

NINETIETH DAY

St. Paul, Minnesota, Tuesday, April 20, 2010

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Paul Rogers.

The roll was called, and the following Senators answered to their names:

Anderson	Erickson Ropes	Koch	Olson, G.	Saxhaug
Bakk	Fischbach	Koering	Olson, M.	Senjem
Berglin	Fobbe	Kubly	Ortman	Sheran
Betzold	Foley	Langseth	Pappas	Sieben
Bonoff	Frederickson	Limmer	Pariseau	Skoe
Carlson	Gerlach	Lourey	Parry	Skogen
Chaudhary	Gimse	Lynch	Pogemiller	Sparks
Clark	Hann	Marty	Prettner Solon	Stumpf
Cohen	Higgins	Metzen	Rest	Tomassoni
Dahle	Ingebrigtsen	Michel	Robling	Torres Ray
Dibble	Johnson	Moua	Rosen	Vandever
Dille	Jungbauer	Murphy	Rummel	Vickerman
Doll	Kelash	Olseen	Saltzman	Wiger

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Lourey moved that the following members be excused for a Conference Committee on S.F. No. 2713 at 11:00 a.m.:

Senators Lourey, Berglin and Dille. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith

returned: S.F. No. 2851.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 19, 2010

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 364: A bill for an act relating to waters; modifying drainage system provisions; amending Minnesota Statutes 2008, sections 103B.101, by adding a subdivision; 103E.065; 103E.227; 103E.401, subdivision 3; 103E.505, subdivision 3; 103E.611, subdivision 1; 103E.735, subdivision 1; 103E.805; proposing coding for new law in Minnesota Statutes, chapter 103E.

Senate File No. 364 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 19, 2010

Senator Sparks moved that the Senate do not concur in the amendments by the House to S.F. No. 364, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 3386.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 19, 2010

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 3386: A bill for an act relating to real property; requiring performance guidelines for certain residential contracts; modifying statutory warranties; requiring notice and opportunity to repair; providing for dispute resolution procedures; requiring a report; amending Minnesota Statutes 2008, sections 302A.781, subdivision 4; 326B.809; 327A.01, by adding a subdivision; 327A.02, subdivision 4, by adding subdivisions; 327A.03; proposing coding for new law in Minnesota Statutes, chapter 327A.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2832, now on the Calendar.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Olson, M.; Erickson Ropes and Torres Ray introduced–

S.F. No. 3369: A bill for an act relating to health; establishing a voluntary statewide pool to provide health benefits to eligible members; providing for the administration and oversight of the pool; proposing coding for new law as Minnesota Statutes, chapter 62V.

Referred to the Committee on Health, Housing and Family Security.

Senator Olson, M. introduced–

S.F. No. 3370: A bill for an act relating to taxation; sales and use; expanding the exemption for certain public safety radio equipment; amending Minnesota Statutes 2008, section 297A.70, subdivision 8.

Referred to the Committee on Taxes.

Senators Chaudhary and Rummel introduced–

S.F. No. 3371: A bill for an act relating to traffic regulations; amending statutory speed limits; amending Minnesota Statutes 2008, sections 169.011, by adding a subdivision; 169.14, subdivision 4; Minnesota Statutes 2009 Supplement, section 169.14, subdivision 2.

Referred to the Committee on Transportation.

Senators Chaudhary and Rummel introduced–

S.F. No. 3372: A bill for an act relating to traffic regulations; establishing speed limit on segment of marked Trunk Highway 51.

Referred to the Committee on Transportation.

MOTIONS AND RESOLUTIONS

Senator Sieben moved that the name of Senator Erickson Ropes be added as a co-author to S.F. No. 2629. The motion prevailed.

Senator Saltzman moved that the names of Senators Frederickson and Sheran be added as co-authors to S.F. No. 2941. The motion prevailed.

Senator Olson, G. moved that her name be stricken as a co-author to S.F. No. 3119. The motion prevailed.

Senator Clark moved that the name of Senator Saltzman be added as a co-author to S.F. No. 3131. The motion prevailed.

Senators Olson, G.; Limmer and Hann introduced –

Senate Resolution No. 179: A Senate resolution congratulating the Northwestern College mens basketball team on winning the 2010 National Christian College Athletic Association (NCCAA) Division I Men's Basketball National Championship.

Referred to the Committee on Rules and Administration.

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Metzen in the chair.

After some time spent therein, the committee arose, and Senator Frederickson reported that the committee had considered the following:

S.F. No. 184, which the committee recommends to pass, subject to the following motions:

Senator Pappas moved to amend S.F. No. 184 as follows:

Page 8, line 25, delete "finance" and insert "management and budget"

Page 9, delete section 20

Page 12, after line 29, insert:

"Sec. 27. Laws 2009, chapter 95, article 2, section 40, is amended to read:

Sec. 40. TEACHER EDUCATION REPORT.

The Minnesota Office of Higher Education and Minnesota Department of Education must report to the committees of the legislature with jurisdiction over teacher education on best practices in innovative teacher education programs and teacher education research. The report must include, at a minimum, information on:

(1) teacher education preparation program curricula that will prepare prospective teachers to teach an increasingly diverse student population;

(2) opportunities for mid-career professionals employed in professions in which there is a shortage of teachers to pursue a teaching career; and

(3) enhancing the ability of teachers to use technology in the classroom.

The report must be submitted by ~~June~~ August 15, 2010.

Sec. 28. Laws 2010, chapter 215, article 2, section 4, subdivision 3, is amended to read:

Subd. 3. Operations and Maintenance

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(9,967,000)

For fiscal years 2012 and 2013, the base for operations and maintenance is ~~\$592,792,000~~

\$580,802,000 each year.

Sec. 29. Laws 2010, chapter 215, article 2, section 6, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective ~~the day following final enactment~~ for grants made on and after July 1, 2010."

Page 12, delete section 28

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Wiger moved to amend S.F. No. 184 as follows:

Page 13, after line 4, insert:

"Sec. 29. MONITORING OF FEDERAL POSTSECONDARY TEXTBOOK DISCLOSURE LAW.

The Office of Higher Education shall monitor the implementation of the Higher Education Opportunity Act, Public Law 110-315, as it relates to disclosure of textbook pricing and other information to students. The monitoring shall be done in a manner that the office determines will allow it to determine whether students are receiving information required or encouraged to be disclosed to students under the act. The office shall report the results of its monitoring along with any recommendations for legislation to the chairs and ranking minority members of the legislative committees with primary jurisdiction over higher education finance and policy by February 1, 2011.

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

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Pappas moved to amend S.F. No. 184 as follows:

Page 10, after line 8, insert:

"Sec. 22. [137.66] ATHLETIC SCHOLARSHIP; LIQUOR LICENSE.

All net revenue resulting directly or indirectly from the sale of liquor at a football stadium location holding a license under section 340A.404, subdivision 4a, clause (3), must be used for athletic scholarships at the University of Minnesota.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to licenses issued before, on, and after that date."

Page 12, after line 29, insert:

"Sec. 29. Minnesota Statutes 2009 Supplement, section 340A.404, subdivision 4a, is amended to read:

Subd. 4a. **Publicly owned recreation; entertainment facilities.** (a) Notwithstanding any other

law, local ordinance, or charter provision, the commissioner may issue on-sale intoxicating liquor licenses:

(1) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the premises of any Giants Ridge Recreation Area building or recreational improvement area owned by the state in the city of Biwabik, St. Louis County;

(2) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the premises of any Ironworld Discovery Center building or facility owned by the state at Chisholm;

(3) to the Board of Regents of the University of Minnesota for events at Northrop Auditorium, the intercollegiate football stadium, or at no more than seven other locations within the boundaries of the University of Minnesota, provided that the Board of Regents has approved an application for a license for the specified location ~~and provided that a license for an arena or stadium location is void unless it requires the sale or service of intoxicating liquor throughout the arena or stadium if intoxicating liquor is sold or served anywhere in the arena or stadium;~~ and

(4) to the Duluth Entertainment and Convention Center Authority for beverage sales on the premises of the Duluth Entertainment and Convention Center Arena during intercollegiate hockey games.

The commissioner shall charge a fee for licenses issued under this subdivision in an amount comparable to the fee for comparable licenses issued in surrounding cities.

(b) No alcoholic beverage may be sold or served at TCF Bank Stadium unless the Board of Regents holds an on-sale intoxicating liquor license for the stadium as provided in paragraph (a), clause (3).

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Tomassoni moved to amend the second Pappas amendment to S.F. No. 184 as follows:

Page 1, delete lines 4 to 6 and insert:

"Fifty percent of the net revenue resulting directly or indirectly from the sale of liquor at TCF Bank Stadium under authority of a license granted under section 340A.404, subdivision 4a, paragraph (a), clause (3), must be used for athletic scholarships at the University of Minnesota and 50 percent of the net revenue must be used to reduce the student stadium fee. This section is a condition to any license issued for TCF Bank Stadium under section 340A.404, subdivision 4a, paragraph (a), clause (3), and violation of the condition voids the license."

Page 1, line 26, after the stricken "a" insert ". A"

Page 1, line 27, reinstate the stricken "license for" and after the stricken "location" insert "TCF Bank Stadium" and reinstate "is void unless it requires the sale or service of"

Page 1, line 28, reinstate the stricken "intoxicating liquor throughout the" and reinstate the stricken "stadium if intoxicating liquor is sold or served"

Page 1, line 29, reinstate the stricken "anywhere in the" and reinstate the stricken "stadium"

Senator Pappas requested division of the Tomassoni amendment as follows:

First portion:

Page 1, delete lines 4 to 6 and insert:

"Fifty percent of the net revenue resulting directly or indirectly from the sale of liquor at TCF Bank Stadium under authority of a license granted under section 340A.404, subdivision 4a, paragraph (a), clause (3), must be used for athletic scholarships at the University of Minnesota and 50 percent of the net revenue must be used to reduce the student stadium fee. This section is a condition to any license issued for TCF Bank Stadium under section 340A.404, subdivision 4a, paragraph (a), clause (3), and violation of the condition voids the license."

The motion prevailed. So the first portion of the amendment to the amendment was adopted.

Second portion:

Page 1, line 26, after the stricken "a" insert ". A"

Page 1, line 27, reinstate the stricken "license for" and after the stricken "location" insert "TCF Bank Stadium" and reinstate "is void unless it requires the sale or service of"

Page 1, line 28, reinstate the stricken "intoxicating liquor throughout the" and reinstate the stricken "stadium if intoxicating liquor is sold or served"

Page 1, line 29, reinstate the stricken "anywhere in the" and reinstate the stricken "stadium"

The question was taken on the adoption of the second portion of the Tomassoni amendment to the Pappas amendment.

The roll was called, and there were yeas 20 and nays 41, as follows:

Those who voted in the affirmative were:

Chaudhary	Fischbach	Lynch	Parry	Sparks
Clark	Gimse	Marty	Saltzman	Tomassoni
Dibble	Koch	Metzen	Saxhaug	Torres Ray
Erickson Ropes	Koering	Ortman	Senjem	Vandever

Those who voted in the negative were:

Anderson	Fobbe	Kelash	Pappas	Sieben
Berglin	Foley	Kubly	Pariseau	Skogen
Betzold	Frederickson	Langseth	Pogemiller	Stumpf
Bonoff	Gerlach	Limmer	Prettner Solon	Vickerman
Carlson	Hann	Michel	Rest	Wiger
Cohen	Higgins	Moua	Robling	
Dahle	Ingebrigtsen	Murphy	Rosen	
Dille	Johnson	Olseen	Rummel	
Doll	Jungbauer	Olson, G.	Sheran	

The motion did not prevail. So the second portion of the amendment to the amendment was not adopted.

The question recurred on the adoption of the second Pappas amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

S.F. No. 184 was then recommended to pass.

S.F. No. 1060, which the committee recommends to pass with the following amendment offered by Senator Dibble:

Page 4, line 13, delete "July 1, 2012" and insert "January 1, 2013"

The motion prevailed. So the amendment was adopted.

S.F. No. 3134, which the committee recommends to pass, subject to the following motions:

Senator Koering moved to amend S.F. No. 3134 as follows:

Page 1, after line 17, insert:

"Section 1. Minnesota Statutes 2008, section 1.141, is amended by adding a subdivision to read:

Subd. 6. **Folding of the state flag for presentation or display.** The following procedures constitute the proper way to fold the Minnesota State Flag for presentation or display. Fold the flag four times lengthwise so that one section displays the three stars of the state crest and the text "L'Etoile du Nord." Fold each side behind the displayed section at a 90-degree angle so that the display section forms a triangle. Take the section ending with the hoist and fold it at a 90-degree angle across the bottom of the display section and then fold the hoist back over so it is aligned with the middle of the display section. Fold the other protruding section directly upwards so that its edge is flush with the display section and then fold it upwards along a 45-degree angle so that a mirror of the display section triangle is formed. Fold the mirror section in half from the point upwards, then fold the remaining portion upwards, tucking it between the display section and the remainder of the flag.

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

Sec. 2. Minnesota Statutes 2008, section 1.141, is amended by adding a subdivision to read:

Subd. 7. **Folding of the state flag for storage.** When folding the Minnesota State Flag for storage, the proper procedure is to fold and store the flag in the same manner as the national colors.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Pappas moved to amend S.F. No. 3134 as follows:

Page 1, after line 17, insert:

"Section 1. Minnesota Statutes 2008, section 3.9225, subdivision 5, is amended to read:

Subd. 5. **Powers.** The council may contract in its own name, but no money shall be accepted or

received as a loan nor indebtedness incurred except as otherwise provided by law. Contracts shall be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in subdivisions 1 to 7. The council may solicit and accept payments for advertising, use of exhibition space, or commemorative videos or other items in connection with publications, events, media productions, and informational programs that are sponsored by the council. These revenues must be deposited in an account in the special revenue fund and are appropriated to the council to defray costs of publications, events, media productions, or informational programs consistent with the powers and duties specified in subdivisions 1 to 7. The council may not publish advertising or provide exhibition space for any elected official or candidate for elective office.

The council shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Black people. The council may delegate to the executive director powers and duties under subdivisions 1 to 7 which do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the council. The executive director shall recommend to the council, and the council may appoint the appropriate staff necessary to carry out its duties. Staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Pogemiller moved to amend S.F. No. 3134 as follows:

Page 3, after line 6, insert:

"Sec. 4. **[16C.051] REQUIREMENTS FOR CONTRACTS OVER \$100,000.**

Subdivision 1. **Application.** This section applies to a contract with an estimated value of \$100,000 or more. The requirements imposed by this section are in addition to, and do not supersede, the requirements of any other applicable section of law. This section does not apply to a Department of Transportation contract that is subject to section 161.3203.

Subd. 2. **Required review.** (a) Before entering into a contract subject to this section, the agency head must prepare a comprehensive written estimate of the cost of having the same work provided in the most cost-effective manner by agency employees. The cost estimate must include all costs of having agency employees provide the work, including the cost of pension, insurance, and all other employee benefits. The cost estimate is nonpublic data, as defined in section 13.02, subdivision 9, until the day after the deadline for receipt of responses under paragraph (b).

(b) After soliciting and receiving responses, the contracting agency shall prepare a comprehensive written estimate of the cost of the highest scoring proposal or lowest cost bid based on the designated responder's response, including costs associated with monitoring the proposed contract. If the designated responder proposes to perform any or all of the desired services outside the state, the contracting agency shall include in the cost estimate, as nearly as possible, any loss of sales and income tax revenue to the state. The cost estimate must not include trade secret data that

is classified as nonpublic data under section 13.37, subdivision 2.

(c) An agency may not enter into a contract subject to this section unless the agency head determines that:

(1) the cost estimated under paragraph (b) will be lower than the cost estimated under paragraph (a);

(2) the quality of the work to be provided by the designated responder is likely to equal or exceed the quality of services that could be provided by state employees;

(3) the contract, together with other contracts to which the agency is or has been a party, will not violate section 16C.08 or 16C.09, or otherwise reduce full-time equivalent positions within the agency; and

(4) the proposed contract is in the public interest.

Subd. 3. **Reports.** The commissioner must electronically report to the chairs and ranking minority members of the legislative committees with jurisdiction over finance by January 15 each year, in compliance with sections 3.195 and 3.197, on implementation of this section. The report must list all contracts subject to this section that were executed or performed, whether wholly or in part, in the previous fiscal year. The report must identify, with respect to each contract: the contractor; contract amount; duration; work, provided or to be provided; the comprehensive estimate derived under subdivision 2, paragraph (a); the comprehensive estimate derived under subdivision 2, paragraph (b); the actual cost to the agency of the contractor's performance of the contract; and a statement containing the agency head's determinations under subdivision 2, paragraph (c).

Subd. 4. **Short title.** This section may be cited as the "Taxpayers Accountability Act."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Limmer moved to amend the Pogemiller amendment to S.F. No. 3134 as follows:

Page 2, delete subdivision 4

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Pogemiller amendment, as amended.

The roll was called, and there were yeas 34 and nays 30, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Kubly	Pappas	Stumpf
Bakk	Dibble	Langseth	Pogemiller	Tomassoni
Berglin	Erickson Ropes	Lourey	Rest	Torres Ray
Betzold	Fobbe	Marty	Rummel	Vandever
Chaudhary	Foley	Moua	Saxhaug	Vickerman
Clark	Higgins	Olseen	Sieben	Wiger
Cohen	Kelash	Olson, M.	Sparks	

Those who voted in the negative were:

Bonoff	Gerlach	Koch	Olson, G.	Rosen
Carlson	Gimse	Koering	Ortman	Saltzman
Dille	Hann	Limmer	Pariseau	Senjem
Doll	Ingebrigtsen	Lynch	Parry	Sheran
Fischbach	Johnson	Metzen	Prettner Solon	Skoe
Frederickson	Jungbauer	Michel	Robling	Skogen

The motion prevailed. So the Pogemiller amendment, as amended, was adopted.

Senator Frederickson moved to amend S.F. No. 3134 as follows:

Page 2, line 30, strike "obtaining"

Page 2, line 31, strike "approval of" and insert "informing" and after "chairs" insert "and ranking minority members"

The motion prevailed. So the amendment was adopted.

Senator Bonoff moved to amend S.F. No. 3134 as follows:

Page 1, after line 17, insert:

**"ARTICLE 1
STATE GOVERNMENT"**

Page 10, after line 30, insert:

**"ARTICLE 2
GOVERNMENT REFORM"**

Section 1. **[3.9280] COMMISSION ON SERVICE INNOVATION.**

Subdivision 1. **Establishment.** The Commission on Service Innovation is established to provide the legislature and the Board of Innovation with a strategic plan to reengineer the delivery of state and local government services, including the realignment of service delivery by region and proximity, the use of new technologies, shared facilities, centralized information technologies, and other means of improving efficiency.

Subd. 2. **Membership.** (a) The commission consists of 18 members, appointed as follows:

- (1) one representative of the Minnesota Chamber of Commerce;
- (2) one representative of the Minnesota Business Partnership;
- (3) one representative of the McKnight Foundation;
- (4) one representative of the Wilder Foundation;
- (5) one representative of the Bush Foundation;
- (6) one representative of the Minnesota Council of Nonprofits;
- (7) one representative of the Minnesota Association of Townships;
- (8) one representative of the Association of Minnesota Counties;

- (9) one representative of the League of Minnesota Cities;
- (10) one representative of the University of Minnesota;
- (11) one representative of the Minnesota State Colleges and Universities;
- (12) one representative of the Minnesota Association of School Administrators;
- (13) two representatives of the American Federation of State, County, and Municipal Employees, including one from council 5 and one from council 65;
- (14) one representative of the Minnesota Association of Professional Employees;
- (15) one representative of the Service Employees International Union;
- (16) one representative of the Minnesota High Tech Association; and
- (17) the state chief information officer.

(b) The appointments required by this section must be completed by June 30, 2010. Appointing authorities shall notify the state chief information officer when making their appointments. The members of the commission shall serve at the pleasure of the appointing authorities.

Subd. 3. **Organization.** (a) Within two weeks after completion of the appointments under subdivision 2, the state chief information officer shall convene the first meeting of the commission. The state chief information officer shall provide meeting space for the commission. The commission shall select co-chairpersons from its appointed membership at the first meeting. Members of the legislature may attend the meetings of the commission and participate as nonvoting members of the commission.

(b) The commission shall provide notice of its meetings to the public and to interested members of the legislature. Meetings of the commission are subject to chapter 13D. The commission shall post all reports required under this section on the Legislative Coordinating Commission Web site.

(c) The commission may solicit and receive private contributions. Money received under this paragraph is deposited in a special revenue account and appropriated to the commission for the purposes of this section. The commission may provide per diem payments to voting members as determined by the commission from the appropriation in this paragraph. No public money may be used to provide payment of per diems or expenses for members of the commission. The commission may hire staff to assist the commission in its work.

(d) The commission shall solicit and coordinate public input. The commission must use its best efforts to maximize public involvement in the work of the commission, including the use of best practices in social media. The commission may retain an expert in the use of social media to assist in public outreach and involvement.

Subd. 4. **Reporting.** (a) Beginning August 1, 2010, the commission shall publish electronic monthly reports on its progress, including a description of upcoming agenda items.

(b) By January 15 of each year, beginning in 2011, the commission shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over state government policy and finance regarding its work under this section and to the Board of Innovation

established under section 465.7902, with a strategic plan containing findings and recommendations to improve state and local government delivery of public services. The strategic plan must address:

- (1) how to enhance the public involvement and input as the public uses state and local government services and public schools;
- (2) how technology can be leveraged to reduce costs and enhance quality;
- (3) how service innovation will conserve substantial financial resources;
- (4) a transition plan and governance structure that will facilitate high-quality innovation and change in the future;
- (5) how to improve public sector employee productivity;
- (6) the security of individual data and government programs;
- (7) data transparency and accountability;
- (8) centralized and shared services; and
- (9) data interoperability across jurisdictions.

The strategic plan shall also provide a process to review and modify recommendations at regular intervals in the future based on specific results measured at regular intervals.

The strategic plan shall also include any proposed legislation necessary to implement the commission's recommendations.

Subd. 5. **Expiration.** This section expires June 30, 2012.

Sec. 2. **[372A.01] HOME RULE CHARTER FOR CONTIGUOUS COUNTIES.**

Any two or more contiguous counties in the state may propose a county home rule charter commission as provided in this chapter.

The county board of each contiguous county shall adopt a resolution to establish a home rule charter commission for the counties. The resolution must name the contiguous counties proposing to establish the charter commission.

Sec. 3. **[372A.02] CHARTER COMMISSION; NOMINATIONS AND APPOINTMENTS.**

Subdivision 1. **Publication.** Within 30 days after the date of the resolution in section 372A.01, the county board of each county shall publish the resolution and a notice inviting interested persons to apply to the county board of commissioners for consideration by the county board and the joint legislative delegation for nomination to the charter commission. The resolution and notice must be published at least once a week for two successive weeks in a qualified newspaper of general circulation within each county. If one newspaper is a qualified newspaper of general circulation for more than one county, those counties may publish jointly. The county boards shall furnish copies of the applications to the members of the joint legislative delegation.

Subd. 2. **Nomination.** (a) Within 60 days after the date of the resolution in section 372A.01, the county board of each county shall nominate 15 persons as candidates for appointment to a charter commission to propose a charter to provide for the form of county government for the counties.

Three persons who reside in the district must be nominated for each of the county commissioner districts in each county. Immediately following selection of the nominees, the county board of each county shall submit the nominations, together with the county board resolution, to the chief judge of the district court with jurisdiction in the county.

(b) Within 75 days after the date of the resolution in section 372A.01, the joint legislative delegation of each county shall nominate six persons who reside in the county as candidates for appointment to a charter commission to propose a charter to provide for the form of county government for the counties. The six persons must be nominated without regard to county commissioner districts. Immediately following selection of the nominees, the delegation shall submit the nominations to the chief judge of the district court with jurisdiction in the county. For purposes of this section, "joint legislative delegation" means all elected members of the house of representatives and senate whose legislative district includes a portion of a county proposing a home rule charter commission under section 372A.01.

Subd. 3. **Appointment.** Within 30 days after the last submission of nominations, the chief judge shall appoint to the charter commission seven members for each county, one appointee for each county commissioner district in each county, selected from those who were nominated by county commissioner district, and two appointees from each county who were nominated to serve from the county without regard to county commissioner districts. The commission members must be qualified voters in the county from which they are appointed. A person is not disqualified from serving on the charter commission because the person holds an elective or appointive office. The appointing authority shall fill any vacancies. Appointments must be filed with the board of county commissioners of the county in which the appointee resides. An appointee must file an acceptance with the board within ten days after notification of the appointment or be considered to have declined the appointment.

Sec. 4. **[372A.03] CHARTER COMMISSION; TERMS; ADMINISTRATION.**

Subdivision 1. **Chair; rules.** The charter commission shall meet within 30 days after the initial appointment, elect a chair from among the members, and establish rules, including quorum requirements, for its operation and procedures.

Subd. 2. **Expenses and administration.** The members of the charter commission receive no compensation except reimbursement for expenses actually incurred in the course of their duties. The board of county commissioners of each county may make appropriations to the charter commission to be used to employ research and clerical assistance, for supplies, and to meet expenses considered necessary by the charter commission. The charter commission may request and receive assistance from any county official. If requested, a personnel director shall assist the charter commission to test and hire employees. If requested, a county attorney shall provide legal services.

Subd. 3. **Terms.** Members of the charter commission hold office until a final report has been made under section 372A.04.

Sec. 5. **[372A.04] CHARTER COMMISSION; POWERS AND DUTIES.**

Subdivision 1. **Report to county boards.** The charter commission shall deliver to the board of county commissioners of each contiguous county either (1) its report determining that the present form of county government is adequate for the county and that a charter is not necessary or desirable, or (2) a draft of a proposed charter. The report must be signed by a majority of the members of the

charter commission.

Subd. 2. **Contents of report.** The proposed charter may provide for any form of government consistent with the Constitution of the state of Minnesota. It may provide for the establishment and administration of all departments of a county government and for the regulation of all local county functions. It may abolish or consolidate any department or agency. It must provide for present functions to be assumed by new elective or appointive officers as provided in the charter and may provide for other powers consistent with other law. It must provide methods of procedure in respect to the operation of the government created and the duties of all officers. It must provide for a home rule charter commission consistent with article XII, section 5, of the Constitution of the state of Minnesota and may provide for alternative methods for amending or abandoning the charter consistent with the Constitution. A county may be authorized to acquire by gift, devise, purchase, or condemnation or sell or lease any property needed for the full discharge of its duties and powers.

Subd. 3. **Public hearings.** The charter commission must hold at least one public hearing on the report in each of the county commissioner districts. Based upon the public hearings, the charter commission may revise the report. The revised report must be signed by a majority of the members of the charter commission, and delivered to the county boards.

Sec. 6. [372A.05] ELECTION; BALLOT.

Subdivision 1. **Procedure; notice.** Upon delivery of the final proposed charter to the board of county commissioners in each county, each board shall submit it to the voters in that county at a general election. The notice of election must contain the complete charter and must be published once a week for two successive weeks in a qualified newspaper of general circulation within each county.

Subd. 2. **Ballot form.** The ballot must at least contain the following question with additional descriptive language, approved by the secretary of state, that the charter commission may include:

"Shall the proposed county charter be adopted?"

Yes
No"

The voter shall place an "X" after one of the last two words to express the voter's choice.

Sec. 7. [372A.06] ADOPTION OF CHARTER.

If a majority of the votes cast in a county on the proposition are in favor of the proposed charter, it must be considered adopted for that county. The charter takes effect two years after the election.

Sec. 8. [372A.07] HOME RULE CHARTER COUNTY POWERS AND DUTIES.

Subdivision 1. **General rule.** Unless specifically provided otherwise in general laws or statutes, the term "county" when used in Minnesota Statutes or any general legislative act includes home rule charter counties organized under this chapter. In addition to powers and duties granted or imposed under its charter, a home rule charter county has all the powers granted a county by law and all of the duties imposed upon it by law. If a charter provision conflicts with a general law, the requirements of the law prevail.

Subd. 2. **County bonds and indebtedness.** All general and special laws authorizing a county to incur indebtedness or issue bonds are subject to the charter if the charter provisions are not in conflict with general laws relating to indebtedness.

Subd. 3. **Personnel exception.** A home rule charter does not apply to personnel matters relating to employees of a county, which continue to be governed by law.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 8 are effective July 1, 2010."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 3134 was then recommended to pass.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 2846: A bill for an act relating to transportation; modifying provisions governing movement of large vehicles on public streets and highways; making technical changes; repealing certain rules related to motor carriers; amending Minnesota Statutes 2008, sections 169.801, subdivision 5; 169.823, as amended; 169.826, as amended; 169.828, subdivision 1; 169.829; 169.851, subdivision 5; 169.86, subdivisions 1a, 5; 169.862, subdivision 1; 169.863, subdivision 1; 169.864, subdivision 4; 169.871, subdivisions 1, 1a, 1b; Minnesota Statutes 2009 Supplement, sections 169.801, subdivision 10; 169.81, subdivision 3; 169.824, subdivisions 1, 2; 169.8261, subdivisions 1, 2; 169.85, subdivision 2; 169.862, subdivision 2; 169.864, subdivision 2; 169.865, subdivision 1; 169.87, subdivision 2; 221.025; 221.031, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 2008, section 169.826, subdivision 6; Minnesota Rules, parts 7800.0100, subparts 4, 6, 7, 8, 11, 12, 13, 14; 7800.0200; 7800.0400; 7800.0800; 7800.0900; 7800.1000; 7800.3200, subpart 2; 7800.3300; 7805.0500; 7805.0900; 7805.1300; 8850.7950; 8850.8000; 8850.8050, subpart 2; 8850.8100; 8850.8250; 8850.8300; 8850.8350; 8850.8800; 8850.8850; 8850.9050, subpart 3; 8855.0410; 8855.0600; 8855.0850; 8920.0100; 8920.0150; 8920.0200; 8920.0300; 8920.0400; 8920.0500; 8920.0600; 8920.0700; 8920.0800; 8920.0900; 8920.1000; 8920.1100; 8920.1200; 8920.1300; 8920.1400;

8920.1500; 8920.1550; 8920.1600; 8920.1700; 8920.1800; 8920.1900; 8920.2000; 8920.2100; 8920.2200; 8920.2300; 8920.2400; 8920.2500; 8920.2600; 8920.2700; 8920.2800; 8920.2900; 8920.3000; 8920.3100; 8920.3200; 8920.3300; 8920.3400; 8920.3500; 8920.3600; 8920.3700; 8920.3800; 8920.3900; 8920.4000; 8920.4100; 8920.4200; 8920.4300; 8920.4400; 8920.4500.

Senate File No. 2846 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 19, 2010

Senator Skoe moved that the Senate do not concur in the amendments by the House to S.F. No. 2846, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 2825: A bill for an act relating to commerce; modifying continuing education provisions; amending insurance laws involving insurance company rehabilitation and liquidation, group life insurance, the use of mortality tables, the Life and Health Insurance Guaranty Association, and mutual insurance companies; regulating fraternal benefit societies; amending Minnesota Statutes 2008, sections 60B.03, by adding subdivisions; 61A.09, by adding a subdivision; 61A.257, subdivisions 2, 3; 61B.19, subdivision 3; 61B.28, subdivision 7; 64B.19, by adding a subdivision; 66A.40, subdivision 11; 66A.42; Minnesota Statutes 2009 Supplement, sections 45.31, subdivision 3; 60K.56, subdivision 6; 61B.19, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 60B; 64B.

Senate File No. 2825 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 19, 2010

CONCURRENCE AND REPASSAGE

Senator Sparks moved that the Senate concur in the amendments by the House to S.F. No. 2825 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2825 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Koering	Olson, M.	Senjem
Berglin	Fobbe	Kubly	Ortman	Sheran
Betzold	Foley	Langseth	Pappas	Sieben
Bonoff	Frederickson	Limmer	Pariseau	Skoe
Carlson	Gerlach	Lourey	Parry	Skogen
Chaudhary	Gimse	Lynch	Pogemiller	Sparks
Clark	Hann	Marty	Prettner Solon	Stumpf
Cohen	Higgins	Metzen	Rest	Tomassoni
Dahle	Ingebrigtsen	Michel	Robling	Torres Ray
Dibble	Johnson	Moua	Rosen	Vandever
Dille	Jungbauer	Murphy	Rummel	Vickerman
Doll	Kelash	Olseen	Saltzman	Wiger
Erickson Ropes	Koch	Olson, G.	Saxhaug	

So the bill, as amended, was repassed and its title was agreed to.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Senator Cohen from the Committee on Finance, to which was re-referred

S.F. No. 2716: A bill for an act relating to education; modifying charter school provisions; creating an authority; permitting certain charter schools to purchase facilities; amending Minnesota Statutes 2008, sections 124D.11, subdivisions 4, 7, by adding subdivisions; 326B.103, subdivision 11; Minnesota Statutes 2009 Supplement, sections 124D.10, subdivisions 3, 4, 4a, 6, 8, 17, 23, 23a; 124D.11, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 124D; repealing Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 17a.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"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 contract 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.

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

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

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

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

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

(g) A charter school may not charge tuition.

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

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

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

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

(l) A charter school must comply with chapters 13 and 13D; and sections 120A.22, 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 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.

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

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

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

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

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

- (1) failure to meet the requirements for pupil performance contained in the contract;
- (2) failure to meet generally accepted standards of fiscal management;

- (3) violations of law; or
- (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:

(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;

(4) for fiscal year 2011 and in later years, for the first year a lease is initiated or modified, any other information the commissioner requests of the charter school in order to implement this subdivision including, at a minimum, the following:

(i) the owner of the building;

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

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

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

(v) the enrollment projections of the school;

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

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

(viii) a copy of the state fire marshal's fire inspection report or orders and accompanying documentation of costs associated with bringing the proposed lease site up to code; and

(5) 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 commissioner requests of the charter school in order to implement this subdivision, including, at a minimum, the following:

- (i) the enrollment projections of the school;
- (ii) a copy of lessor's annual audit or annual report, whichever applies;
- (iii) an update to the long-range strategic and financial plan of the school; and
- (iv) a letter from the school's director certifying that there has been no change in any of the other information listed in this paragraph, except as reported in the letter.

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

(c) If the commissioner determines that 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 this subdivision; or (2) the organization is maintaining the school facility on behalf of the charter school through rent paid by the charter school's lease aid under this subdivision, the commissioner 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 commissioner requests of the charter school in order to implement this subdivision, including, at a minimum, the following:

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

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

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

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

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

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

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

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

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

- (1) building lease aid, under subdivision 4;
- (2) facilities aid, under subdivision 4a; and
- (3) building lease transition aid, under subdivision 4d.

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

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

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

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

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

(b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing operation on or prior to June 30 of a school year, for the payment periods occurring after the school ceases serving students, the commissioner shall withhold the estimated state aid owed the school. The charter school board of directors and authorizer must submit to the commissioner a closure plan

under chapter ~~308A~~ or 317A, and financial information about the school's liabilities and assets. After receiving the closure plan, financial information, an audit of pupil counts, documentation of lease expenditures, and monitoring of special education expenditures, the commissioner may release cash withheld and may continue regular payments up to the current year payment percentages if further amounts are owed. If, based on audits and monitoring, the school received state aid in excess of the amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid overpayment. For a charter school ceasing operations prior to, or at the end of, a school year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may be made after receiving the closure plan, audit of pupil counts, monitoring of special education expenditures, documentation of lease expenditures, and school submission of Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the final year of operation. Final payment may be made upon receipt of audited financial 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 construct a school facility and use debt financing to pay for the costs of a school facility. For charter schools eligible for building lease transition aid under section 124D.11, subdivision 4d, the authority must also consider at least the following:

(1) call dates on outstanding debt paid through building lease transition aid; and

(2) financing costs for outstanding debt paid through building lease transition aid in relation to financing costs estimated for debt to be issued through the authority.

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2011 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 notice must include a statement of the amount due that the endorsed charter school will be unable to repay on the date due.

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

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

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

Subd. 4. **Aid reduction for repayment.** (a) Except as provided in this subdivision, the commissioner must reduce the state aid payable to the endorsed charter school under section 124D.11 by the amount paid by the commissioner under this section on behalf of the endorsed charter school, plus the interest due on it, and the commissioner of management and budget shall transfer the amount reduced from the appropriate account to the charter school facilities credit

enhancement account. No federal aid payments shall be reduced.

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

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

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

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

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

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

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

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

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

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

\$	40,453,000	.....	2010
	44,775,000		
\$	<u>4,264,000</u>	.....	2011

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

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

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

Sec. 3. **APPROPRIATIONS.**

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

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

\$	20,943,000	.....	2010
	<u>20,943,000</u>		
\$	<u>20,951,000</u>	.....	2011

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

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

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

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

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

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

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

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

(i) The expenditures of federal grants and aids as shown in the biennial budget document and its supplements are approved and appropriated and shall be spent as indicated. The commissioner must provide, to the K-12 Education Finance Division in the house of representatives and the E-12 Budget Division in the senate, details about the distribution of state incentive grants, education technology state grants, teacher incentive funds, and statewide data system funds as outlined in the supplemental federal funds submission dated March 25, 2009.

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

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

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

\$	30,000	.....	2010
\$	30,000	.....	2011

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

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

\$	<u>392,000</u>	<u>.....</u>	<u>2011</u>
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The base appropriation for fiscal year 2012 and later is \$147,000.

Sec. 28. **TRANSITION ELIGIBILITY.**

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

- (1) Charter School No. 4001, Bluffview Montessori;
- (2) Charter School No. 4005, Metro Deaf;
- (3) Charter School No. 4007, Minnesota New Country School;
- (4) Charter School No. 4008, Pact Charter School;
- (5) Charter School No. 4015, Community of Peace;
- (6) Charter School No. 4016, World Learner;
- (7) Charter School No. 4017, Minnesota Transitions;
- (8) Charter School No. 4018, Achieve Language Academy;
- (9) Charter School No. 4026, E.C.H.O. Charter School;
- (10) Charter School No. 4027, Higher Ground Academy;
- (11) Charter School No. 4029, New Spirit;
- (12) Charter School No. 4043, Math and Science Academy;
- (13) Charter School No. 4057, El Colegio Charter;
- (14) Charter School No. 4067, Aurora School;
- (15) Charter School No. 4068, Excell Academy Charter;
- (16) Charter School No. 4070, Hope Community Academy;
- (17) Charter School No. 4074, Agricultural and Food Sciences Academy;
- (18) Charter School No. 4083, Ridgeway Community School;
- (19) Charter School No. 4100, Great Expectations;

- (20) Charter School No. 4103, Hmong Academy;
- (21) Charter School No. 4105, Great River School;
- (22) Charter School No. 4112, St. Paul Conservatory for Performing Artists;
- (23) Charter School No. 4116, Lakes International Language Academy;
- (24) Charter School No. 4118, Kaleidoscope Charter School;
- (25) Charter School No. 4120, St. Croix Preparatory Academy;
- (26) Charter School No. 4126, Prairie Seeds Academy;
- (27) Charter School No. 4137, Swan River;
- (28) Charter School No. 4140, Yinghua Academy;
- (29) Charter School No. 4146, Northern Lights;
- (30) Charter School No. 4164, Laura Jeffrey Academy Charter; and
- (31) Charter School No. 4170, Hiawatha Leadership Academy.

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

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

(1) be incorporated under Minnesota Statutes, chapter 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 Minnesota Statutes, chapter 13.

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

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

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

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

EFFECTIVE DATE. This section is effective immediately.

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

The commissioner of the Department of Management and Budget shall credit \$258,000 in fiscal year 2012 and \$608,000 in fiscal year 2013 to the charter school facilities credit enhancement account under Minnesota Statutes, section 124D.11, subdivision 4b.

Sec. 31. 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 building lease aid per pupil unit served for a charter school for fiscal year 2012 only shall not exceed the lesser of (1) 90 percent of the approved cost, or (2) the product of the pupil units served for the current school year times the sum of \$1,200 and the school's extension allowance under subdivision 3.

Sec. 32. TRANSITION ELIGIBILITY; DULUTH PUBLIC ACADEMY.

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

Sec. 33. APPROPRIATIONS.

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

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

\$	<u>34,672,000</u>	<u>2011</u>
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The 2011 appropriation includes \$0 for 2010 and \$34,672,000 for 2011.

Sec. 34. REPEALER.

(a) Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 17a, is repealed effective immediately.

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

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "authorizing the sale of revenue bonds; appropriating money;"

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. No. 2716 was read the second time.

MEMBERS EXCUSED

Senators Latz and Scheid were excused from the Session of today. Senator Chaudhary was excused from the Session of today from 11:00 to 11:30 a.m. Senator Murphy was excused from the Session of today from 11:50 a.m. to 12:30 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Wednesday, April 21, 2010. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)