~district~~ building project the cost of which is \$100,000 or more.

24.26 Sec. 22. **REPEALER.**

24.27 Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 17a, is repealed.

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

124D.10 CHARTER SCHOOLS.

Subd. 17a. **Affiliated nonprofit building corporation.** (a) Before a charter school may organize an affiliated nonprofit building corporation (i) to renovate or purchase an existing facility to serve as a school or (ii) to construct a new school facility, an authorizer must submit an affidavit to the commissioner for approval in the form and manner the commissioner prescribes, and consistent with paragraphs (b) and (c) or (d).

(b) An affiliated nonprofit building corporation under this subdivision must:

(1) be incorporated under section 317A and comply with applicable Internal Revenue Service regulations;

(2) submit to the commissioner each fiscal year a list of current board members and a copy of its annual audit; and

(3) comply with government data practices law under chapter 13.

An affiliated nonprofit building corporation must not serve as the leasing agent for property or facilities it does not own. A charter school that leases a facility from an affiliated nonprofit building corporation that does not own the leased facility is ineligible to receive charter school lease aid. The state is immune from liability resulting from a contract between a charter school and an affiliated nonprofit building corporation.

(c) A charter school may organize an affiliated nonprofit building corporation to renovate or purchase an existing facility to serve as a school if the charter school:

(1) has been operating for at least five consecutive school years and the school's charter has been renewed for a five-year term;

(2) has had a net positive unreserved general fund balance as of June 30 in the preceding five fiscal years;

(3) has a long-range strategic and financial plan;

(4) completes a feasibility study of available buildings; and

(5) documents sustainable enrollment projections and the need to use an affiliated building corporation to renovate or purchase an existing facility to serve as a school.

(d) A charter school may organize an affiliated nonprofit building corporation to construct a new school facility if the charter school:

(1) demonstrates the lack of facilities available to serve as a school;

(2) has been operating for at least eight consecutive school years;

(3) has had a net positive unreserved general fund balance as of June 30 in the preceding eight fiscal years;

(4) completes a feasibility study of facility options;

(5) has a long-range strategic and financial plan that includes sustainable enrollment projections and demonstrates the need for constructing a new school facility; and

(6) a positive review and comment from the commissioner under section 123B.71.