

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3776

April 13, 2010

Authored by Hoppe

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; authorizing charter schools to borrow money; creating
1.3 obligations for debt repayment; amending Minnesota Statutes 2008, sections
1.4 126C.52, by adding a subdivision; 126C.53; proposing coding for new law in
1.5 Minnesota Statutes, chapter 126C.

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

1.7 Section 1. Minnesota Statutes 2008, section 126C.52, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 4. Charter schools. (a) The board of a charter school may borrow money in
1.10 the manner and subject to the limitations in sections 126C.53 and 126C.57 in anticipation
1.11 of the receipt of:

1.12 (1) state aids for schools as defined in Minnesota Statutes; and

1.13 (2) federal school aids to be distributed by or through the Department of Education.

1.14 (b) The aggregate borrowing under this subdivision shall not exceed 75 percent of
1.15 such aids, fees, and tuition payments which are receivable by the charter school in the fiscal
1.16 year in which the money is borrowed, as estimated and certified by the commissioner.

1.17 Sec. 2. Minnesota Statutes 2008, section 126C.53, is amended to read:

1.18 **126C.53 ENABLING RESOLUTION; FORM OF CERTIFICATES OF**
1.19 **INDEBTEDNESS.**

1.20 The board of a school district, charter school, or intermediate school district may
1.21 authorize and effect such borrowing, and may issue such certificates of indebtedness upon
1.22 passage of a resolution specifying the amount and purposes for which it deems such
1.23 borrowing is necessary. The resolution must be adopted by a vote of at least two-thirds

2.1 of its members. The board must fix the amount, date, maturity, form, denomination, and
 2.2 other details of the certificates of indebtedness, not inconsistent with this chapter. The
 2.3 board must fix the date and place for receipt of bids for the purchase of the certificates
 2.4 when bids are required and direct the clerk to give notice of the date and place for bidding.

2.5 Sec. 3. [126C.551] STATE PAYMENT OF CHARTER SCHOOL DEBT
 2.6 OBLIGATION UPON POTENTIAL DEFAULT; REPAYMENT; STATE
 2.7 OBLIGATION NOT DEBT.

2.8 Subdivision 1. Definition. For the purposes of this section, the term "debt
 2.9 obligation" means a certificate of indebtedness issued under section 126C.52.

2.10 Subd. 2. Notification; payment; appropriation. (a) If a charter school believes
 2.11 that it may be unable to make a principal or interest payment on any outstanding debt
 2.12 obligation on the date that payment is due, it must notify the commissioner as soon as
 2.13 possible, but not less than 15 working days before the date that principal or interest
 2.14 payment is due. The notice must include the name of the charter school, an identification
 2.15 of the debt obligation issue in question, the date the payment is due, the amount of
 2.16 principal and interest due on the payment date, the amount of principal or interest that the
 2.17 charter school will be unable to repay on that date, the paying agent for the debt obligation,
 2.18 the wire transfer instructions to transfer funds to that paying agent, and an indication as to
 2.19 whether a payment is being requested by the charter school under this section. If a paying
 2.20 agent becomes aware of a potential default, it shall inform the commissioner of that fact.
 2.21 After receipt of a notice which requests a payment under this section, after consultation
 2.22 with the charter school and the paying agent, and after verification of the accuracy of the
 2.23 information provided, the commissioner shall notify the commissioner of management
 2.24 and budget of the potential default. The notice must include a final figure as to the amount
 2.25 due that the charter school will be unable to repay on the date due.

2.26 (b) Upon receipt of this notice from the commissioner, the commissioner of
 2.27 management and budget shall issue a warrant and authorize the commissioner of education
 2.28 to pay to the paying agent for the debt obligation the specified amount on or before
 2.29 the date due. The amounts needed for the purposes of this subdivision are annually
 2.30 appropriated to the department from the state general fund.

2.31 (c) The Departments of Education and Management and Budget must jointly
 2.32 develop detailed procedures for charter schools to notify the state that they have obligated
 2.33 themselves to be bound by the provisions of this section, procedures for charter schools
 2.34 and paying agents to notify the state of potential defaults and to request state payment

3.1 under this section, and procedures for the state to expedite payments to prevent defaults.
3.2 The procedures are not subject to chapter 14.

3.3 Subd. 3. **Charter school bound; interest rate on state paid amount.** If, at the
3.4 request of a charter school, the state has paid part or all of the principal or interest due on a
3.5 school's debt obligation on a specific date, the school is bound by all provisions of this
3.6 section and the amount paid shall bear taxable interest from the date paid until the date of
3.7 repayment at the invested cash rate as it is certified by the commissioner of management
3.8 and budget. Interest shall only accrue on the amounts paid and outstanding, less the
3.9 reduction in aid under subdivision 4 and other payments received from the school.

3.10 Subd. 4. **Aid reduction for repayment.** (a) Except as provided in this subdivision,
3.11 the state must reduce the state aid payable to the charter school under this chapter and
3.12 chapters 122A, 124D, 125A, and 126C by the amount paid by the state under this section
3.13 on behalf of the school, plus the interest due on it, and the amount reduced must revert
3.14 from the appropriate account to the state general fund. Federal aid payments shall not be
3.15 reduced.

3.16 (b) If, after review of the financial situation of the charter school, the commissioner
3.17 advises the commissioner of management and budget that a total reduction of aids would
3.18 cause an undue hardship on or an undue disruption of the educational program of the
3.19 school, the commissioner, with the approval of the commissioner of management and
3.20 budget, may establish a different schedule for reduction of aids to repay the state. The
3.21 amount of aids to be reduced is decreased by any amounts repaid to the state by the school
3.22 from other revenue sources.

3.23 Subd. 5. **Mandatory plan; technical assistance.** If the state makes payments
3.24 on behalf of a charter school under this section or the school defaults in the payment
3.25 of principal or interest on an outstanding debt obligation, it must submit a plan to the
3.26 commissioner for approval specifying the measures it intends to implement to resolve the
3.27 issues which led to its inability to make the payment and to prevent further defaults. The
3.28 department must provide technical assistance to the school in preparing its plan. If the
3.29 commissioner determines that a school's plan is not adequate, the commissioner shall
3.30 notify the school that the plan has been disapproved, the reasons for the disapproval, and
3.31 that the state shall not make future payment under this section for debt obligations issued
3.32 after the date specified in that notice until its plan is approved. The commissioner may
3.33 also notify the school that until its plan is approved, other aids due the school will be
3.34 withheld after a date specified in the notice.

3.35 Subd. 6. **Continuing disclosure agreements.** The commissioner of management
3.36 and budget may enter into written agreements or contracts relating to the continuing

- 4.1 disclosure of information needed to facilitate the ability of charter schools to issue debt
4.2 obligations according to federal securities laws, rules, and regulations. Such agreements
4.3 or contracts may be in any form the commissioner of management and budget deems
4.4 reasonable and in the state's best interests.