

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

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

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

124D.10 CHARTER SCHOOLS.

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

- (1) improve pupil learning and achievement;
- (2) increase learning opportunities for pupils;
- (3) encourage the use of different and innovative teaching methods;
- (4) ~~require the measurement of~~ measure learning outcomes ~~and create through the~~
creation and use of different and innovative forms of measuring outcomes;
- (5) establish new forms of accountability for schools; or
- (6) create new professional opportunities for teachers, including the opportunity to
be responsible for the learning program at the school site.

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

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

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

~~the state who have demonstrated experience with or interest in charter schools. The members of the council shall be appointed by the commissioner. The advisory council shall bring to the attention of the commissioner any matters related to charter schools that the council deems necessary and shall:~~

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

~~(b) The Charter School Advisory Council under this subdivision expires June 30, 2007.~~

Subd. 3. **Sponsor 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" to form a school under subdivision 4 means the charter school business plan a school developer submits to an authorizer for approval 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 under subdivision 4 attesting to its review and approval of a school charter.

(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; and;

(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 may sponsor one or more charter schools; or

~~(b)~~ (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 sponsor authorize one or more charter schools if the charter school has operated for at least three years under a different sponsor authorizer and if the nonprofit corporation has existed for at least 25 years.

(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.

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

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

(e) An authorizer that chartered a school before August 1, 2009, must apply by June 30, 2012, 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.

(f) The commissioner shall review an authorizer's performance at least once 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 developer, operator, 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 performed satisfactorily, the commissioner may subject the authorizer to corrective action, which may include terminating the contract with the board 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.

(g) The commissioner may take corrective action against an authorizer, including terminating an authorizer's eligibility to charter a school for:

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

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

(3) violating a term of the chartering contract between the authorizer and charter school board.

Subd. 4. **Formation of school.** ~~(a) A sponsor~~ An authorizer, after receiving an application from a school developer, may authorize 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 charter school subject to the commissioner's approval by the commissioner of the authorizer's affidavit under paragraph (b). ~~A board must vote on charter school application for sponsorship no later than 90 days after receiving the application.~~ The school must be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this section.

An authorizer must not locate a newly chartered school or relocate an existing charter school within (i) a one-mile radius of a public school site that a school board closed under section 123B.51, (ii) the boundaries of a school district newly consolidated under section 123A.48, or (iii) the boundaries of a dissolved school district under section 123A.46 for at least 36 months from the date the school board acted to close the school, or consolidate or dissolve the school district unless the school board of the school district in which the charter school would be located gives the authorizer written approval to do so.

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 ~~creating~~ establishing a charter school.

(b) Before the operators may ~~form~~ establish and operate a school, the ~~sponsor~~ authorizer must file an affidavit with the commissioner stating its intent to ~~authorize a~~ authorize a charter 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 ~~sponsor~~ authorizer would ~~authorize a~~ authorize a charter school and how the ~~sponsor~~ authorizer intends to oversee the fiscal and student performance of the charter school and to comply with the terms of the written contract between the ~~sponsor~~ authorizer and the charter school board of directors under subdivision 6. The commissioner must approve or disapprove the ~~sponsor's proposed authorization~~ authorizer's affidavit within ~~90~~ 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 ~~a sponsor~~ an authorizer from ~~authorizing~~ authorizing chartering the ~~charter~~ school that ~~was~~ is the subject of ~~the~~ 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. ~~Any Staff members who are~~ employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents or legal guardians of children enrolled in the school ~~may participate in the election for~~ are the voters eligible to elect the members of the school's board of directors. ~~Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors before the school completes its third year of operation, unless the commissioner waives the requirement for a majority of licensed teachers on the board.~~ 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.

~~(d)~~ (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 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. The board of directors shall be (i) a teacher majority board made up of licensed teachers employed at the school or (ii) a board having at least 20 percent of its members as licensed teachers employed at the school and must include charter school parents or guardians and interested community members. Licensed teachers employed by the school, or those providing instruction under a contract with a cooperative, may be members of the board of directors. The chief financial officer and chief administrator are nonvoting board members. Board bylaws shall outline the internal process and procedures for changing the board's governance model. A board may change its governance model only with approval from the authorizer and a voting majority of the board of directors and the licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative.

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

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

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

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

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

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

7.26 ~~(2)~~ (3) the charter school is fiscally sound and has the financial capacity to implement
7.27 the proposed expansion; and

7.28 ~~(3)~~ (4) the sponsor supports the authorizer finds that the charter school has the
7.29 management capacity to carry out its expansion; and

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

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

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

~~(2) establish and maintain complete, auditable records for the charter school;~~
~~(3) establish proper filing techniques;~~
~~(4) document formal actions of the charter school, including meetings of the charter school board of directors;~~
~~(5) properly manage and retain charter school and student records;~~
~~(6) comply with state and federal payroll record-keeping requirements; and~~
~~(7) address other similar factors that facilitate establishing and maintaining complete records on the charter school's operations.~~

(l) 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 reviewed and commented on the supplemental affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

Subd. 4a. **Conflict of interest.** ~~(a) A member of a charter school board of directors~~
An individual is prohibited from serving as a member of the charter school board of directors ~~or as if the individual, an immediate family member, or the individual's partner is~~
an owner, employee or agent of or a contractor with a for-profit or nonprofit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract voidable at the option of the commissioner or the charter school board of directors. A member of a charter school board of directors who violates this prohibition ~~shall be~~ 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

9.1 nonrenewal process or decision is ineligible to serve on the board of directors of a school
9.2 chartered by that authorizer.

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

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

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

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

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

9.19 Subd. 6. **Charter contract.** The ~~sponsor's~~ authorization for a charter school must
9.20 be in the form of a written contract signed by the ~~sponsor~~ authorizer and the board of
9.21 directors of the charter school. The contract must be completed within ~~90~~ 45 business
9.22 days of the commissioner's approval of the sponsor's proposed authorization. authorizer's
9.23 affidavit. The authorizer shall submit to the commissioner a copy of the signed charter
9.24 contract within ten business days of its execution. The contract for a charter school must
9.25 be in writing and contain at least the following:

9.26 (1) ~~a description of a program that carries out one or more of the purposes~~
9.27 declaration of the purposes in subdivision 1 that the school intends to carry out and how
9.28 the school will report its implementation of those purposes;

9.29 (2) a description of the school program and the specific academic and nonacademic
9.30 outcomes that pupils are to must achieve under subdivision 10;

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

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

9.33 (5) signed agreements from charter school board members to comply with all federal
9.34 and state laws governing organizational, programmatic, and financial requirements and
9.35 procedures for program and financial audits applicable to charter schools;

(6) ~~how the school will comply with subdivisions 8, 13, 16, and 23~~ the criteria, processes, and procedures that the authorizer will use for ongoing oversight of operational, financial, and academic performance;

(7) ~~assumption of liability by the charter school~~ 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) ~~if~~ 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; ~~and~~

(11) the process and criteria the ~~sponsor~~ 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.

Subd. 6a. **Audit report.** (a) The charter school must submit an audit report to the commissioner and its authorizer by December 31 each year. The commissioner may withhold the charter school's state aid if the charter school does not submit an audit by January 31.

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

(c) If the commissioner receives ~~as part of the~~ an audit report ~~a management letter~~ indicating that a material weakness exists in the financial reporting systems of a charter

school, the charter school must submit a written report to the commissioner explaining how the material weakness will be resolved.

~~Upon the request of an individual, the charter school must make available in a timely fashion the minutes of meetings of members, the board of directors, and committees having any of the authority of the board of directors, and statements showing the financial result of all operations and transactions affecting income and surplus during the school's last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.~~

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

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

~~(b)~~ A school must comply with statewide education accountability requirements governing standards and assessments in chapter 120B and must work with the Department of Education to make available to the public valid and highly reliable comparisons of student academic growth and achievement across schools consistent with school performance report card information under section 120B.36.

~~(c)~~ A school sponsored authorized 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.

~~(e)~~ (d) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. ~~A sponsor~~ An authorizer may not ~~authorize a charter a 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).

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

~~(e)~~ (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

12.1 of age. Instruction may be provided to people younger than five years and older than
12.2 18 years of age.

12.3 ~~(f)~~ (g) A charter school may not charge tuition to students who reside in Minnesota.

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

12.6 ~~(h)~~ (i) A charter school is subject to and must comply with the Pupil Fair Dismissal
12.7 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections
12.8 123B.34 to 123B.39.

12.9 ~~(i)~~ (j) A charter school is subject to the same financial audits, audit procedures, and
12.10 audit requirements as a district. Audits must be conducted in compliance with generally
12.11 accepted governmental auditing standards, the Federal Single Audit Act, if applicable,
12.12 and section 6.65. A charter school is subject to and must comply with sections 15.054;
12.13 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; ~~123B.52, subdivision 5;~~
12.14 ~~471.38; 471.391; 471.392; and 471.425; 471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6,~~
12.15 ~~12, 13, and 15; 471.881; and 471.89.~~ The audit must comply with the requirements of
12.16 sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the
12.17 program at the school. Deviations must be approved by the commissioner and authorizer.
12.18 The Department of Education, state auditor, ~~or~~ legislative auditor, or authorizer may
12.19 conduct financial, program, or compliance audits. A charter school determined to be in
12.20 statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under
12.21 section 123B.81, subdivision 4.

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

12.23 ~~(k)~~ (l) A charter school must comply with chapters 13 and 13D; and sections ~~13.32;~~
12.24 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

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

12.27 (n) A charter school is subject to chapter 181.

12.28 Subd. 8a. **Aid reduction.** The commissioner may reduce a charter school's state aid
12.29 under section 127A.42 or 127A.43 if the charter school board fails to correct a violation
12.30 under this section.

12.31 Subd. 8b. **Aid reduction for violations.** The commissioner may reduce a charter
12.32 school's state aid by an amount not to exceed 60 percent of the charter school's basic
12.33 revenue for the period of time that a violation of law occurs.

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

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

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

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

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

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

A charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this subdivision.

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

Subd. 11. **Employment and other operating matters.** A charter school must employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The charter school's state aid may be reduced under section ~~127A.42~~ 127A.43 if the school employs a teacher who is not appropriately licensed or approved by the board of teaching. The school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The school may discharge teachers and nonlicensed employees. The charter school board is subject to section 181.932. When offering employment to a prospective

14.1 employee, a charter school must give that employee a written description of the terms and
14.2 conditions of employment and the school's personnel policies. A person, without holding
14.3 a valid administrator's license, may perform administrative, supervisory, or instructional
14.4 leadership duties.

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

14.7 Subd. 12. **Pupils with a disability.** A charter school must comply with sections
14.8 125A.02, 125A.03 to 125A.24, and 125A.65 and rules relating to the education of pupils
14.9 with a disability as though it were a district.

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

14.13 Subd. 14. **Annual public reports.** A charter school must publish an annual report at
14.14 least annually to its sponsor and the commissioner the information required by the sponsor
14.15 or the commissioner approved by the charter school board of directors. The annual report
14.16 must at least include information on school enrollment, governance and management,
14.17 staffing, finances, academic performance, operational performance, innovative practices
14.18 and implementation, and future plans. A charter school must distribute the annual
14.19 report by publication, mail, or electronic means to the commissioner, authorizer, school
14.20 employees, and parents and legal guardians of students enrolled in the charter school and
14.21 also must post the report on the charter school's official Web site. The reports are public
14.22 data under chapter 13.

14.23 Subd. 15. **Review and comment.** (a) ~~The department must review and comment on~~
14.24 ~~the evaluation, by the sponsor, of the performance of a charter school before the charter~~
14.25 ~~school's contract is renewed for another contract term. The sponsor must submit to~~
14.26 ~~the commissioner timely information for the review and comment. The commissioner~~
14.27 must review and comment on the authorizer's performance evaluation process at the
14.28 time the authorizer submits its application for approval as an authorizer and each time
14.29 the authorizer undergoes its five-year review under subdivision 3, paragraph (f). Before
14.30 renewing a charter contract, the authorizer shall provide the commissioner with a formal,
14.31 written evaluation of the school's performance.

14.32 (b) ~~A sponsor~~ An authorizer shall monitor and evaluate the fiscal and student
14.33 performance of the school, and may for this purpose annually assess a charter school: ~~(1)~~
14.34 ~~in its first, second, or third year of operation up to \$30 per student up to a maximum of~~
14.35 ~~\$10,000; and (2) in its fourth or a subsequent year of operation up to \$10 per student up to~~
14.36 ~~a maximum of \$3,500~~ a fee according to paragraph (c).

(c) The minimum fee that each charter school must pay to an authorizer is the basic formula allowance for that year. Beginning in fiscal year 2013, the maximum fee is four times the formula allowance for that year. Beginning in fiscal year 2013, each charter school's fee, subject to the minimum and maximum fees, equals the product of .015, the formula allowance for that year, and the charter school's adjusted marginal cost pupil units for that year.

(d) Notwithstanding paragraph (c), the following charter school fees apply, subject to the minimum and maximum fee in paragraph (c):

(1) for fiscal year 2010 only, each charter school's fee equals the product of .01, the formula allowance for that year, and the charter school's adjusted marginal cost pupil units for that year and the maximum fee is two times the basic formula allowance for that year;

(2) for fiscal year 2011 only, each charter school's fee equals the product of .01, the formula allowance for that year, and the charter school's adjusted marginal cost pupil units for that year and the maximum fee is three times the basic formula allowance for that year; and

(3) for fiscal year 2012 only, the product of .013, the formula allowance for that year, and the charter school's adjusted marginal cost pupil units for that year and the maximum fee is four times the basic formula allowance for that year.

(e) For the preoperational planning period, the authorizer may assess a charter school the formula allowance for one pupil unit.

(f) Each year by September 30, an authorizer shall submit to the commissioner a statement of expenditures related to authorizing activities during the previous school year ending on June 30. The authorizer must transmit a copy of the statement to all schools chartered by the authorizer.

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

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

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent

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

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

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

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

(b) Upon approval of the authorizer, a charter school that has operated at least five consecutive years may form a separate affiliated nonprofit building company to provide a school facility. The authorizer shall submit a supplemental affidavit to the commissioner stating that the authorizer has reviewed:

(1) the school's feasibility study on facility options;

(2) documents showing the school's need and projected enrollment for such a facility; and

(3) the school's financial plan and financial status.

The school is prohibited from organizing the nonprofit building company until the authorizer files a supplementary affidavit with the commissioner and receives approval from the commissioner.

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

Subd. 19. **Disseminate information.** (a) ~~The sponsor~~ authorizer, the operators, and the ~~Department of Education~~ department must disseminate information to the public on how to form and operate a charter school ~~and~~. Charter schools must disseminate information about how to utilize use the offerings of a charter school. Particular Targeted groups to be targeted include low-income families and communities, and students of color, and students who are at risk of academic failure.

(b) Authorizers, operators, and the department also may disseminate information about the successful best practices in teaching and learning demonstrated by charter schools.

Subd. 20. **Leave to teach in a charter school.** If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years. Any request to extend the leave shall be granted only at the discretion of the school board. The district may require that the request for a leave or extension of leave be made ~~up to 90 days before the teacher would otherwise have to report for duty before~~ February 1 in the school year preceding the school year in which the teacher intends to leave, or February 1 of the calendar year in which the teacher's leave is scheduled to terminate. Except as otherwise provided in this subdivision and except for section 122A.46, subdivision 7, the leave is governed by section 122A.46, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

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

~~efficiently administer this subdivision under chapters 354 and 354A, consistent with subdivision 22.~~

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

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

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

Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a) The duration of the contract with a ~~sponsor~~ authorizer must be for the term contained in the contract according to subdivision 6. The ~~sponsor~~ authorizer may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A ~~sponsor~~ authorizer may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the ~~sponsor~~ authorizer shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the ~~sponsor~~ authorizer within ~~14~~ 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 ~~14-day~~ 15-business-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the ~~sponsor~~ authorizer shall give ~~reasonable~~ ten business days' notice to the charter school's board of directors of the hearing date. The ~~sponsor~~ authorizer shall conduct an informal hearing before taking final action. The ~~sponsor~~ authorizer shall take final action to renew or not renew a contract ~~by the last day of classes in the school year.~~ no later than 20 business days before the proposed date for terminating the contract or the end date of the contract.

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

19.6 If a contract is terminated or not renewed under this paragraph, the school must be

19.7 dissolved according to the applicable provisions of chapter 308A or 317A, ~~except when~~

19.8 ~~the commissioner approves the decision of a different eligible sponsor to authorize the~~

19.9 ~~charter school.~~

19.10 (c) ~~If at the end of a contract term, either the sponsor or authorizer and the charter~~

19.11 ~~school board of directors wants mutually agree to voluntarily terminate or not renew~~

19.12 ~~the contract, a change in sponsors authorizers is allowed if the commissioner approves~~

19.13 ~~the decision of transfer to a different eligible sponsor approved authorizer to authorize~~

19.14 ~~charter the charter school. The party intending to terminate the contract must notify the~~

19.15 ~~other party and the commissioner of its intent at least 90 days before the date on which the~~

19.16 ~~contract ends. Both parties jointly must submit their intent in writing to the commissioner~~

19.17 ~~to mutually terminate the contract. The sponsor authorizer that is a party to the existing~~

19.18 ~~contract at least must inform the approved different eligible sponsor new authorizer about~~

19.19 ~~the fiscal and operational status, and student performance of the school. If no different~~

19.20 ~~eligible sponsor transfer of authorizer is approved, the school must be dissolved according~~

19.21 ~~to applicable law and the terms of the contract.~~

19.22 (d) The commissioner, after providing reasonable notice to the board of directors of

19.23 a charter school and the existing ~~sponsor authorizer~~, and after providing an opportunity for

19.24 a public hearing, may terminate the existing ~~sponsorial relationship contract between the~~

19.25 ~~authorizer and the charter school board~~ if the charter school has a history of:

- 19.26 (1) failure to meet pupil performance requirements contained in the contract;
- 19.27 (2) financial mismanagement or failure to meet generally accepted standards of
- 19.28 fiscal management; or
- 19.29 ~~(2)~~ (3) repeated or major violations of the law.

19.30 (e) If the commissioner terminates a charter school contract because the authorizer

19.31 fails to comply with subdivision 3, paragraph (g), the commissioner shall provide the

19.32 charter school with information about other eligible authorizers.

19.33 Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from

19.34 entering a lease of real property with a related party ~~as defined in subdivision 26~~, unless

19.35 the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter

19.36 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."

~~(e)~~ (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).

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

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

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

(c) The commissioner, ~~a sponsor~~ an authorizer, members of the board of ~~a sponsor~~ an authorizer in their official capacity, and employees of ~~a sponsor~~ an authorizer are immune from civil or criminal liability with respect to all activities related to a charter school they approve or ~~sponsor~~ authorize. The board of directors shall obtain at least the amount of and types of insurance ~~required by the contract, according to subdivision~~

21.1 ~~6. up to the applicable tort liability limits under chapter 466. The charter school board~~
21.2 ~~must submit a copy of the insurance policy to its authorizer before starting operations.~~
21.3 ~~The charter school board must submit changes in its insurance carrier or policy to its~~
21.4 ~~authorizer within 20 business days of the change.~~

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

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

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

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

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

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

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

21.19 Subd. 9. **Payment of aids to charter schools.** (a) Notwithstanding section
21.20 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school ~~not in~~
21.21 ~~its first year of operation~~ shall be of an equal amount on each of the ~~23~~ 24 payment dates.
21.22 ~~A charter school in its first year of operation shall receive, on its first payment date, ten~~
21.23 ~~percent of its cumulative amount guaranteed for the year and 22 payments of an equal~~
21.24 ~~amount thereafter the sum of which shall equal the current year aid payment percentage~~
21.25 ~~multiplied by the cumulative amount guaranteed.~~

21.26 (b) Notwithstanding paragraph (a) ~~and section 127A.45~~, for a charter school ceasing
21.27 operation ~~on or prior to the end of a school year, the current year aid payment percentage~~
21.28 ~~multiplied by the amount due for the school year may be paid to the school after audit~~
21.29 ~~of prior fiscal year and current fiscal year pupil counts.~~ June 30 of a school year, for the
21.30 payment periods occurring after the school ceases serving students, the commissioner shall
21.31 withhold the estimated state aid owed the school. The charter school board of directors
21.32 and authorizer must submit to the commissioner a closure plan under chapter 308A or
21.33 317A, and financial information about the school's liabilities and assets. After receiving
21.34 the closure plan, financial information, an audit of pupil counts, documentation of lease
21.35 expenditures, and monitoring of special education expenditures, the commissioner may

22.1 release cash withheld and may continue regular payments up to the current year payment
22.2 percentages if further amounts are owed. If, based on audits and monitoring, the school
22.3 received state aid in excess of the amount owed, the commissioner shall retain aid withheld
22.4 sufficient to eliminate the aid overpayment. For a charter school ceasing operations
22.5 prior to, or at the end of, a school year, notwithstanding section 127A.45, subdivision
22.6 3, preliminary final payments may be made after receiving the closure plan, audit of
22.7 pupil counts, monitoring of special education expenditures, ~~and~~ documentation of lease
22.8 expenditures, and school submission of Uniform Financial Accounting and Reporting
22.9 Standards (UFARS) financial data for the final year of operation. Final payment may be
22.10 made upon receipt of audited financial statements under section 123B.77, subdivision 3.

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

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

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

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

23.1 ~~(e)~~ (g) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter
23.2 school and satisfaction of creditors, cash and investment balances remaining shall be
23.3 returned to the state.

23.4 Sec. 3. **EFFECTIVE DATE.**

23.5 (a) This act is effective the day following final enactment and applies beginning
23.6 August 1, 2009, unless otherwise specified in this section.

23.7 (b) Section 1, subdivision 3, paragraph (b), clause (2), applies to an authorizer
23.8 seeking approval to charter a school after the effective date of this act. The changes in
23.9 section 1, subdivision 3, paragraph (b), clause (2), shall not apply to a sponsor under
23.10 Minnesota Statutes 2008, section 124D.10, that is a party to a charter contract on the
23.11 effective date of this act except that section 1, subdivision 3, paragraph (b), clause (2),
23.12 item (iv), applies to such sponsors beginning July 1, 2012.

23.13 (c) Section 1, subdivision 4, paragraph (a), applies to a school board action to close,
23.14 consolidate, or dissolve a school district taken after the effective the date of this act.