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# State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH  
SESSION

HOUSE FILE No. **935**

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The bill was read for the first time and referred to the Committee on K-12 Education Policy and Oversight

1.1 A bill for an act  
1.2 relating to education; modifying charter school provisions; amending Minnesota  
1.3 Statutes 2008, sections 124D.10; 124D.11, subdivision 9.

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

1.5 Section 1. Minnesota Statutes 2008, section 124D.10, is amended to read:

1.6 **124D.10 CHARTER SCHOOLS.**

1.7 Subdivision 1. **Purposes.** (a) The purpose of this section is to:

1.8 (1) improve pupil learning;

1.9 (2) increase learning opportunities for pupils;

1.10 (3) encourage the use of different and innovative teaching methods;

1.11 (4) require the measurement of learning outcomes and create different and

1.12 innovative forms of measuring outcomes;

1.13 (5) establish new forms of accountability for schools; or

1.14 (6) create new professional opportunities for teachers, including the opportunity to

1.15 be responsible for the learning program at the school site.

1.16 (b) This section does not provide a means to keep open a school that otherwise  
1.17 would be closed. Applicants in these circumstances bear the burden of proving that  
1.18 conversion to a charter school fulfills a purpose specified in this subdivision, independent  
1.19 of the school's closing.

1.20 Subd. 2. **Applicability.** This section applies only to charter schools formed and  
1.21 operated under this section.

1.22 Subd. 2a. **Charter School Advisory Council.** (a) A Charter School Advisory  
1.23 Council is established ~~under section 15.059 except that,~~ The term for each council  
1.24 member ~~shall be~~ is three years. The advisory council is composed of ~~seven~~ nine members

~~from throughout the state who have demonstrated experience with or interest in charter schools. The members of the council shall be appointed by the commissioner. The advisory council shall bring to the attention of the commissioner any matters related to charter schools that the council deems necessary and shall. The members may include charter school authorizers, charter school personnel, public kindergarten through grade 12 teachers, school board members, parents of currently enrolled kindergarten through grade 12 public school students, and school district representatives.~~

- ~~(1) encourage school boards to make full use of charter school opportunities;~~
- ~~(2) encourage the creation of innovative schools;~~
- ~~(3) provide leadership and support for charter school sponsors to increase the innovation in and the effectiveness, accountability, and fiscal soundness of charter schools;~~
- ~~(4) serve an ombudsman function in facilitating the operations of new and existing charter schools;~~
- ~~(5) promote timely financial management training for newly elected members of a charter school board of directors and ongoing training for other members of a charter school board of directors; and~~
- ~~(6) facilitate compliance with auditing and other reporting requirements. The advisory council shall refer all its proposals to the commissioner who shall provide time for reports from the council.~~

The commissioner shall appoint the council members. The advisory council shall advise and make recommendations to the commissioner on authorizing charter schools and other charter school matters, including:

- (1) approving, reviewing, and disciplining authorizers consistent with this section;
  - (2) supporting innovation, effectiveness, accountability, and fiscal soundness;
  - (3) providing a management training program for administrators and board members;
  - (4) complying with auditing and other financial reporting requirements; and
  - (5) reviewing new applications and proposed grade and program expansions.
- (b) The Charter School Advisory Council under this subdivision expires June 30, ~~2007~~ 2015.

Subd. 3. **Sponsor Authorizer.** (a) The following organizations may authorize one or more charter schools:

- (1) a school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19;
- (2) a charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, excluding a house of worship and any person other than a natural person that

3.1 directly or indirectly, through one or more intermediaries, controls, is controlled by, or is  
3.2 under common control with the house of worship, that:

3.3 (i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on  
3.4 Foundations;

3.5 (ii) is registered with the attorney general's office;~~and;~~

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

3.7 (iv) resides in the state of Minnesota;

3.8 (3) a Minnesota private college that grants two- or four-year degrees and is registered  
3.9 with the Minnesota Office of Higher Education under chapter 136A; community college,  
3.10 state university, or technical college; governed by the Board of Trustees of the Minnesota  
3.11 State Colleges and Universities; or the University of Minnesota ~~may sponsor one or~~  
3.12 ~~more charter schools; or~~

3.13 ~~(b) (4)~~ (4) a nonprofit corporation subject to chapter 317A, described in section  
3.14 317A.905, and exempt from federal income tax under section 501(c)(6) of the Internal  
3.15 Revenue Code of 1986, may sponsor or authorize one or more charter schools if the charter  
3.16 school has operated for at least three years under a different sponsor or authorizer and if the  
3.17 nonprofit corporation has existed for at least 25 years.

3.18 (b) An eligible authorizer under this subdivision must apply to the commissioner for  
3.19 approval as an authorizer before submitting an affidavit to the commissioner to charter  
3.20 a school. The application for approval as a charter school authorizer must demonstrate  
3.21 the applicant's ability to implement the procedures and satisfy the criteria for chartering a  
3.22 school under this section. The commissioner must approve or disapprove an application  
3.23 within 60 days of receiving the application. The commissioner, in establishing criteria for  
3.24 approval, must consider the applicant's ability to:

3.25 (1) establish an application process for a charter school board that includes timelines,  
3.26 requirements, and expectations;

3.27 (2) use precisely defined, rigorous criteria to evaluate the educational, organizational,  
3.28 and fiscal plans of a charter school board;

3.29 (3) define in the chartering agreement the rights and responsibilities of the charter  
3.30 school board for governing the school's educational program, controlling funds, and  
3.31 making school management decisions;

3.32 (4) implement an accountability system that provides valid, reliable, timely, and  
3.33 accessible data to the authorizer on the ability of the charter school board to satisfy its  
3.34 academic, organizational, legal, and fiscal responsibilities;

(5) follow a detailed process for renewing the chartering agreement that reflects the agreed upon rights and responsibilities of the authorizer and the charter school board, and is consistent with this section; and

(6) base a decision to renew a chartering agreement on credible evidence that demonstrates the academic, organizational, and financial competency of the charter school and its board, including their success in increasing student achievement and meeting the goals of the chartering agreement.

(c) The authorizer must participate in ongoing department-approved training.

(d) An authorizer that chartered a school before August 1, 2009, must apply by June 30, 2012, to the commissioner for approval to continue as an authorizer under this section. An authorizer that fails to submit an application is unable to charter a school.

(e) The commissioner shall review an authorizer's performance every five years in a manner and form determined by the commissioner. The commissioner shall issue a report to the authorizer upon completing the review. If, consistent with this section, the commissioner finds that an authorizer has not performed satisfactorily, the commissioner may subject the authorizer to corrective action, which may include terminating a chartering agreement with the board of a school it authorized.

(f) The commissioner may take corrective action against an authorizer or terminate an authorizer's ability to charter a school for:

(1) failing to satisfy the criteria under which the authorizer was approved;

(2) failing to perform satisfactorily as an approved authorizer; or

(3) violating an element of the chartering agreement between the authorizer and charter school board.

Subd. 4. **Formation of school.** (a) ~~A sponsor~~ An authorizer may authorize one or more licensed teachers under section 122A.18, subdivision 1, to operate a charter school subject to approval by the commissioner. ~~A board must vote on charter school application for sponsorship no later than 90 days after receiving the application.~~ The school must be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this section. Notwithstanding sections 465.717 and 465.719, a school district may create a corporation for the purpose of creating a charter school.

(b) Before the operators may ~~form~~ establish and operate a school, the ~~sponsor~~ authorizer must file an affidavit with the commissioner stating its intent to ~~authorize a~~ authorize a charter a school. The affidavit must state the terms and conditions under which the ~~sponsor~~ authorizer would ~~authorize a~~ authorize a charter a school and how the ~~sponsor~~ authorizer intends to oversee the fiscal and student performance of the charter school and to comply with

the terms of the written contract between the ~~sponsor~~ authorizer and the charter school board of directors under subdivision 6. The commissioner must approve or disapprove the ~~sponsor's proposed authorization~~ authorizer's proposed affidavit within ~~90~~ 60 days of receipt of the affidavit. Failure to obtain commissioner approval precludes ~~a sponsor~~ an authorizer from ~~authorizing~~ chartering the ~~charter~~ school that was the subject of the affidavit.

(c) The operators authorized to organize and operate a school, before entering into a contract or other agreement for professional or other services, goods, or facilities, must incorporate as a cooperative under chapter 308A or as a nonprofit corporation under chapter 317A and must establish a board of directors composed of at least five members who are not related parties as defined in this section until a timely election for members of the charter school board of directors is held according to the school's articles and bylaws. A charter school board of directors must be composed of at least five members who are not related parties as defined in this section. Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents or legal guardians of children enrolled in the school may participate in the election for members of the school's board of directors. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors before the school completes its third year of operation, unless the commissioner waives the requirement for a majority of licensed teachers on the board. Board of director meetings must comply with chapter 13D.

(d) Every charter school board member shall attend department-approved training on board governance, the board's role and responsibilities, financial management standards and practices, and employment policies and practices. A board member who does not complete the required training within one year of being appointed to the board is ineligible to continue serving on the board.

(e) The granting or renewal of a charter by ~~a sponsoring entity~~ an authorizer must not be conditioned upon the bargaining unit status of the employees of the school.

~~(e) A sponsor~~ (f) The granting or renewing of a charter by an authorizer must not be contingent on a requirement that the charter school board contract, lease, or purchase goods or services from the authorizer. A party to such an arrangement between an authorizer and a board must disclose the arrangement to the commissioner. The commissioner may terminate a contract for goods or services under this section if the commissioner determines that an arrangement exists.

(g) The charter school shall not offer any services or goods of value to students, parents, or guardians as an inducement, term, or condition of enrolling a student in a charter school.

(h) The authorizer may prevent an approved charter school from opening for operation if, among other grounds, the charter school violates this section.

(i) An authorizer may authorize permit the operators board of directors of a charter school to expand the operation of the charter school to additional sites or to add additional grades at the school beyond those described in the sponsor's application authorizer's affidavit as approved by the commissioner only after submitting a supplemental application to the commissioner in a form and manner prescribed by the commissioner. The supplemental application must provide evidence that:

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

(2) the expansion of the charter school is supported, at a minimum, by improved academic performance and growth on statewide assessments under chapter 120B;

~~(2)~~ (3) the charter school is fiscally sound;

~~(3)~~ (4) the sponsor supports the charter school has the physical and financial capacity to implement the proposed expansion; and

~~(4)~~ (5) the building of the additional site meets all health and safety requirements to be eligible for lease aid.

~~(f) The commissioner annually must provide timely financial management training to newly elected members of a charter school board of directors and ongoing training to other members of a charter school board of directors. Training must address ways to:~~

~~(1) proactively assess opportunities for a charter school to maximize all available revenue sources;~~

~~(2) establish and maintain complete, auditable records for the charter school;~~

~~(3) establish proper filing techniques;~~

~~(4) document formal actions of the charter school, including meetings of the charter school board of directors;~~

~~(5) properly manage and retain charter school and student records;~~

~~(6) comply with state and federal payroll record-keeping requirements; and~~

~~(7) address other similar factors that facilitate establishing and maintaining complete records on the charter school's operations.~~

Subd. 4a. **Conflict of interest.** (a) ~~A member of a charter school board of directors~~  
An individual is prohibited from serving as a member of the board of directors or as an employee or agent of or a contractor with a for-profit entity with whom the charter school

contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract ~~voidable at the option of the commissioner~~ void.

A member of a charter school board of directors who violates this prohibition shall be individually liable to the charter school for any damage caused by the violation.

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

~~(c) A member of a charter school board of directors that serves as a member of the board of directors or as an employee or agent of or a contractor with a nonprofit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities, must disclose all potential conflicts to the commissioner.~~

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

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

(e) The commissioner may reduce a charter school's aid under section 127A.42 or 127A.43 if the charter school fails to correct a violation under this subdivision.

Subd. 5. **Conversion of existing schools.** A board of an independent or special school district may convert one or more of its existing schools to charter schools under this section if 60 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Subd. 6. **Charter contract.** ~~The sponsor's authorization for~~ authorizer's chartering of a charter school must be in the form of a written contract signed by the sponsor authorizer and the board of directors of the charter school. The contract must be completed signed within 90 days of the commissioner's approval of the sponsor's proposed authorization authorizer's proposed affidavit. The authorizer shall submit a copy of the signed contract within ten days of its execution to the commissioner. The contract for a charter school must be in writing and contain at least the following:

(1) a description of a program that carries out one or more of the purposes in subdivision 1;

(2) specific outcomes pupils are to achieve under subdivision 10;

(3) admission policies and procedures;

(4) management and administration of the school;

(5) requirements and procedures for program and financial audits;

(6) how the school will comply with subdivisions 8, 13, 16, and 23;

8.1 (7) assumption of liability by the charter school;

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

8.3 (9) the term of the contract, which may be up to three years for the initial contract,  
8.4 and up to five years for a renewed contract based on a demonstration of the school met the  
8.5 academic, financial, and operational terms of the contract;

8.6 (10) ~~if~~ how the board of directors or the operators of the charter school will provide  
8.7 special instruction and services for children with a disability under sections 125A.03  
8.8 to 125A.24, and 125A.65, a description of the financial parameters within which the  
8.9 charter school will operate to provide the special instruction and services to children  
8.10 with a disability; ~~and~~

8.11 (11) the process and criteria the ~~sponsor~~ authorizer intends to use to monitor  
8.12 and evaluate the fiscal and student performance of the charter school, consistent with  
8.13 subdivision 15-; and

8.14 (12) the plan for an orderly closing of the school under chapter 308A or 317A, if the  
8.15 closure is a termination for cause, voluntary termination, or nonrenewal of the contract,  
8.16 including: establishing the respective responsibilities of the school board of directors and  
8.17 the authorizer; and providing for notice to the commissioner, authorizer, and parents of  
8.18 enrolled students of the closure, the transfer of student records to the students' resident  
8.19 districts, and procedures for closing financial operations.

8.20 Subd. 6a. **Audit report.** (a) The charter school must submit an audit report to the  
8.21 commissioner and its authorizer by December 31 each year.

8.22 (b) The charter school, with the assistance of the auditor conducting the audit, must  
8.23 include with the report a copy of all charter school agreements for corporate management  
8.24 services. If the entity that provides the professional services to the charter school is  
8.25 exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity  
8.26 must file with the commissioner by February 15 a copy of the annual return required under  
8.27 section 6033 of the Internal Revenue Code of 1986.

8.28 (c) If the commissioner receives ~~as part of the~~ an audit report ~~a management letter~~  
8.29 indicating that a material weakness exists in the financial reporting systems of a charter  
8.30 school, the charter school must submit a written report to the commissioner explaining  
8.31 how the material weakness will be resolved.

8.32 (d) Upon the request of an individual, the charter school must make available in a  
8.33 timely fashion the minutes of meetings of members, the board of directors, and committees  
8.34 having any of the authority of the board of directors, and statements showing the financial  
8.35 result of all operations and transactions affecting income and surplus during the school's



9.1 last annual accounting period and a balance sheet containing a summary of its assets and  
 9.2 liabilities as of the closing date of the accounting period.

9.3 Subd. 7. **Public status; exemption from statutes and rules.** A charter school is a  
 9.4 public school and is part of the state's system of public education. ~~Except as provided in~~  
 9.5 ~~this section, a charter school is exempt from all statutes and rules applicable to a school, a~~  
 9.6 ~~board, or a district, although it may elect to comply with one or more provisions of statutes~~  
 9.7 ~~or rules.~~ A charter school is exempt from all statutes and rules applicable to a school,  
 9.8 school board, or school district unless a statute or rule is made specifically applicable to a  
 9.9 charter school or is included in this section.

9.10 Subd. 8. **State and local requirements.** (a) A charter school shall meet all  
 9.11 ~~applicable federal, state, and local health and safety requirements~~ applicable to school  
 9.12 districts.

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

9.15 (c) A school ~~sponsored~~ authorized by a school board may be located in any district,  
 9.16 unless the school board of the district of the proposed location disapproves by written  
 9.17 resolution.

9.18 ~~(e)~~ (d) A charter school must be nonsectarian in its programs, admission policies,  
 9.19 employment practices, and all other operations. ~~A sponsor~~ An authorizer may not  
 9.20 ~~authorize a charter~~ a school or program that is affiliated with a nonpublic sectarian  
 9.21 school or a religious institution. A charter school student must be released for religious  
 9.22 instruction, consistent with section 120A.22, subdivision 12, clause (3).

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

9.25 ~~(e)~~ (f) The primary focus of a charter school must be to provide a comprehensive  
 9.26 program of instruction for at least one grade or age group from five through 18 years  
 9.27 of age. Instruction may be provided to people younger than five years and older than  
 9.28 18 years of age.

9.29 ~~(f)~~ (g) A charter school may not charge tuition.

9.30 ~~(g)~~ (h) A charter school is subject to and must comply with chapter 363A and  
 9.31 section 121A.04.

9.32 ~~(h)~~ (i) A charter school is subject to and must comply with the Pupil Fair Dismissal  
 9.33 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections  
 9.34 123B.34 to 123B.39.

9.35 ~~(i)~~ (j) A charter school is subject to the same financial audits, audit procedures, and  
 9.36 audit requirements as a district. Audits must be conducted in compliance with generally

accepted governmental auditing standards, the Federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 123B.52, subdivision 5; 471.38; 471.391; 471.392; 471.425; 471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6, 12, 13, and 15; 471.881; and 471.89. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner and authorizer. The Department of Education, state auditor, ~~or~~ legislative auditor, or authorizer may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

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

~~(k)~~ (l) A charter school must comply with chapters 13 and 13D; and sections ~~13.32;~~ 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

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

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

(o) The commissioner may reduce a charter school's state aid under section 127A.42 or 127A.43 if the charter school board fails to correct a violation under this section.

Subd. 9. **Admission requirements.** A charter school may limit admission to:

(1) pupils within an age group or grade level;

(2) people who are eligible to participate in the graduation incentives program under section 124D.68; or

(3) residents of a specific geographic area where the percentage of the population of non-Caucasian people of that area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of the specific area.

A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. If a charter school is the only school located in a ~~town~~ municipality serving pupils within a particular grade level, then pupils that are residents of the ~~town~~ municipality must be given preference for enrollment before accepting pupils by lot. If a pupil lives within two miles of a charter school and the next closest public school is more than five miles away, the charter school must give those pupils preference for enrollment before accepting other pupils by lot. The charter

11.1 school must develop and publish a lottery policy and process that it must use when  
11.2 accepting pupils by lot.

11.3 A charter school shall give preference for enrollment to a sibling of an enrolled pupil  
11.4 and to a foster child of that pupil's parents and may give preference for enrollment to  
11.5 children of the school's employees before accepting other pupils by lot.

11.6 A charter school may not limit admission to pupils on the basis of intellectual ability,  
11.7 measures of achievement or aptitude, or athletic ability.

11.8 Subd. 10. **Pupil performance.** A charter school must design its programs to at  
11.9 least meet the outcomes adopted by the commissioner for public school students. In the  
11.10 absence of the commissioner's requirements, the school must meet the outcomes contained  
11.11 in the contract with the ~~sponsor~~ authorizer. The achievement levels of the outcomes  
11.12 contained in the contract may exceed the achievement levels of any outcomes adopted by  
11.13 the commissioner for public school students.

11.14 Subd. 11. **Employment and other operating matters.** A charter school must  
11.15 employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1,  
11.16 who hold valid licenses to perform the particular service for which they are employed in  
11.17 the school. The charter school's state aid may be reduced under section ~~127A.42~~ 127A.43  
11.18 if the school employs a teacher who is not appropriately licensed or approved by the  
11.19 board of teaching. The school may employ necessary employees who are not required to  
11.20 hold teaching licenses to perform duties other than teaching and may contract for other  
11.21 services. The school may discharge teachers and nonlicensed employees. The charter  
11.22 school board must comply with section 181.932. The charter school board must enter into  
11.23 a written contract with each teacher that outlines the terms and conditions of employment.  
11.24 A person, without holding a valid administrator's license, may perform administrative,  
11.25 supervisory, or instructional leadership duties.

11.26 The board of directors also shall decide matters related to the operation of the school,  
11.27 including budgeting, curriculum and operating procedures.

11.28 Subd. 12. **Pupils with a disability.** A charter school must comply with sections  
11.29 125A.02, 125A.03 to 125A.24, and 125A.65 and rules relating to the education of pupils  
11.30 with a disability as though it were a district.

11.31 Subd. 13. **Length of school year.** A charter school must provide instruction  
11.32 each year for at least the number of days required by section 120A.41. It may provide  
11.33 instruction throughout the year according to sections 124D.12 to 124D.127 or 124D.128.

11.34 Subd. 14. **Annual public reports.** A charter school must report at least annually  
11.35 to its ~~sponsor~~ authorizer and the commissioner the information required by the ~~sponsor~~  
11.36 authorizer or the commissioner. The reports are public data under chapter 13.

Subd. 15. **Review and comment.** (a) ~~The department must review and comment on the evaluation, by the sponsor, of the performance of a charter school before the charter school's contract is renewed for another contract term. The sponsor must submit to the commissioner timely information for the review and comment.~~ The authorizer shall provide a formal, written evaluation of the school's performance before the authorizer renews the charter contract. The department must review and comment on the authorizer's evaluation process at the time the authorizer submits its application for approval and each time the authorizer undergoes its five-year review under subdivision 3.

(b) ~~A sponsor~~ An authorizer shall monitor and evaluate the fiscal and student performance of the school, and may for this purpose annually assess a charter school: ~~(1) in its first, second, or third year of operation up to \$30 per student up to a maximum of \$10,000; and (2) in its fourth or a subsequent year of operation up to \$10 per student up to a maximum of \$3,500~~ the greater of (1) \$5,000, or (2) the lesser of (i) \$25,000 or (ii) the product of 1.0 percent of the basic formula allowance for that year and the charter school's pupil units for that year in fiscal years 2010 through 2014. The authorizer may assess a charter school the greater of (1) \$5,000, or (2) the lesser of (i) \$25,000 or (ii) the product of 1.5 percent of the basic formula allowance for that year and the charter school's pupil units for that year beginning in fiscal year 2015.

Subd. 16. **Transportation.** (a) A charter school after its first fiscal year of operation by March 1 of each fiscal year and a charter school by July 1 of its first fiscal year of operation must notify the district in which the school is located and the Department of Education if it will provide its own transportation or use the transportation services of the district in which it is located for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation must be provided by the charter school within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124D.11, subdivision 2.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a pupil enrolls in a charter school, the charter school must provide the parent or guardian with information regarding the transportation.

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

Subd. 17. **Leased space.** A charter school may lease space from a board eligible to be ~~a sponsor~~ an authorizer or other public or private nonprofit nonsectarian organization. If a charter school is unable to lease appropriate space from an eligible board or other public or private nonprofit nonsectarian organization, the school may lease space from another nonsectarian organization if the Department of Education, in consultation with the Department of Administration, approves the lease. If the school is unable to lease appropriate space from public or private nonsectarian organizations, the school may lease space from a sectarian organization if the leased space is constructed as a school facility and the Department of Education, in consultation with the Department of Administration, approves the lease.

Subd. 18. **Authority to raise initial working capital.** ~~A sponsor~~ An authorizer may ~~authorize a charter~~ authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. ~~A sponsor~~ An authorizer may not ~~authorize charter~~ authorize a school before the commissioner has approved the authorization.

Subd. 19. **Disseminate information.** The ~~sponsor~~ authorizer, the operators, and the Department of Education must disseminate information to the public on how to form and operate a charter school and how to utilize the offerings of a charter school. Particular groups to be targeted include low-income families and communities, and students of color.

Subd. 20. **Leave to teach in a charter school.** If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years. Any request to extend the leave shall be granted only at the discretion of the school board. The district may require that the request for a leave or extension of leave

be made ~~up to 90 days before the teacher would otherwise have to report for duty before~~  
February 1 in the school year preceding the school year in which the teacher intends  
to return, or February 1 of the calendar year in which the teacher's leave is scheduled  
to terminate. Except as otherwise provided in this subdivision and except for section  
 122A.46, subdivision 7, the leave is governed by section 122A.46, including, but not  
 limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the  
 Teachers' Retirement Association account by paying both the employer and employee  
 contributions based upon the annual salary of the teacher for the last full pay period before  
 the leave began. The retirement association may impose reasonable requirements to  
 efficiently administer this subdivision.

Subd. 21. **Collective bargaining.** Employees of the board of directors of a charter  
 school may, if otherwise eligible, organize under chapter 179A and comply with its  
 provisions. The board of directors of a charter school is a public employer, for the  
 purposes of chapter 179A, upon formation of one or more bargaining units at the school.  
 Bargaining units at the school must be separate from any other units within ~~the sponsoring~~  
~~an authorizing~~ district, except that bargaining units may remain part of the appropriate  
 unit within ~~the sponsoring~~ an authorizing district, if the employees of the school, the  
 board of directors of the school, the exclusive representative of the appropriate unit in the  
~~sponsoring~~ authorizing district, and the board of the ~~sponsoring~~ authorizing district agree  
 to include the employees in the appropriate unit of the ~~sponsoring~~ authorizing district.

Subd. 22. **Teacher and other employee retirement.** (a) Teachers in a charter  
 school must be public school teachers for the purposes of chapters 354 and 354a.

(b) Except for teachers under paragraph (a), employees in a charter school must be  
 public employees for the purposes of chapter 353.

Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a)  
 The duration of the contract with a ~~sponsor~~ an authorizer must be for the term contained in  
 the contract according to subdivision 6. The ~~sponsor~~ authorizer may or may not renew a  
 contract at the end of the term for any ground listed in paragraph (b). ~~A sponsor~~ An  
authorizer may unilaterally terminate a contract during the term of the contract for any  
 ground listed in paragraph (b). At least 60 days before not renewing or terminating a  
 contract, the ~~sponsor~~ authorizer shall notify the board of directors of the charter school  
 of the proposed action in writing. The notice shall state the grounds for the proposed  
 action in reasonable detail and that the charter school's board of directors may request  
 in writing an informal hearing before the sponsor within 14 days of receiving notice of  
 nonrenewal or termination of the contract. Failure by the board of directors to make a

15.1 written request for a hearing within the 14-day period shall be treated as acquiescence to  
 15.2 the proposed action. Upon receiving a timely written request for a hearing, the sponsor  
 15.3 shall give reasonable notice to the charter school's board of directors of the hearing date.  
 15.4 The ~~sponsor~~ authorizer shall conduct an informal hearing before taking final action. The  
 15.5 ~~sponsor~~ authorizer shall take final action to renew or not renew a contract ~~by the last day~~  
 15.6 ~~of classes in the school year. If the sponsor is a local board, the school's board of directors~~  
 15.7 ~~may appeal the sponsor's decision to the commissioner~~ no later than 30 days before the  
 15.8 proposed date for terminating the contract or the end date of the contract.

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

15.10 (1) failure to meet the requirements for pupil performance contained in the contract;

15.11 (2) failure to meet generally accepted standards of fiscal management;

15.12 (3) violations of law; or

15.13 (4) other good cause shown.

15.14 If a contract is terminated or not renewed under this paragraph, the school must  
 15.15 be dissolved according to the applicable provisions of chapter 308A or 317A, except  
 15.16 when the commissioner approves the decision of a different eligible ~~sponsor~~ authorizer to  
 15.17 ~~authorize the charter~~ the school.

15.18 (c) If at the end of a contract term, ~~either the sponsor or~~ authorizer and the charter  
 15.19 school board of directors ~~wants~~ mutually agree to voluntarily ~~terminate~~ not renew the  
 15.20 contract, a change in ~~sponsors~~ authorizers is allowed if the commissioner approves the  
 15.21 decision of a different eligible ~~sponsor~~ authorizer to ~~authorize the charter~~ the school. ~~The~~  
 15.22 ~~party intending to terminate the contract must notify the other party and the commissioner~~  
 15.23 ~~of its intent at least 90 days before the date on which the contract ends. The sponsor~~  
 15.24 ~~authorizer that is a party to the existing contract at least must inform the approved any~~  
 15.25 ~~different eligible sponsor authorizer about the fiscal and student performance of the~~  
 15.26 ~~school. The parties seeking to not renew the contract jointly must submit their intent in~~  
 15.27 ~~writing to the commissioner at least 90 days before the end date of the contract. Before the~~  
 15.28 ~~commissioner determines whether to grant a change of authorizer, the commissioner must~~  
 15.29 ~~first determine whether the charter school and prospective new authorizer can identify and~~  
 15.30 ~~effectively resolve any circumstances that caused the current authorizer and the charter~~  
 15.31 ~~school to not renew the contract. If no different eligible sponsor authorizer is approved,~~  
 15.32 ~~the school must be dissolved according to applicable law and the terms of the contract.~~

15.33 (d) The commissioner, after providing reasonable notice to the board of directors of  
 15.34 a charter school and the existing ~~sponsor~~ authorizer, and after providing an opportunity for  
 15.35 a public hearing, may terminate the existing ~~sponsorial relationship~~ contract between the  
 15.36 authorizer and the charter school board if the charter school has a history of:

- 16.1 (1) failure to meet pupil performance requirements contained in the contract;  
 16.2 (2) financial mismanagement; or  
 16.3 ~~(2) repeated~~ (3) violations of the law.

16.4 Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from  
 16.5 entering a lease of real property with a related party as defined in subdivision 26, unless  
 16.6 the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter  
 16.7 308A, and the lease cost is reasonable under section 124D.11, subdivision 4, clause (1).

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

16.9 (1) "related party" means an affiliate or close relative of the other party in question,  
 16.10 an affiliate of a close relative, or a close relative of an affiliate;

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

16.13 (3) "close relative" means an individual whose relationship by blood, marriage, or  
 16.14 adoption to another individual is no more remote than first cousin;

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

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

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

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

16.26 Subd. 24. **Pupil enrollment upon nonrenewal or termination of charter school**  
 16.27 **contract.** If a contract is not renewed or is terminated according to subdivision 23, a  
 16.28 pupil who attended the school, siblings of the pupil, or another pupil who resides in the  
 16.29 same place as the pupil may enroll in the resident district or may submit an application  
 16.30 to a nonresident district according to section 124D.03 at any time. Applications and  
 16.31 notices required by section 124D.03 must be processed and provided in a prompt manner.  
 16.32 The application and notice deadlines in section 124D.03 do not apply under these  
 16.33 circumstances. The closed charter school must transfer the student's educational records  
 16.34 within ten business days of closure to the student's school district of residence where the  
 16.35 records must be retained or transferred under section 120A.22, subdivision 7.



Subd. 25. **Extent of specific legal authority.** (a) The board of directors of a charter school may sue and be sued.

(b) The board may not levy taxes or issue bonds.

(c) The commissioner, ~~a sponsor~~ an authorizer, members of the board of ~~a sponsor~~ an authorizer in their official capacity, and employees of a sponsor are immune from civil or criminal liability with respect to all activities related to a charter school they approve or ~~sponsor~~ authorize. The board of directors shall obtain at least the amount of and types of insurance ~~required by the contract, according to subdivision 6.~~ up to the applicable tort liability limits under chapter 466. The charter school board must submit a copy of the insurance policy to its authorizer and the commissioner before starting operations. The charter school board must submit changes in its insurance carrier or policy to its authorizer and the commissioner within 30 days of the change.

~~Subd. 26. **Definitions.** For purposes of this section and section 124D.11:~~

~~(1) A "Related party" is an affiliate or close relative of the other party in question, an affiliate of a close relative, or a close relative of an affiliate.~~

~~(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.~~

~~(3) "Close relative" means an individual whose relationship by blood, marriage, or adoption to another individual is no more remote than first cousin.~~

~~(4) "Person" means an individual or entity of any kind.~~

~~(5) "Control" includes the terms "controlling," "controlled by," and "under common control with" and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.~~

Sec. 2. Minnesota Statutes 2008, section 124D.11, subdivision 9, is amended to read:

Subd. 9. **Payment of aids to charter schools.** (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school ~~not in its first year of operation~~ shall be of an equal amount on each of the ~~23~~ 24 payment dates. ~~A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall equal the current year aid payment percentage multiplied by the cumulative amount guaranteed.~~

(b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing operation on or prior to the end of a school year, the current year aid payment percentage

18.1 ~~multiplied by the amount due for the school year may be paid to the school after audit~~  
18.2 ~~of prior fiscal year and current fiscal year pupil counts.~~ June 30 of a school year, for the  
18.3 payment periods occurring after the school has ceased serving students, the commissioner  
18.4 shall withhold state aid due to the school based on estimated state aid entitlements. The  
18.5 charter school board of directors and authorizer must provide the commissioner with  
18.6 a closure plan under chapter 308A or 317A, and financial information that details the  
18.7 school's liabilities and assets. After receiving the closure plan, financial information, an  
18.8 audit of pupil counts, documentation of lease expenditures, and monitoring of special  
18.9 education expenditures, the commissioner may release cash withheld and may continue  
18.10 regular payments up to the current year payment percentages if further amounts are  
18.11 owed. If, based on audits and monitoring, the school received state aid in excess of the  
18.12 amount owed, the commissioner shall retain cash withheld sufficient to eliminate the aid  
18.13 overpayment. For a charter school ceasing operations prior to, or at the end of, a school  
18.14 year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may  
18.15 be made after receiving the closure plan, audit of pupil counts, monitoring of special  
18.16 education expenditures, ~~and~~ documentation of lease expenditures, and school submission  
18.17 of Uniform Financial Accounting and Reporting Standards (UFARS) financial data for  
18.18 the final year of operation. Final payment may be made upon receipt of audited financial  
18.19 statements under section 123B.77, subdivision 3.

18.20 (c) If a charter school fails to comply with the commissioner's directive to return, for  
18.21 cause, federal grant funds administered by the department or, within the timeline under  
18.22 section 471.425, fails to pay a school district or service cooperative after receiving an  
18.23 undisputed invoice for goods and services, the commissioner may withhold an amount  
18.24 of state aid sufficient to satisfy the claim and shall distribute the withheld aid to the  
18.25 school district, intermediate school district, or service cooperative. A school district,  
18.26 intermediate school district, or education cooperative shall notify the commissioner when  
18.27 a charter school fails to pay an undisputed invoice within 90 days of when it received  
18.28 the original invoice.

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

18.32 ~~(d)~~ (e) In order to receive state aid payments under this subdivision, a charter school  
18.33 in its first three years of operation must submit a school calendar in the form and manner  
18.34 requested by the department and a quarterly report to the Department of Education. The  
18.35 report must list each student by grade, show the student's start and end dates, if any,  
18.36 with the charter school, and for any student participating in a learning year program,

19.1 the report must list the hours and times of learning year activities. The report must be  
19.2 submitted not more than two weeks after the end of the calendar quarter to the department.  
19.3 The department must develop a Web-based reporting form for charter schools to use  
19.4 when submitting enrollment reports. A charter school in its fourth and subsequent year of  
19.5 operation must submit a school calendar and enrollment information to the department in  
19.6 the form and manner requested by the department.

19.7 ~~(e)~~ (f) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter  
19.8 school and satisfaction of creditors, cash and investment balances remaining shall be  
19.9 returned to the state.

19.10 Sec. 3. **REVIVAL AND REENACTMENT.**

19.11 Minnesota Statutes, section 124D.10, subdivision 2a, is revived and reenacted  
19.12 effective retroactively and without interruption from June 30, 2007.