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State of Minnesota

LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT



Report  
of the  
Legislative Commission on Pensions and Retirement  
on  
The Appropriate Mechanism For  
Recovering Unpaid Retirement Contributions From  
Closed Charter Schools

An Interim Study  
Mandated By  
Special Session Laws 2001,  
Chapter 10, Article 13, Section 1

February 15, 2002

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Room 401 State Office Building  
St. Paul, MN 55155

Re: Transmittal of Mandated Report on the Appropriate Recovery Mechanism for Unpaid  
Closed Charter School Retirement Contributions

Dear Senators and Representatives:

As required by First Special Session Laws 2001, Chapter 10, Article 13, Section 1, the Legislative Commission on Pensions and Retirement has studied the question of the appropriate mechanism for recovering unpaid member and employer retirement plan contributions from charter schools that cease operations and has formulated its recommendations on the topic.

This report describes the work of the Commission in conducting the study and presents the results of that study. The draft proposed legislation necessary to implement the recovery mechanism recommended by the Commission is included in this report in the form of Document LCPR02-055.

I urge the Legislature to give prompt attention to this recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Dean Elton Johnson".

Dean Elton Johnson  
Senator, District 15  
Chair, Legislative Commission on Pensions and Retirement

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## Executive Summary

The Legislative Commission on Pensions and Retirement was directed by the 2001 Legislature to recommend a resolution for a problem related to unpaid retirement contributions by closed charter schools in a report to the 2002 Legislature.

The Commission considered the problem during the 2001-2002 Interim in four hearings and took testimony from several interested parties.

Charter schools originated in Minnesota in 1991. Public retirement plan coverage is required to be provided to charter school employees by Minnesota Statutes, Section 124D.10, Subdivision 22, with the requirement added for teachers in 1995 and added for support personnel in 1997. At least 68 charter schools currently exist in Minnesota, and 14 charter schools have closed, with three charter schools (Central Minnesota Deaf School, Dakota Open Charter School, and Frederick Douglass Charter School) having closed leaving unpaid retirement plan contributions and with one charter school (Right Step Academy) having closed leaving omitted retirement contributions for charter school employees who were inappropriately excluded from public pension plan membership. The unpaid closed charter school retirement contributions totaled \$24,180.67 (principal amount) and the recognized omitted closed charter school retirement contributions have been estimated to total \$195,680.27. Three public retirement plans, the Minneapolis Teachers Retirement Fund Association (MTRFA), the Teachers Retirement Association (TRA), and the Public Employees Retirement Association (PERA), have unpaid closed retirement plan contributions, with MTRFA having the largest contribution amount due. Of the recognized omitted closed charter school retirement contributions, only PERA was involved.

With 17 percent of charter schools in Minnesota having already closed, more closures of charter schools can be expected in the future. Many current charter schools indicate no retirement coverage for some or all of their employees, so the extent of omitted charter school retirement contributions is undoubtedly much greater than the Right Step Academy, but currently undetermined.

Focusing on the problem broadly, the Commission considered 21 different potential remedies to the unpaid closed charter school retirement plan contribution situation. The Commission recommends that the Legislature enact legislation that would provide for the following:

1. State Payment of Closed Charter School Unpaid Retirement Contributions. The Department of Children, Families and Learning, based on retirement plan certifications, will pay charter school retirement contributions remaining unpaid from charter schools that closed before April 1, 2002, from the charter school lease aid program;
2. Future Retirement Coverage for Charter School Teacher by the Teachers Retirement Association. The Teachers Retirement Association is required to provide retirement coverage for all charter school teachers, including teachers in charter schools located in one of the cities of the first class.

The Commission believes that prompt legislative attention to its recommendations will resolve the unpaid closed charter school retirement contribution problem.

## Introduction

The 2001 Special Session of the Legislature, in Special Session Laws 2001, Chapter 10, Article 13, Section 1, mandated an interim study by the Legislative Commission on Pensions and Retirement of the appropriate mechanism for the recovery of unpaid member and employer public retirement plan contributions from charter schools that have ceased operations.

Specifically, the 2001 legislation provided the following:

- (a) The legislative commission on pensions and retirement shall study and recommend the appropriate mechanism for recovering unpaid member and employer retirement plan contributions from charter schools that cease operations.
- (b) The report must include the draft proposed legislation that would be required to implement the mechanism recommended by the commission.
- (c) The report must be filed by February 15, 2002, with the chairs of the senate committees on state and local government operations and education and with the chairs of the house committees on governmental operations and veterans affairs policy and education.

The Commission held four hearings during which it considered the topic of unpaid closed charter school retirement plan contributions. The Commission meetings were held on October 9, 2001, December 11, 2001, January 22, 2002, and February 7, 2002. Public testimony was taken at each Commission meeting, predominantly from the administrators of the various affected pension plans, but also including representatives of the Department of Children, Families and Learning and of Minnesota charter schools.

During the course of the four hearings, the Commission considered three Commission staff issue memoranda. The meeting materials were available generally, including posting on the Internet.

## Background Information On Minnesota Charter Schools

### 1. Origin Of Charter Schools.

Charter schools are nonsectarian public schools of choice that operate with freedom from many of the regulations that apply to traditional public schools. The “charter” establishing each school is a performance contract detailing the school’s mission, program, goals, students served, methods of assessment, and ways to measure success. The length of time for which charters are granted varies, depending on state law. At the end of the term, the entity granting the charter may renew the school’s contract. Charter schools are accountable to their sponsor to produce positive academic results and adhere to the charter contract. The basic concept of charter schools is that they exercise increased autonomy in return for this accountability.

The charter school movement has roots in a number of other reform ideas, from alternative schools, to site-based management, to magnet schools, to public school choice, to school privatization, and to community-parental empowerment. The term “charter” may have originated in the 1970s when New England educator Ray Budde suggested that small groups of teachers be given contracts or “charters” by their local school boards to explore new approaches. Albert Shanker, the former president of the American Federation of Teachers (AFT), then publicized the idea, suggesting that local boards could charter an entire school with union and teacher approval. In the late 1980s, Philadelphia started a number of schools-within-schools and called them “charters.” Some of these schools were schools of choice. The idea was further refined in Minnesota and is based on the achievement of three basic values: opportunity, choice, and responsibility for results.

In 1991, Minnesota became the first state in the nation to authorize charter schools (first called outcome-based schools). The law, Minnesota Statutes, Sections 124D.10 and 124D.11, permits teachers, parents and other community members to form and operate independent charter schools. To promote innovation, charter schools are exempt from many statutes and rules governing school districts but are held accountable for results. A Minnesota charter school is a public school and is part of the state’s public education system.

California followed suit by authorizing charter schools in 1992. By 1995, 19 states had enacted laws that allowed for the creation of charter schools, and by 1999 that number increased to include 36 states, Puerto Rico, and the District of Columbia. The Center for Educational Reform’s 1998-1999 National Charter School Directory reports that 1,205 charter schools served every grade from pre-K to adult. Of these, 58 percent were elementary schools, 20 percent were secondary schools, and 22 percent included grades at both levels. Arizona leads the nation in the number of charter schools, with nearly 350 schools currently in operation, followed by California (234), Michigan (over 175), Texas (over 150), and Florida (112). As of April 2001, the Department of Children, Families and Learning reported that there are 63 operating charter schools in Minnesota. In the 1999-2000 school year, approximately 6500 students attended charter schools, with 66 percent in elementary grades and with 34 percent in secondary grades.

Estimated Number of Charter Schools in Operation as of September 1999, by State

	Number of charter schools starting in the year							Total schools closed as of Sept. 1999	New schools as of Sept. 1999	Total schools operating Sept. 1999
	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99			
Total	2	34	64	154	178	289	401	59	421	1,484
Minnesota	2	2	7	3	3	8	12	3	17	54
California		28	36	30	21	19	29	9	58	210
Colorado		1	13	10	8	19	10	1	8	68
Michigan			2	41	33	36	24	5	15	146
New Mexico			4	0	1	0	0	3	1	3
Wisconsin			2	3	0	7	12	1	11	40
Arizona				47	58	45	44	16	44	222
Georgia				3	9	9	7	3	4	31
Hawaii				2	0	0	0	0	0	2
Massachusetts				15	7	3	10	1	5	39
Alaska					2	10	2	1	2	18
Delaware					2	1	1	0	1	5
District of Col.					2	1	17	2	10	28
Florida					5	28	42	4	38	189
Illinois					1	7	0	1	7	20
Louisiana					3	3	5	0	7	18
Texas					17	21	71	5	64	168
Connecticut						12	4	1	2	17
Kansas						1	14	0	0	15
New Jersey						13	17	0	19	49
North Carolina						34	26	5	23	78
Pennsylvania						6	25	0	17	48
Rhode Island						1	1	0	0	2
South Carolina						2	3	0	5	10
Idaho							2	0	6	8
Mississippi							1	0	0	1
Nevada							1	0	0	1
Ohio							15	0	31	46
New York									5	5
Missouri									15	15
Utah									6	6
Oklahoma									2	2

Source: U.S. Department of Education, *The State of Charter Schools 2000 – Fourth-Year Report, January 2000*

2. Intent Of And Requirements For A Minnesota Charter School.

Minnesota Statutes, Sections 124D.10 and 124D.11, require that a charter school must meet one or more of the following purposes:

- Improve student learning;
- Increase learning opportunities for students;
- Encourage the use of different and innovative teaching methods;
- Require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;
- Establish new forms of accountability for schools; or
- Create new professional opportunities for teachers, including the opportunity to be responsible for a leaning program at the school site.

Under Minnesota law, the organizers of a charter school must obtain a sponsorship from an eligible sponsor. Eligible charter school sponsors are:

- a. A school board;
- b. An intermediate school district school board;

- c. A federal Internal Revenue Code Section 501(c)(3) charitable organization that is a member of the Minnesota Council on Foundations, that registers with the Attorney General's office, and that reports an end-of-year fund balance of at least \$2 million;
- d. A Minnesota private college that grants two- or four-year degrees and that registers with the Minnesota Higher Education Services Office;
- e. A community college, state university, or technical college that is part of the Minnesota State Colleges and Universities system (MnSCU); and
- f. The University of Minnesota.

Before acting on a potential charter school charter, the sponsor must inform the public, including low-income families and communities and students of color, and how to form and operate a charter school and how to use a charter school's offerings. A sponsor must obtain approval from the Commissioner of the Department of Children, Families and Learning (CFL) to authorize a charter school. If a school board elects not to sponsor a proposed charter school, the applicant may appeal this decision to the CFL Commissioner.

A charter school must be formed either as a cooperative corporation under Minnesota Statutes, Chapter 308A or a non-profit corporation under Minnesota Statutes, Chapter 317A. The parents of students enrolled in the school and staff employed at the school elect a board of directors in a timely manner after the school begins operation. Licensed teachers employed by the school must constitute a majority of the board unless the CFL Commissioner waives that requirement. The charter school board determines all aspects of the school's education program, management and administration. The charter school board determines what responsibilities are maintained by the board and what responsibilities are delegated to staff or contracted to service providers. The charter school contract must include explicit pupil performance statements in the form of academic and non-academic goals and an outline of the sponsor evaluation and intervention plan (schedule of visits, services/assistance to be provided or expected, interventions to be administered if the school struggles, and criteria for not renewing the contract after it expires or revoking the contract). A charter school may be located in any school district unless the school board of the district in which the location is proposed adopts a written resolution disapproving the location. A charter school that is the only school in a town serving pupils within a particular grade level must give preference to enrolling pupils residing in the town or within two miles of the school if the next closest public school is more than five miles away before accepting pupils by lot. A charter school also must give preference to the siblings of an enrolled pupil and to a foster child of that pupil's parents before accepting other pupils by lot.

### 3. The Charter School Contract.

Within 90 days of the date when the Commissioner of Children, Families and Learning approves a sponsor's proposed authorization of a charter school, the sponsor and the board of directors of the charter school must enter into a signed written contract. The contract must include the following:



- a. The purpose of the program;
- b. Pupil outcome requirements that meet or exceed the educational outcomes required of other public school students;
- c. Admission policies and procedures;
- d. School management and administration structure;
- e. Requirements and procedures for program and financial audits;
- f. Compliance with state and local requirements applicable to charter schools, the required number of days of student instruction, the provision of transportation to pupils enrolled in the charter school, and the causes for not renewing or terminating the contract;
- g. The liability of the charter school;
- h. The types and amounts of insurance the charter school will obtain;
- i. The contract term, which must not exceed three years; and
- j. The financial parameters for providing special education instruction and services, if applicable.

The charter school board of directors must obtain at least the amount and types of insurance specified in the contract and may sue and be sued.

#### 4. Charter School Funding.

Charter school funding from or through the State of Minnesota consists of four components:

- a. General Education Revenue. General education revenue is paid to a charter school as though it was a school district. General education revenue is the primary source of general operating funds for school districts and charter schools. It is composed of basic general education revenue, basic skills revenue (including compensatory revenue), training and experience revenue, elementary and secondary sparsity revenue, transportation sparsity revenue, operating capital, equity revenue, transition revenue, and supplemental revenue. The Department of Children, Families and Learning makes 23 equal aid payments to a charter school during a fiscal year, except in the first year of the school's operation when the first payment is 10 percent of the cumulative aid amount for that fiscal year followed by 22 equal payments that total 90 percent of the cumulative aid amount.
- b. Referendum Revenue. A charter school receives the aid portion of each enrolling student's referendum revenue based on the student's resident district referendum amount.
- c. Special Education Revenue. A charter school receives special education revenue as though it were a school district. In addition, a charter school may bill back to a disabled student's resident school district any eligible unreimbursed special education costs.

- d. Transportation Aid. Annually, a charter school must notify the Department of Children, Families and Learning if it will provide transportation for its pupils in that fiscal year. A charter school that elects to provide transportation for its pupils receives state transportation aid. If the charter school elects not to provide transportation, the school district in which the charter school is located must provide transportation within the district and may provide transportation to nonresident pupils within the pupils' resident district. A charter school is not required to provide or pay for transportation between a nonresident pupil's home and the border of the district in which the charter school is located. The school may reimburse a parent for the costs of transporting a nonresident pupil to the border of the district if the pupil's family income is at or below the federal poverty level.
- e. Building Lease Aid. Building lease aid may be granted by the Department of Children, Families and Learning based on an application from charter schools. Building lease aid funds must be used to lease space for instructional purposes. The amount of building lease aid is now up to 90 percent of approved costs or the number of pupil units served multiplied by \$1,500.
- f. Charter School Start-Up Aid. During the first two years of a charter school's operation, the charter school is eligible for start-up aid equal to the greater of \$50,000 per charter school or the number of pupil units served multiplied by \$500.
- g. Integration Revenue. A charter school is eligible for the aid portion of integration revenue for enrolled students who are residents of a district that is eligible for integration revenue if the enrollment of the pupil in the charter school contributes to integration or desegregation purposes.
- h. Federal Planning And Start-Up Grant Funds. Federal planning and start-up grant funds may be awarded by the Department of Children, Families and Learning, based on an application from charter schools. These funds must be used for planning or startup purposes. Charter schools are eligible to apply for up to three years of federal startup aid from the date of the approval of the charter school by the Department of Children, Families and Learning Commissioner. The aid is currently up to \$140,000, \$150,000, and \$120,000, respectively, in the three eligible years.
- i. Other Aid, Grants, Revenue. A charter school is eligible to receive other aids, grants, and revenue according to the school funding formulas as though it were a school district unless the receipt of the revenue would require a local property tax levy. A charter school may receive money from any source for capital facilities needs. Any unexpended capital facilities revenue must be reserved and may be expended only for future capital facilities purposes.

A charter school board of directors may not levy taxes or issue bonds.

5. Charter School Accountability.

Minnesota law requires that the sponsor of a charter school must monitor the fiscal and student pupil performance of the charter school. If at any time the charter school is not

meeting expected outcomes, the sponsor must work with the charter school to implement an improvement plan. The charter school must submit an annual report to the sponsor and to the Department of Children, Families and Learning (CFL), which must include all sponsor and CFL required components. After the term of the contract or during the term, if the charter school is not meeting pupil performance expectations, fails to meet generally accepted standards of fiscal management, or is in violation of the law and the sponsor intervention is not showing results, the charter school sponsor may act to terminate the contract. If the charter school has a history of financial mismanagement or of repeated violations of the law, the Department of Children, Families and Learning may act to terminate the contract.

A sponsor and the sponsor's employees, as well as the members of a charter school's board of directors operating in their official capacity and the Commissioner, are immune from civil and criminal liability for sponsoring a charter school or approving charter school activities.

### Retirement Coverage For Minnesota Charter School Employers

#### 1. Statutory Requirements For Public Retirement Plan Coverage.

Minnesota Statutes, Section 124D.10, Subdivision 22, governs the retirement coverage for charter school employees. Minnesota Statutes, Section 124D.10, Subdivision 22, Paragraph (a), requires that teachers in a charter school be members of the Teachers Retirement Association (TRA) or of one of the first class city teacher retirement fund associations (Duluth (DTRFA), Minneapolis (MTRFA), or St. Paul (StPTRFA)). Minnesota Statutes, Section 124D.10, Subdivision 22, Paragraph (b), requires that charter school employees who are not teachers be members of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General).

The requirement for charter school teachers to be members of a Minnesota teachers retirement plan was added in 1995 (First Special Session Laws 1995, Chapter 3, Article 9, Section 2, Subdivision 20a). The requirement for non-teaching charter school employees to be members of the Public Employees Retirement Association (PERA) was enacted in 1997 (First Special Session Laws 1997, Chapter 4, Article 5, Section 9). Neither the 1995 or the 1997 provision was considered by or recommended by the Legislative Commission on Pensions and Retirement, but appear to be policy initiatives either of the education community or of the Senate and House Education Committees.

The 1995 requirement that charter school teachers be members of a Minnesota teacher retirement plan did not specify the particular teacher retirement plan to provide coverage. The actual allocation of charter school teachers between teacher retirement plans apparently depends upon a non-statutory agreement between the four teacher pension plans, with the teachers employed by any charter school located in the city of Duluth covered by the Duluth Teachers Retirement Fund Association (DTRFA), the teachers employed by any charter school located in the city of Minneapolis covered by the Minneapolis Teachers Retirement Fund Association (MTRFA), the teachers employed by any charter school located in the city of St. Paul covered by the St. Paul Teachers

Retirement Fund Association (StPTRFA), and all other charter school teachers covered by the Teachers Retirement Association (TRA).

2. Currently Closed Charter Schools And Pension Plan Membership.

From information provided by the Department of Children, Families and Learning (CFL), the Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Teachers Retirement Fund Association (MTRFA), the St. Paul Teachers Retirement Fund Association (StPTRFA), and the Teachers Retirement Association (TRA), prompted by a Commission staff request, 14 charter schools have closed. The following summarizes the public retirement plan membership data for the 14 closed charter schools:

Closed Charter School	Teachers				Support Staff		
	TRA	Covered by:			Average Salary	Covered by PERA	Average Salary
		DTRFA	MTRFA	StPTRFA			
Central Minnesota Deaf School	3				\$6,785.42	6	\$ 5,161.51
Dakota Open Charter School	6				15,157.85	1	--
Fort Snelling Academy			19		32,845.41	4	23,238.00
Frederick Douglass Charter School			11		23,750.00	0	4,783.36
Learning Adventures Middle School	--				--		--
Peaks-Faribault	--				--		--
Peaks-Pillager	--				--		--
Prairie Island Community School	--				--		--
Right Step Academy				30	30,534.00	3	--
Skills For Tomorrow	10				32,193.40	18	8,582.31
Strategies For Success				6	53,181.10	--	--
Success Academy				72	19,350.83	103	11,267.04
Summit School	5				4,209.93	26	4,641.53
Toivola-Meadowlands School	1				20,278.00	18	10,232.13
Total	25	0	30	108	\$24,467.75	179	\$9,964.38

3. Currently Open Charter Schools and Pension Plan Membership.

Also from the information provided by CFL, DTRFA, MTRFA, StPTRFA, and TRA, there were 68 charter schools which were open during the 2000-2001 school year. The following summarizes the public retirement plan membership data for the 68 open charter schools:

Open Charter School	Teachers				Support Staff		
	TRA	Covered by:			Average Salary	Covered by PERA	Average Salary
		DTRFA	MTRFA	StPTRFA			
Academia Cesar Chavez Chtr. School					--		--
ACORN Dual Lang. Comm. School				24	\$33,322.20	21	\$14,060.39
Agric. & Food Sciences Academy					--		--
Aurora Charter School			3		20,738.39	5	13,757.71
Bluffview Montessori Chtr. School	25				13,891.13		--
Cedar-Riverside Community School			9		26,111.84		--
City Academy				10	40,368.71	12	21,063.36
Community of Peace				47	35,279.42	36	13,909.17
Concordia Creative Learning Acad.				11	34,895.45	31	7,125.71
Coon Rapids Learning Center	11				29,969.82	6	23,570.24
Cross Lake Community School	8				12,223.55		--
Cyber Village Academy				11	39,568.90	12	13,841.82

Open Charter School	Teachers				Support Staff		
	TRA	Covered by:			Average Salary	Covered by PERA	Average Salary
		DTRFA	MTRFA	StPTRFA			
Duluth Edison Academies		88			24,633.00		--
E.C.H.O. Charter School	12				12,585.15		--
Eci' Nompa Woonspe' Chtr. School	4				40,549.29	12	8,906.56
El Colegio Charter School			3		33,333.30		--
Emily Charter School	17				11,647.87	13	9,530.55
Excell Academy					--		--
Face to Face Academy				6	30,298.25		--
Family Academy	14				19,903.06	10	5,648.45
Fort Snelling Academy			19		32,845.41	4	23,310.22
Four Directions Charter			4		43,479.31	5	12,677.38
Hanska Community School	12				8,240.80		--
Harvest Preparatory Academy			18		20,561.69		--
Heart of the Earth Ctr for Am. Indians			41		23,317.67	46	18,567.80
High School for the Recording Arts				4	35,310.48	2	29,873.26
Higher Ground Academy				25	34,825.80	78	8,697.76
HOPE Community Academy				24	29,607.25		--
La Crescent Montessori Academy	6				16,975.02	5	12,913.78
Lafayette Public Charter School	10				16,194.30		--
Lakes Area Charter School	8				17,696.31	7	7,279.03
Learning Adventures Middle School				5	38,893.46	7	11,714.61
Martin Hughes Charter 4040	20				29,780.48	27	13,776.83
Math and Science Academy	22				22,205.51	7	26,392.03
Metro Deaf School				25	34,560.92	26	9,628.73
Mexica Multicultural Education				4	27,507.30	10	7,564.01
Minnesota Business Academy				32	34,234.47	25	13,592.89
Minnesota Institute of Tech. #9130				30	30,336.62		--
Minnesota Institute of Tech. #9210					--		--
Minnesota New Country School	10				35,633.34		--
Minnesota Technology High School				5	38,725.11	13	13,268.82
Minnesota Transitions Chtr. School			32		18,763.27	39	6,721.58
Native Arts High School			5		31,429.64		--
Nerstrand Charter School	14				28,466.50		--
New Heights School	17				22,426.26	11	14,770.12
New Spirit School				30	29,736.60	13	18,856.99
New Visions School			42		25,246.92	58	10,677.34
North Lakes Academy	18				26,816.14	8	15,563.20
Odyssey Charter School	20				22,443.33	26	9,677.75
PACT Charter School	40				21,359.49	34	9,514.39
Peak's Charter School, Duluth		7			21,621.00	5	10,730.19
Peak's Charter School, Faribault	9				9,292.09		--
Peak's Charter School, Pillager	7				13,372.91		--
Peak's Charter School, St. Cloud	4				28,771.09	3	9,614.39
Pillager Area Charter School					--		--
RiverBend Academy	12				33,634.56		
Riverway Learning Community	17				9,457.64	4	9,974.83
Rochester Off Campus	19				19,902.35	1	32,873.48
St. Paul Family Learning Center				13	37,691.02	47	8,910.32
Schoolcraft Learning Community	12				27,189.25	9	7,447.78
Skills for Tomorrow Sr. High Sch.				4	35,541.45	16	15,297.94
Sojourner Truth Academy			20		25,975.50	23	14,081.61
Strategies for Success							
Studio Academy	9				31,800.00		
Twin Cities Academy				24	34,462.61	9	9,767.22
Village School of Northfield	6				28,421.94	6	14,592.33
World Learner of Chaska	5				34,714.33	8	16,112.41
Yankton Country School	4				22,766.76		
<b>Total</b>	<b>392</b>	<b>95</b>	<b>196</b>	<b>323</b>	<b>\$26,365.42</b>	<b>740</b>	<b>\$11,667.52</b>

Unpaid Retirement Contributions from Closed Charter Schools

1. Identification Of Closed Charter Schools.

The Commission staff contacted the five affected retirement plans, the Teachers Retirement Association (TRA), the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), the Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Teachers Retirement Fund Association (MTRFA), and the St. Paul Teachers Retirement Fund Association (StPTRFA), and the State Department of Children, Families and Learning to gain information on closed charter schools and the magnitude of any unpaid retirement plan contributions.

The five retirement plans and the Department of Children, Families and Learning were not wholly consistent in their identification of the closed charter schools and in providing other relevant information. The following compares the reported information on which charter schools have closed before September 2001, and the reported date of closure:

<u>CFL</u>	<u>TRA</u>	<u>PERA</u>	
Central Minnesota Deaf School (1/12/00)	Central Minnesota Deaf School (7/00)	Central Minnesota Deaf School (4/00)	
Dakota Open Charter School (12/18/97)	Dakota Open School (12/97)		
Fort Snelling Academy (6/1/01)			
Frederick Douglass (4/7/99)		Frederick Douglass (4/99)	
Learning Adventures Middle School (6/01)			
Peak's-Faribault		Peak's Charter School, Faribault (3/01)	
Peak's-Pillager		Peak's Charter School, Pillager (6/01)	
Prairie Island Community School (8/96)	Prairie Island Charter School (8/96)		
Right Step Academy (8/1/00)		Right Step Academy (6/00)	
Skills for Tomorrow Junior High		Skills for Tomorrow Junior High School (6/01)	
Strategies for Success (5/4/01)			
Success Academy (5/12/00)		Success Academy (9/00)	
Summit School for the Arts (1/00)	Summit School for the Arts (1/00)	Summit School for the Arts (1/00)	
Toivola-Meadowlands (7/1/00)	Toivola-Meadowlands Charter School (9/00)	Toivola-Meadowlands Charter School (7/00)	
<u>CFL</u>	<u>DTRFA</u>	<u>MTRFA</u>	<u>StPTRFA</u>
Central Minnesota Deaf School (1/12/00)	No		
Dakota Open Charter School (12/18/97)	reported		
Fort Snelling Academy (6/1/01)	closed	Fort Snelling Academy (7/01)	
Frederick Douglass (4/7/99)	charter	Frederick Douglass (4/99)	
Learning Adventures Middle School (6/01)	schools		
Peak's-Faribault			
Peak's-Pillager			
Prairie Island Community School (8/96)			
Right Step Academy (8/1/00)			Right Step Academy (8/00)
Skills for Tomorrow Junior High			Skills for Tomorrow Junior High School (7/01)
Strategies for Success (5/4/01)			Strategies for Success (5/01)
Success Academy (5/12/00)			Success Academy (6/00)
Summit School for the Arts (1/00)			
Toivola-Meadowlands (7/1/00)			

There are problems with the identification of closed charter schools, with particular reference to four charter schools. The four charter schools which raise questions about their appropriate classification are:

- (1) the Fort Snelling Academy;
- (2) the Learning Adventures Middle School;

- (3) the Peak's Charter School, Faribault; and
- (4) the Peak's Charter School, Pillager.

Although the Department of Children, Families and Learning and the Minneapolis Teachers Retirement Fund Association (MTRFA) identified the Fort Snelling Academy as a closed charter school, both MTRFA and the Public Employees Retirement Association (PERA) identify it as an open charter school. Although CFL identified the Learning Adventures Middle School as a closed charter school, both PERA and the St. Paul Teachers Retirement Fund Association (StPTRFA) identified it as an open charter school. Additionally, although both CFL and PERA identified the Peak's Charter School, Faribault, and the Peak's Charter School, Pillager, as closed charter schools, TRA identified these two as open charter schools.

2. Unpaid Closed Charter School Retirement Plan Contributions.

The five affected Minnesota retirement plans, the Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Teachers Retirement Fund Association (MTRFA), the St. Paul Teachers Retirement Fund Association (StPTRFA), the Teachers Retirement Association (TRA), and the Public Employees Retirement Association (PERA) report that there are unpaid retirement contributions owed by closed charter schools. Three closed charter schools currently have unpaid retirement plan contributions due and owing. The principal amount of those unpaid contributions and the retirement plan or plans involved are as follows:

Closed Charter School	Principal Amount of Unpaid Retirement Plan Contributions			Total
	MTRFA	PERA	TRA	
Central Minnesota Deaf School		\$ 148.47		\$ 148.47
Dakota Open Charter School			411.14	411.14
Frederick Douglass Charter School	\$ 22,831.86	\$ 789.20		23,621.06
Total Contributions Due	\$ 22,831.86	\$ 937.67	\$ 411.14	\$ 24,180.67

There are several observations that can be made relative to the current unpaid closed charter school retirement plan contributions, as follows:

- a. Unpaid Contributions Occurred In A Minority Of Closed Charter Schools. Only 28.6 percent of the indicated closed charter schools had unpaid retirement plan contributions. However, if the number of closed charter schools is reduced to the number of charter schools where there is no controversy or counterindication, or 10 charter schools, the percentage increases to forty percent.
- b. Unpaid Contributions In Half The Cases Were Essentially Nominal. In two of the three total cases of closed charter schools with unpaid or omitted retirement plan contributions, the principal amount of the unpaid retirement plan contributions was essentially nominal. For the Central Minnesota Deaf School and the Dakota Open School, involving the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and the Teachers Retirement Association

(TRA), the amount of the unpaid retirement plan contributions totaled less than \$560 and appears to be no more than one payroll period amount of retirement plan contributions.

- c. Unpaid Contributions Essentially Had A De Minimis Financial Impact. The reported unpaid member and employer contributions, without interest, have a de minimis impact on the total support of the affected retirement plans, as follows:

<u>Pension Plan</u>	<u>Total Unpaid Contribution Amount</u>	<u>Percentage of 7/1/1999-6/30/2000 Contributions</u>	<u>Percentage of 7/1/1999-6/30/2000 Covered Payroll</u>
DTRFA	--	--	--
MTRFA	\$22,831.86	0.04 %	0.009 %
TRA	411.14	0.0002	0.00002
PERA	937.67	0.0002	0.00002

- d. Amount Of Unpaid Contributions Predominantly Involved MTRFA. When assessed by the amount of the unpaid retirement plan contributions, their occurrence predominated in the Minneapolis Teachers Retirement Fund Association (MTRFA) and not in the statewide teacher retirement plan involved, the Teachers Retirement Association (TRA). The following compares the percentage of the total unpaid retirement plan contribution amount attributable to each affected retirement plan:

<u>Plan</u>	<u>Amount</u>	<u>Percentage</u>
MTRFA	\$22,831.86	94.42%
PERA-Unpaid	937.67	3.88
TRA	411.14	1.70
Total	\$24,180.67	100.00%

- e. Only One Closed Charter Involved More Than One Retirement Plan. In only one case, the Frederick Douglass Charter School, were there unpaid retirement plan contributions to two pension plans. The amount of retirement contributions from the Frederick Douglass Charter School that were not paid to PERA was significantly smaller (\$789.20 compared to \$22,831.86) than the amount not paid to MTRFA.
- f. Current Unpaid Contributions By Closed Charter Schools Indicate An MTRFA Contribution Collection Problem. The unpaid contributions from the closed charter school with significant unpaid contribution amounts, the Frederick Douglass Charter School, were likely unpaid for a significant period of time, indicating that the affected retirement plan, the Minneapolis Teachers Retirement Fund Association (MTRFA), either was inattentive to its own contribution collection procedures or was unsuccessful in pursuing existing collection options. For the Frederick Douglass Charter School and MTRFA, from the information on the number of teachers and average teaching salaries reported, the unpaid contributions approach two-thirds of a year of contributions.
- g. Reported Information Is Incomplete Or Conflicting. In some cases with the affected charter schools, the information reported by the Department of Children, Families and



Learning and by the affected pension plan(s), the information is incomplete or conflicting. For instance, for the Frederick Douglass Charter School, there is insufficient data on support staff personnel to fully evaluate the unpaid PERA contributions.

Potential Retirement Contribution Collection Difficulties From Open Charter Schools

For the 2000-2001 school year, 1,018 teachers and 773 support staff in open charter schools were covered by Minnesota public pension plans, involving \$4.5 million in annual contributions. The following sets forth the breakdown of those numbers, organized by retirement plan:

Public Retirement Plan	Number of Charter Schools Reporting	Number of Teachers/Support Employees	Total Employee Contributions	Total Employer Contributions	Total Contributions
DTRFA	2	95	\$ 127,547.80	\$ 134,273.05	\$ 261,820.85
MTRFA	11	196	267,233.45	395,505.50	622,738.95
StPTRFA	20	334	621,720.40	942,754.20	1,564,474.60
TRA	32	393	417,907.43	417,907.43	835,814.86
PERA	44	773	428,402.25	467,183.93	895,586.18
Total		1,791	\$2,162,811.33	\$2,357,624.11	\$4,520,435.44

Specific information on the five public retirement plans and the open charter schools to which they provide retirement coverage is available in five attachment items (Attachment G, Duluth Teachers Retirement Fund Association (DTRFA); Attachment H, Minneapolis Teachers Retirement Fund Association (MTRFA); Attachment I, St. Paul Teachers Retirement Fund Association (StPTRFA); Attachment J, Teachers Retirement Association (TRA), and Attachment K, Public Employees Retirement Association (PERA)).

The open charter school member and employer retirement plan contributions constitute various proportions of total retirement plan member and employer contributions, as indicated in the following:

Retirement Plan	No. of Charter School Members	Charter School Average Salary	Retirement Plan Average Salary <sup>1</sup>	Ret. Plan Average Salary <5 Years <sup>1</sup>	Ret. Plan Average Salary >24 Years <sup>2</sup>	Total Charter School Member Contr.	% Total Plan Member Contr. <sup>2</sup>	Total Charter School Employer Contr.	% Total Plan Employer Contr. <sup>2</sup>
DTRFA	95	\$24,411.06	\$38,785.68	\$19,128.66	\$57,041.35	\$127,547.80	4.15%	\$134,273.05	4.15%
MTRFA	196	24,789.75	46,436.25	28,520.24	71,558.56	267,233.45	1.63	395,505.50	1.65
StPTRFA	334	33,844.33	44,502.86	28,399.03	69,019.10	621,720.40	4.91	942,754.20	4.97
TRA	393	21,267.55	41,901.30	23,808.22	57,302.16	417,907.43	0.28	417,907.43	0.28
PERA	773	11,667.52	27,905.85	17,533.91	43,831.37	428,402.25	0.24	467,183.93	0.24

<sup>1</sup> Salary figures have been projected for the 2000-2001 school year from the July 1, 2000 actuarial valuation figures by 5.25% for DTRFA, 5.00% for MTRFA, 5.25% for StPTRFA, 5.00% for TRA, and 5.00% for PERA, which are the bottom end of the range of assumed salary increases for the plans.

<sup>2</sup> The gross July 1, 2000, contributions were adjusted by the same percentage as applicable in note 1.

There are several observations that deserve to be presented relative to the situation of open charter school retirement plan coverage and retirement plan contributions. These observations are as follows:

- a. Potential For Omitted Coverage: Charter Schools Without PERA Coverage. Of the 68 open charter schools, 20 charter schools have teachers with retirement coverage by either the Teachers Retirement Association (TRA) or first class city teacher retirement fund associations, but lack any support staff with Public Employees Retirement Association (PERA) retirement coverage. This raises the question of whether or not all the public employees who are eligible for public retirement plan coverage have PERA coverage. If some individuals should be PERA members, but are not, as was the case with the closed Right Step Academy, this would understate the amount of ongoing retirement contributions and may give rise to omitted retirement coverage or service credit purchase problems in the future. The affected charter schools are:

Bluffview Montessori Charter School (Winona School District)  
 Cedar-Riverside Community School (Special School District No. 1 (Minneapolis))  
 Cross Lake Community School (Minnesota State Board of Education)  
 Duluth Edison Academies (Duluth School District)  
 E.C.H.O. Charter School (Yellow Medicine East School District)  
 El Colegio Charter School (Augsburg College)  
 Face to Face Academy (Independent School District No. 625 (St. Paul))  
 Hanska Community School (New Ulm School District)  
 Harvest Preparatory Academy (Special School District No. 1 (Minneapolis))  
 HOPE Community Academy (St. Thomas University)  
 Minnesota Institute of Technology 9210 (University of St. Thomas)  
 Minnesota Institute of Technology 9130 (University of St. Thomas)  
 Minnesota New Country School (LeSueur/Henderson School District)  
 Nerstrand Charter School (Faribault School District)  
 Peak's Charter School, Faribault (Central Lakes College)  
 Peak's Charter School, Pillager (Central Lakes College)  
 RiverBend Academy (Minnesota State Board of Education)  
 Studio Academy (College of Visual Arts)  
 Yankton Country School (Balaton School District)

- b. Potential For Omitted Coverage: CFL List Differences. In checking the Department of Children, Families and Learning (CFL) website relating to charter schools, differences between the information provided before September 15, 2001, and the website information are apparent. The differences could indicate undercoverage of charter school teachers, charter school support personnel, or both. The differences are as follows:

Charter Schools Omitted From CFL Website	Charter Schools Newly Included in CFL Website
Fort Snelling Academy	Avalon School (St. Mary's College)
Learning Adventures Middle School	Blue Sky Charter School (Brooklyn Center School Dist.)
Peak's Charter School, Faribault	Friendship Academy of Fine Arts (Special School District No. 1 (Mpls.)) <sup>(N)</sup>
Peak's Charter School, Pillager	Great River Educational Center (Central Lakes College)
Peak's Charter School, St. Cloud	Harbor City International School (Volunteers of America) <sup>(N)</sup>
Strategies for Success	MN Academy of Software Technology (St. Paul Technical College) <sup>(N)</sup>
	MN International Middle School (Century College) <sup>(N)</sup>
	Twin City International Elementary School (Century College) <sup>(N)</sup>
	WISE Charter School (YMCA, Minneapolis) <sup>(N)</sup>

<sup>(N)</sup> Indicates charter school opening Fall 2001 or Fall 2002

- c. Potential For Omitted Coverage; Inconsistent Or Unusual Data. In 22 of the 68 indicated open charter schools, an unusually large number of support personnel in comparison to the number of teachers was indicated. This raises a question about potential inaccuracies in the reported data, which could mean omitted pension plan members. The open charter schools involved in potential inconsistent or unusual data, with the sponsoring entity indicated in parentheses, are as follows:

ACORN Dual Language Community Academy (Ind. School District No. 625 (St. Paul))  
City Academy (College of St. Catherine)  
Community of Peace (Independent School District No. 625 (St. Paul))  
Concordia Creative Learning Academy (Concordia University)  
Cyber Village Academy (Special School District No.1 (Minneapolis))  
Eci' Nompa Woonspe' Charter School (Redwood Falls School District)  
Emily Charter School (Minnesota State Board of Education)  
Heart of the Earth Center for the American Indian Education (Special School Dist. No.1 (Mpls.))  
Higher Ground (Independent School District No. 625 (St. Paul))  
Learning Adventures Middle School (Central Lakes College)  
Martin Hughes Charter 4040 (Mountain Iron-Buhl School Board)  
Metro Deaf School (Forest Lake School District)  
Minnesota Business Academy (Independent School District No. 625 (St. Paul))  
Minnesota Technology High School (Inver Hills Community College)  
Minnesota Transitions Charter School (Special School District No. 1 (Minneapolis))  
New Visions School (Special School District No. 1 (Minneapolis))  
Odyssey Charter School (Osseo School District)  
PACT Charter School (Anoka-Hennepin School District)  
Skills for Tomorrow Senior High School (Rockford School District)  
Sojourner Truth Academy (Special School District No. 1 (Minneapolis))  
St. Paul Family Learning Center (Independent School District No. 625 (St. Paul))  
World Learner of Chaska (Chaska School District)

Additionally, six open charter school results indicate large support staff personnel average salaries in comparison with the average salaries paid to teachers employed by the same charter school. Since this differs from the general pattern, this raises questions about the accuracy of the data. The following indicates the six charter schools with unusually large support staff personnel average salaries, with the sponsoring entity indicated in parentheses:

Coon Rapids Learning Center (Bethel College)  
Fort Snelling Academy (Normandale College)  
Heart of the Earth Center (Special School District No. 1. (Minneapolis))  
High School for the Recording Arts (Independent School District No. 625 (St. Paul))  
Math and Science Academy (Minnesota State Board of Education)  
Rochester Off Campus School (Rochester Community and Technical College)

- d. First Class City Teacher Retirement Plans At Greatest Charter School Retirement Contribution Default Risk. As a group, the first class city teacher retirement plans have the greatest number of charter school members proportionately, have the greatest amount of contributions potentially at risk, and are the least well funded of the various retirement plans.

Omitted Retirement Contributions From Closed Charter Schools

Additionally, one closed charter school has been identified as never having included its non-teaching employees in retirement coverage by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), although those employees were required by Minnesota Statutes, Chapter 353, to become PERA-General members. The following indicates the closed charter school and the estimated amount of the omitted retirement plan contributions that should have been made had the eligible employees been retirement plan members:

<u>Closed Charter School</u>	<u>Estimated Retirement Contributions Involved</u>		<u>Total</u>
	<u>PERA-General</u>		
	<u>Member Contrib.</u>	<u>Employer Contrib.</u>	
Right Step Academy	\$93,796.57	\$101,883.70	\$195,680.27

There are several observations that can be made relative to the current recognized omitted retirement plan contributions, as follows:

- a. Omitted Contributions Involved PERA, But Additional Omissions Are Likely. Only the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) reported any omitted contribution amount, which was a significant amount (\$195,680.27), but there are other gaps in indicated retirement plan coverage by closed charter schools which likely represent improperly excluded teachers and support employees and omitted contribution amounts. The apparent retirement coverage gaps are:

<u>No Indicated Teacher Plan</u>	<u>No Indicated Support Personnel Plan</u>
Learning Adventures Middle School	Dakota Open Charter School
Peaks-Faribault	Learning Adventures Middle School
Peaks-Pillager	Prairie Island Community School
	Strategies For Success

- b. Current Omitted Contributions By Closed Charter Schools Indicate A PERA Membership Exclusion Checking Problem. The omitted contributions from the closed charter school with significant omitted contribution amounts, the Right Step Academy, likely represent a very long period for which support personnel were not reported as members of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General). The omitted contribution amounts were estimated by PERA from information provided by the St. Paul Teachers Retirement Fund Association (StPTRFA). PERA has substantial statutory requirements to check for public employees who are potentially inappropriately excluded from PERA membership and has the power to conduct field audits to gain or verify information. PERA indicated that the Right Step Academy never reported its support personnel for PERA membership, but has not explained why it was unable to obtain the necessary employment status information. The magnitude of the omitted contributions either indicates a large support personnel workforce, a very long period of omitted contributions, or a very significant support personnel average salary.
- c. Reported Information Is Incomplete Or Conflicting. In some cases with the affected charter schools, the information reported by the Department of Children, Families and Learning and

by the affected pension plan(s), the information is incomplete or conflicting. For instance, for the Right Step Academy, there is no information provided by the Department of Children, Families and Learning on the number or average salary of support personnel to allow for an analysis of the reported omitted PERA contributions.

### Potential Future Unpaid Or Omitted Charter School Retirement Plan Contributions

#### 1. Identification Of Open Charter Schools.

There are 68 charter schools which have been identified by either the Department of Children, Families and Learning and/or one or more Minnesota public retirement plan as being open charter schools. The following sets forth a list of the 68 schools, organized alphabetically, and indicates the charter school sponsor:

Academia Cesar Chavez Charter School (University of St. Thomas)  
ACORN Dual Language Community Academy (Ind. School Dist. No. 625 (St. Paul))  
Agricultural and Food Sciences Academy (NE Metro Intermediate District No. 916)  
Aurora Charter School (St. Mary's University)  
Bluffview Montessori Charter School (Winona School District)  
Cedar-Riverside Community School (Special School District No. 1 (Minneapolis))  
City Academy (College of St. Catherine)  
Community of Peace (Independent School District No. 625 (St. Paul))  
Concordia Creative Learning Academy (Concordia University)  
Coon Rapids Learning Center (Bethel College)  
Cross Lake Community School (Minnesota State Board of Education)  
Cyber Village Academy (Special School District No. 1 (Minneapolis))  
Duluth Edison Academies (Duluth School District)  
E.C.H.O. Charter School (Yellow Medicine East School District)  
Eci' Nompa Woonspe' Charter School (Redwood Falls School District)  
El Colegio Charter School (Augsburg College)  
Emily Charter School (Minnesota State Board of Education)  
Excell Academy (North Central University)  
Face to Face Academy (Independent School District No. 625 (St. Paul))  
Family Academy (NE Metro Intermediate School District 916)  
Fort Snelling Academy (Normandale College)  
Four Directions Charter (Metropolitan State University)  
Hanska Community School (New Ulm School District)  
Harvest Preparatory Academy (Special School District No. 1 (Minneapolis))  
Heart of the Earth Center for the American Indian Education (Special School Dist. No. 1 (Mpls.))  
High School for the Recording Arts (Independent School District No. 625 (St. Paul))  
Higher Ground (Independent School District No. 625 (St. Paul))  
Hope Community Academy (St. Thomas University)  
La Crescent Montessori Academy (Minnesota State Board of Education)  
Lafayette Public Charter School (New Ulm School Board)  
Lakes Area Charter School (Alexandria Technical College)  
Learning Adventures Middle School (Central Lakes College)  
Martin Hughes Charter 4040 (Mountain Iron-Buhl School Board)  
Math and Science Academy (Minnesota State Board of Education)  
Metro Deaf School (Forest Lake School District)  
Mexica Multicultural Education (Independent School District No. 625 (St. Paul))

Minnesota Business Academy (Independent School District No. 625 (St. Paul))  
 Minnesota Institute of Technology 9210 (University of St. Thomas)  
 Minnesota Institute of Technology 9130 (University of St. Thomas)  
 Minnesota New Country School (LeSueur/Henderson School District)  
 Minnesota Technology High School (Inver Hills Community College)  
 Minnesota Transitions Charter School (Special School District No. 1 (Minneapolis))  
 Native Arts High School (Augsburg College)  
 Nerstrand Charter School (Faribault School District)  
 New Heights School (Stillwater School District)  
 New Spirit School (Independent School District No. 625 (St. Paul))  
 New Visions School (Special School District No. 1 (Minneapolis))  
 North Lakes Academy (Minnesota State Board of Education)  
 Odyssey Charter School (Osseo School District)  
 PACT Charter School (Anoka-Hennepin School District)  
 Peak's Charter School, Duluth (Central Lakes Community College)  
 Peak's Charter School, Faribault (Central Lakes College)  
 Peak's Charter School, Pillager (Central Lakes College)  
 Peak's Charter School, St. Cloud (Central Lakes Community College)  
 Pillager Area Charter School (Central Lakes Community College)  
 RiverBend Academy (Minnesota State Board of Education)  
 Riverway Learning Community (Rochester Community and Technical College)  
 Rochester Off Campus (Rochester Community and Technical College)  
 Schoolcraft Learning Community (Minnesota State Board of Education)  
 Skills for Tomorrow Senior High School (Rockford School District)  
 Sojourner Truth Academy (Special School District No. 1 (Minneapolis))  
 St. Paul Family Learning Center (Independent School District No. 625 (St. Paul))  
 Strategies for Success (Independent School District No. 625 (St. Paul))  
 Studio Academy (College of Visual Arts)  
 Twin Cities Academy (Independent School District No. 625 (St. Paul))  
 Village School of Northfield (Northfield School District)  
 World Learner of Chaska (Chaska School District)  
 Yankton Country Schools (Balaton School District)

There are 34 sponsoring entities for the 68 open charter schools, involving 27 public sector entities and seven private institutions of higher education.

There are problems with the identification of open charter schools. The five retirement plans and the Department of Children, Families and Learning have identified a total of 68 open Minnesota charter schools, but no respondent identified all 68 schools.

The charter schools which raise questions about their appropriate classification as an open charter school because they were reported by one or more of the retirement plans, but were not identified by the Department of Children, Families and Learning (CFL) are:

- (1) the Fort Snelling Academy;
- (2) the Learning Adventures Middle School;
- (3) the Peak's Charter School-Faribault;
- (4) the Peak's Charter School-Pillager; and
- (5) the Strategies for Success Charter.

Although the Department of Children, Families and Learning and the Minneapolis Teachers Retirement Fund Association (MTRFA) identified the Fort Snelling Academy as a closed charter school, MTRFA also identified it as an open charter school, as did the Public Employees Retirement Association (PERA). Additionally, although both CFL and PERA identified the Peak's Charter School, Faribault, and the Peak's Charter School, Pillager, as closed charter schools, Teachers Retirement Association (TRA) identified these two as open charter schools. The St. Paul Teachers Retirement Fund Association (StPTRFA) identified the Learning Adventures Middle School as an open charter school, while CFL did not. The Public Employees Retirement Association (PERA) indicated that the Strategies For Success School is an open charter school, with eligibility for PERA coverage pending, but CFL did not identify it as an open charter school.

2. Potential For Future Omitted Or Unpaid Charter School Retirement Contributions

The five affected Minnesota retirement plans, the Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Teachers Retirement Fund Association (MTRFA), the St. Paul Teachers Retirement Fund Association (StPTRFA), the Teachers Retirement Association (TRA), and the Public Employees Retirement Association (PERA) all receive member and employer contributions. The magnitude of those contributions vary, as follows:

Duluth Teachers Retirement Fund Association (DTRFA)

Charter School	2000 School Year			2001 School Year		
	Teacher Number	Member Contrib.	Employer Contrib.	Teacher Number	Member Contrib.	Employer Contrib.
Duluth Edison Academies	82	120,678.58	127,041.63	88	119,223.72	125,510.06
Peak's Charter School, Duluth	6	5,089.59	5,357.95	7	8,324.08	8,762.99
Total	88	125,768.17	132,399.58	95	127,547.80	134,273.05

Minneapolis Teachers Retirement Fund Association (MTRFA)

Charter School	2000 School Year			2001 School Year		
	Teacher Number	Member Contrib.	Employer Contrib.	Teacher Number	Member Contrib.	Employer Contrib.
Aurora Charter School	3	0.00	0.00	3	3,421.83	5,064.31
Cedar-Riverside Community School	9	15,325.47	22,681.69	9	12,925.36	19,129.53
El Colegio Charter School	6	0.00	0.00	3	5,499.99	8,139.99
Fort Snelling Academy	0	0.00	0.00	19	34,323.45	50,798.71
Four Directions Charter School	5	6,981.54	10,332.69	4	9,565.44	14,156.86
Harvest Preparatory Academy	0	15,087.74	22,329.85	18	20,356.07	30,126.98
Heart of the Earth Ctr for Am. Indians	0	31,750.42	46,990.62	41	52,581.34	77,820.39
Minnesota Transitions Charter	0	26,228.66	38,818.42	32	33,023.35	48,874.56
Native Arts High School	4	0.00	0.00	5	8,643.15	12,791.86
New Visions School	0	39,543.11	58,523.81	42	58,320.38	86,314.17
Sojourner Truth Academy	18	14,557.28	21,544.78	20	28,573.05	42,288.11
Total	45	149,474.22	221,221.86	196	267,233.41	395,505.47

St. Paul Teachers Retirement Fund Association (StPTRFA)

Charter School	2000 School Year			2001 School Year		
	Teacher Number	Member Contrib.	Employer Contrib.	Teacher Number	Member Contrib.	Employer Contrib.
ACORN Dual Lang. Comm. Academy	21	35,477.48	53,796.77	24	43,985.30	66,697.71
City Academy	8	17,160.89	26,022.16	10	22,202.79	33,667.50
Community of Peace	42	81,610.03	123,750.49	47	91,197.30	138,288.27
Concordia Creative Learning Acad.	3	4,718.27	7,154.61	11	21,111.74	32,013.08
Concordia Early Learning School	0	0.00	0.00	0	0.00	0.00
Cyber Village Academy	6	12,474.84	18,916.39	11	23,939.18	36,300.50
Fact to Face Academy	6	8,523.11	12,924.13	6	9,998.42	15,161.24
High School for Recording Arts	3	5,254.07	7,967.08	4	7,768.30	11,779.57
Higher Ground	22	35,822.53	54,319.98	25	47,885.47	72,611.79
HOPE Community Academy	0	0.00	0.00	24	39,081.57	59,261.87
Learning Adventures Middle School	3	7,388.88	11,204.23	5	10,695.70	16,218.57
Metro Deaf School	19	37,412.14	56,730.42	25	47,521.26	72,059.51
Mexica Multicultural Education	0	0.00	0.00	4	6,051.60	9,176.43
Minnesota Business Academy	0	0.00	0.00	32	60,252.66	91,364.95
Minnesota Institute of Technology	0	0.00	0.00	30	50,055.42	75,902.22
Minnesota Technology High School	7	18,260.88	27,690.13	5	10,649.40	16,148.37
New Spirit School	19	27,369.17	41,501.62	30	49,065.39	74,400.97
Skills for Tomorrow Senior High	3	6,418.36	9,732.57	4	7,819.11	11,856.62
St. Paul Family Learning Center	10	19,636.73	29,776.43	13	26,949.07	40,864.60
Twin Cities Academy	16	30,684.57	46,528.96	24	45,490.64	68,980.36
<b>Total</b>	<b>188</b>	<b>348,211.95</b>	<b>528,015.97</b>	<b>334</b>	<b>621,720.32</b>	<b>942,754.13</b>

Teachers Retirement Association (TRA)

Charter School	2000 School Year			2001 School Year		
	Teacher Number	Member Contrib.	Employer Contrib.	Teacher Number	Member Contrib.	Employer Contrib.
Agricul. & Food Sciences Academy	0	0.00	0.00	0	0.00	0.00
Bluffview Montessori Charter School	23	15,812.47	15,812.47	25	17,363.91	17,363.91
Coon Rapids Learning Center	7	9,864.44	9,864.44	11	16,483.40	16,483.40
Cross Lake Community School	0	0.00	0.00	8	4,889.42	4,889.42
E.C.H.O. Charter School	9	5,512.07	5,512.07	12	7,551.09	7,551.09
Eci' Nomp' Woonspe' Charter School	4	5,971.43	5,971.43	4	8,109.85	8,109.85
Emily Charter School	18	12,780.48	12,780.48	17	9,900.68	9,900.68
Family Academy	0	0.00	0.00	14	13,932.14	13,932.14
Hanska Community School	7	4,759.75	4,759.75	12	4,944.48	4,944.48
La Crescent Montessori Academy	4	2,400.36	2,400.36	6	5,092.50	5,092.50
Lafayette Public Charter School	8	4,619.82	4,619.82	10	8,097.15	8,097.15
Lakes Area Charter School	5	5,182.11	5,182.11	8	7,078.52	7,078.52
Martin Hughes Charter School	17	16,438.35	16,438.35	20	29,780.48	29,780.49
Math & Science Academy	14	18,062.17	18,062.17	22	24,426.06	24,426.06
Nerstrand Charter School	13	16,468.50	16,468.50	14	19,926.55	19,926.55
New Country School	10	17,197.08	17,197.08	10	17,816.67	17,816.67
New Heights School	22	17,533.95	17,533.95	17	19,062.32	19,062.32
North Lakes Academy	15	13,303.59	13,303.59	18	24,134.52	24,134.52
Odyssey Charter School	17	18,180.81	18,180.81	20	22,443.33	22,443.33
PACT Charter School	39	36,190.08	36,190.08	40	42,718.98	42,718.98
Peak's Charter School, Faribault	5	4,930.63	4,930.63	9	4,181.44	4,181.44
Peak's Charter School, Pillager	8	6,252.39	6,252.39	7	4,680.51	4,680.51
Peak's Charter School, St. Cloud	1	666.67	666.67	4	5,754.21	5,754.21
RiverBend Academy	1	706.50	706.50	12	20,180.73	20,180.73
Riverway Learning Community	0	0.00	0.00	17	8,038.99	8,038.99
Rochester Off Campus	11	10,517.31	10,517.31	19	18,907.23	18,907.23
Schoolcraft Learning Community	0	0.00	0.00	12	16,313.55	16,313.55
Studio Academy	0	0.00	0.00	9	14,310.00	14,310.00



Charter School	2000 School Year			2001 School Year		
	Teacher Number	Member Contrib.	Employer Contrib.	Teacher Number	Member Contrib.	Employer Contrib.
Toivola-Meadowlands Charter School	12	9,183.09	9,183.09	1	30.14	30.14
Village School of Northfield	7	5,777.22	5,777.22	6	8,526.58	8,526.58
World Learner of Chaska	7	8,668.24	8,668.24	5	8,678.58	8,678.58
Yankton Country School	0	0.00	0.00	4	4,553.35	4,553.35
Total	284	266,979.51	266,979.51	393	417,907.36	417,907.37

### Public Employees Retirement Association (PERA)

Charter School	2000 School Year			2001 School Year		
	Support Staff No.	Member Contrib.	Employer Contrib.	Support Staff No.	Member Contrib.	Employer Contrib.
Academia Cesar Chavez Charter School	0	0.00	0.00	0	0.00	0.00
ACORN Dual Language Comm. Acad.	20	13,358.04	14,567.29	21	14,025.23	15,294.89
Agric. and Food Sciences Academy	0	0.00	0.00	0	0.00	0.00
Aurora Charter School	0	0.00	0.00	5	3,267.45	3,563.24
Bluffview Montessori Charter School	0	0.00	0.00	0	0.00	0.00
Cedar-Riverside Community School	0	0.00	0.00	0	0.00	0.00
Central Minnesota Deaf School	0	0.00	0.00	0	0.00	0.00
City Academy	12	13,073.61	14,257.12	12	12,006.11	13,092.98
Community of Peace	31	15,503.80	16,907.30	36	23,784.68	25,937.82
Concordia Creative Learning Academy	25	10,941.16	11,931.62	31	10,492.60	11,442.46
Concordia Early Learning School	25	10,941.16	11,931.62	31	10,492.60	11,442.46
Coon Rapids Learning Center	2	3,645.45	3,975.46	6	6,717.51	7,325.63
Cross Lake Community School	0	0.00	0.00	2	981.56	1,070.42
Cyber Village Academy	9	5,071.42	5,530.52	12	7,889.83	8,604.07
Duluth Edison Academies	0	0.00	0.00	0	0.00	0.00
E.C.H.O. Charter School	0	0.00	0.00	0	0.00	0.00
Eci' Nompa Woonspe' Charter School	12	4,316.85	4,707.64	12	5,076.73	5,536.31
El Colegio Charter School	0	0.00	0.00	0	0.00	0.00
Emily Charter School	10	4,367.58	4,762.96	13	5,885.11	6,417.87
Excell Academy	0	0.00	0.00	0	0.00	0.00
Face to Face Academy	0	0.00	0.00	0	0.00	0.00
Family Academy	0	0.00	0.00	10	2,683.01	2,925.89
Fort Snelling Academy	0	0.00	0.00	4	4,428.94	4,829.87
Four Directions Charter	2	1,825.89	1,991.18	5	3,010.87	3,283.44
Hanska Community School	0	0.00	0.00	0	0.00	0.00
Harvest Preparatory Academy	0	0.00	0.00	0	0.00	0.00
Heart of the Earth Ctr for Am. Indians	26	9,314.77	10,158.01	46	40,570.64	44,243.35
High School for the Recording Arts	0	0.00	1.11	2	2,837.95	3,094.86
Higher Ground	33	18,161.41	19,805.50	78	32,225.20	35,142.42
Hope Community Academy	0	0.00	0.00	0	0.00	0.00
Kenwood Primary/El. Academy	0	0.00	0.00	0	0.00	0.00
La Crescent Montessori Academy	3	1,910.97	2,083.96	5	3,067.02	3,344.66
Lafayette Public Charter School	0	0.00	0.00	0	0.00	0.00
Lakes Area Charter School	5	3,066.59	3,344.19	7	2,420.27	2,639.37
Learning Adventures Middle School	8	5,498.81	5,996.60	7	3,895.10	4,247.71
Martin Hughes Charter 4040	15	7,311.17	7,973.03	27	17,668.78	19,268.27
Math and Science Academy	3	2,530.20	2,759.25	7	8,775.34	9,569.75
Metro Deaf School	16	9,381.21	10,230.45	26	11,891.48	12,967.97
Mexica Multicultural Education	0	0.00	0.00	10	3,592.90	3,918.15
Minnesota Business Academy	0	0.00	0.00	25	16,141.55	17,602.79
Minnesota Institute of Technology	0	0.00	0.00	0	0.00	0.00
Minnesota Technology High School	13	9,163.73	9,993.29	13	8,193.49	8,935.22
Minnesota Transitions Charter School	25	15,676.54	17,095.68	39	12,451.72	13,578.93
Minnesota Institute Targeted Services	0	0.00	0.00	0	0.00	0.00
Native Arts High School	0	0.00	0.00	0	0.00	0.00
Nerstrand Charter School	0	0.00	0.00	0	0.00	0.00

Charter School	2000 School Year			2001 School Year		
	Support Staff No.	Member Contrib.	Employer Contrib.	Support Staff No.	Member Contrib.	Employer Contrib.
New Country School	0	0.00	0.00	0	0.00	0.00
New Heights School	10	5,213.99	5,682.99	11	7,717.38	8,416.01
New Spirit School	11	9,762.28	10,646.02	13	11,644.19	12,698.29
New Visions School	53	24,293.92	26,493.16	58	29,416.07	32,079.00
North Lakes Academy	6	3,677.59	4,010.51	8	5,914.01	6,449.39
Odyssey Charter School	22	8,269.70	9,018.32	26	11,952.02	13,033.99
Opportunities for Learning	0	0.00	0.00	0	0.00	0.00
PACT Charter School	33	10,620.92	11,582.39	34	15,365.73	16,756.74
Peak's Charter School, Alexandria	0	0.00	0.00	0	0.00	0.00
Peak's Charter School, Duluth	5	2,484.64	2,709.56	5	2,548.42	2,779.11
Peak's Charter School, Faribault	0	0.00	0.00	0	0.00	0.00
Peak's Charter School, Pillager	0	0.00	0.00	0	0.00	0.00
Peak's Charter School, St. Cloud	0	0.00	0.00	3	1,370.05	1,494.07
Pillager Area Charter School	0	0.00	0.00	0	0.00	0.00
Raleigh Primary/El. Academy	0	0.00	0.00	0	0.00	0.00
Right Step Academy El.	0	0.00	0.00	0	0.00	0.00
River Bend Academy	0	0.00	0.00	0	0.00	0.00
Riverway Learning Community	0	0.00	0.00	4	1,895.21	2,066.78
Rochester Off Campus	0	0.00	0.00	1	1,561.49	1,702.84
Schoolcraft Learning Community	0	0.00	0.00	9	3,183.92	3,472.15
Skills for Tomorrow Jr. High School	0	0.00	0.00	0	0.00	0.00
Skills for Tomorrow Sr. High School	9	15,193.96	16,569.42	16	11,626.43	12,678.93
Sojourner Truth Academy	12	7,782.26	8,486.76	23	15,384.15	16,776.83
St. Paul Family Learning Center	34	16,822.88	18,345.80	47	19,892.28	21,693.06
Strategies for Success	0	0.00	0.00	0	0.00	0.00
Studio Academy	0	0.00	0.00	0	0.00	0.00
Success Academy	0	0.00	0.00	0	0.00	0.00
Summit School for the Arts	0	0.00	0.00	0	0.00	0.00
Toivola-Meadowlands Charter School	0	0.00	0.00	0	0.00	0.00
Twin Cities Academy	9	3,490.44	3,806.42	9	4,175.48	4,553.47
Village School of Northfield	7	7,544.23	8,227.18	6	4,158.81	4,535.29
Washburn Jr. Academy	0	0.00	0.00	0	0.00	0.00
World Learner of Chaska	7	3,695.67	4,030.23	8	6,122.71	6,676.98
Yankton Country Schools	0	0.00	0.00	0	0.00	0.00
Total	513	283,912.84	309,612.54	773	428,402.02	467,183.70

The following sets forth the magnitude of the charter school membership and contributions in proportion to the total membership and contributions of the respective retirement plans for the 2000 and 2001 fiscal years:

Retirement Plan	Fiscal Year	Number of Members			Member Contributions			Employer Contributions		
		Charter Schools	Total	%	Charter Schools	Total	%	Charter Schools	Total	%
DTRFA	2000	88	1,441	6.1	125,768	3,152,000	4.0	132,400	3,026,000	4.4
	2001	95	1,420	6.7	127,548	3,041,000	4.1	134,273	3,011,000	4.5
MTRFA	2000	45	5,777	0.8	149,474	16,169,000	0.9	221,222	21,938,000	1.0
	2001	196	5,813	3.4	267,233	16,321,000	1.6	395,506	22,029,000	1.8
StPTRFA	2000	188	4,445	4.2	348,212	13,184,000	2.6	528,016	19,049,000	2.8
	2001	334	4,671	7.2	621,720	13,170,000	4.7	942,754	19,996,000	4.7
TRA	2000	284	70,508	0.4	266,980	138,696,000	0.2	266,980	134,419,000	0.2
	2001	393	71,097	0.6	417,907	145,075,000	0.3	417,907	139,799,000	0.3
PERA	2000	513	135,560	0.4	283,913	171,073,000	0.2	428,402	186,637,000	0.2
	2001	773	138,759	0.6	309,615	173,380,000	0.2	467,184	188,208,000	0.2

Alternative Recovery Solutions

1. Alternative Approaches To Viewing The Problem.

In considering the problem of the recovery of unpaid closed charter school contributions, the Commission attempted to sort through potential solutions by focusing on the available approaches to viewing the problem. The problem depends on the timeframe (past, for currently closed charter schools, and future, for current open charter schools which may eventually closed and for charter schools yet to be formed) and on the type of contribution (contributions due and owing, but unpaid, and contributions that are omitted because charter school teachers and support personnel have not properly been accorded public retirement plan coverage required by statute).

The following chart summarizes the approaches considered by the Commission to view the unpaid closed charter school retirement contribution recovery problem:

		<u>Timeframe</u>	
		<b>Closed</b>	<b>Open</b>
<b>Contribution Type</b>	<b>Accrued</b>	<p>\$24, 180.67 plus interest owed to MTRFA, PERA-General, and TRA from three closed charter schools (Central Minnesota Deaf, Dakota Open, and Frederick Douglass)</p>	<p>Unknown and unestimable, but at least 16 charter schools have closed since the first Minnesota charter school was established in 1991</p>
	<b>Omitted</b>	<p>At least \$195,680.27 (amount estimated to be owed to PERA-General from Right Step Academy), but three closed charter schools reported no teacher retirement plan for their teachers and four closed charter schools reported no support employee pension plan</p>	<p>Unknown and unestimable, but 20 open charter schools report providing teacher pension coverage and no support personnel pension coverage, three charter schools not otherwise reported, but on the CFL website indicate no teacher or support personnel pension coverage, 22 charter schools report a large support staff and only a few teachers, and six charter schools report a large average support staff salary, but a smaller average teacher salary</p>

2. Potential Alternative Approaches To Solving The Current Unpaid Closed Charter School Retirement Contribution Problem.

The Commission reviewed eight potential types of remedies to handle the situation of the current unpaid closed charter school retirement plan contributions, as follows:

- a. Undertake Better Charter School Collection Procedures. Testimony indicated that the affected retirement plans have currently taken a variety of steps to recover unpaid member and employer retirement plan contributions beyond simply notifying the charter school of its obligation at some point. The Minnesota Collection Enterprise Division of the Department of Revenue is the primary collection tool of the State of

Minnesota, but it is unclear whether any of the unpaid amounts have been referred to the division. From the division, uncollectable debts are eventually referred to private collections agencies.

- b. Commence/Participate In Bankruptcy Proceedings. If any closed charter schools have sought bankruptcy protection under federal law, the affected retirement plan or plans could participate in future bankruptcy proceedings. If the closed charter schools have not initiated bankruptcy action, the affected retirement plans as creditors are empowered to compel bankruptcy activities and a liquidation of any closed charter school assets.
- c. Initiate Litigation Against The Charter School Operator. The affected retirement plans could initiate litigation against the operator of a closed charter school for the principal amount of any unpaid retirement plan contributions plus interest since the default date. While there may be numerous potential causes of action that could be the basis for the litigation, ultimately, a fraud likely was perpetrated against the retirement plans and a legal action could be pursued on that basis.
- d. Imposition Of Charter Sponsor Obligation. Either by litigation or by legislation, the entity sponsoring the closed charter school could be held liable for the debts of the closed charter school. Although a sponsor is immune from civil liability with respect to all activities related to a sponsored charter school under Minnesota Statutes, Section 124D.10, Subdivision 25, Paragraph (c), there may still be sponsor liability if the sponsor was derelict in undertaking its responsibilities under law or contract to monitor the financial activities of the charter school or if the sponsor was aware of or participated in any charter school operator fraud. If litigation cannot establish charter sponsor liability, future proposed legislation could provide a reduction or setoff or a succession of reductions or setoffs against any future State aid payable to a charter school sponsor.
- e. Retirement Fund Subsidization Of Obligation. If no other remedy is implemented administratively or legislatively, the pension fund applicable to the affected retirement plan would ultimately bear whatever net liability that results. With closed charter schools, the extent of liability to be borne by the pension plan depends on the past and future employment and plan membership of the relevant personnel. If the personnel was new to public service and ultimately will never qualify for a public pension benefit, the lack of contributions will shift part of the burden to the affected plan members in a reduced refund and will reduce the actuarial gain that the retirement plan would otherwise obtain. If the personnel had extensive prior public service or if the personnel ultimately renders significant future public service, the pension plan and fund will suffer an actual actuarial loss.
- f. Payment Obligation Spread Over Remaining Employing Units. Proposed legislation could be pursued that would spread the amount of the unpaid closed charter school member and employer contribution amounts, plus interest since the default, as a surcharge over a period of time against the universe of all remaining charter schools and charter school sponsors, or the universe of all other employing units. For the

TRA and PERA unpaid charter school contribution amounts, these varying universes make a considerable difference, but for MTRFA or StPTRFA, there is perhaps little difference between all other charter school sponsors or all other employing units, since these plans are essentially single employer retirement plans.

- g. Payment Obligation Spread Over Retirement Plan Contributors. Proposed legislation could be pursued that would spread the amount of the unpaid closed charter school member and employer contribution amounts, plus interest since the default, as a surcharge in effect for a period of time over the members and employers covered by the retirement plan.
- h. State Payment. Proposed legislation could be pursued that would have the State of Minnesota pay the amount of the unpaid closed charter school contribution amounts, plus interest since the default date. The payment obligation could be charged against the Department of Children, Families and Learning, deducted from aid dedicated for charter schools, or paid from the State General Fund. The 2001 Session proposed legislation, S.F. 2038 (Pogemiller); H.F. 2215 (Mares), as introduced, would have paid the unpaid amounts from the State's General Fund. The 2001 Session proposed legislation as recommended by the Legislative Commission on Pensions and Retirement and amended in the Senate (see Attachment A) would have deducted the unpaid amounts from the charter school building lease aid otherwise payable.

3. Potential Alternative Approaches to Solving the Potential Future Unpaid Charter School Retirement Contribution Problem.

The Commission reviewed twelve potential remedies for any future default in charter school retirement plan member and employer contributions, as follows:

- a. Require Better Retirement Plan Contribution Monitoring. The potential for retirement contribution defaults by charter schools will be reduced if the retirement plan engages in more frequent and more regular monitoring of the retirement plan contributions from charter schools. As indicated in the case of unpaid charter school retirement contributions to the Minneapolis Teachers Retirement Fund Association (MTRFA), where the retirement contributions are several months in default, a failure to pursue remedies for any defaulted amounts increases the likelihood that the contributions would become unpaid and unredeemable and that the charter school would close without settling these debts.
- b. Require School Charter Document To Include Monitoring And Collection Procedures. Contribution defaults by charter schools can be prevented or minimized if the charter document under which a charter school operates is required to contain specific procedures relating to retirement plan contribution payment monitoring and collection and those procedures are binding both on the charter school and the charter sponsor. Because each charter school is likely to argue that it has unique or special circumstances, establishing uniform comprehensive statutory monitoring and collection procedures may not be possible, but each charter school could be mandated to design appropriate and applicable procedures and included in the charter contract.

- c. Require The Prepayment Of Charter School Contributions. The potential for charter schools to default in making their retirement contributions would be reduced or eliminated if charter schools were required by statute to be prepaid. The statutory prepayment obligation, akin to the payment of estimated federal or state income taxes, could be quarterly, monthly, or annually.
- d. Require The Deduction Of Charter School Contributions From Charter School State Aid. An alternative procedure for preventing a default by charter schools in their retirement plan contributions would be to require the Department of Children, Families and Learning (CFL) to deduct an amount for retirement plan contributions from school aid amounts payable and to transmit the deductions to the applicable retirement plan. Currently, teacher retirement plan charter school contributions range from 0.66 percent of charter school revenue to 4.47 percent of charter school revenue, with an average of 1.78 percent. For support staff, charter school contributions to the Public Employees Retirement Association (PERA) range from 0.20 percent of charter school revenue to 1.97 percent of charter school revenue, with an average of 0.77 percent. On average, State aid to charter schools accounts for 80.88 percent of total charter school revenue, so deducting 3.15 percent (2.20 percent for teachers and 0.95 percent for support staff) of any State aid payment to a charter school would largely cover the average charter school contribution requirements.
- e. Define A Retirement Contribution Default As Financial Mismanagement; Impose Moratorium On Charter Sponsors Of Mismanaged Charter Schools. One means of indicating the importance of avoiding retirement plan contribution defaults by charter schools and the need for charter school sponsors to vigorously monitor charter school activity is to define financial mismanagement by a charter school, to include in that definition a default in the payment of retirement plan contributions or a significant delay in their payment, and to place a moratorium on the granting of new charters by a sponsor of a charter school which was involved in financial mismanagement. Minnesota Statutes, Section 124D.10, Subdivision 23, does not define financial mismanagement, but provides for charter non-renewal or termination if the charter school fails to meet generally accepted standards of fiscal management. There are no current statutory restrictions on the number of charters that a sponsor may undertake, even if prior charter schools close or engage in financial mismanagement.
- f. Require The Posting Of Performance Bonds By Charter Schools Or Charter Sponsors. To provide a remedy of making available assets to tap in the event of a charter school retirement plan contribution default, the charter school or the charter school sponsor could be required by statute to post a performance bond. Akin to many circumstances when the financial solvency of an entity in making a future stream of payments is uncertain, the posting of a bond would provide security through the creation of an access point to financial resources to cover the retirement plan contribution payment upon a default.
- g. Establish A Charter School Contribution Surcharge For Future Unpaid Retirement Plan Contributions. To help insure that retirement plans will not be left with no financial resources to access when a charter school defaults on retirement plan contributions, a

reserve could be established by statute and funded by a surcharge on charter school employer contributions. The reserve would be administered by the Department of Finance or by the Department of Children, Families and Learning. The surcharge amount should be seven tenths of one percent of covered salary of charter schools in order to raise an annual reserve of \$25,000, the amount of current unpaid charter school retirement plan contributions. The surcharge could blink on and blink off depending on the size of the total reserve. At the end of each plan year, retirement plans could apply to have any unpaid retirement plan contributions covered from the reserve.

- h. Establish A Retirement Plan Employer Contribution Surcharge To Defray Future Unpaid Retirement Plan Contributions. Akin to the prior potential remedy, a statutory reserve could be established and a surcharge could be imposed on the employers covered by the five affected retirement plans. The reserve would be administered by a centralized administrative structure, probably the Department of Children, Families and Learning or the Department of Finance, and invested by the State Board of Investment. In order to produce an annual reserve amount of \$25,000, the amount of the current unpaid retirement plan contribution, the surcharge would need to be approximately \$0.12 per active member per year. After a sizable reserve is established, the surcharge could blink on and blink off to maintain the reserve at a minimum level. The reserve would be drawn upon by retirement plans with unpaid charter school contributions or an annual basis, after the retirement plan had exhausted all other means for recovering the unpaid amounts.
- i. Establish A Retirement Plan Employer And Membership Contribution Surcharge To Cover Future Unpaid Retirement Plan Contributions. The alternative is identical to the prior two potential remedies, except that the surcharge would be imposed on both members and employers. With a broadening financial base, the surcharge amount would be smaller to produce the same total revenue. To raise an annual amount of \$25,000, the current unpaid closed charter school retirement plan contribution amount, the surcharge would need to be approximately \$0.06 per active member per year.
- j. Cover All Charter School Teachers By TRA. In order to minimize the potential for future charter school retirement plan contribution defaults, retirement coverage for charter school teachers could be provided through the statewide Teachers Retirement Association (TRA) rather than four teacher retirement plans. In addition to imposing a smaller employer retirement contribution on the affected charter schools, centralizing charter school teacher retirement coverage in TRA will utilize TRA's existing system for collecting retirement plan contributions from disparate employing units.
- k. State Payment. Proposed legislation could be pursued that would have the State of Minnesota pay the amount of charter school retirement plan contributions that remain unpaid upon any future closure. The State payment could be from a General Fund standing appropriation or as an ongoing subtraction from the State lease aid available to charter schools.

1. Improve The Process For Checking Retirement Plan Membership Inclusions. While known unpaid charter school retirement plan contributions prompted this mandated interim project, there is a large likely problem of omitted charter school retirement plan contributions and retirement plan service credit gaps arising from charter school employees who are eligible for retirement plan coverage, but are not provided concurrent coverage and service credit. Some open charter schools reported by the Department of Children, Families and Learning were not reported as participating employing units by any retirement plan and a number of open charter schools were reported as participating employing units by a teacher retirement plan but were not reported by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General). If the charter school closes before the period for correcting omitted contributions runs, which is three years in PERA-General, no maximum period in the Teachers Retirement Association (TRA), and three years for the first class city teacher retirement plans, the affected charter school employee will have no resource other than special legislation to permit a service credit purchase, with potentially no remaining charter school upon which to impose the retirement plan contribution liability.

#### Commission-Recommended Recovery Solutions

The Commission recommends that the Legislature enact legislation that would provide for the following related to charter school employee retirement coverage and the recovery of unpaid closed charter school retirement contributions:

1. State Payment of Closed Charter School Unpaid Retirement Contributions. The Department of Children, Families and Learning, based on retirement plan certifications, will pay charter school retirement contributions remaining unpaid from charter schools that closed before April 1, 2002, from the charter school lease aid program;
2. Future Retirement Coverage for Charter School Teacher by the Teachers Retirement Association. The Teachers Retirement Association is required to provide retirement coverage for all charter school teachers, including teachers in charter schools located in one of the cities of the first class, effective for all teaching employment after June 30, 2002.

#### Conclusion

The Commission requests prompt attention by the Legislature to its recommendation (recommendations) to resolve the problem of recovering unpaid closed charter school retirement plan contributions.





# Minnesota Session Laws 2001, 1<sup>st</sup> Special Session, Chapter 10

## ARTICLE 13

### CLOSED CHARTER SCHOOL RETIREMENT CONTRIBUTIONS

Section 1. [STUDY BY THE LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT.]

(a) The legislative commission on pensions and retirement shall study and recommend the appropriate mechanism for recovering unpaid member and employer retirement plan contributions from charter schools that cease operations.

(b) The report must include the draft proposed legislation that would be required to implement the mechanism recommended by the commission.

(c) The report must be filed by February 15, 2002, with the chairs of the senate committees on state and local government operations and education and with the chairs of the house committees on governmental operations and veterans affairs policy and education.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

## **Closed Charter Schools**

- a. Per CFL:
  - 1. Central Minnesota Deaf School (St. Cloud School District)
  - 2. Dakota Open Charter School (Minnesota State Board of Education)
  - 3. Fort Snelling Academy (Normandale College)
  - 4. Frederick Douglass (Special School District No. 1 (Minneapolis))
  - 5. Learning Adventures Middle School (Central Lakes College)
  - 6. Peak's-Faribault (Central Lakes College)
  - 7. Peak's-Pillager (Central Lakes College)
  - 8. Prairie Island Community School (Red Wing School District)
  - 9. Right Step Academy (St. Paul School District)
  - 10. Skills for Tomorrow Junior High (Goodwill Industries/Easter Seal)
  - 11. Strategies for Success (St. Paul School District)
  - 12. Success Academy (St. Paul School District)
  - 13. Summit School for the Arts (Chisago School District)
  - 14. Toivola-Meadowlands (St. Louis County School District)
  
- b. Per TRA:
  - 1. Central Minnesota Deaf School (St. Cloud School District)
  - 2. Dakota Open School (Minnesota State Board of Education/Morton School District)
  - 3. Martin Hughes School (Mountain Iron-Buhl School Board)
  - 4. Peak's Charter School, Duluth (Central Lakes College)
  - 5. Prairie Island Charter School (Red Wing School District)
  - 6. Summit School for the Arts (Chisago Lake School District)
  - 7. Toivola-Meadowlands Charter School (St. Louis County School District)
  
- c. Per PERA:
  - 1. Central Minnesota Deaf School (St. Cloud School Board)
  - 2. Frederick Douglass Academy (Special School District No. 1 (Minneapolis))
  - 3. Peak's Charter School, Faribault (Central Lakes College)
  - 4. Peak's Charter School, Pillager (Central Lakes College)
  - 5. Right Step Academy (Independent School District No. 625 (St. Paul))
  - 6. Skills for Tomorrow Junior High School 4037 (Rockford School Board)
  - 7. Success Academy (Independent School District No. 625 (St. Paul))
  - 8. Summit School for the Arts (Chisago Lake School District)
  - 9. Toivola-Meadowlands Charter School 4002 (St. Louis County School District)
  
- d. Per DTRFA:

None
  
- e. Per MTRFA:
  - 1. Fort Snelling Academy (Normandale College)
  - 2. Frederick Douglass (Special School District No. 1 (Minneapolis))
  
- f. Per StPTRFA:
  - 1. Right Step Academy (Independent School District No. 625 (St. Paul))
  - 2. Skills for Tomorrow Junior High School (Rockford School Board)
  - 3. Strategies for Success (Independent School District No. 625 (St. Paul))
  - 4. Success Academy (Independent School District No. 625 (St. Paul))

## Open Charter Schools

a. Per CFL:

1. ACORN Dual Language Community Academy (Ind. School Dist. No. 625 (St. Paul))
2. Aurora Charter School (St. Mary's University)
3. Bluffview Montessori Charter School (Winona School District)
4. Cedar-Riverside Community School (Special School District No. 1 (Minneapolis))
5. City Academy (College of St. Catherine)
6. Community of Peace (Independent School District No. 625 (St. Paul))
7. Concordia Creative Learning Academy (Concordia University)
8. Coon Rapids Learning Center (Bethel College)
9. Cross Lake Community School (Minnesota State Board of Education)
10. Cyber Village Academy (Special School District No. 1 (Minneapolis))
11. Duluth Edison Academies (Duluth School District)
12. E.C.H.O. Charter School (Yellow Medicine East School District)
13. Eci' Nompa Woonspe' Charter School (Redwood Falls School District)
14. El Colegio Charter School (Augsburg College)
15. Emily Charter School (Minnesota State Board of Education)
16. Face to Face Academy (Independent School District No. 625 (St. Paul))
17. Family Academy (NE Metro Intermediate School District 916)
18. Four Directions Charter (Metropolitan State University)
19. Hanska Community School (New Ulm School District)
20. Harvest Preparatory Academy (Special School District No. 1 (Minneapolis))
21. Heart of the Earth Center for the American Indian Education (Special School Dist. No. 1 (Minneapolis))
22. High School for the Recording Arts (Independent School District No. 625 (St. Paul))
23. Higher Ground (Independent School District No. 625 (St. Paul))
24. Hope Community Academy (St. Thomas University)
25. La Crescent Montessori Academy (Minnesota State Board of Education)
26. Lafayette Public Charter School (New Ulm School Board)
27. Lakes Area Charter School (Alexandria Technical College)
28. Martin Hughes Charter 4040 (Mountain Iron-Buhl School Board)
29. Math and Science Academy (Minnesota State Board of Education)
30. Metro Deaf School (Forest Lake School District)
31. Mexica Multicultural Education (Independent School District No. 625 (St. Paul))
32. Minnesota Business Academy (Independent School District No. 625 (St. Paul))
33. Minnesota Institute of Technology (University of St. Thomas)
34. Minnesota New Country School (LeSueur/Henderson School District)
35. Minnesota Technology High School (Inver Hills Community College)
36. Minnesota Transitions Charter School (Special School District No. 1 (Minneapolis))
37. Native Arts High School (Augsburg College)
38. Nerstrand Charter School (Faribault School District)
39. New Heights School (Stillwater School District)
40. New Spirit School (Independent School District No. 625 (St. Paul))
41. New Visions School (Special School District No. 1 (Minneapolis))
42. North Lakes Academy (Minnesota State Board of Education)
43. Odyssey Charter School (Osseo School District)
44. PACT Charter School (Anoka-Hennepin School District)
45. Peak's Charter School, Duluth (Central Lakes Community College)
46. Peak's Charter School, St. Cloud (Central Lakes Community College)
47. Pillager Area Charter School (Central Lakes Community College)
48. RiverBend Academy (Minnesota State Board of Education)
49. Riverway Learning Community (Rochester Community and Technical College)
50. Rochester Off Campus (Rochester Community and Technical College)
51. Schoolcraft Learning Community (Minnesota State Board of Education)
52. Skills for Tomorrow Senior High School (Rockford School District)
53. Sojourner Truth Academy (Special School District No. 1 (Minneapolis))

54. St. Paul Family Learning Center (Independent School District No. 625 (St. Paul))
55. Studio Academy (College of Visual Arts)
56. Twin Cities Academy (Independent School District No. 625 (St. Paul))
57. Village School of Northfield (Northfield School District)
58. World Learner of Chaska (Chaska School District)
59. Yankton Country Schools (Balaton School District)

b. Per TRA:

1. Agricultural and Food Sciences Academy (NE Metro Intermediate District No. 916)
2. Bluffview Montessori Charter School (Winona School District)
3. Coon Rapids Learning Center (Bethel College)
4. Cross Lake Community School (Minnesota State Board of Education)
5. E.C.H.O. Charter School (Yellow Medicine East School District)
6. Eci' Nompaa Woonspe' Charter School (Redwood Falls School District)
7. Emily Charter School (Minnesota State Board of Education)
8. Family Academy (NE Metro Intermediate School District 916)
9. Hanska Community School (New Ulm School District)
10. La Crescent Montessori Academy (Minnesota State Board of Education)
11. Lafayette Public Charter School (New Ulm School Board)
12. Lakes Area Charter School (Alexandria Technical College)
13. Martin Hughes Charter 4040 (Mountain Iron-Buhl School Board)
14. Math and Science Academy (Minnesota Department of Children, Families and Learning)
15. Nerstrand Charter School (Faribault School District)
16. New Country Charter School (LeSueur-Henerson School Board)
17. New Heights School (Stillwater School District)
18. North Lakes Academy (Minnesota State Board of Education)
19. Odyssey Charter School (Osseo School District)
20. PACT Charter School (Anoka-Hennepin School District)
21. Peak's Charter School, Faribault (Central Lakes College)
22. Peak's Charter School, Pillager (Central Lakes College)
23. Peak's Charter School, St. Cloud (Central Lakes Community College)
24. RiverBend Academy (Minnesota State Board of Education)
25. Riverway Learning Community (Rochester Community and Technical College)
26. Rochester Off Campus (Rochester Community and Technical College)
27. Schoolcraft Learning Community (Minnesota State Board of Education)
28. Studio Academy (College of Visual Arts)
29. Village School of Northfield (Northfield School District)
30. World Learner of Chaska (Chaska School District)
31. Yankton Country Schools (Balaton School District)

c. Per PERA:

1. ACORN Dual Language Community Academy 4018 (Ind. School Dist. No. 625 (St. Paul))
2. Agricultural and Food Sciences Academy (NE Metro Intermediate District No. 916)
3. Aurora Charter School (St. Mary's University)
4. City Academy (College of St. Catherine)
5. Community of Peace (Independent School District No. 625 (St. Paul))
6. Concordia Early Learning School (Concordia University)
7. Coon Rapids Learning Center (Bethel College)
8. Cross Lake Community School (Minnesota State Board of Education)
9. Cyber Village Academy (Special School District No. 1 (Minneapolis))
10. E.C.H.O. Charter School (Yellow Medicine East School District)
11. Eci' Nompaa Woonspe' Charter School (Redwood Falls School District)
12. Emily Charter 4012 (Minnesota Department of Children, Families and Learning)
13. Family Academy (NE Metro Intermediate School District 916)
14. Fort Snelling Academy (Normandale College)
15. Four Directions Charter (Metropolitan State University)

16. Heart of the Earth Center for the American Indian Education (Special School Dist. No. 1 (Minneapolis))
17. High School for the Recording Arts 4039-07 (Independent School District No. 625 (St. Paul))
18. Higher Ground Academy (Independent School District No. 625 (St. Paul))
19. La Crescent Montessori Academy (Minnesota State Board of Education)
20. Lakes Area Charter School (Alexandria Technical College)
21. Learning Adventures Middle School (Central Lakes College)
22. Martin Hughes Charter 4040 (Mountain Iron-Buhl School Board)
23. Math and Science Academy (Minnesota Department of Children, Families and Learning)
24. Metro Deaf Charter 4005 (Forest Lake School Board)
25. Mexica Multicultural Education (Independent School District No. 625 (St. Paul))
26. Minnesota Business Academy (Independent School District No. 625 (St. Paul))
27. Minnesota Technology Charter 4031 (Inver Hills Community College)
28. Minnesota Transitions 4017 (Special School District No. 1 (Minneapolis))
29. New Heights Charter 4003 (Stillwater School District)
30. New Spirit Charter 4029 (Independent School District No. 625 (St. Paul))
31. New Visions Charter 4011 (Special School District No. 1 (Minneapolis))
32. North Lakes Academy (Minnesota State Board of Education)
33. Odyssey Charter 4030 (Osseo Public Schools)
34. PACT Charter 4008 (Anoka-Hennepin School Board)
35. Peak's Charter School, Duluth (Central Lakes College)
36. Peak's Charter School, St. Cloud (Central Lakes Community College)
37. Riverway Learning Community (Rochester Community and Technical College)
38. Rochester Charter High School (Rochester Community and Technical College)
39. Schoolcraft Learning Community (Minnesota State Board of Education)
40. Skills for Tomorrow Senior High School 4006 (Rockford School District)
41. Sojourner Truth Academy Charter (Special School District No. 1 (Minneapolis))
42. St. Paul Family Learning Center (Independent School District No. 625 (St. Paul))
43. Twin Cities Academy (Independent School District No. 625 (St. Paul))
44. Village School of Northfield 4021 (Northfield School District)
45. World Learner Charter 4016 (Chaska School District)

d. Per DTRFA:

1. Kenwood Edison School, Duluth (Duluth School Board)
2. Peak's Charter School, Duluth (Central Lakes Community College)
3. Raleigh Edison Elementary School, Duluth (Duluth School Board)
4. Washburn Edison Junior Academy, Duluth (Duluth School Board)

e. Per MTRFA:

1. Aurora (St. Mary's University)
2. Cedar-Riverside (Special School District No. 1 (Minneapolis))
3. El Colegio (Augsburg College)
4. Fort Snelling Academy (Normandale College)
5. Four Directions (Metropolitan State University)
6. Harvest Preparatory (Special School District No. 1 (Minneapolis))
7. Heart of the Earth (Special School Dist. No. 1 (Minneapolis))
8. Minnesota Transitions (Special School District No. 1 (Minneapolis))
9. Native Arts (Augsburg College)
10. New Visions (Special School District No. 1 (Minneapolis))
11. Sojourner Truth (Special School District No. 1 (Minneapolis))

f. Per StPTRFA :

1. ACORN Dual Language Community Academy (Ind. School Dist. No. 625 (St. Paul))
2. City Academy (College of St. Catherine)
3. Community of Peace (Independent School District No. 625 (St. Paul))
4. Concordia Creative Learning Academy (Concordia University)
5. Cyber Village Academy (Special School District No. 1 (Minneapolis))

6. Face to Face Academy (Independent School District No. 625 (St. Paul))
7. High School for the Recording Arts (Independent School District No. 625 (St. Paul))
8. Higher Ground (Independent School District No. 625 (St. Paul))
9. Hope Community Academy (St. Thomas University)
10. Learning Adventures Middle School (Central Lakes College)
11. Metro Deaf School (Forest Lake School District)
12. Mexica Multicultural Education (Independent School District No. 625 (St. Paul))
13. Minnesota Business Academy (Independent School District No. 625 (St. Paul))
14. Minnesota Institute of Technology (University of St. Thomas)
15. Minnesota Technology High School (Inver Hills Community College)
16. New Spirit School (Independent School District No. 625 (St. Paul))
17. Skills for Tomorrow Senior High School (Rockford School District)
18. St. Paul Family Learning Center (Independent School District No. 625 (St. Paul))
19. Twin Cities Academy (Independent School District No. 625 (St. Paul))

### **Eligibility Pending**

- a. Per PERA:
  1. Academia Cesar Chavez Charter School (University of St. Thomas)
  2. Excell Academy (North Central University)
  3. HOPE Academy (St. Thomas University)
  4. Minnesota Institute of Technology 9210 (University of St. Thomas)
  5. Minnesota Institute of Tech. #9130
  6. Native Arts High School (Augsburg College)
  7. Pillager Area Charter School (Central Lakes College)
  8. Strategies for Success (Independent School District No. 625 (St. Paul))

1                                   A bill for an act

2           relating to retirement; various retirement plans;

3           requiring membership for charter school teachers in

4           the teachers retirement association; providing for the

5           payment of unpaid closed charter school retirement

6           contributions from charter school lease aid; amending

7           Minnesota Statutes 2000, section 354A.011, subdivision

8           27; and Minnesota Statutes 2001 Supplement, section

9           354.05, subdivision 2.

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

11           Section 1. Minnesota Statutes 2001 Supplement, section

12   354.05, subdivision 2, is amended to read:

13           Subd. 2. [TEACHER.] (a) "Teacher" means:

14           (1) a person who renders service as a teacher, supervisor,

15   principal, superintendent, librarian, nurse, counselor, social

16   worker, therapist, or psychologist in the a public schools

17   school of the state located outside of the corporate limits of

18   ~~the cities~~ a city of the first class, or in any charter school,

19   irrespective of the location of the school, or in any

20   charitable, penal, or correctional institutions of a

21   governmental subdivision, or who is engaged in educational

22   administration in connection with the state public school

23   system, but excluding the University of Minnesota, whether the

24   position be a public office or an employment, not including

25   members or officers of any general governing or managing board

26   or body;

27           (2) an employee of the teachers retirement association;



1 (3) a person who renders teaching service on a part-time  
2 basis and who also renders other services for a single employing  
3 unit. A person whose teaching service comprises at least 50  
4 percent of the combined employment salary is a member of the  
5 association for all services with the single employing unit. If  
6 the person's teaching service comprises less than 50 percent of  
7 the combined employment salary, the executive director must  
8 determine whether all or none of the combined service is covered  
9 by the association; or

10 (4) a person who is not covered by the plans established  
11 under chapter 352D, 354A, or 354B and who is employed by the  
12 board of trustees of the Minnesota state colleges and  
13 universities system in an unclassified position as:

14 (i) a president, vice-president, or dean;

15 (ii) a manager or a professional in an academic or an  
16 academic support program other than specified in item (i);

17 (iii) an administrative or a service support faculty  
18 position; or

19 (iv) a teacher or a research assistant.

20 (b) ~~Teacher~~ "Teacher" does not mean:

21 (1) a person who works for a school or institution as an  
22 independent contractor as defined by the Internal Revenue  
23 Service;

24 (2) a person employed in subsidized on-the-job training,  
25 work experience or public service employment as an enrollee  
26 under the federal Comprehensive Employment and Training Act from  
27 and after March 30, 1978, unless the person has, as of the later  
28 of March 30, 1978, or the date of employment, sufficient service  
29 credit in the retirement association to meet the minimum vesting  
30 requirements for a deferred retirement annuity, or the employer  
31 agrees in writing on forms prescribed by the executive director  
32 to make the required employer contributions, including any  
33 employer additional contributions, on account of that person  
34 from revenue sources other than funds provided under the federal  
35 Comprehensive Training and Employment Act, or the person agrees  
36 in writing on forms prescribed by the executive director to make

1 the required employer contribution in addition to the required  
2 employee contribution;

3 (3) a person holding a part-time adult supplementary  
4 technical college license who renders part-time teaching service  
5 or a customized trainer as defined by the Minnesota state  
6 colleges and universities system in a technical college if (i)  
7 the service is incidental to the regular nonteaching occupation  
8 of the person; and (ii) the applicable technical college  
9 stipulates annually in advance that the part-time teaching  
10 service or customized training service will not exceed 300 hours  
11 in a fiscal year and retains the stipulation in its records; and  
12 (iii) the part-time teaching service or customized training  
13 service actually does not exceed 300 hours in a fiscal year; or

14 (4) a person exempt from licensure under section 122A.30.  
15 Sec. 2. Minnesota Statutes 2000, section 354A.011,  
16 subdivision 27, is amended to read:

17 Subd. 27. [TEACHER.] (a) "Teacher" means any person who  
18 renders service ~~in~~ for a public school district, other than a  
19 charter school, located in the corporate limits of one of the  
20 cities of the first class which was so classified on January 1,  
21 1979, as any of the following:

22 ~~(a)~~ (1) a full-time employee in a position for which a  
23 valid license from the state department of children, families,  
24 and learning is required;

25 ~~(b)~~ (2) an employee of the teachers retirement fund  
26 association located in the city of the first class unless the  
27 employee has exercised the option pursuant to Laws 1955, chapter  
28 10, section 1, to retain membership in the Minneapolis employees  
29 retirement fund established pursuant to chapter 422A;

30 ~~(c)~~ (3) a part-time employee in a position for which a  
31 valid license from the state department of children, families,  
32 and learning is required; or

33 ~~(d)~~ (4) a part-time employee in a position for which a  
34 valid license from the state department of children, families,  
35 and learning is required who also renders other nonteaching  
36 services for the school district, unless the board of trustees

1 of the teachers retirement fund association determines that the  
2 combined employment is on the whole so substantially dissimilar  
3 to teaching service that the service ~~shall~~ may not be covered by  
4 the association.

5 (b) The term ~~shall~~ does not mean any person who renders  
6 service in the school district as any of the following:

7 (1) an independent contractor or the employee of an  
8 independent contractor;

9 (2) an employee who is a full-time teacher covered by the  
10 teachers retirement association or by another teachers  
11 retirement fund association established pursuant to this chapter  
12 or chapter 354;

13 (3) an employee exempt from licensure pursuant to section  
14 122A.30;

15 (4) an employee who is a teacher in a technical college  
16 located in a city of the first class unless the person elects  
17 coverage by the applicable first class city teacher retirement  
18 fund association under section 354B.21, subdivision 2; ~~or~~

19 (5) a teacher employed by a charter school, irrespective of  
20 the location of the school; or

21 (6) an employee who is a part-time teacher in a technical  
22 college in a city of the first class and who has elected  
23 coverage by the applicable first class city teacher retirement  
24 fund association under section 354B.21, subdivision 2, but (i)  
25 the teaching service is incidental to the regular nonteaching  
26 occupation of the person; (ii) the applicable technical college  
27 stipulates annually in advance that the part-time teaching  
28 service will not exceed 300 hours in a fiscal year; and (iii)  
29 the part-time teaching actually does not exceed 300 hours in the  
30 fiscal year to which the certification applies.

31 Sec. 3. [STATE PAYMENT OF CERTAIN UNPAID CHARTER SCHOOL  
32 RETIREMENT CONTRIBUTIONS.]

33 Subdivision 1. [UNPAID CONTRIBUTIONS.] (a) The state of  
34 Minnesota shall make any unpaid employee, employer, and employer  
35 additional contributions to the applicable retirement  
36 association for teaching or other service in a designated

1 charter school which closed before April 1, 2002, without having  
2 paid the required contributions to the retirement association.

3 (b) By June 1, 2002, the chief administrative officer of  
4 the retirement association shall certify to the commissioner of  
5 children, families and learning the amount of accrued  
6 contributions, plus applicable interest, which were not paid by  
7 each designated charter school before its closure. On July 1,  
8 2002, the commissioner of children, families and learning shall  
9 pay the amounts certified from the state total building lease  
10 aid otherwise payable under Minnesota Statutes, section 124D.11,  
11 subdivision 4a, to the affected retirement associations. The  
12 commissioner shall remit directly to the retirement association  
13 the amounts certified under this section. The applicable  
14 retirement association shall credit employee contribution  
15 payments to the applicable member accounts and shall credit to  
16 the applicable members allowable and formula service and covered  
17 salary for the period when the teaching or other service was  
18 actually performed in the charter school. State payments  
19 representing unpaid employee contributions must be considered  
20 accumulated employee or member deductions for purposes of  
21 Minnesota Statutes, section 353.34; 354.49; or 354A.37.

22 Subd. 2. [COVERED RETIREMENT ASSOCIATIONS.] This section  
23 applies to the following public retirement associations  
24 providing retirement coverage for employees in charter schools:

- 25 (1) the teachers retirement association;
- 26 (2) the Minneapolis teachers retirement fund association;
- 27 (3) the St. Paul teachers retirement fund association;
- 28 (4) the Duluth teachers retirement fund association; and
- 29 (5) the public employees retirement association.

30 Subd. 3. [DESIGNATED CLOSED CHARTER SCHOOLS.] This section  
31 applies to the Frederick Douglass charter school and any other  
32 charter school that is determined by the commissioner of  
33 children, families and learning to have closed before April 1,  
34 2002.

35 Sec. 4. [CONTINUING RECOVERY AUTHORITY.]  
36 Nothing in section 3 relieves the sponsor of a closed

1 charter school and the operator of a closed charter school from  
2 any financial responsibility that those parties may have to pay  
3 unpaid employee, employer, or employer additional contributions  
4 to the applicable public retirement plans. The commissioner of  
5 revenue shall undertake all reasonable efforts to recover these  
6 amounts. Any recovered amounts must be deposited in the general  
7 fund and are appropriated to the department of children,  
8 families and learning to offset the payment of unpaid  
9 contributions under section 3.

10 Sec. 5. [EFFECTIVE DATE.]

11 (a) Sections 1 and 2 are effective on July 1, 2002.

12 (b) Sections 3 and 4 are effective on the day following  
13 final enactment.