

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-EIGHTH SESSION**

**S.F. No. 2668**

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DATE	D-PG	OFFICIAL STATUS
03/13/2014	6217	Introduction and first reading Referred to Education

1.1 A bill for an act  
 1.2 relating to education; modifying certain charter school provisions; amending  
 1.3 Minnesota Statutes 2013 Supplement, section 124D.10, subdivisions 4, 6a, 8,  
 1.4 9, 17a, 17b.

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

1.6 Section 1. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 4,  
 1.7 is amended to read:

1.8 Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from  
 1.9 a school developer, may charter a licensed teacher under section 122A.18, subdivision  
 1.10 1, or a group of individuals that includes one or more licensed teachers under section  
 1.11 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the  
 1.12 authorizer's affidavit under paragraph (b). The school must be organized and operated as a  
 1.13 nonprofit corporation under chapter 317A and the provisions under the applicable chapter  
 1.14 shall apply to the school except as provided in this section.

1.15 Notwithstanding sections 465.717 and 465.719, a school district, subject to this  
 1.16 section and section 124D.11, may create a corporation for the purpose of establishing a  
 1.17 charter school.

1.18 (b) Before the operators may establish and operate a school, the authorizer must file  
 1.19 an affidavit with the commissioner stating its intent to charter a school. An authorizer  
 1.20 must file a separate affidavit for each school it intends to charter. The affidavit must state  
 1.21 the terms and conditions under which the authorizer would charter a school and how the  
 1.22 authorizer intends to oversee the fiscal and student performance of the charter school and to  
 1.23 comply with the terms of the written contract between the authorizer and the charter school  
 1.24 board of directors under subdivision 6. The commissioner must approve or disapprove the

2.1 authorizer's affidavit within 60 business days of receipt of the affidavit. If the commissioner  
2.2 disapproves the affidavit, the commissioner shall notify the authorizer of the deficiencies in  
2.3 the affidavit and the authorizer then has 20 business days to address the deficiencies. Upon  
2.4 receipt of the authorizer's response to the deficiencies in the affidavit, the commissioner  
2.5 must notify the authorizer of the final approval or disapproval within 15 business days.

2.6 If the authorizer does not address deficiencies to the commissioner's satisfaction, the  
2.7 commissioner's disapproval is final. Failure to obtain commissioner approval precludes an  
2.8 authorizer from chartering the school that is the subject of this affidavit.

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

2.13 (d) The operators authorized to organize and operate a school, before entering into  
2.14 a contract or other agreement for professional or other services, goods, or facilities,  
2.15 must incorporate as a nonprofit corporation under chapter 317A and must establish a  
2.16 board of directors composed of at least five members who are not related parties until a  
2.17 timely election for members of the ongoing charter school board of directors is held  
2.18 according to the school's articles and bylaws under paragraph (f). A charter school board  
2.19 of directors must be composed of at least five members who are not related parties.  
2.20 Staff members employed at the school, including teachers providing instruction under a  
2.21 contract with a cooperative, members of the board of directors, and all parents or legal  
2.22 guardians of children enrolled in the school are the voters eligible to elect the members  
2.23 of the school's board of directors. A charter school must notify eligible voters of the  
2.24 school board election dates at least 30 days before the election. Board of director meetings  
2.25 must comply with chapter 13D.

2.26 (e) A charter school shall publish and maintain on the school's official Web site: (1)  
2.27 the minutes of meetings of the board of directors, and of members and committees having  
2.28 any board-delegated authority, for at least one calendar year from the date of publication;  
2.29 (2) directory information for members of the board of directors and committees having  
2.30 board-delegated authority; and (3) identifying and contact information for the school's  
2.31 authorizer. Identifying and contact information for the school's authorizer must be  
2.32 included in other school materials made available to the public. Upon request of an  
2.33 individual, the charter school must also make available in a timely fashion financial  
2.34 statements showing all operations and transactions affecting income, surplus, and deficit  
2.35 during the school's last annual accounting period; and a balance sheet summarizing assets  
2.36 and liabilities on the closing date of the accounting period. A charter school also must

3.1 include that same information about its authorizer in other school materials that it makes  
3.2 available to the public.

3.3 (f) Every charter school board member shall attend annual training throughout the  
3.4 member's term on the board. All new board members shall attend initial training on  
3.5 the board's role and responsibilities, employment policies and practices, and financial  
3.6 management. A new board member who does not begin the required initial training within  
3.7 six months after being seated and complete that training within 12 months of being seated  
3.8 on the board is automatically ineligible to continue to serve as a board member. The  
3.9 school shall include in its annual report the training attended by each board member  
3.10 during the previous year.

3.11 (g) The ongoing board must be elected before the school completes its third year of  
3.12 operation. Board elections must be held during the school year but may not be conducted  
3.13 on days when the school is closed for holidays, breaks, or vacations. The charter school  
3.14 board of directors shall be composed of at least five nonrelated members and include: (i)  
3.15 at least one licensed teacher employed as a teacher at the school or providing instruction  
3.16 under contract between the charter school and a cooperative; (ii) at least one parent or  
3.17 legal guardian of a student enrolled in the charter school who is not an employee of  
3.18 the charter school; and (iii) at least one interested community member who resides in  
3.19 Minnesota and is not employed by the charter school and does not have a child enrolled  
3.20 in the school. The board may include a majority of teachers described in this paragraph  
3.21 or parents or community members, or it may have no clear majority. The chief financial  
3.22 officer and the chief administrator may only serve as ex-officio nonvoting board members.  
3.23 No charter school employees shall serve on the board other than teachers under item (i).  
3.24 Contractors providing facilities, goods, or services to a charter school shall not serve on  
3.25 the board of directors of the charter school. Board bylaws shall outline the process and  
3.26 procedures for changing the board's governance structure, consistent with chapter 317A.  
3.27 A board may change its governance structure only:

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

3.31 (2) with the authorizer's approval.

3.32 Any change in board governance structure must conform with the composition of  
3.33 the board established under this paragraph.

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

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

4.9 ~~(j) An authorizer may permit the board of directors of a charter school to expand the~~  
4.10 ~~operation of the charter school to additional sites or grades at the school beyond those~~  
4.11 ~~described in the authorizer's original affidavit as approved by the commissioner only~~  
4.12 ~~after submitting a supplemental affidavit for approval to the commissioner in a form and~~  
4.13 ~~manner prescribed by the commissioner. The supplemental affidavit must document that:~~

4.14 ~~(1) the proposed expansion plan demonstrates need and projected enrollment;~~

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

4.18 ~~(3) the charter school is financially sound and the financing it needs to implement~~  
4.19 ~~the proposed expansion exists; and~~

4.20 ~~(4) the charter school has the governance structure and management capacity to~~  
4.21 ~~carry out its expansion.~~

4.22 (j) A charter school may apply to the authorizer to amend the school charter to  
4.23 expand the operation of the school to additional grades beyond those defined in the original  
4.24 charter as approved by the commissioner. Upon approval of the school's application, the  
4.25 authorizer shall submit a supplementary affidavit in the form and manner prescribed  
4.26 by the commissioner. The supplementary affidavit must document that the school has  
4.27 demonstrated to the satisfaction of the authorizer the following:

4.28 (1) the need for the expansion with supporting long-range enrollment projections;

4.29 (2) a record of demonstrated longitudinal student academic performance and growth  
4.30 on statewide assessments under chapter 120B or on other academic assessments that  
4.31 measure longitudinal student performance and growth approved by the charter school's  
4.32 board of directors and agreed upon with the authorizer;

4.33 (3) a sound history of school finances and a finance plan to implement the expansion  
4.34 that will not imperil the school's sustainability; and

4.35 (4) a plan for the administrative and management capacity to implement the  
4.36 expansion.

5.1 (k) The commissioner shall have 30 business days to review and comment on the  
5.2 supplemental affidavit. The commissioner shall notify the authorizer in writing of any  
5.3 deficiencies in the supplemental affidavit and the authorizer then has 20 business days  
5.4 to address, to the commissioner's satisfaction, any deficiencies in the supplemental  
5.5 affidavit. Upon receipt of the authorizer's response to the deficiencies in the affidavit, the  
5.6 commissioner must notify the authorizer of the final approval or disapproval with 15  
5.7 business days. The school may not expand grades or add sites until the commissioner has  
5.8 approved the supplemental affidavit. The commissioner's approval or disapproval of  
5.9 a supplemental affidavit is final.

5.10 Sec. 2. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 6a, is  
5.11 amended to read:

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

5.14 (b) The charter school, with the assistance of the auditor conducting the audit,  
5.15 must include with the report, as supplemental information, a copy of ~~all charter school~~  
5.16 ~~agreements for corporate management services, including parent company or other~~  
5.17 ~~administrative, financial, and staffing services~~ management agreements with a charter  
5.18 management organization, or an educational management organization. The agreements  
5.19 must detail the terms of the agreement, including the services provided and the annual  
5.20 costs for those services. If the entity that provides the professional services to the charter  
5.21 school is exempt from taxation under section 501 of the Internal Revenue Code of 1986,  
5.22 that entity must file with the commissioner by February 15 a copy of the annual return  
5.23 required under section 6033 of the Internal Revenue Code of 1986.

5.24 (c) A charter school independent audit report shall include audited financial data of  
5.25 an affiliated building corporation or other component unit.

5.26 (d) If the audit report finds that a material weakness exists in the financial reporting  
5.27 systems of a charter school, the charter school must submit a written report to the  
5.28 commissioner explaining how the material weakness will be resolved. An auditor, as a  
5.29 condition of providing financial services to a charter school, must agree to make available  
5.30 information about a charter school's financial audit to the commissioner and authorizer  
5.31 upon request.

5.32 Sec. 3. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 8, is  
5.33 amended to read:

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

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

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

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

6.12 (e) Charter schools must not be used as a method of providing education or  
6.13 generating revenue for students who are being home-schooled. This paragraph does not  
6.14 apply to shared time aid under section 126C.19.

6.15 (f) The primary focus of a charter school must be to provide a comprehensive  
6.16 program of instruction for at least one grade or age group from five prekindergarten  
6.17 through 18 years of age. Once a student is enrolled in the school, the student is considered  
6.18 enrolled in the school until the student formally withdraws or enrollment is revoked under  
6.19 the Pupil Fair Dismissal Act in sections 121A.40 to 121A.56. Instruction may be provided  
6.20 to people ~~younger than five years and~~ older than 18 years of age.

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

6.22 (h) A charter school is subject to and must comply with chapter 363A and section  
6.23 121A.04.

6.24 (i) A charter school is subject to and must comply with the Pupil Fair Dismissal  
6.25 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections  
6.26 123B.34 to 123B.39.

6.27 (j) A charter school is subject to the same financial audits, audit procedures, and  
6.28 audit requirements as a district, except as required under subdivision 6a. Audits must be  
6.29 conducted in compliance with generally accepted governmental auditing standards, the  
6.30 federal Single Audit Act, if applicable, and section 6.65. A charter school is subject  
6.31 to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04;  
6.32 118A.05; 118A.06; 471.38; 471.391; 471.392; and 471.425. The audit must comply with  
6.33 the requirements of sections 123B.75 to 123B.83, except to the extent deviations are  
6.34 necessary because of the program at the school. Deviations must be approved by the  
6.35 commissioner and authorizer. The Department of Education, state auditor, legislative  
6.36 auditor, or authorizer may conduct financial, program, or compliance audits. A charter

7.1 school determined to be in statutory operating debt under sections 123B.81 to 123B.83  
7.2 must submit a plan under section 123B.81, subdivision 4.

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

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

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

7.8 (n) A charter school offering online courses or programs must comply with section  
7.9 124D.095.

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

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

7.14 (q) A charter school that provides early childhood health and developmental  
7.15 screening must comply with sections 121A.16 to 121A.19.

7.16 (r) A charter school that provides school-sponsored youth athletic activities must  
7.17 comply with section 121A.38.

7.18 (s) A charter school is subject to and must comply with continuing truant notification  
7.19 under section 260A.03.

7.20 (t) A charter school must develop and implement a teacher evaluation and peer review  
7.21 process under section 122A.40, subdivision 8, paragraph (b), clauses ~~(2) to (12)~~ (3) to (11).

7.22 (u) A charter school must adopt a policy, plan, budget, and process, consistent with  
7.23 section 120B.11, to review curriculum, instruction, and student achievement and strive  
7.24 for the world's best workforce.

7.25 Sec. 4. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 9, is  
7.26 amended to read:

7.27 Subd. 9. **Admission requirements.** (a) A charter school may limit admission to:

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

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

7.31 (3) residents of a specific geographic area in which the school is located when the  
7.32 majority of students served by the school are members of underserved populations.

7.33 (b) A charter school shall enroll an eligible pupil who submits a timely application,  
7.34 unless the number of applications exceeds the capacity of a program, class, grade level, or  
7.35 building. In this case, pupils must be accepted by lot. The charter school must develop

8.1 and publish, including on its Web site, a lottery policy and process that it must use when  
8.2 accepting pupils by lot.

8.3 (c) A charter school shall give enrollment preference to a sibling of an enrolled pupil  
8.4 and to a foster child of that pupil's parents and may give preference for enrolling children  
8.5 of the school's staff before accepting other pupils by lot. A charter school shall give  
8.6 enrollment preference to an enrolled prekindergarten student who enrolls in kindergarten  
8.7 if the prekindergarten student is a sibling of an enrolled pupil and to a foster child of that  
8.8 pupil's parents and may also give preference for enrolling children of the school's staff  
8.9 before accepting other pupils by lot.

8.10 (d) A person shall not be admitted to a charter school (1) as a kindergarten pupil,  
8.11 unless the pupil is at least five years of age on September 1 of the calendar year in which  
8.12 the school year for which the pupil seeks admission commences; or (2) as a first grade  
8.13 student, unless the pupil is at least six years of age on September 1 of the calendar year in  
8.14 which the school year for which the pupil seeks admission commences or has completed  
8.15 kindergarten; except that a charter school may establish and publish on its Web site a  
8.16 policy for admission of selected pupils at an earlier age, consistent with the enrollment  
8.17 process in paragraphs (b) and (c).

8.18 (e) Except as permitted in paragraph (d), a charter school may not limit admission  
8.19 to pupils on the basis of intellectual ability, measures of achievement or aptitude, or  
8.20 athletic ability and may not establish any criteria or requirements for admission that are  
8.21 inconsistent with this subdivision.

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

8.25 Sec. 5. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 17a,  
8.26 is amended to read:

8.27 Subd. 17a. **Affiliated nonprofit building corporation.** (a) ~~Before~~ A charter school  
8.28 may organize an affiliated nonprofit building corporation ~~(i) (1) to renovate or purchase~~  
8.29 and renovate an existing facility to serve as a school or ~~(ii) (2) to expand an existing~~  
8.30 building or construct a new school facility; ~~an authorizer must submit an affidavit to the~~  
8.31 ~~commissioner for approval in the form and manner the commissioner prescribes, and~~  
8.32 consistent with paragraphs (b) and (c) or (d). if the charter school:

8.33 (i) has been in operation for at least six years;

8.34 (ii) has a net unreserved general fund balance as of June 30 in the preceding three  
8.35 years;



9.1 (iii) has long-range strategic and financial plans that include enrollment projections  
 9.2 for at least five years;

9.3 (iv) completes a feasibility study of facility options that outlines the benefits and  
 9.4 costs of the options; and

9.5 (v) has a plan for the purchase, renovation, or new construction which describes  
 9.6 the parameters and budget for the project.

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

9.8 (1) be incorporated under section 317A;

9.9 (2) comply with applicable Internal Revenue Service regulations, including  
 9.10 regulations for "supporting organizations" as defined by the Internal Revenue Service;

9.11 (3) post on the school Web site the name, mailing address, bylaws, minutes of board  
 9.12 meetings, and the names of the current board of directors of the affiliated nonprofit  
 9.13 building corporation;

9.14 ~~(3)~~ (4) submit to the commissioner each fiscal year a list of current board members  
 9.15 and a copy of its annual audit by December 31 of each year; and

9.16 ~~(4)~~ (5) comply with government data practices law under chapter 13.

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

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

9.24 ~~(1) has been operating for at least five consecutive school years;~~

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

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

9.28 ~~(4) completes a feasibility study of available buildings;~~

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

9.31 ~~(6) has a plan for the renovation or purchase, which describes the parameters and~~  
 9.32 ~~budget for the project.~~

9.33 ~~(d) A charter school may organize an affiliated nonprofit building corporation to~~  
 9.34 ~~expand an existing school facility or construct a new school facility if the charter school:~~

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

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

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

10.3 ~~(4) completes a feasibility study of facility options;~~

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

10.6 ~~(6) has a plan for the expansion or new school facility, which describes the~~  
10.7 ~~parameters and budget for the project.~~

10.8 (d) Upon the incorporation of an affiliated nonprofit building corporation under  
10.9 this subdivision, the authorizer of the school has the responsibility to monitor that the  
10.10 school's board of directors is ensuring that the affiliated nonprofit building corporation  
10.11 is complying with all legal requirements of the affiliated nonprofit building corporation.  
10.12 Failure of the school's board of directors to ensure that the affiliated nonprofit building  
10.13 corporation is in compliance shall be considered a violation of the school board of  
10.14 director's responsibilities and be a factor in the evaluation of the school by the authorizer.

10.15 Sec. 6. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 17b,  
10.16 is amended to read:

10.17 Subd. 17b. **Positive review and comment.** ~~A charter school or an affiliated~~  
10.18 ~~nonprofit building corporation organized by a charter school must not initiate an~~  
10.19 ~~installment contract for purchase, or a lease agreement, or solicit bids for new construction,~~  
10.20 ~~expansion, or remodeling of an educational facility that requires an expenditure in~~  
10.21 ~~excess of \$1,400,000, unless it meets the criteria in subdivision 17a, paragraph (b) and~~  
10.22 ~~paragraph (c) or (d), as applicable, and receives a positive review and comment from the~~  
10.23 ~~commissioner under section 123B.71. A charter school or its affiliated nonprofit building~~  
10.24 corporation may not finalize any purchase agreement or construction contract that requires  
10.25 an expenditure in excess of the amount specified in section 123B.71 prior to receiving a  
10.26 positive review and comment of the commissioner. A purchase agreement or construction  
10.27 contract finalized before a positive review and comment is null and void.