

1.1 ..... moves to amend H.F. No. 3176 as follows:

1.2 Delete everything after the enacting clause and insert:

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

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

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

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

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

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

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

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

1.25 (2) a charitable organization under section 501(c)(3) of the Internal Revenue Code  
1.26 of 1986, excluding a nonpublic sectarian or religious institution, any person other than a  
1.27 natural person that directly or indirectly, through one or more intermediaries, controls,

2.1 is controlled by, or is under common control with the nonpublic sectarian or religious  
2.2 institution, and any other charitable organization under this clause that in the federal IRS  
2.3 Form 1023, Part IV, describes activities indicating a religious purpose, that:

2.4 (i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on  
2.5 Foundations;

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

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

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

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

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

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

2.27 (c) An eligible authorizer under this subdivision must apply to the commissioner for  
2.28 approval as an authorizer before submitting any affidavit to the commissioner to charter  
2.29 a school. The application for approval as a charter school authorizer must demonstrate  
2.30 the applicant's ability to implement the procedures and satisfy the criteria for chartering a  
2.31 school under this section. The commissioner must approve or disapprove an application  
2.32 within 60 business days of the application deadline. If the commissioner disapproves  
2.33 the application, the commissioner must notify the applicant of the deficiencies and the  
2.34 applicant then has 20 business days to address the deficiencies to the commissioner's  
2.35 satisfaction. Failing to address the deficiencies to the commissioner's satisfaction makes

3.1 an applicant ineligible to be an authorizer. The commissioner, in establishing criteria for  
3.2 approval, must consider the applicant's:

- 3.3 (1) capacity and infrastructure;
- 3.4 (2) application criteria and process;
- 3.5 (3) contracting process;
- 3.6 (4) ongoing oversight and evaluation processes; and
- 3.7 (5) renewal criteria and processes.

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

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

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

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

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

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

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

3.21 (iv) the school's governance plan;

3.22 (v) the financial management plan; and

3.23 (vi) the administration and operations plan;

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

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

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

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

4.1 A disapproved applicant under this paragraph may resubmit an application during a  
4.2 future application period.

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

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

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

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

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

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

4.26 (3) unsatisfactory performance as an approved authorizer.

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

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

4.30 Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from  
4.31 a school developer, may charter a licensed teacher under section 122A.18, subdivision  
4.32 1, or a group of individuals that includes one or more licensed teachers under section  
4.33 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the  
4.34 authorizer's affidavit under paragraph (b). The school must be organized and operated  
4.35 as a ~~cooperative under chapter 308A or~~ nonprofit corporation under chapter 317A and

5.1 the provisions under the applicable chapter shall apply to the school except as provided  
5.2 in this section.

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

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

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

5.24 (d) The operators authorized to organize and operate a school, before entering into a  
5.25 contract or other agreement for professional or other services, goods, or facilities, must  
5.26 incorporate ~~as a cooperative under chapter 308A~~ or as a nonprofit corporation under  
5.27 chapter 317A and must establish a board of directors composed of at least five members  
5.28 who are not related parties until a timely election for members of the ongoing charter  
5.29 school board of directors is held according to the school's articles and bylaws under  
5.30 paragraph (f). A charter school board of directors must be composed of at least five  
5.31 members who are not related parties. Staff members employed at the school, including  
5.32 teachers providing instruction under a contract with a cooperative, and all parents or legal  
5.33 guardians of children enrolled in the school are the voters eligible to elect the members  
5.34 of the school's board of directors. A charter school must notify eligible voters of the  
5.35 school board election dates at least 30 days before the election. Board of director meetings  
5.36 must comply with chapter 13D.

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

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

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

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

6.30 (2) with the authorizer's approval.

6.31 Any change in board governance must conform with the board structure established  
6.32 under this paragraph.

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

6.35 (i) The granting or renewal of a charter school by an authorizer must not be  
6.36 contingent on the charter school being required to contract, lease, or purchase services

7.1 from the authorizer. Any potential contract, lease, or purchase of service from an  
7.2 authorizer must be disclosed to the commissioner, accepted through an open bidding  
7.3 process, and be a separate contract from the charter contract. The school must document  
7.4 the open bidding process. An authorizer must not enter into a contract to provide  
7.5 management and financial services for a school that it authorizes, unless the school  
7.6 documents that it received at least two competitive bids.

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

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

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

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

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

7.22 (k) The commissioner shall have 30 business days to review and comment on the  
7.23 supplemental affidavit. The commissioner shall notify the authorizer of any deficiencies in  
7.24 the supplemental affidavit and the authorizer then has 30 business days to address, to the  
7.25 commissioner's satisfaction, any deficiencies in the supplemental affidavit. The school  
7.26 may not expand grades or add sites until the commissioner has approved the supplemental  
7.27 affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

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

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

7.31 Subd. 4a. **Conflict of interest.** (a) An individual is prohibited from serving as a  
7.32 member of the charter school board of directors if the individual, an immediate family  
7.33 member, or the individual's partner is an owner, employee or agent of, or a contractor with  
7.34 a for-profit or nonprofit entity or an individual with whom the charter school contracts,  
7.35 directly or indirectly, for professional services, goods, or facilities. A violation of this

8.1 prohibition renders a contract voidable at the option of the commissioner or the charter  
8.2 school board of directors. A member of a charter school board of directors who violates  
8.3 this prohibition is individually liable to the charter school for any damage caused by  
8.4 the violation.

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

8.8 (1) the board member, employee, officer, or agent;

8.9 (2) the immediate family of the board member, employee, officer, or agent;

8.10 (3) the partner of the board member, employee, officer, or agent; or

8.11 (4) an organization that employs, or is about to employ any individual in clauses  
8.12 (1) to (3),

8.13 has a financial or other interest in the entity with which the charter school is contracting.

8.14 A violation of this prohibition renders the contract void.

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

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

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

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

8.26 (g) The conflict of interest provisions under this subdivision do not apply to a  
8.27 teacher who provides services to a charter school through a cooperative formed under  
8.28 chapter 308A when the teacher also serves on the charter school board of directors.

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

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

8.32 Subd. 6. **Charter contract.** The authorization for a charter school must be in the  
8.33 form of a written contract signed by the authorizer and the board of directors of the charter  
8.34 school. The contract must be completed within 45 business days of the commissioner's  
8.35 approval of the authorizer's affidavit. The authorizer shall submit to the commissioner a



9.1 copy of the signed charter contract within ten business days of its execution. The contract  
9.2 for a charter school must be in writing and contain at least the following:

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

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

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

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

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

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

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

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

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

9.21 (10) how the board of directors or the operators of the charter school will provide  
9.22 special instruction and services for children with a disability under sections 125A.03  
9.23 to 125A.24, and 125A.65, a description of the financial parameters within which the  
9.24 charter school will operate to provide the special instruction and services to children  
9.25 with a disability;

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

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

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

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

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

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

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

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

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

10.16 (f) The primary focus of a charter school must be to provide a comprehensive  
10.17 program of instruction for at least one grade or age group from five through 18 years  
10.18 of age. Instruction may be provided to people younger than five years and older than  
10.19 18 years of age.

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

10.21 (h) A charter school is subject to and must comply with chapter 363A and section  
10.22 121A.04.

10.23 (i) A charter school is subject to and must comply with the Pupil Fair Dismissal  
10.24 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections  
10.25 123B.34 to 123B.39.

10.26 (j) A charter school is subject to the same financial audits, audit procedures, and  
10.27 audit requirements as a district. Audits must be conducted in compliance with generally  
10.28 accepted governmental auditing standards, the Federal Single Audit Act, if applicable,  
10.29 and section 6.65. A charter school is subject to and must comply with sections 15.054;  
10.30 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 471.38; 471.391; 471.392; and  
10.31 471.425. The audit must comply with the requirements of sections 123B.75 to 123B.83,  
10.32 except to the extent deviations are necessary because of the program at the school.  
10.33 Deviations must be approved by the commissioner and authorizer. The Department of  
10.34 Education, state auditor, legislative auditor, or authorizer may conduct financial, program,  
10.35 or compliance audits. A charter school determined to be in statutory operating debt under  
10.36 sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

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

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

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

11.6 (n) A charter school offering online courses or programs must comply with section  
11.7 124D.095.

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

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

11.12 (q) A charter school eligible to seek endorsement from the Charter School Facilities  
11.13 Authority under section 124D.1105 must receive a positive review and comment under  
11.14 section 123B.71, subdivision 8, for facilities projects in excess of \$1,400,000 and must  
11.15 submit a proposal to the commissioner that contains the information required under  
11.16 section 123B.71, subdivision 9, to be eligible to issue bonds under section 124D.1108.

11.17 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
11.18 and later.

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

11.21 Subd. 17. **Leased space.** (a) A charter school may lease space from an independent  
11.22 or special school board eligible to be an authorizer, other public organization, private,  
11.23 nonprofit nonsectarian organization, private property owner, or a sectarian organization if  
11.24 the leased space is constructed as a school facility. A charter school may not lease space  
11.25 from any organization whose primary purpose is to provide a facility for the charter school  
11.26 or which has financed the acquisition of the school facility through rent paid by the charter  
11.27 school from building lease aid under section 124D.11, subdivision 4. The department must  
11.28 review and approve or disapprove leases in a timely manner.

11.29 (b) If an independent or special school board finds it advantageous to enter into a  
11.30 lease agreement with a charter school, it may request the Department of Education to  
11.31 count the charter school student data as part of the school district data for the purposes of  
11.32 determining adequate yearly progress. As part of the district's request to the Department  
11.33 of Education, it must provide the department with the resolution from the district school  
11.34 board and a resolution from the charter school board stating the agreement for inclusion

12.1 of the charter school data into the district data for the purposes of determining adequate  
12.2 yearly progress.

12.3 (c) Notwithstanding paragraph (a), a charter school that is eligible to receive  
12.4 building lease transition aid under section 124D.11, subdivision 4d, may lease space  
12.5 from an independent or special school board eligible to be an authorizer or other public  
12.6 organization, private, nonprofit nonsectarian organization, private property owner, or  
12.7 a sectarian organization, if the leased space is constructed as a school facility. The  
12.8 department must review and approve or disapprove leases in a timely manner.

12.9 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
12.10 and later.

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

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

12.30 (b) A contract may be terminated or not renewed upon any of the following grounds:  
12.31 (1) failure to meet the requirements for pupil performance contained in the contract;  
12.32 (2) failure to meet generally accepted standards of fiscal management;  
12.33 (3) violations of law; or  
12.34 (4) other good cause shown.

13.1 If a contract is terminated or not renewed under this paragraph, the school must be  
 13.2 dissolved according to the applicable provisions of chapter ~~308A~~ or 317A.

13.3 (c) If the sponsor and the charter school board of directors mutually agree to  
 13.4 terminate or not renew the contract, a change in sponsors is allowed if the commissioner  
 13.5 approves the transfer to a different eligible authorizer to authorize the charter school.  
 13.6 Both parties must jointly submit their intent in writing to the commissioner to mutually  
 13.7 terminate the contract. The sponsor that is a party to the existing contract at least must  
 13.8 inform the approved different eligible sponsor about the fiscal and operational status  
 13.9 and student performance of the school. Before the commissioner determines whether  
 13.10 to approve a transfer of authorizer, the commissioner first must determine whether the  
 13.11 charter school and prospective new authorizer can identify and effectively resolve those  
 13.12 circumstances causing the previous authorizer and the charter school to mutually agree to  
 13.13 terminate the contract. If no transfer of sponsor is approved, the school must be dissolved  
 13.14 according to applicable law and the terms of the contract.

13.15 (d) The commissioner, after providing reasonable notice to the board of directors of  
 13.16 a charter school and the existing authorizer, and after providing an opportunity for a public  
 13.17 hearing, may terminate the existing contract between the authorizer and the charter school  
 13.18 board if the charter school has a history of:

- 13.19 (1) failure to meet pupil performance requirements contained in the contract;
- 13.20 (2) financial mismanagement or failure to meet generally accepted standards of  
 13.21 fiscal management; or
- 13.22 (3) repeated or major violations of the law.

13.23 (e) If the commissioner terminates a charter school contract under subdivision 3,  
 13.24 paragraph (g), the commissioner shall provide the charter school with information about  
 13.25 other eligible authorizers.

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

13.27 Sec. 8. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 23a,  
 13.28 is amended to read:

13.29 Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from  
 13.30 entering a lease of real property with a related party unless the lessor is a nonprofit  
 13.31 corporation under chapter 317A ~~or a cooperative under chapter 308A~~, and the lease cost is  
 13.32 reasonable under section 124D.11, subdivision 4, clause (1).

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

- 13.34 (1) "related party" means an affiliate or immediate relative of the other party in  
 13.35 question, an affiliate of an immediate relative, or an immediate relative of an affiliate;

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

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

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

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

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

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

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

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

14.18 The Department of Administration, in conjunction with the Department of  
14.19 Education, shall annually publish a list of vacant and unused buildings and vacant and  
14.20 unused portions of buildings that are owned by the state or by school districts in the state  
14.21 and that may be suitable for the long-term operation of a charter school. The Department  
14.22 of Education shall make the list available to applicants for charter schools and to existing  
14.23 charter schools. The list shall include the address of each building, a short description  
14.24 of the building, and the name of the owner of the building. Nothing in this section  
14.25 requires the owner of a building on the list to sell or lease the building or a portion of the  
14.26 building to a charter school or to any other school or to any other prospective buyer or  
14.27 tenant. The Department of Education may request information from school districts to  
14.28 compile the vacant building list under this section. School districts must comply with  
14.29 the department's request.

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

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

14.32 Subd. 4. **Building lease aid.** (a) When a charter school finds it economically  
14.33 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;

15.17 (vii) a copy of the certificate of occupancy from the local jurisdiction; and

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

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

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

15.24 (c) If the commissioner determines that the primary purpose of the organization  
15.25 proposing to lease a building or land to the charter school is to provide a facility for  
15.26 the charter school, or the organization has financed the acquisition of the school facility  
15.27 through rent paid by the charter school from building lease aid under this subdivision, the  
15.28 commissioner must deny the charter school's lease aid application under this subdivision.

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

16.1 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
16.2 and later.

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

16.5 Subd. 4a. **Facilities aid.** An endorsed charter school under section 124D.1106 is  
16.6 eligible to receive facilities aid under this subdivision in the first fiscal year in which the  
16.7 school must make loan payments to be applied to principal and interest payments on an  
16.8 outstanding debt obligation of the Charter School Facilities Authority. Facilities aid under  
16.9 this section shall not exceed the lesser of:

16.10 (1) 84 percent of the amount needed to meet when due the principal and interest  
16.11 payments on the obligations of the Charter School Facilities Authority for eligible projects  
16.12 endorsed by the authority under section 124D.1106; or

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

16.14 Aid received under this section may be used only to pay loan payments to be applied  
16.15 to the principal and interest payments due on obligations of the Charter School Facilities  
16.16 Authority for eligible projects endorsed by the authority.

16.17 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
16.18 and later.

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

16.21 Subd. 4b. **Charter school facilities credit enhancement account.** (a) A charter  
16.22 school credit enhancement account is created in the special revenue fund in the state  
16.23 treasury for the purpose of providing credit enhancement to charter school facilities.

16.24 (b) For fiscal year 2011 and later, an amount equal to six percent of an endorsed  
16.25 charter school's loan payments to be applied to principal and interest payments on bonds  
16.26 issued under section 124D.1108 shall be credited to the charter school facilities credit  
16.27 enhancement account.

16.28 (c) When the principal and interest payments on bonds issued under section  
16.29 124D.1108 to finance a school facility for an endorsed charter school have been satisfied,  
16.30 any remaining funds credited to the charter school facilities credit enhancement account  
16.31 on behalf of that specific charter school's debt obligation shall credit to the general fund.

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



17.1 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
17.2 and later.

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

17.5 Subd. 4c. **Sale or transfer of assets.** A charter school board must notify the  
17.6 commissioner if the board intends to sell or transfer property financed by building  
17.7 lease transition aid under subdivision 4d or facilities aid under subdivision 4a. The  
17.8 commissioner must approve the sale or transfer of any property financed by building lease  
17.9 transition aid under subdivision 4d or facilities aid under subdivision 4a.

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

17.11 Sec. 14. Minnesota Statutes 2008, section 124D.11, is amended by adding a  
17.12 subdivision to read:

17.13 Subd. 4d. **Building lease transition aid.** (a) For fiscal years 2011 through 2017, an  
17.14 eligible charter school may apply to the commissioner for building lease transition aid.  
17.15 Building lease transition aid may be used for the same purpose as building lease aid under  
17.16 subdivision 4. The commissioner must review and either approve or deny a building lease  
17.17 transition aid application using the following criteria:

17.18 (1) the reasonableness of the price based on current market values;  
17.19 (2) the extent to which the lease conforms to applicable state laws and rules; and  
17.20 (3) the appropriateness of the proposed lease in the context of the space needs and  
17.21 financial circumstances of the charter school.

17.22 (b) To retain eligibility for facilities lease transition aid, an eligible charter school  
17.23 must submit the following information to the commissioner:

17.24 (1) the owner of the building;  
17.25 (2) a list of the lessor's current board members or principals, whichever applies;  
17.26 (3) a copy of the lessor's annual audit or annual report, whichever applies;  
17.27 (4) the terms of the proposed lease and a copy of the proposed lease;  
17.28 (5) the enrollment projections of the school;  
17.29 (6) the long-range strategic and financial plan of the school;  
17.30 (7) a copy of the certificate of occupancy from the local jurisdiction; and  
17.31 (8) a copy of the state fire marshal's fire inspection report or orders.

17.32 (c) If the commissioner determines that a charter school that is eligible to receive  
17.33 building lease transition aid has not provided information required under this subdivision,  
17.34 the commissioner must deny the charter school's building lease transition aid.

18.1 (d) A charter school must not use the building lease transition aid for custodial,  
18.2 maintenance service, utility, or other operating costs. The amount of building lease  
18.3 transition aid per pupil unit served for a charter school in any year shall not exceed the  
18.4 lesser of:

18.5 (1) 90 percent of the approved cost; or

18.6 (2) the product of the pupil units served for the current school year times \$1,200.

18.7 A charter school that receives building lease aid under subdivision 4, or charter school  
18.8 facilities aid under subdivision 4a, is not eligible for building lease transition aid under  
18.9 this subdivision.

18.10 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
18.11 and later.

18.12 Sec. 15. Minnesota Statutes 2008, section 124D.11, subdivision 7, is amended to read:

18.13 Subd. 7. **Use of state money.** Money received from the state may not be used to  
18.14 purchase land or buildings unless endorsed by the Charter School Facilities Authority  
18.15 under section 124D.1106 for the purpose of making loan payments on principal or interest  
18.16 payments on a debt obligation. The school may own land and buildings if obtained  
18.17 through nonstate sources.

18.18 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
18.19 and later.

18.20 Sec. 16. Minnesota Statutes 2009 Supplement, section 124D.11, subdivision 9, is  
18.21 amended to read:

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

18.25 (b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing  
18.26 operation on or prior to June 30 of a school year, for the payment periods occurring after  
18.27 the school ceases serving students, the commissioner shall withhold the estimated state aid  
18.28 owed the school. The charter school board of directors and authorizer must submit to the  
18.29 commissioner a closure plan under chapter 308A or 317A, and financial information about  
18.30 the school's liabilities and assets. After receiving the closure plan, financial information,  
18.31 an audit of pupil counts, documentation of lease expenditures, and monitoring of special  
18.32 education expenditures, the commissioner may release cash withheld and may continue  
18.33 regular payments up to the current year payment percentages if further amounts are

19.1 owed. If, based on audits and monitoring, the school received state aid in excess of the  
19.2 amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid  
19.3 overpayment. For a charter school ceasing operations prior to, or at the end of, a school  
19.4 year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may  
19.5 be made after receiving the closure plan, audit of pupil counts, monitoring of special  
19.6 education expenditures, documentation of lease expenditures, and school submission of  
19.7 Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the  
19.8 final year of operation. Final payment may be made upon receipt of audited financial  
19.9 statements under section 123B.77, subdivision 3.

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

19.13 (d) If, within the timeline under section 471.425, a charter school fails to pay the state  
19.14 of Minnesota, a school district, intermediate school district, or service cooperative after  
19.15 receiving an undisputed invoice for goods and services, the commissioner may withhold  
19.16 an amount of state aid sufficient to satisfy the claim and shall distribute the withheld  
19.17 aid to the interested state agency, school district, intermediate school district, or service  
19.18 cooperative. An interested state agency, school district, intermediate school district, or  
19.19 education cooperative shall notify the commissioner when a charter school fails to pay an  
19.20 undisputed invoice within 75 business days of when it received the original invoice.

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

19.24 (f) In order to receive state aid payments under this subdivision, a charter school in  
19.25 its first three years of operation must submit a school calendar in the form and manner  
19.26 requested by the department and a quarterly report to the Department of Education. The  
19.27 report must list each student by grade, show the student's start and end dates, if any,  
19.28 with the charter school, and for any student participating in a learning year program,  
19.29 the report must list the hours and times of learning year activities. The report must be  
19.30 submitted not more than two weeks after the end of the calendar quarter to the department.  
19.31 The department must develop a Web-based reporting form for charter schools to use  
19.32 when submitting enrollment reports. A charter school in its fourth and subsequent year of  
19.33 operation must submit a school calendar and enrollment information to the department in  
19.34 the form and manner requested by the department.

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

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

20.5 Sec. 17. **[124D.1105] CHARTER SCHOOL FACILITIES AUTHORITY.**

20.6 Subdivision 1. **Membership.** (a) The Charter School Facilities Authority shall  
20.7 consist of eight members, five of which are appointed by the governor with the advice and  
20.8 consent of the senate, the commissioner of management and budget or the commissioner's  
20.9 designee, and the commissioner of education or the commissioner's designee. The  
20.10 governor shall appoint members of the authority described in paragraph (b).

20.11 (b) All members to be appointed by the governor shall be residents of the state. At  
20.12 least two members must reside outside the metropolitan area as defined in section 473.121,  
20.13 subdivision 2. At least one of the members shall be a person having skill, knowledge, and  
20.14 experience in the field of state and municipal finance; at least one of the members shall  
20.15 be a person having skill, knowledge, and experience in the building construction field; at  
20.16 least one of the members shall be a person having skill, knowledge, and experience in the  
20.17 field of school facilities finance; at least one member shall be a representative of a member  
20.18 of the Minnesota Association of Charter Schools; and at least one member shall be an  
20.19 expert in education finance from the Department of Education. With the exception of the  
20.20 representative of the Minnesota Association of Charter Schools, each appointed member  
20.21 of the authority shall be independent and not affiliated with a charter school organization  
20.22 or any entity working or contracting with a charter school.

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

20.26 Subd. 3. **Term; compensation; removal.** The membership terms, compensation,  
20.27 removal of members, and filling of vacancies for board members other than the  
20.28 commissioner of management and budget, the commissioner of education, representative  
20.29 of the Department of Education, and the president of the Minnesota School Boards  
20.30 Association, shall be as provided in section 15.0575. The commissioner of management  
20.31 and budget, or the commissioner's designee, shall convene the first meeting of the  
20.32 authority no later than August 15, 2010. The authority shall elect a chair at its first meeting  
20.33 and shall determine a rotation for the chair.

20.34 Subd. 4. **Duties; applications; fees.** The authority shall provide an efficient and  
20.35 cost-effective method of financing charter school facilities in the state of Minnesota. The

21.1 authority shall determine which charter schools are in a financial and academic position  
21.2 to develop a facility. The authority shall review applications for the issuance of bonds  
21.3 under section 124D.1108 for specific projects. The authority shall solicit applications  
21.4 from charter schools on an annual basis and may charge a charter school an application  
21.5 or administrative fee. The annual application deadline and any fees must be determined  
21.6 by the authority. Charter schools may apply annually to the authority, unless otherwise  
21.7 directed by the authority. The authority may hire or contract for services.

21.8 Subd. 5. Considerations of the authority; submission requirements. (a) A charter  
21.9 school that has been enrolling students for five or more years may seek endorsement  
21.10 from the authority to purchase an existing building or purchase and renovate an existing  
21.11 building within two years of purchase. The charter school must submit to the authority  
21.12 the following information:

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

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

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

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

21.21 (5) a feasibility study of available buildings;

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

21.24 (7) a statement adopted by the charter school's board of directors acknowledging  
21.25 that the building and any assets related to it will revert to the state in the event of the  
21.26 charter school closing;

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

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

21.31 (b) A charter school that has been enrolling students for eight or more years may  
21.32 seek endorsement from the authority to construct a facility. The charter school must  
21.33 submit to the authority the following information:

21.34 (1) a statement from the Department of Education that a satisfactory percentage of  
21.35 students at the school are making high growth on statewide tests according to section  
21.36 120B.299, subdivision 9;

- 22.1 (2) documentation that the school's charter has been renewed;
- 22.2 (3) financial statements showing that the charter school has had a net positive
- 22.3 unreserved general fund balance as of June 30 in the preceding eight fiscal years;
- 22.4 (4) a long-range strategic and financial plan, including the physical needs of the
- 22.5 school;
- 22.6 (5) a feasibility study of facility options, including evidence of the lack of existing
- 22.7 facilities available to serve as a school;
- 22.8 (6) documents showing sustainable enrollment projections and the need to construct
- 22.9 a new school facility;
- 22.10 (7) a statement adopted by the charter school's board of directors acknowledging
- 22.11 that the building and any assets related to it will revert to the state in the event of the
- 22.12 charter school closing;
- 22.13 (8) a statement from the charter school authorizer indicating its support of the
- 22.14 charter school's proposed facility; and
- 22.15 (9) for projects in excess of \$1,400,000, a positive review and comment from the
- 22.16 commissioner of education under section 123B.71.

22.17 Subd. 6. **Determination.** The authority may make additional requests of the charter

22.18 school to make their determination. The authority must use the criteria submitted as

22.19 required by subdivision 5 and any additional information the authority receives to make a

22.20 determination about whether or not to allow a charter school to purchase, purchase and

22.21 renovate, or construct a school facility and use debt financing to pay for the costs of a

22.22 school facility. The authority must notify the charter school of their determination within

22.23 90 business days of the application deadline. The decision of the authority is final.

22.24 Subd. 7. **Expiration.** The authority is permanent and the provisions of section

22.25 15.059, subdivision 5, do not apply.

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

22.27 Sec. 18. **[124D.1106] ENDORSED CHARTER SCHOOL BORROWING;**

22.28 **DEFINITIONS.**

22.29 Subdivision 1. **Endorsement.** The authority shall approve a charter school to

22.30 purchase, purchase and renovate, or construct a school facility and finance that school

22.31 facility through the issuance of bonds. The authority shall only approve the sale of

22.32 bonds on behalf of charter schools that are issued through the authority. The authority

22.33 shall not approve the sale of bonds by a charter school if the projected facilities aid

22.34 receivable under section 124D.11, subdivision 4a, is less than 84 percent of the principal

23.1 and interest payments on the proposed debt obligation in any fiscal year. The decision  
23.2 of the authority is final.

23.3 Subd. 2. **Definition.** For the purpose of sections 124D.1106 to 124D.1109, an  
23.4 "endorsed charter school" is one that has received approval to purchase, purchase and  
23.5 renovate, or construct a school facility and finance that school facility through the issuance  
23.6 of bonds by the authority under subdivision 1.

23.7 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
23.8 and later.

23.9 Sec. 19. **[124D.1107] AUTHORITY TO BORROW MONEY; LIMITATIONS.**

23.10 The board of an endorsed charter school, by a two-thirds majority, may vote to  
23.11 acquire school facilities financed with the proceeds of bonds issued by the Charter School  
23.12 Facilities Authority in the manner and subject to the limitations set forth in section  
23.13 124D.1108 in anticipation of the receipt of charter school facilities aid under section  
23.14 124D.11, subdivision 4a.

23.15 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
23.16 and later.

23.17 Sec. 20. **[124D.1108] CHARTER SCHOOL BONDS; REPAYMENT.**

23.18 Subdivision 1. **Issuance of bonds.** (a) The Charter School Facilities Authority may  
23.19 issue revenue bonds, in anticipation of the collection of facilities aid revenues under  
23.20 section 124D.11, subdivision 4a, from an endorsed charter school, to finance, in whole or  
23.21 in part, the cost of the acquisition, acquisition and renovation, or construction of a charter  
23.22 school building. It may enter into a loan agreement with an endorsed charter school so  
23.23 that payments required to be made by the endorsed charter school are fixed and revised as  
23.24 necessary to produce income and revenue sufficient to provide for the prompt payment of  
23.25 principal and interest on all bonds issued when due. The loan agreement must also provide  
23.26 that the endorsed charter school is required to pay all expenses of the operation and  
23.27 maintenance of the charter school building, including adequate insurance and insurance  
23.28 against all liability for injury to persons or property arising from its operation, and all taxes  
23.29 and special assessments levied upon or with respect to the charter school building and  
23.30 payable during the term of the loan agreement.

23.31 (b) The Charter School Facilities Authority by resolution may exercise the powers of  
23.32 a municipality under sections 469.152 to 469.165, without an election, for the purposes of  
23.33 financing charter school buildings, including the issuance of bonds and the application

24.1 of the bond proceeds and investment income pursuant to a loan or other agreement. The  
24.2 bonds must be issued, sold, and secured on the terms and conditions and in the manner  
24.3 determined by resolution of the authority. The bonds must be sold at a public sale at not  
24.4 less than par. Bonds issued by the Charter School Facilities Authority to finance a school  
24.5 facility and bonds issued to refund bonds issued by the Charter School Facilities Authority  
24.6 to finance a school facility must mature within 30 years from the date of issue of the first  
24.7 bonds issued to finance the school facility.

24.8 (c) Bonds issued under this section are not general obligations of the state or the  
24.9 authority. The full faith and credit and taxing powers of the state and the authority are not  
24.10 and may not be pledged for the payment of the bonds. No person may compel the levy of  
24.11 a tax for the payment or compel the appropriation of money of the state or the authority  
24.12 for the payment of the bonds, except as specifically provided in section 124D.1109.

24.13 Subd. 2. **Income tax exemption.** In the issuance of bonds by the authority, the  
24.14 authority must comply with all federal laws and regulations governing the exemption of  
24.15 interest on bonds from federal income taxation. If, for any reason, whether existing at  
24.16 the date of issue of any bonds or thereafter, the interest on any bonds becomes subject to  
24.17 federal income taxes, the validity of the bonds or the provisions made for the security of  
24.18 those bonds is not affected.

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

24.21 Sec. 21. **[124D.1109] STATE PAYMENT OF ENDORSED CHARTER SCHOOL**  
24.22 **DEBT OBLIGATION UPON POTENTIAL DEFAULT; REPAYMENT; STATE**  
24.23 **OBLIGATION NOT DEBT.**

24.24 Subdivision 1. **Definitions.** For the purposes of this section, the term "debt  
24.25 obligation" means bonds issued by the Charter School Facilities Authority under section  
24.26 124D.1108.

24.27 Subd. 2. **Notifications; payment; appropriation.** (a) If an endorsed charter school  
24.28 believes that it may be unable to pay the amount sufficient to permit the Charter School  
24.29 Facilities Authority to make a principal or interest payment on an outstanding debt  
24.30 obligation on the date that payment is due, it must notify the commissioner of education  
24.31 as soon as possible, but not less than 15 business days before the date that principal or  
24.32 interest payment is due. The notice must include the name of the endorsed charter school,  
24.33 an identification of the debt obligation issue in question, the date the payment is due, the  
24.34 amount of principal and interest due on the payment date, the amount of principal or  
24.35 interest that the endorsed charter school will be unable to repay on that date, the trustee or



25.1 paying agent for the debt obligation, the wire transfer instructions to transfer funds to that  
25.2 trustee or paying agent, and an indication as to whether a payment is being requested by the  
25.3 endorsed charter school under this section. If a trustee or paying agent becomes aware of a  
25.4 potential default, it shall inform the commissioner of education of that fact. After receipt  
25.5 of a notice that requests a payment under this section, after consultation with the endorsed  
25.6 charter school and the trustee or paying agent, and after verification of the accuracy of the  
25.7 information provided, the commissioner of education shall notify the commissioner of  
25.8 management and budget of the potential default. The notice must include a statement of  
25.9 the amount due that the endorsed charter school will be unable to repay on the date due.

25.10 (b) Except as provided in subdivision 6, upon receipt of this notice from the  
25.11 commissioner of education, the commissioner of management and budget shall issue a  
25.12 warrant and authorize the commissioner of education to pay to the trustee or paying agent  
25.13 for the debt obligation the specified amount on or before the date due. The amounts  
25.14 needed for the purposes of this subdivision are annually appropriated to the Department  
25.15 of Education from the charter school credit enhancement account in the special revenue  
25.16 fund in the state treasury.

25.17 (c) The commissioners of education and management and budget must jointly  
25.18 develop detailed procedures for endorsed charter schools to notify the state that they  
25.19 have obligated themselves to be bound by the provisions of this section, procedures for  
25.20 endorsed charter schools and trustees and paying agents to notify the state of potential  
25.21 defaults and to request state payment under this section, and procedures for the state to  
25.22 expedite payments to prevent defaults. The procedures are not subject to chapter 14.

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

25.31 Subd. 4. **Aid reduction for repayment.** (a) Except as provided in this subdivision,  
25.32 the state must reduce the state aid payable to the endorsed charter school under section  
25.33 124D.11 by the amount paid by the state under this section on behalf of the endorsed  
25.34 charter school, plus the interest due on it, and the amount reduced must revert from the  
25.35 appropriate account to the charter school facilities credit enhancement account. No federal  
25.36 aid payments shall be reduced.

26.1 (b) If, after review of the financial situation of the endorsed charter school, the  
26.2 commissioner of education advises the commissioner of management and budget that a  
26.3 total reduction of aids would cause an undue hardship on or an undue disruption of the  
26.4 educational program of the endorsed charter school, the commissioner of education, with  
26.5 the approval of the commissioner of management and budget, may establish a different  
26.6 schedule for reduction of aids to repay the state. The amount of aids to be reduced is  
26.7 decreased by any amounts repaid to the state by the endorsed charter school from other  
26.8 revenue sources.

26.9 Subd. 5. **Mandatory plan; technical assistance.** If the state makes payments on  
26.10 behalf of an endorsed charter school under this section or the endorsed charter school  
26.11 defaults in the payment of principal or interest on an outstanding debt obligation, it must  
26.12 submit a plan to the commissioner of education for approval specifying the measures it  
26.13 intends to implement to resolve the issues that led to its inability to make the payment and  
26.14 to prevent further defaults. The commissioners must provide technical assistance to the  
26.15 endorsed charter school in preparing its plan. If the commissioner of education determines  
26.16 that an endorsed charter school's plan is not adequate, the commissioner shall notify the  
26.17 endorsed charter school that the plan has been disapproved, the reasons for the disapproval,  
26.18 and that the state shall not make future payments under this section for debt obligations  
26.19 issued after the date specified in that notice until its plan is approved. The commissioner of  
26.20 education may also notify the endorsed charter school that until its plan is approved, other  
26.21 aids due to the endorsed charter school will be withheld after a date specified in the notice.

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

26.26 Subd. 7. **Continuing disclosure agreements.** The commissioner of management  
26.27 and budget may enter into written agreements or contracts relating to the continuing  
26.28 disclosure of information with respect to bonds issued to finance the school facilities of  
26.29 endorsed charter schools according to federal securities laws, rules, and regulations,  
26.30 including Securities and Exchange Commission rules and regulations, section  
26.31 240.15c2-12. The agreements or contracts may be in any form the commissioner of  
26.32 management and budget deems reasonable and in the state's best interests.

26.33 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011  
26.34 and later.

27.1 Sec. 22. Minnesota Statutes 2008, section 326B.103, subdivision 11, is amended to  
27.2 read:

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

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

27.7 Sec. 23. **TRANSITION ELIGIBILITY.**

27.8 Subdivision 1. **Eligibility.** A charter school under subdivision 2 is eligible to receive  
27.9 building lease transition aid under Minnesota Statutes, section 124D.11, subdivision  
27.10 4d, for the fiscal years indicated.

27.11 Subd. 2. **Duration.** (a) The following charter schools are eligible for building lease  
27.12 transition aid in fiscal years 2011 and 2012:

27.13 (1) Charter School No. 4018, Achieve Language Academy;

27.14 (2) Charter School No. 4029, New Spirit; and

27.15 (3) Charter School No. 4043, Math and Science Academy.

27.16 (b) The following charter schools are eligible for building lease transition aid in  
27.17 fiscal years 2011 through 2014:

27.18 (1) Charter School No. 4008, Pact Charter School;

27.19 (2) Charter School No. 4027, Higher Ground Academy;

27.20 (3) Charter School No. 4070, Hope Community Academy; and

27.21 (4) Charter School No. 4116, Lakes International Language Academy.

27.22 (c) The following charter schools are eligible for building lease transition aid in  
27.23 fiscal years 2011 through 2015:

27.24 (1) Charter School No. 4074, Agricultural and Food Sciences Academy; and

27.25 (2) Charter School No. 4103, Hmong Academy.

27.26 (d) The following charter schools are eligible for building lease transition aid in  
27.27 fiscal years 2011 through 2016:

27.28 (1) Charter School No. 4001, Bluffview Montessori;

27.29 (2) Charter School No. 4015, Community Peace Academy; and

27.30 (3) Charter School No. 4118, Kaleidoscope.

27.31 (e) The following charter schools are eligible for building lease transition aid in  
27.32 fiscal years 2011 through 2017:

27.33 (1) Charter School No. 4120, Saint Croix Preparatory Academy; and

27.34 (2) Charter School No. 4126, Prairie Seeds Academy.

28.1            Subd. 3. **Application requirements.** Charter schools receiving building lease  
28.2 transition aid must submit an application to the charter school facilities authority by the  
28.3 application deadline prior to the end of a charter school's eligibility under subdivision 2.

28.4            Subd. 4. **Approval.** The charter school facilities authority must approve the  
28.5 applications of charter schools submitted under subdivision 3. The authority may only  
28.6 approve complete applications.

28.7            Subd. 5. **Program management.** Notwithstanding Minnesota Statutes, section  
28.8 124D.11, subdivisions 4a and 4d, the commissioner may adjust payments for a charter  
28.9 school's eligibility for building lease transition aid and facilities aid in the fiscal year in  
28.10 which the charter school is changing eligibility between programs to ensure efficient  
28.11 management.

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

28.13            Sec. 24. **REPEALER.**

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

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