

A bill for an act

relating to education; modifying charter school provisions; creating an authority; permitting certain charter schools to purchase facilities; authorizing the sale of revenue bonds; appropriating money; amending Minnesota Statutes 2008, sections 124D.11, subdivisions 1, 3, 4, 7, by adding subdivisions; 326B.103, subdivision 11; Minnesota Statutes 2009 Supplement, sections 124D.10, subdivisions 3, 4, 4a, 6, 8, 17, 23, 23a; 124D.11, subdivision 9; Laws 2009, chapter 96, article 2, section 67, subdivision 2; article 7, section 3; proposing coding for new law in Minnesota Statutes, chapter 124D; repealing Minnesota Statutes 2008, section 124D.11, subdivision 8; Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 17a.

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

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

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

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

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

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

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

(b) 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 nonpublic sectarian or religious institution, any person other than a natural person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the nonpublic sectarian or religious institution, and any other charitable organization under this clause that in the federal IRS Form 1023, Part IV, describes activities indicating a religious purpose, that:

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

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

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

(iv) is incorporated in the state of Minnesota;

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

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

(5) no more than three single-purpose sponsors that are charitable, nonsectarian organizations formed under section 501(c)(3) of the Internal Revenue Code of 1986 and incorporated in the state of Minnesota whose sole purpose is to charter schools.

A board member or employee of an eligible organization must not be an employee, contractor, or board member of a charter school.

Eligible organizations interested in being approved as a sponsor under this paragraph must submit a proposal to the commissioner that includes the provisions of paragraph (c) and a five-year financial plan. Such authorizers shall consider and approve applications using the criteria provided in subdivision 4 and shall not limit the applications it solicits, considers, or approves to any single curriculum, learning program, or method.

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

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

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

- (1) how chartering schools is a way for the organization to carry out its mission;
- (2) a description of the capacity of the organization to serve as a sponsor, including the personnel who will perform the sponsoring duties, their qualifications, the amount of time they will be assigned to this responsibility, and the financial resources allocated by the organization to this responsibility;
- (3) a description of the application and review process the authorizer will use to make decisions regarding the granting of charters, which will include at least the following:
 - (i) how the statutory purposes defined in subdivision 1 are addressed;
 - (ii) the mission, goals, program model, and student performance expectations;
 - (iii) an evaluation plan for the school that includes criteria for evaluating educational, organizational, and fiscal plans;
 - (iv) the school's governance plan;
 - (v) the financial management plan; and

(vi) the administration and operations plan;

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

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

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

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

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

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

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

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

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

- (1) failing to demonstrate the criteria under paragraph (c) under which the commissioner approved the authorizer;
- (2) violating a term of the chartering contract between the authorizer and the charter school board of directors; or
- (3) unsatisfactory performance as an approved authorizer.

EFFECTIVE DATE. This section is effective the day following final enactment and paragraph (b) shall apply retroactively to August 1, 2009.

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

Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from a school developer, may charter a licensed teacher under section 122A.18, subdivision 1, or a group of individuals that includes one or more licensed teachers under section 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the authorizer's affidavit under paragraph (b). 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, subject to this section and section 124D.11, may create a corporation for the purpose of establishing a charter school.

(b) Before the operators may establish and operate a school, the authorizer must file an affidavit with the commissioner stating its intent to charter a school. An authorizer must file a separate affidavit for each school it intends to charter. The affidavit must state the terms and conditions under which the authorizer would charter a school and how the 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 authorizer and the charter school board of directors under subdivision 6. The commissioner must approve or disapprove the authorizer's affidavit within 60 business days of receipt of the affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business days to address the deficiencies. If the authorizer does not address deficiencies to the commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain commissioner approval precludes an authorizer from chartering the school that is the subject of this affidavit.

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

(d) 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 until a timely election for members of the ongoing charter school board of directors is held according to the school's articles and bylaws under paragraph (f). A charter school board of directors must be composed of at least five members who are not related parties. Staff members 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 are the voters eligible to elect the members of the school's board of directors. A charter school must notify eligible voters of the school board election dates at least 30 days before the election. Board of director meetings must comply with chapter 13D.

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

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

(g) The ongoing board must be elected before the school completes its third year of operation. Board elections must be held during a time when school is in session. The charter school board of directors shall be composed of at least five nonrelated members and include: (i) at least one licensed teacher employed at the school or a licensed teacher providing instruction under a contact between the charter school and a cooperative; (ii) the

parent or legal guardian of a student enrolled in the charter school; and (iii) an interested community member who is not employed by the charter school and does not have a child enrolled in the school. The board may be a teacher majority board composed of teachers described in this paragraph. The chief financial officer and the chief administrator are ex-officio nonvoting board members. Board bylaws shall outline the process and procedures for changing the board's governance model, consistent with chapter 317A. A board may change its governance model only:

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

(2) with the authorizer's approval.

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

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

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

(j) An authorizer may permit the 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 authorizer's original affidavit as approved by the commissioner only after submitting a supplemental affidavit for approval to the commissioner in a form and manner prescribed by the commissioner. The supplemental affidavit must show that:

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

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

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

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

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

(l) A charter school approved and operating under this section shall not merge with another charter school without prior approval from the commissioner. The merger shall comply with chapter 317A and section 124D.11, subdivision 9, paragraph (g). The commissioner shall review the proposed merger submitted by the proposed surviving charter school and approve or disapprove the merger based on the following criteria:

(1) the financial management plan, including the transfer of assets and liabilities;

(2) the administration and operations plan;

(3) the school's governance plan; and

(4) the academic achievement plan.

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

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

Subd. 4a. **Conflict of interest.** (a) An individual is prohibited from serving as a member of the charter school board of directors if the individual, an immediate family member, or the individual's partner is an owner, employee or agent of, or a contractor contracting with a for-profit ~~or~~ entity, a nonprofit entity, or an individual 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 or the charter school board of directors. A member of a charter school board of directors who violates this prohibition is individually liable to the charter school for any damage caused by the violation.

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

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

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

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

(4) an organization that employs, or is about to employ any individual in clauses (1) to (3), has a financial or other interest in the entity with which the charter school is contracting. A violation of this prohibition renders the contract void.

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

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

(e) A charter school board member must not receive any remuneration such as a fee-for-service as part of a financial transaction involving the charter school. A charter school employee may receive remuneration such as a fee-for-service as part of a financial transaction involving a charter school only if the services for which the remuneration is paid are in addition to the services the employee already agreed to provide to the charter school and the charter school board of directors formally approve the remuneration.

(f) 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.

~~(f)~~ (g) 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.

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

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

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

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

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

(3) a statement of admission policies and procedures;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11.12 (f) The primary focus of a charter school must be to provide a comprehensive
11.13 program of instruction for at least one grade or age group from five through 18 years
11.14 of age. Instruction may be provided to people younger than five years and older than
11.15 18 years of age.

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

11.17 (h) A charter school is subject to and must comply with chapter 363A and section
11.18 121A.04.

11.19 (i) A charter school is subject to and must comply with the Pupil Fair Dismissal
11.20 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections
11.21 123B.34 to 123B.39.

11.22 (j) A charter school is subject to the same financial audits, audit procedures, and
11.23 audit requirements as a district. Audits must be conducted in compliance with generally
11.24 accepted governmental auditing standards, the Federal Single Audit Act, if applicable,
11.25 and section 6.65. A charter school is subject to and must comply with sections 15.054;
11.26 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 471.38; 471.391; 471.392; and
11.27 471.425. The audit must comply with the requirements of sections 123B.75 to 123B.83,
11.28 except to the extent deviations are necessary because of the program at the school.
11.29 Deviations must be approved by the commissioner and authorizer. The Department of
11.30 Education, state auditor, legislative auditor, or authorizer may conduct financial, program,
11.31 or compliance audits. A charter school determined to be in statutory operating debt under
11.32 sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

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

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

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

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

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

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

(q) A charter school seeking endorsement from the Charter School Facilities Authority under section 124D.1105 for a proposed facility that requires an expenditure in excess of \$1,400,000 must comply with the requirements of section 123B.71, subdivisions 8 and 9.

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

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

Subd. 17. **Leased space.** (a) A charter school may lease space from an independent or special school board eligible to be an authorizer, other public organization, private, nonprofit nonsectarian organization, private property owner, or a sectarian organization if the leased space is constructed as a school facility. A charter school may not lease space from an organization if the primary purpose of the organization proposing to lease a building or land to the charter school is to provide a facility for the charter school, and (1) the organization has financed the acquisition of the school facility through rent paid by the charter school from building lease aid under section 124D.11, subdivision 4; or (2) the organization is maintaining the school facility on behalf of the charter school through rent paid by the charter school's building lease aid. The department must review and approve or disapprove leases in a timely manner.

(b) Notwithstanding paragraph (a), with the approval of the commissioner of education, a charter school that is approved to receive building lease aid under section 124D.11, subdivision 4, may lease space from a corporation or organization whose owner, board members, employees, or related parties are not board members or employees or related to board members or employees of the charter school, and the corporation or organization is not otherwise directly or indirectly controlled by board members, employees, or related parties of the charter school leasing the facility. If the commissioner

13.1 determines that a charter school is proposing to lease under this paragraph for the purpose
13.2 of purchasing a building using building lease aid, the commissioner must deny the lease.

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

13.9 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
13.10 and later.

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

13.13 Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a)
13.14 The duration of the contract with an authorizer must be for the term contained in the
13.15 contract according to subdivision 6. The authorizer may or may not renew a contract at
13.16 the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally
13.17 terminate a contract during the term of the contract for any ground listed in paragraph
13.18 (b). At least 60 days before not renewing or terminating a contract, the authorizer shall
13.19 notify the board of directors of the charter school of the proposed action in writing. The
13.20 notice shall state the grounds for the proposed action in reasonable detail and that the
13.21 charter school's board of directors may request in writing an informal hearing before the
13.22 authorizer within 15 business days of receiving notice of nonrenewal or termination of the
13.23 contract. Failure by the board of directors to make a written request for a hearing within
13.24 the 15-business-day period shall be treated as acquiescence to the proposed action. Upon
13.25 receiving a timely written request for a hearing, the authorizer shall give ten business days'
13.26 notice to the charter school's board of directors of the hearing date. The authorizer shall
13.27 conduct an informal hearing before taking final action. The authorizer shall take final
13.28 action to renew or not renew a contract no later than 20 business days before the proposed
13.29 date for terminating the contract or the end date of the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The commissioner of administration, in conjunction with the commissioner of education, shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state or by school districts in the state and that may be suitable for the long-term operation of a charter school. The commissioner of education shall make the list available to applicants for charter schools and to existing charter schools. The list shall include the address of each building, a short description of the building, and the name of the owner of the building. Nothing in this section requires the owner of a building on the list to sell or lease the building or a portion of the building to a charter school or to any other school or to any other prospective buyer or tenant. The commissioner of education may request information from school districts to compile the vacant building list under this section. School districts must comply with the commissioner's request.

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

Sec. 10. Minnesota Statutes 2008, section 124D.11, subdivision 1, is amended to read:

Subdivision 1. **General education revenue.** (a) General education revenue must be paid to a charter school as though it were a district. The general education revenue

for each adjusted marginal cost pupil unit is the state average general education revenue per pupil unit, plus the referendum equalization aid allowance in the pupil's district of residence, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, extended time revenue, alternative teacher compensation revenue, transition revenue, and transportation sparsity revenue, plus basic skills revenue, extended time revenue, basic alternative teacher compensation aid according to section 126C.10, subdivision 34, and transition revenue as though the school were a school district. The general education revenue for each extended time marginal cost pupil unit equals \$4,378.

(b) Notwithstanding paragraph (a), for charter schools in the first year of operation, general education revenue shall be computed using the number of adjusted pupil units in the current fiscal year.

(c) Notwithstanding paragraph (a), general education revenue for a charter school receiving facilities aid under subdivision 4a must be reduced by an amount equal to the greater of zero or the difference between the school's facilities aid and the product of the pupil units served times:

(1) for a school receiving building lease aid for fiscal year 2010, the lesser of \$1,120 or the school's building lease aid per pupil unit served for fiscal year 2010; or

(2) for a school not receiving building lease aid for fiscal year 2010, \$1,120.

Sec. 11. Minnesota Statutes 2008, section 124D.11, subdivision 3, is amended to read:

Subd. 3. **Use of total operating capital revenue.** (a) Notwithstanding section 126C.10, subdivision 14, a charter school may use total operating capital revenue for any purpose related to the school unless the charter school has been endorsed under section 124D.1106.

(b) A charter school that has been endorsed under section 124D.1106 must reserve at least \$100 per pupil of its annual operating capital revenue for capital repairs and replacement.

Sec. 12. Minnesota Statutes 2008, section 124D.11, subdivision 4, is amended to read:

Subd. 4. **Building lease aid.** (a) When a charter school finds it economically advantageous to rent or lease a building or land for any instructional purposes and it determines that the total operating capital revenue under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for building lease aid for this purpose. The commissioner must review and either approve or deny a lease aid application using the following criteria:

- 17.1 (1) the reasonableness of the price based on current market values;
- 17.2 (2) the extent to which the lease conforms to applicable state laws and rules; ~~and~~
- 17.3 (3) the appropriateness of the proposed lease in the context of the space needs and
- 17.4 financial circumstances of the charter school;
- 17.5 (4) for fiscal year 2011 and in later years, for the first year a lease is initiated or
- 17.6 modified, any other information the commissioner requests of the charter school in order
- 17.7 to implement this subdivision including, at a minimum, the following:
- 17.8 (i) the owner of the building;
- 17.9 (ii) a list of the lessor's current board members or principals, whichever applies;
- 17.10 (iii) a copy of the lessor's annual audit or annual report, whichever applies;
- 17.11 (iv) the terms of the proposed lease and a copy of the proposed lease;
- 17.12 (v) the enrollment projections of the school;
- 17.13 (vi) the long-range strategic and financial plan of the school;
- 17.14 (vii) a copy of the certificate of occupancy from the local jurisdiction; and
- 17.15 (viii) a copy of the state fire marshal's fire inspection report or orders and
- 17.16 accompanying documentation of costs associated with bringing the proposed lease site
- 17.17 up to code; and
- 17.18 (5) for fiscal year 2012 and later, for leases approved for building lease aid in the
- 17.19 prior fiscal year and not modified for the current fiscal year, any other information the
- 17.20 commissioner requests of the charter school in order to implement this subdivision,
- 17.21 including, at a minimum, the following:
- 17.22 (i) the enrollment projections of the school;
- 17.23 (ii) a copy of lessor's annual audit or annual report, whichever applies;
- 17.24 (iii) an update to the long-range strategic and financial plan of the school; and
- 17.25 (iv) a letter from the school's director certifying that there has been no change in any
- 17.26 of the other information listed in this paragraph, except as reported in the letter.
- 17.27 (b) If the commissioner determines that a charter school has not provided
- 17.28 information required under this subdivision, the commissioner must deny the charter
- 17.29 school's lease aid application under this subdivision.
- 17.30 (c) If the commissioner determines that the primary purpose of the organization
- 17.31 proposing to lease a building or land to the charter school is to provide a facility for the
- 17.32 charter school, and (1) the organization has financed the acquisition of the school facility
- 17.33 through rent paid by the charter school from building lease aid under this subdivision;
- 17.34 or (2) the organization is maintaining the school facility on behalf of the charter school
- 17.35 through rent paid by the charter school's lease aid under this subdivision, the commissioner
- 17.36 must deny the charter school's lease aid application under this subdivision.

(d) Notwithstanding paragraph (c), the commissioner of education may approve a charter school's lease aid application if the charter school is leasing space from a corporation or organization whose owner, board members, employees, or related parties are not board members or employees or related to board members or employees of the charter school, and the corporation or organization is not otherwise directly or indirectly controlled by board members, employees, or related parties of the charter school leasing the facility. If the commissioner determines that a charter school is proposing to lease under this paragraph for the purpose of purchasing a building using building lease aid, the commissioner must deny the lease aid application.

(e) A charter school must not use the building lease aid it receives for custodial, maintenance service, utility, or other operating costs. The amount of building lease aid per pupil unit served for a charter school at education sites eligible for building lease aid for any year shall not exceed the lesser of (a) (1) 90 percent of the approved cost or (b) (2) the product of the pupil units served for the current school year times the greater of the charter school's building lease aid per pupil unit served for fiscal year 2003, excluding the adjustment under Laws 2002, chapter 392, article 6, section 4, or \$1,200. A charter school that receives facilities aid under subdivision 4a for an education site is not eligible for building lease aid under this subdivision for that site. A charter school that received more than \$1,200 per pupil unit in lease aid for an education site for fiscal year 2010 must continue to receive that per pupil aid amount until June 30, 2011.

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

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

Subd. 4a. Facilities aid. (a) An endorsed charter school under section 124D.1106 that is required to make loan payments to be applied to principal or interest payments on an outstanding debt obligation issued by the Charter School Facilities Authority under this section is eligible to receive facilities aid in an amount equal to the amount needed to meet when due the principal or interest payments on the obligations of the Charter School Facilities Authority for eligible projects endorsed by the authority under section 124D.1106.

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

(b) A charter school that received facilities aid under paragraph (a) and that has satisfied all of its debt obligation is eligible for annual facilities aid equal to \$400 times its pupil units for the current year. Aid received under this paragraph must be maintained in a reserve account within the charter school's general fund and may be only used for deferred capital and maintenance expenditures associated with the facility owned by the charter school.

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

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

Subd. 4b. **Charter school facilities credit enhancement account.** (a) A charter school credit enhancement account is created in the special revenue fund in the state treasury to provide credit enhancement to charter school facilities financed with bonds under section 124D.1108.

(b) For fiscal year 2011 and later, an annual amount equal to six percent of an endorsed charter school's loan payments for the current bond year to be applied to principal or interest payments on bonds issued under section 124D.1108 must be deducted from the charter school's operating capital revenue for that year by the commissioner and credited to the charter school facilities credit enhancement account. The total amount credited to the charter school facilities credit enhancement account for all fiscal years shall not exceed 100 percent of the amount of facilities aid payable to the endorsed charter school under subdivision 4a in the current fiscal year. Amounts credited to this account under this paragraph or any other annual appropriation shall be available for the benefit of all endorsed charter schools that have outstanding bonds issued under section 124D.1108.

(c) The charter school facilities credit enhancement account may receive grants or gifts and must be used for the purpose of the account under paragraph (a). Grants and gifts received by the charter school facilities credit enhancement account must be available for the benefit of all endorsed charter schools that have bonds issued under section 124D.1108.

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

Sec. 15. Minnesota Statutes 2008, section 124D.11, is amended by adding a subdivision to read:

Subd. 4c. **Sale or transfer of assets.** A charter school board must notify the commissioner if the board intends to sell or transfer property financed by building lease transition aid under subdivision 4d or facilities aid under subdivision 4a. Sales under this subdivision must be made at appraised market value.

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

Sec. 16. Minnesota Statutes 2008, section 124D.11, is amended by adding a subdivision to read:

Subd. 4d. **Building lease transition aid.** (a) An eligible charter school may apply to the commissioner for building lease transition aid. Building lease transition aid may be used for the same purpose as building lease aid under subdivision 4. The commissioner must review and either approve or deny a building lease transition aid application using the following criteria:

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

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

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

(b) For fiscal year 2011 and in later years, for the first year a lease is initiated or modified, to retain eligibility for building lease transition aid, an eligible charter school must submit the following information to the commissioner:

(1) the owner of the building;

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

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

(4) the terms of the proposed lease and a copy of the proposed lease;

(5) the enrollment projections of the school;

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

(7) a copy of the certificate of occupancy from the local jurisdiction;

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

(9) a resolution passed by the board of the charter school acknowledging an agreement between the charter school and the organization that has financed the acquisition of the school facility through rent paid by the charter school from building lease transition aid, that the ownership of the school facility will transfer to the charter school upon the maturity of the bonds or debt instruments used to finance the school facility.

(c) For fiscal year 2012 and later, for leases approved for building lease aid in the prior fiscal year and not modified for the current fiscal year, any other information the

21.1 commissioner requests of the charter school in order to implement this subdivision,
21.2 including, at a minimum, the following:

- 21.3 (1) the enrollment projections of the school;
21.4 (2) a copy of the lessor's annual audit or annual report, whichever applies;
21.5 (3) an update to the long-range strategic and financial plan of the school; and
21.6 (4) a letter from the school's director certifying that there has been no change in any
21.7 of the other information listed in this paragraph, except as reported in the letter.

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

21.11 (e) A charter school must not use the building lease transition aid for custodial,
21.12 maintenance service, utility, or other operating costs. The amount of building lease
21.13 transition aid per pupil unit served at education sites eligible for building lease transition
21.14 aid in any year shall not exceed the lesser of:

- 21.15 (1) 90 percent of the approved cost; or
21.16 (2) the product of the pupil units served for the current school year times \$1,200.

21.17 A charter school that receives building lease aid for an education site under subdivision 4,
21.18 or charter school facilities aid for an education site under subdivision 4a, is not eligible
21.19 for building lease transition aid for the same site under this subdivision. A charter school
21.20 that received more than \$1,200 per pupil unit in lease aid for an education site under
21.21 subdivision 4 for fiscal year 2010 must continue to receive that per pupil unit aid amount
21.22 for education sites eligible for building lease transition aid until that charter school
21.23 receives facilities aid under subdivision 4a.

21.24 (f) A charter school is not eligible for building lease transition aid after the date
21.25 on which its original bond issue matures.

21.26 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
21.27 and later, except that the resolution required by paragraph (b), clause (9), need not be
21.28 submitted for fiscal year 2011.

21.29 Sec. 17. Minnesota Statutes 2008, section 124D.11, is amended by adding a
21.30 subdivision to read:

21.31 Subd. 4e. **Charter school building aid.** For fiscal year 2011 and later, a charter
21.32 school's building aid equals the sum of the following amounts:

- 21.33 (1) building lease aid, under subdivision 4;
21.34 (2) facilities aid, under subdivision 4a; and

22.1 (3) building lease transition aid, under subdivision 4d.

22.2 Sec. 18. Minnesota Statutes 2008, section 124D.11, subdivision 7, is amended to read:

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

22.8 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
22.9 and later.

22.10 Sec. 19. Minnesota Statutes 2009 Supplement, section 124D.11, subdivision 9, is
22.11 amended to read:

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

22.15 (b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing
22.16 operation on or prior to June 30 of a school year, for the payment periods occurring after
22.17 the school ceases serving students, the commissioner shall withhold the estimated state aid
22.18 owed the school. The charter school board of directors and authorizer must submit to the
22.19 commissioner a closure plan under chapter ~~308A~~ or 317A, and financial information about
22.20 the school's liabilities and assets. After receiving the closure plan, financial information,
22.21 an audit of pupil counts, documentation of lease expenditures, and monitoring of special
22.22 education expenditures, the commissioner may release cash withheld and may continue
22.23 regular payments up to the current year payment percentages if further amounts are
22.24 owed. If, based on audits and monitoring, the school received state aid in excess of the
22.25 amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid
22.26 overpayment. For a charter school ceasing operations prior to, or at the end of, a school
22.27 year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may
22.28 be made after receiving the closure plan, audit of pupil counts, monitoring of special
22.29 education expenditures, documentation of lease expenditures, and school submission of
22.30 Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the
22.31 final year of operation. Final payment may be made upon receipt of audited financial
22.32 statements under section 123B.77, subdivision 3.

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

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

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

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

(g) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter school and satisfaction of creditors, cash ~~and~~ investment balances, facilities, and all other assets remaining shall be returned to the state. For mergers approved under section 124D.10, subdivision 4, paragraph (l), a charter school may first sell at appraised market value or transfer its assets to a school district or a charter school.

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

Sec. 20. **[124D.1105] CHARTER SCHOOL FACILITIES AUTHORITY.**

Subdivision 1. Creation; membership; administration. (a) A state agency known as the Charter School Facilities Authority is created. The Charter School Facilities Authority shall consist of eight members, five of which are appointed by the governor

with the advice and consent of the senate, the commissioner of management and budget or the commissioner's designee, and the commissioner of education or the commissioner's designee. The governor shall appoint members of the authority described in paragraph (b).

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

(c) The commissioner of management and budget shall administer the authority.

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

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

Subd. 4. **Duties; applications; fees.** The authority shall provide an efficient and cost-effective method of financing charter school facilities in this state. The authority shall adopt policies and procedures necessary to fulfill its responsibilities. The authority shall determine which charter schools are in a financial and academic position to develop a facility. The authority shall review applications for the issuance of bonds under section 124D.1108 for specific projects. The authority shall accept applications from charter schools on an annual basis and may charge a charter school an application or administrative fee. The annual application deadline and any fees must be determined

by the authority. Charter schools may apply annually to the authority, unless otherwise directed by the authority. The authority may hire or contract for services.

Subd. 5. Eligibility for endorsement to purchase or renovate. (a) A charter school that has been enrolling students for five or more years may seek endorsement from the authority to purchase an existing building or purchase and renovate an existing building within two years of purchase.

(b) The charter school must submit to the authority the following information:

(1) evidence that, for reading and math separately, the three-year average percentage of the school's students making medium and high growth is equal to or greater than the percentage of students in the state making medium and high growth as defined under section 120B.299;

(2) documentation that the school's charter has been renewed within the last 24 months;

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

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

(5) a feasibility study of available buildings, including an appraisal of the proposed facility;

(6) documents showing stable or growing enrollment projections and the need to renovate or purchase an existing facility to serve as a school prepared by an independent third party;

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

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

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

(c) A charter school that has an approved program under section 124D.68 or demonstrates that at least 75 percent of its students are eligible pupils under section 124D.68, subdivision 2, may apply to the commissioner of education for a waiver from the requirements in paragraph (b), clause (1). The commissioner must grant a waiver if the charter school demonstrates it has made sufficient progress toward the growth goal under section 120B.299 in the last three years to demonstrate that the school is making progress toward meeting the goal within the next two years.

Subd. 6. **Eligibility for endorsement to construct.** (a) A charter school that has been enrolling students for eight or more years may seek endorsement from the authority to construct a facility.

(b) The charter school must submit to the authority the following information:

(1) evidence that, for reading and math separately, the three-year average percentage of the school's students making medium and high growth is equal to or greater than the percentage of students in the state making medium and high growth as defined in section 120B.299;

(2) documentation that the school's charter has been renewed within the last 24 months;

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

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

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

(6) documents showing stable or growing enrollment projections and the need to construct a new school facility;

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

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

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

(c) A charter school that has an approved program under section 124D.68 or demonstrates that at least 75 percent of its students are eligible pupils under section 124D.68, subdivision 2, may apply to the commissioner of education for a waiver from the requirements in paragraph (b), clause (1). The commissioner must grant a waiver if the charter school demonstrates it has made sufficient progress toward the growth goal under section 120B.299 in the last three years to demonstrate that the school is making progress toward meeting the goal within the next two years.

Subd. 7. **Determination.** The authority may make additional requests of the charter school to make their determination. The authority must use the criteria submitted as required by subdivisions 5 and 6 and any additional information the authority receives to determine whether to allow a charter school to purchase, purchase and renovate, or

27.1 construct a school facility and use debt financing to pay for the costs of a school facility.
27.2 For charter schools eligible for building lease transition aid under section 124D.11,
27.3 subdivision 4d, the authority must also consider at least the following:

27.4 (1) call dates on outstanding debt paid through building lease transition aid; and
27.5 (2) financing costs for outstanding debt paid through building lease transition aid in
27.6 relation to financing costs estimated for debt to be issued through the authority.

27.7 The authority must notify the charter school of their determination within 90
27.8 business days after the application deadline. The decision of the authority is final.

27.9 Subd. 8. **Expiration.** The authority is permanent and the provisions of section
27.10 15.059, subdivision 5, do not apply.

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

27.12 Sec. 21. **[124D.1106] ENDORSED CHARTER SCHOOL BORROWING;**
27.13 **DEFINITIONS.**

27.14 Subdivision 1. **Endorsement.** The authority shall approve a charter school to
27.15 purchase, purchase and renovate, or construct a school facility and finance that school
27.16 facility through the issuance of bonds. The authority shall only approve the sale of bonds
27.17 on behalf of charter schools that are issued through the authority. The authority shall not
27.18 approve the sale of bonds for a charter school if the reduction to general education aid
27.19 under section 124D.11, subdivision 1, paragraph (c), is projected to exceed 16 percent of
27.20 the principal and interest payments on the proposed debt obligation in any fiscal year. The
27.21 decision of the authority is final.

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

27.26 Subd. 3. **Mortgage.** A charter school that receives an endorsement under
27.27 subdivision 1 must provide the authority with a mortgage on the facility that may be
27.28 assigned to a trustee for the benefit of bondholders.

27.29 Subd. 4. **Use.** A charter school is prohibited from using the term "endorsed"
27.30 or "endorsement" as defined in subdivision 2 in educational promotional materials or
27.31 advertising. A charter school may use the term "endorsed" or "endorsement" for the
27.32 purposes of issuing bonds through the authority.

27.33 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
27.34 and later.

Sec. 22. **[124D.1107] AUTHORITY TO BORROW MONEY; LIMITATIONS.**

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

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

Sec. 23. **[124D.1108] CHARTER SCHOOL BONDS; REPAYMENT.**

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

(b) The bonds must be issued, sold, and secured on the terms and conditions and in the manner determined by resolution of the authority. The bonds may be sold at competitive or negotiated sale. The authority may enter any agreements or pledges the authority determines necessary or useful to sell the bonds that are not inconsistent with sections 124D.10 to 124D.1109. Sections 16A.672 to 16A.675 apply to the bonds. The proceeds of the bonds issued under this section must be credited to a special charter school bond proceeds account in the state treasury and are appropriated to the authority to make the loans and other payments authorized by this section.

(c) Bonds issued by the authority to finance a school facility and bonds issued to refund bonds issued by the authority to finance a school facility must mature within 20 years from the date of issue of the first bonds issued to finance the school facility.

(d) The amount of total outstanding debt obligation issued under this section must not exceed \$150,000,000.

Subd. 2. **Refunding bonds.** The authority may issue bonds to refund outstanding bonds issued under subdivision 1, including the payment of any redemption premiums on the bonds and any interest accrued or to accrue to the first redemption date after delivery of the refunding bonds. The proceeds of the refunding bonds may, in the discretion of the authority, be applied to the purchases or payment at maturity of the bonds to be refunded, or the redemption of the outstanding bonds on the first redemption date after delivery of the refunding bonds and may, until so used, be placed in escrow to be applied to the purchase, retirement, or redemption. Refunding bonds issued under this subdivision must be issued and secured in the manner provided by the authority.

Subd. 3. **No full faith and credit.** Bonds issued under this section are not public debt of the state. The full faith and credit and taxing powers of the state are not and may not be pledged for the payment of debt obligations under this section or for any payment the state makes under section 124D.1109. No person may compel the levy of a tax for the payment or compel the appropriation of money of the state or the authority for the payment of the bonds, except as specifically provided in section 124D.1109. The payments are subject to annual appropriation by the state and may be reduced or repealed at any time. Any bonds issued must contain a conspicuous statement to that effect.

Subd. 4. **Bond validity.** The validity of any bonds and the provisions made for the security of any bonds issued under this section are not affected by any determination that the interest on the bonds is includable in gross income for federal income tax purposes.

Subd. 5. **Trustee.** The authority may contract with and appoint a trustee for bond holders. The trustee has the powers and authority vested in it by the authority under the bond and trust indentures.

Subd. 6. **Pledges.** Any pledge made by the authority is valid and binding from the time the pledge is made. The money or property pledged and later received by the authority is immediately subject to the lien of the pledge without any physical delivery of the property or money or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, whether or not those parties have notice of the lien or pledge. Neither the order nor any other instrument by which a pledge is created need be recorded.

Subd. 7. **Bonds; purchase and cancellation.** The authority, subject to agreements with bondholders that may then exist, may, out of any money available for the purpose, purchase bonds of the authority at a price not exceeding (1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (2) if the bonds are not redeemable, the redemption price

applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Subd. 8. **State pledge against impairment of contracts.** The state pledges and agrees with the holders of any bonds that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the bondholders, or in any way impair the rights and remedies of the holders until the bonds, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged. The authority may include this pledge and agreement of the state in any agreement with the holders of bonds issued under this section.

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

Sec. 24. [124D.1109] STATE PAYMENT OF ENDORSED CHARTER SCHOOL DEBT OBLIGATION UPON POTENTIAL DEFAULT; REPAYMENT; STATE OBLIGATION NOT DEBT.

Subdivision 1. **Definitions.** For the purposes of this section and sections 124D.10 and 124D.11, the term "debt obligation" means bonds issued by the Charter School Facilities Authority under section 124D.1108.

Subd. 2. **Notifications; payment; appropriation.** (a) If an endorsed charter school believes that it may be unable to pay the amount sufficient to permit the Charter School Facilities Authority to make a principal or interest payment on an outstanding debt obligation on the date that payment is due, it must notify the commissioner of education as soon as possible, but not less than 15 business days before the date that principal or interest payment is due. The notice must include the name of the endorsed charter school, an identification of the debt obligation issue in question, the date the payment is due, the amount of principal or interest due on the payment date, the amount of principal or interest that the endorsed charter school will be unable to repay on that date, the trustee or paying agent for the debt obligation, the wire transfer instructions to transfer funds to that trustee or paying agent, and an indication whether a payment is being requested by the endorsed charter school under this section. If a trustee or paying agent becomes aware of a potential default, it shall immediately inform the commissioner of education of that fact. After receipt of a notice that requests a payment under this section, after consultation with the endorsed charter school and the trustee or paying agent, and after verification of the accuracy of the information provided, the commissioner of education shall notify the commissioner of management and budget of the potential default. The

31.1 notice must include a statement of the amount due that the endorsed charter school will be
31.2 unable to repay on the date due.

31.3 (b) Except as provided in subdivision 6, upon receipt of this notice from the
31.4 commissioner of education, the commissioner of management and budget shall issue a
31.5 warrant and authorize the commissioner of education to pay to the trustee or paying agent
31.6 for the debt obligation the specified amount on or before the date due. The amounts
31.7 needed for the purposes of this subdivision are annually appropriated to the commissioner
31.8 of education from the charter school credit enhancement account in the special revenue
31.9 fund in the state treasury.

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

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

31.24 Subd. 4. **Aid reduction for repayment.** (a) Except as provided in this subdivision,
31.25 the commissioner must reduce the state aid payable to the endorsed charter school under
31.26 section 124D.11 by the amount paid by the commissioner under this section on behalf
31.27 of the endorsed charter school, plus the interest due on it, and the commissioner of
31.28 management and budget shall transfer the amount reduced from the appropriate account
31.29 to the charter school facilities credit enhancement account. No federal aid payments
31.30 shall be reduced.

31.31 (b) If, after review of the financial situation of the endorsed charter school, the
31.32 commissioner of education advises the commissioner of management and budget that a
31.33 total reduction of aids would cause an undue hardship on or an undue disruption of the
31.34 educational program of the endorsed charter school, the commissioner of education, with
31.35 the approval of the commissioner of management and budget, may establish a different
31.36 schedule for reduction of aids to repay the state. The amount of aids to be reduced is

32.1 decreased by any amounts repaid to the state by the endorsed charter school from other
32.2 revenue sources.

32.3 Subd. 5. **Mandatory plan; technical assistance.** If the commissioner makes
32.4 payments on behalf of an endorsed charter school under this section or the endorsed
32.5 charter school defaults in the payment of principal or interest on an outstanding debt
32.6 obligation, it must submit a plan to the commissioner of education for approval specifying
32.7 the measures it intends to implement to resolve the issues that led to its inability to make
32.8 the payment and to prevent further defaults. The commissioners must provide technical
32.9 assistance to the endorsed charter school in preparing its plan.

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

32.14 Subd. 7. **Continuing disclosure agreements.** The commissioner of management
32.15 and budget may enter into written agreements or contracts relating to the continuing
32.16 disclosure of information with respect to bonds issued to finance the school facilities of
32.17 endorsed charter schools according to federal securities laws, rules, and regulations,
32.18 including Securities and Exchange Commission rules and regulations, section
32.19 240.15c2-12. The agreements or contracts may be in any form the commissioner of
32.20 management and budget deems reasonable and in the state's best interests.

32.21 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2011
32.22 and later.

32.23 Sec. 25. Minnesota Statutes 2008, section 326B.103, subdivision 11, is amended to
32.24 read:

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

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

32.29 Sec. 26. Laws 2009, chapter 96, article 2, section 67, subdivision 2, is amended to read:

32.30 Subd. 2. **Charter school building lease aid.** For building lease aid under Minnesota
32.31 Statutes, section 124D.11, subdivision 4:

33.1 \$ 40,453,000 2010
33.2 ~~44,775,000~~
33.3 \$ 4,264,000 2011

33.4 The 2010 appropriation includes \$3,704,000 for 2009 and \$36,749,000 for 2010.

33.5 The 2011 appropriation includes ~~\$4,083,000~~ \$4,264,000 for 2010 and ~~\$40,692,000~~
33.6 \$0 for 2011.

33.7 Sec. 27. Laws 2009, chapter 96, article 7, section 3, is amended to read:

33.8 Sec. 3. **APPROPRIATIONS.**

33.9 Subdivision 1. **Department of Education.** Unless otherwise indicated, the sums
33.10 indicated in this section are appropriated from the general fund to the Department of
33.11 Education for the fiscal years designated.

33.12 Subd. 2. **Department.** (a) For the Department of Education:

33.13 \$ 20,943,000 2010
33.14 ~~20,943,000~~
33.15 \$ 20,951,000 2011

33.16 Any balance in the first year does not cancel but is available in the second year.

33.17 (b) \$260,000 each year is for the Minnesota Children's Museum.

33.18 (c) \$41,000 each year is for the Minnesota Academy of Science.

33.19 (d) \$632,000 each year is for the Board of Teaching. Any balance in the first year
33.20 does not cancel but is available in the second year.

33.21 (e) \$171,000 each year is for the Board of School Administrators. Any balance in
33.22 the first year does not cancel but is available in the second year.

33.23 (f) \$40,000 each year is for an early hearing loss intervention coordinator under
33.24 Minnesota Statutes, section 125A.63, subdivision 5. If the department expends federal
33.25 funds to employ a hearing loss coordinator under Minnesota Statutes, section 125A.63,
33.26 subdivision 5, then the appropriation under this paragraph is reallocated for purposes of
33.27 employing a world languages coordinator.

33.28 (g) \$50,000 each year is for the Duluth Children's Museum.

33.29 (h) None of the amounts appropriated under this subdivision may be used for
33.30 Minnesota's Washington, D.C., office.

33.31 (i) The expenditures of federal grants and aids as shown in the biennial budget
33.32 document and its supplements are approved and appropriated and shall be spent as
33.33 indicated. The commissioner must provide, to the K-12 Education Finance Division in
33.34 the house of representatives and the E-12 Budget Division in the senate, details about the
33.35 distribution of state incentive grants, education technology state grants, teacher incentive

34.1 funds, and statewide data system funds as outlined in the supplemental federal funds
34.2 submission dated March 25, 2009.

34.3 (j) \$8,000 in fiscal year 2011 is for a vacant buildings' list.

34.4 (k) The base appropriation for fiscal year 2012 and later is \$20,947,000.

34.5 Subd. 3. **Board of Teaching; licensure by portfolio.** For the Board of Teaching
34.6 for licensure by portfolio:

34.7 \$ 30,000 2010

34.8 \$ 30,000 2011

34.9 This appropriation is from the education licensure portfolio account of the special
34.10 revenue fund.

34.11 Subd. 4. **Department, Minnesota Management and Budget.** For the Charter
34.12 School Facilities Authority under Minnesota Statutes, section 124D.1105.

34.13 \$ 392,000 2011

34.14 The base appropriation for fiscal year 2012 and later is \$147,000.

34.15 Sec. 28. **TRANSITION ELIGIBILITY.**

34.16 Subdivision 1. **Eligibility.** The following charter schools are eligible to apply to
34.17 the commissioner of education for approval to receive building lease transition aid under
34.18 Minnesota Statutes, section 124D.11, subdivision 4d:

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

34.20 (2) Charter School No. 4005, Metro Deaf;

34.21 (3) Charter School No. 4007, Minnesota New Country School;

34.22 (4) Charter School No. 4008, Pact Charter School;

34.23 (5) Charter School No. 4015, Community of Peace;

34.24 (6) Charter School No. 4016, World Learner;

34.25 (7) Charter School No. 4017, Minnesota Transitions;

34.26 (8) Charter School No. 4018, Achieve Language Academy;

34.27 (9) Charter School No. 4026, E.C.H.O. Charter School;

34.28 (10) Charter School No. 4027, Higher Ground Academy;

34.29 (11) Charter School No. 4029, New Spirit;

34.30 (12) Charter School No. 4043, Math and Science Academy;

34.31 (13) Charter School No. 4057, El Colegio Charter;

34.32 (14) Charter School No. 4067, Aurora School;

34.33 (15) Charter School No. 4068, Excell Academy Charter;

34.34 (16) Charter School No. 4070, Hope Community Academy;

34.35 (17) Charter School No. 4074, Agricultural and Food Sciences Academy;

- 35.1 (18) Charter School No. 4083, Ridgeway Community School;
35.2 (19) Charter School No. 4100, Great Expectations;
35.3 (20) Charter School No. 4103, Hmong Academy;
35.4 (21) Charter School No. 4105, Great River School;
35.5 (22) Charter School No. 4112, St. Paul Conservatory for Performing Artists;
35.6 (23) Charter School No. 4116, Lakes International Language Academy;
35.7 (24) Charter School No. 4118, Kaleidoscope Charter School;
35.8 (25) Charter School No. 4120, St. Croix Preparatory Academy;
35.9 (26) Charter School No. 4126, Prairie Seeds Academy;
35.10 (27) Charter School No. 4137, Swan River;
35.11 (28) Charter School No. 4140, Yinghua Academy;
35.12 (29) Charter School No. 4146, Northern Lights;
35.13 (30) Charter School No. 4164, Laura Jeffrey Academy Charter; and
35.14 (31) Charter School No. 4170, Hiawatha Leadership Academy.

35.15 Subd. 2. **Program management.** Notwithstanding Minnesota Statutes, section
35.16 124D.11, subdivisions 4a and 4d, the commissioner may adjust payments for a charter
35.17 school's eligibility for building lease transition aid and facilities aid in the fiscal year in
35.18 which the charter school is changing eligibility between programs to ensure efficient
35.19 management.

35.20 Subd. 3. **Affiliated nonprofit building corporation.** An affiliated nonprofit
35.21 building corporation must:

35.22 (1) be incorporated under Minnesota Statutes, chapter 317A, and comply with
35.23 applicable Internal Revenue Service regulations;

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

35.26 (3) comply with government data practices law under Minnesota Statutes, chapter 13.

35.27 The state is immune from liability resulting from a contract between a charter school and
35.28 an affiliated nonprofit building corporation.

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

35.30 **Sec. 29. CHARTER SCHOOL STARTUP AID.**

35.31 Notwithstanding Minnesota Statutes, section 124D.11, subdivision 8, for fiscal year
35.32 2012, a charter school in its first year of operation is not eligible for charter school startup
35.33 aid under Minnesota Statutes, section 124D.11, subdivision 8.

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

Sec. 30. **CHARTER SCHOOL FACILITIES CREDIT ENHANCEMENT ACCOUNT; INITIAL CAPITALIZATION.**

\$258,000 in fiscal year 2012 and \$608,000 in fiscal year 2013 is appropriated from the general fund to the Department of Management and Budget to initially capitalize the charter school facilities credit enhancement account under Minnesota Statutes, section 124D.11, subdivision 4d. The commissioner of the Department of Management and Budget shall credit the amounts appropriated in this section to the charter school facilities credit enhancement account.

Sec. 31. **EDUCATION SITE CALCULATION.**

For a charter school with one or more education sites qualifying for building lease aid for fiscal year 2011 under Minnesota Statutes, section 124D.11, subdivision 4, and one or more sites qualifying for building lease transition aid for fiscal year 2011 under Minnesota Statutes, section 124D.11, subdivision 4d, the commissioner shall determine the fiscal year 2010 building lease aid per pupil unit served at each site by apportioning the total building lease aid among sites based on the approved lease cost for each site, and dividing the apportioned lease aid for each site by the pupil units served at that site.

Sec. 32. **EXTENSION OF BUILDING LEASE AID FORMULA; FISCAL YEAR 2012.**

Subdivision 1. **Eligibility.** For fiscal year 2012 only, if a charter school that received building lease aid in excess of \$1,200 per pupil unit in fiscal year 2011 is unable to renegotiate its lease so that its building lease aid in fiscal year 2012 is \$1,200 per pupil unit served or less, the charter school is eligible to receive an extension of its building lease aid formula allowance under this section, with the approval of the commissioner under subdivision 2.

Subd. 2. **Commissioner approval.** An eligible charter school may apply to the commissioner to extend its building lease aid formula for fiscal year 2012. The commissioner may grant approval under this section if the commissioner is satisfied that the charter school has attempted to renegotiate its lease with the owner of the school's leased building, but has not been successful.

Subd. 3. **Extension allowance.** The extension allowance equals the difference between a charter school's building lease aid per pupil unit served for fiscal year 2011 and \$1,200 times 0.5.

Subd. 4. **Formula.** Notwithstanding Minnesota Statutes, section 124D.11, subdivision 4, paragraph (d), at the commissioner's discretion, an eligible charter school's

37.1 building lease aid per pupil unit served for a charter school for fiscal year 2012 only shall
37.2 not exceed the lesser of (1) 90 percent of the approved cost, or (2) the product of the
37.3 pupil units served for the current school year times the sum of \$1,200 and the school's
37.4 extension allowance under subdivision 3.

37.5 Sec. 33. **TRANSITION ELIGIBILITY; DULUTH PUBLIC ACADEMY.**

37.6 Charter School No. 4020, Duluth Public Schools Academy, is eligible to apply to
37.7 the commissioner of education for approval to receive building lease transition aid under
37.8 Minnesota Statutes, section 124D.11, subdivision 4d, if the charter school has received a
37.9 positive review and comment from the Department of Education on its K-8 school project
37.10 by July 15, 2010, and the bonds to construct the K-8 school project have been sold by
37.11 September 1, 2010.

37.12 Sec. 34. **APPROPRIATIONS.**

37.13 Subdivision 1. **Department of Education.** Unless otherwise indicated, the sums
37.14 indicated in this section are appropriated from the general fund to the Department of
37.15 Education for the fiscal years designated.

37.16 Subd. 2. **Charter school building aid.** For charter school building aid under
37.17 Minnesota Statutes, section 124D.11, subdivision 4e:

37.18 \$ 34,672,000 2011

37.19 The 2011 appropriation includes \$0 for 2010 and \$34,672,000 for 2011.

37.20 Sec. 35. **REPEALER.**

37.21 (a) Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 17a, is
37.22 repealed effective the day following final enactment.

37.23 (b) Minnesota Statutes 2008, section 124D.11, subdivision 8, is repealed effective
37.24 for revenue for fiscal year 2013.

124D.10 CHARTER SCHOOLS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) completes a feasibility study of facility options;

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

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

124D.11 REVENUE FOR A CHARTER SCHOOL.

Subd. 8. **Start-up costs.** During the first two years of a charter school's operation, the charter school is eligible for aid to pay for start-up costs and additional operating costs. Start-up cost aid equals the greater of:

(1) \$50,000 per charter school; or

(2) \$500 times the charter school's pupil units served for that year.