

**CELEBRATING CHARTERING @ 30**

**MINNESOTA'S STORY**

**A 45-Volume Series Chronicling America's  
First Chartered Public School Movement**



**By Eugene Piccolo**

**(Foreword by Michael Padgett)**





MN Association of  
Charter Schools

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MN Association of Charter Schools  
161 Rondo Ave. Suite 1000  
St. Paul, MN 55103

[mncharterschools.org](http://mncharterschools.org)



In Memoriam of and Dedication to  
Eugene Piccolo



## Foreword

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The author of this 45-volume series, Eugene Piccolo, served as the Executive Director at MN Association of Charter Schools (MACS) from 2005 to 2023. Having spent nearly 19 years as the Association's director, Eugene retired in December 2023, leaving behind a 45-year career in education. Unfortunately, just two months into his retirement, Eugene passed away in his home. A St. Paul native most of his life, Eugene was a former teacher, principal, and Assistant Commissioner at the Minnesota Department of Education before becoming the Executive Director at MACS.

This book is a comprehensive collection of all 45 volumes of Eugene's email newsletter series *Celebrating Chartering @ 30 – Minnesota's Story*, which explored the rich history of the first-in-the-nation chartered public school law and movement. This series, researched and written by Eugene within the span of just over one year, from 2021-2022, explores the origins of the chartered public school concept, how the concept was crafted into legislation, how the legislation worked its way into becoming law, and the many ways in which the charter law and movement have changed and evolved. While many of the volumes in this series were given a stated title or topic by Eugene, some were not. For the purposes of organizing these volumes into a book, a title has been given to each volume based on the content and narrative Eugene developed. There are also notes throughout – directly from Eugene – that provide context and commentary based on his research, knowledge, and personal experience. It's also worth noting that between Vol. 14 and 15 – from February 2022 to April 2022 – Eugene was dealing with health concerns and had paused his writing and the publication of the series (as noted this at the beginning of Vol. 15).

As you read through, you may notice that the series is organized into three major sections. The first section (Vol. 1-7), which I'm calling "The Ideation of the Charter School Law," explores the report and vision that kickstarted the charter movement, including the criteria, clarifications, and questions being asked at the time. The second section (Vol. 8-21), which I'm calling "The Creation of the Charter School Law," begins with a vignette – the Itasca Seminar – and navigates through the charter school legislation's pathway to passage, which famously was noted as having "no chance of passage." This section also includes Vol. 15, in which Eugene celebrates the anniversary of the first-in-the-nation charter, which was granted to Bluffview Montessori School in Winona, Minnesota. The third section (Vol. 22-45), which I'm calling "The Evolution of the Charter Law," is a detailed look at the early years of chartering, the first decade of chartering in Minnesota, the second generation of chartering in Minnesota, and the future of chartering. This section also includes Vol. 42, which details City Academy in St. Paul, the first chartered public school in the nation to open its doors. You'll also note there is a brief Epilogue, which Eugene had initially added to the end of his final email newsletter of the series, Vol. 45.

When I began as the Member Relations Director at MACS in May 2022, Eugene was in the process of continuing the series' development. Despite his distaste for coffee, Eugene frequented a local coffee shop to research and write, while also researching and working on the series from home and in the office. I worked with our team at MACS to publish and produce each newsletter volume, with the final volume (Vol. 45) being issued just two days before our Annual Meeting & Celebration. My hope in curating this series is that it breathes new life into this incredible and important work and reaches the right hands to further establish and deepen understanding of the history and context around America's first chartered public school movement.





**CELEBRATING CHARTERING @ 30**

**MINNESOTA'S STORY**



# Vol. 1 – The Report

Originally Published: August 31, 2021

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While this past June 4th marked the 30th anniversary of the enactment of Minnesota's first-in-the-nation charter school law, the law has roots in a 1988 Citizens League Report: ***Chartered Schools = Choice for Educators + Quality for All Students.***

The Report provided a vision and much of the framework for the actual provisions of Minnesota's law, as well as other significant recommendations regarding desegregation, cooperatively managed schools, teacher licensing, multicultural education, and diversity of the education workforce for the Legislature, State Department of Education, Board of Teaching, Minneapolis and St. Paul school districts, local school boards, and teachers.

The Executive Summary of the Report began:

*Many teachers believe they know how to do a better job of educating their students. But they need to be freed from the constraints of an excessively rigid public school-management system to do it.*

*Parents concerned about the education of their children need and deserve a way to become involved in and informed about their children's schools. Informed and involved parents help make better schools.*

*Minneapolis and St. Paul have learned that school desegregation based solely on numbers and transportation produces neither sufficient integration nor assure access to quality education. We need a new approach to multicultural education that values quality as much as it does quotas, and that moves us closer to real integration as a community.*

*Most recent efforts at education reform throughout the nation are based on requiring the same system to meet tougher new standards. Minnesota, in contrast, has taken an incentives -and- opportunities approach, giving schools a reason and a way to become better.*

***The state should cling to this "Minnesota difference." It should stay on its innovative course by authorizing (not mandating), in Minneapolis and St. Paul, "chartered" public schools that empower teachers to develop high quality schooling opportunities, which include a commitment to integration. It should, throughout the state, allow teachers and school boards to talk about alternative structure for school governance, and consider the value of negotiating the terms for cooperatively managing the day-to-day operations of schools.***

**NOTE:** Legislation to establish chartered public-school legislation was introduced in both the 1989 and 1990 legislative sessions. While the Senate passed the legislation in both sessions, it was not until 1991 that the House agreed to the legislation.

The Report goes on to define what a "chartered" public school would be (the vision), the criteria for charter schools, how local districts should charter schools, and the state's role in chartering public schools.

## Vol. 2 – The Vision

Originally Published: September 7, 2021

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In the first installment of *Celebrating Chartering @ 30 – Minnesota's Story*, we introduced the 1988 Citizen's League report that provided the foundation for Minnesota's charter school law. So how did that Report define **the vision for what chartered public schools would be?**

*Chartered schools would be public schools in which educators provide innovative learning opportunities. **Chartered schools could be entirely new schools, redesigned departments or grade levels within an existing school, or completely restructured existing schools.** In this document, the term "chartered schools" means all these possibilities. A "school" does not necessarily refer to the "school building" in the traditional sense.*

*The committee's vision for chartered public schools is that they must, like any public school, serve all children. **They will have to be integrated by ability and race.** They will not, like a private school, be able to select students based on ability.*

*They will involve parents and will help parents learn how to help their children with their schoolwork. They will emphasize the human factors so essential to students' success. They are especially needed for children at the earliest ages, as the first contact with schooling for children who come less prepared than most. They will provide options in learning arrangements for children who simply have different learning styles and requirements.*

*The chartered school will be evaluated in part by the parents, in part by the students, and in part by a neutral accrediting agency, after they have a reasonable chance to develop a track record.*

*In this way, chartered public schools **will be accountable for meeting the needs of the children they serve.** They will be schools that parents and students will be free to leave. It is possible that not every such school will succeed.*

**COMMENT:** The adage "once you've seen one charter school, you've seen one charter school" reflects the vision that chartered public schools were to be innovative and focus on the human factors that come with meeting the specific needs of the students who they serve – and not be carbon copies of each other.

## Vol. 3 – The Criteria, Pt. 1

Originally Published: September 14, 2021

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So, what were the criteria that the 1988 Citizens League Report ***Chartered Schools = Choices for Educators + Quality for All Students*** laid out for chartered schools? There were five overall criteria given – today we look at the first of the five.

### **1. The chartered schools must meet specific criteria.**

*Fundamental criteria are essential to establishing the schools as public schools and to prevent the creation of "elitist" schools.*

*These criteria are necessary to attain student enrollments that represent a mix of achievement levels, constrain operators against screening out certain students, and provide accountability. Schools that fail to meet the criteria within three years or design a plan to enable them to meet the criteria, are subject to charter revocation.*

- **The school's student enrollment could not be segregated.** *The school must have an affirmative plan for promoting integration by ability and race.*

*(Although these criteria would prohibit the establishment of schools designed for any single racial or ethnic group, the committee appreciates the complexity of this issue and suggests that the legislature might wish to deal separately with voluntarily segregated schools established by minority groups.)*

- **The school would accept students of all academic achievement levels,** *athletic or other extra-curricular abilities, handicapping conditions, proficiency in English, or previous disciplinary violations. To prevent "creaming off" the brightest students, chartered schools would have to enroll a cross section of students. However, schools could refuse students because of lack of space in the program, class, grade level, or building.*

*One exception would be schools organized specifically for students at-risk of failing in traditional school setting. The instructional program might be uniquely tailored for students with specific needs. For these schools, student's eligibility could be determined by their previous school record or from preschool screening data.*

- **The school could not charge fees or tuition for its core operating costs.** *Like existing public schools, the chartered schools would have the authority to charge fees in areas considered extra-curricular or supplementary to the program.*

*General education revenue would flow to the school in the same arrangement now used when the students attend another district's school under Minnesota's Enrollment Options Program: The state aid would go to the school in which the student is served. State aid would be subtracted from the*

*district in which the student resides. (This does not preclude use of venture fund, financed by public or private sources, for organizational or start-up costs.)*

- ***The school must be nonsectarian.***
- ***The school must meet accreditation standards within three years of its establishment. The Department of Education should choose the accreditation vehicle to ensure the school meets its goals.***

**COMMENTS:**

1] Even though Minnesota's charter school law requires that students of all academic achievement levels be enrolled, we now know where those who opposed chartered public schools lifted their "creaming" argument.

2] The issue of desegregation vs "culturally affirming" schools was punted to the Legislature, and 30 years later these issues are still being debated – in fact, these issues are at the heart of the Cruz-Guzman Case now in the courts.

## Vol. 4 – The Criteria, Pt. 2

Originally Published: September 21, 2021

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In last week's installment of *Celebrating Chartering @ 30 – Minnesota's Story* we introduced the first of the five criteria of the 1988 Citizens League Report ***Chartered Schools = Choices for Educators + Quality for All Students*** laid out for chartered schools. Today, we look at the other four, three of which (licensed teachers, transportation aid, leasing of facilities) were incorporated into the 1991 law. The one not included in the charter school law (desegregation) is at the heart of the Cruz-Guzman Case today.

***2. Chartered schools must be operated by licensed educators.*** *The group applying for the authority to operate a chartered public school could include school teachers, administrators, or other licensed personnel, as well as people out the education profession. However, the people teaching in the chartered school must be licensed educators. (This in not intended to preclude the use of teacher aides in the classroom.)*

***3. Students attending chartered schools would be eligible for transportation aid.*** *Student transportation would be provided under the same arrangement as the current system. Students from outside Minneapolis or St. Paul would have to transport themselves to the boundary line, from where the district would be responsible for delivering them to the school. Low-income students who are unable to transport themselves to the district boundary should be eligible for state-provided transportation money, similar to that provided in the open enrollment law.*

***4. Chartered schools must meet desegregation guidelines.*** *The State Department of Education should require the chartered public schools to meet the same desegregation guidelines that govern other schools. **The only exception would be those cases where a school specializes in voluntary educational programs specifically for disadvantaged students.** (See text below for additional discussion of desegregation.)*

***5. Groups receiving the public school charters could set up their innovative programs in existing schools or in buildings leased for this purpose.*** *The building need not be a school building in the traditional sense.*

## Vol. 5 – Desegregation, Pt. 1

Originally Published: September 28, 2021

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In last week's installment of *Celebrating Chartering @ 30 – Minnesota's Story*, we laid out the other criteria that the 1988 Citizens League Report: **Chartered Schools = Choices for Educators + Quality for All Students** proposed for charter schools – one of which was that charter schools must meet desegregation guidelines. The Report then noted that the objective and definition of desegregation needed to be expanded beyond the dealing with race:

*The state's desegregation policy should place primary emphasis on increasing the quality of educational outcomes, thereby committing us to a higher standard of desegregation, one that moves toward actual integration through assurance of high-quality opportunities for everyone.*

*The question is: how do we achieve that quality? We believe what is needed is the opportunity— which this report advocates with the idea of chartered schools – to create optional learning arrangements where the approach to learning may assume new and different forms.*

*The state's desegregation policy should promote a new, broader definition of the goals of integration, one dedicated to:*

- *Preparing all students for a more pluralistic society,*
- *Teaching tolerance and appreciation for differences in backgrounds, heritage, philosophy, and appearance,*
- *Making school more relevant for minority children via curricular changes that include histories and cultures of people of color, and*
- *Increasing the learning opportunities for all students.*

*The definition of a quality education must include these outcomes in addition to academic ones.*

*Although desegregation rules focus exclusively on students' race or ethnic background, family income levels better determine children's preparation for school and academic success.*

*The concerns about concentrations of students (minority students) should focus clearly on the challenges post by those who have trouble learning in conventional settings, or who disrupt the learning opportunity of others, not on race per se.*

*A revamped desegregation policy must also attempt to resolve the conflict between choice and desegregation.*



**COMMENTS:**

1] It is important to note that the Report proposed that "Minneapolis and St. Paul school districts should grant charters for new schools to improve the quality of education for all students and offer chartered schools to further stimulate interdistrict movement of students."

2] Quality education was to be measured by more than academic test scores. The charter school law embodies this concept in the purposes of charter schools; "to measure learning outcomes and create different and innovative forms of measuring outcomes; and establish new forms of accountability for schools." These are areas that have lagged because for the last two decades the focus of government policy has only been on academic outcomes measured through standardized tests.

3] While the hope of the authors of the Report was that the conflict between choice and desegregation would be resolved in a revamped desegregation policy, 33 years later it is still not fully resolved. In fact, the conflict between choice and desegregation is a central issue in the Cruz-Guzman Case which is now working its way through the court system.

## Vol. 6 – Desegregation, Pt. 2

Originally Published: October 5, 2021

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In last week's installment of *Celebrating Chartering @ 30 – Minnesota's Story*, we shared that one of the criteria that the 1988 Citizens League Report: ***Chartered Schools = Choices for Educators + Quality for All Students*** proposed for charter schools was that they would need to meet desegregation guidelines, but that the League recommended that those guidelines be expanded beyond race and focus on socio-economic status.

While charter schools were to be schools of choice, ironically, the idea of charter schools was presented by the League as one of two choices for the Legislature to address desegregation:

*The 1989 Legislature should take one of two actions to address the desegregation problem. Either:*

- 1. Authorize approving chartered public schools to improve the quality of education for all students and encourage student movement among districts as described above, or*
- 2. Require the Commissioner of Education to prepare a plan for the 1991 Legislature's review to reduce concentrations of minority students through means such as reconfiguring school district boundaries.*

*The committee recommends that the Legislature act on the first of these two choices. In doing so, however, the committee acknowledges that the second course of action would be better than no action at all.*

The Report goes on to state:

*Chartered schools provide the best opportunity for a change in the schooling of students – the way students are treated, the expectations placed on them, and the interactions between teachers and students.*

**COMMENT:** The Citizens League placed a great deal of hope, faith, and trust in the concept of chartered schools – it is this hope, faith, and trust that the charter school community must continually earn through demonstrating how charter schools change schooling of students for the better.

## Vol. 7 – The Questions for Authorizers

Originally Published: October 12, 2021

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In the first six installments of *Celebrating Chartering @ 30 – Minnesota's Story*, we focused on sharing how the 1988 Citizens League Report: ***Chartered Schools = Choices for Educators + Quality for Students*** was a fundamental document in shaping Minnesota's approach for charter schools.

The 51-page Report not only outlined what would become the basis for many provisions of Minnesota's charter school law, but it also provided the questions with which an authorizer should judge a charter school proposal.

The questions were:

- i. Does the proposal incorporate a governance structure for joint decision making, including teachers, administrators, parents, and community members in the school's operation?*
- ii. Does the proposal identify learner outcomes and specify methods of evaluation?*
- iii. Does the proposal call for school-based budgeting, allowing the individual school to govern how its allocated budget is spent?*
- iv. Does the proposal use educationally effective strategies such as cooperative learning, use of technology, experiential learning, or innovation organizational arrangements such as a longer school day to meet the demand for nontraditional school hours?*
- v. Does the proposal include strategies to employ faculty members with diverse backgrounds, experience levels, age, gender, cultures, and race?*
- vi. Does the proposal include a plan to achieve a desegregated mix of students that reflects the makeup of the student population in the district?*
- vii. Does the proposal have a plan for a metropolitan marketing strategy, to ensure that information about the program is available to all students?*
- viii. Does the proposal have an affirmative plan for parental involvement?*

**COMMENT:** Some of these questions were eventually answered by the provisions in the charter school law. Examples:

1] The law requires that the board governance structure includes teachers, parents, and community as voting members of the board, with the school administrator being an ex-officio, non-voting member of the charter school board.

2] The law created charters as districts for particular purposes, including funding and budgeting, thus ensuring that financial decisions are governed by the charter school board.

So, while some of the questions were answered in the law, the issue of judging proposals for approving a charter school is still a challenge. Today, given that charters are no longer just a concept, one of the questions authorizers need to ask about a proposed school is whether there is a market need and demand for a particular type of school, in a particular geographic area.

## Vol. 8 – The Itasca Seminar

Originally Published: October 19, 2021

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While the 1988 Citizens League Report: ***Charter Schools = Choices for Educators + Quality for Students*** was a foundational document for Minnesota's approach to chartering and the basis of many provisions of our charter school law, action to move legislation forward also came from conversations at the Itasca Seminar.

The Itasca Seminar, sponsored by the Minneapolis Foundation, was held at a resort on Gull Lake in the fall of 1988. The seminar focused on K-12 Education. One of the presenters at the Seminar was **Albert Shanker**, President of the American Federation of Teachers (AFT), who shared his idea of chartering public schools.

Shanker's idea was for a "new kind of public school — 'charter schools' — which would allow teachers to experiment with innovative approaches to educating students. Publicly funded but independently managed, these schools would be given a charter to try their fresh approaches for a set period of time and be renewed only if they succeeded."<sup>1</sup>

Among the participants at the Seminar was **Ember Reichgott (Junge)**, who at the time was a State Senator, and Assistant Majority Whip. After the Seminar, and with the Citizen's League work in hand, Senator Reichgott (Junge) drafted legislation for chartered schools for the 1989 legislative session.

The legislation passed the MN State Senate, but the House of Representatives would not agree to it in the Conference Committee, so chartered schools were not included in the final 1989 Omnibus Education bill.

Senator Reichgott (Junge) tried again in 1990 with the same result. After the failure in the 1990 session, the then Commissioner of Education **Tom Nelson**, convened a group to think through the chartering idea. The proposal from that group was endorsed by the State Board of Education.

Senator Reichgott (Junge) took that proposal, along with other ideas, and introduced new legislation in the 1991 session. This time she found an ally and House author, **Representative Becky Kelso**, who would champion the idea in the House of Representatives.

<sup>1</sup> *American Educator*, Restoring Shanker's Vision for Charter Schools, Kahlenberg & Potter, 2014-Winter 2014-2015

## Vol. 9 – Zero Chance of Passage

Originally Published: October 26, 2021

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The charter school legislation introduced by **Senator Ember Reichgott (Junge)** and **Representative Becky Kelso** in March 1991 included ideas from the draft bill developed by the Working Group formed by Education Commissioner **Tom Nelson** after the charter legislation failed for a second time in 1990.

In her book ***Zero Chance of Passage***, Senator Reichgott (Junge) wrote:

*By December 1990, a new draft of the bill emerged from the working group. It focused on the nuts and bolts of implementation, including how charters would be integrated into a variety of funding formulas, special education mandates, and facilities revenue. **The committee recommended that the schools be called "outcomes-based schools" rather than "charter schools" to emphasize an important education focus of the day.** Members believed the focus on outcomes and results would strengthen the legislation and help its passage into law.*

*The new draft bill also allowed schools to organize under Minnesota law as either nonprofit corporations or cooperatives. Finally, the bill expanded prospective charter sponsors beyond the school district and the state board of education to include higher education institutions.*

"The legislation reflected a shift of philosophy," which **Ted Kolderie** wrote about:

*With the 'charter school' the state makes it possible for more than one public organization to offer public school on the same piece of ground. Like open enrollment, this changes the traditional givens: it 'un-districts' the system. So it requires a new way of thinking about public education.*

Senator Reichgott (Junge) wrote:

*Kolderie framed the key elements of the chartered school idea, as summarized here:*

- *It opens the way for different schools to be created new.*
- *A variety of organizations – not just the local school board – could organize new schools.*
- *It is a contract system, not a voucher system.*
- *A variety of public bodies could sponsor a new school.*
- *The school gets to trade regulations for results.*
- ***It's not about a public school, but the delivery of public education.***

*The latter point was most fundamental to Kolderie's vision.*

## Vol. 10 – A Source of Contention

Originally Published: November 2, 2021

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One of Ted Kolderie's key elements about the idea of chartering was: *"It's not about a public school, but the delivery of public education."* It was this key element that was an initial source of controversy between Kolderie and the Senate Legal Counsel **Betsy Rice**, who would draft the charter legislation.

In *Zero Chance of Passage*, Senator Reichgott (Junge) wrote:

*"After Kolderie described the key components Rice replied, 'These are not public schools.' He responded, 'They are part of the state's program of public education.' In her thoughtful way, Rice reflected, looked out the window, and replied 'Okay'."*

**COMMENT:** The charter school law reflects Kolderie's response to Rice; Minnesota's charter school law MN Statutes 124E.03 Subdivision 1 states: "A charter school is a public school and is part of the state's system of public education."

Of Betsy Rice, Senator Reichgott (Junge) wrote:

*If there is one unsung hero in the chartered school story, it was Rice. Rice was critical in shaping the legislation and asking the hard questions about how the chartered schools would work. In January 1991 Rice sent a three-page memo to Senator Reichgott with a full range of questions, from how the chartered schools would be funded, licensing requirements, what laws would apply to chartered schools, and how things would be dealt with if things went wrong at these schools. Most of the questions were answered in the legislation.*

While Senator Reichgott (Junge), Kolderie, and other advocates worked with Rice on the legislation in January, there were a new cast of players that came on the scene after the November 1990 election that would affect the fortunes of chartering.

In January, **Arne Carlson** (R) was inaugurated as Governor. He had defeated **Governor Rudy Perpich** (DFL), who was the architect of public-school choice, including open enrollment and post-secondary education options (PSEO). Carlson was at the time not a supporter of chartering nor was his surprise appointment of **Gene Mammenga**, the lobbyist for the Minnesota Education Association (MEA), as the new Commissioner of Education.

## Vol. 11 – The Maneuvering Begins

Originally Published: November 9, 2021

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While the charter school legislation had done well in the State Senate in the 1989 and 1990 session, it had gone nowhere in the House, so one of the changes made in the 1991 legislation was to not call these schools 'charter schools'. It was thought that by renaming these schools it would broaden support among legislators and improve the chances of passage.

On March 1, 1991, Senator Reichgott (Junge) introduced a bill to authorize "outcomes-based schools." In her book, *Zero Chance of Passage*, she wrote:

*I was pleased to have powerful coauthors on the bill, all members of the senate Education Funding Division. DFL authors included **Senator Greg Dahl**, chair of the Education Committee; **Senator Ron Dicklich**, chair of the Education Funding Division; and **Senator Larry Pogemiller**. **Senator Gen Olson** was the Republican on the bill.*

Senator Dicklich was a key player being from the Iron Range (which at the time carried enormous weight in DFL politics). He became not only an advocate, but a strong supporter of chartering because rural areas and the Iron Range were experiencing declining enrollments. The proposed closure of a rural school in his district – the Meadowlands School – made chartering an option he would support.

In a 2011 interview, Senator Dicklich stated: "Now I had an interest. All legislation is local. It only means something if somebody is in your ear. That became the tipping point for me that brought me to be – not an advocate – but a strong supporter of charter schools."

Meanwhile in the House, companion legislation was introduced four days later on March 11, 1991, by Rep. Becky Kelso. She was asked to be the chief author by **Rep. Ken Nelson**, chair of the House Education Finance Division. Rep. Nelson had been the House author of the charter bills in 1989 and 1990 and was a coauthor on the 1991 legislation. **Rep. Kathy Vellenga** and **Rep. Alice Hausman** (DFLer's) and **Rep. Charlie Weaver**, the lead Republican on the Education Committee, were also coauthors.

Senator Reichgott (Junge) wrote in her book about Rep. Kelso: "I was pleased Kelso would be leading the charge in the House. Capitol insiders considered her a 'rising star' on the House Education Finance Division, and she and Nelson would make a powerful team."

While Rep. Kelso worked the bill in the House, little did Senator Reichgott (Junge) know that at the time Rep. Kelso thought there was no or zero chance of passage of the bill in the House.

**COMMENT:** Like the 1991 bill, all subsequent charter school legislation that has been enacted has had bipartisan authorship.



## Vol. 12 – Moving the Legislation Forward

Originally Published: November 16, 2021

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On March 20th, 1991, the Senate Education Committee chaired by **Senator Tracy Beckman** held the first hearing on Senator Reichgott (Junge)'s "outcomes-based" charter school bill. In his testimony before the Committee, North Branch School District Superintendent **Jim Walker** spoke about the lack of transparency in the bureaucracy of school districts and that:

*"The strength of the charter school bill is that it diffuses bureaucracy very, very quickly. I strongly suggest that a charter school will make a staff more responsive, will give the employees power to make decisions on what's best for them and what's best for children, and will greatly empower parents."*

A teacher from North Branch suggested that "Teachers are professionals with tremendous capacity. Teachers who possess energy, determination, and vision are big winners in a charter school system."

A teacher from a contract alternative school in Minneapolis testified that "Youth need this bill. I and the staff people I work with need this bill. The larger bureaucracy is not set up to meet the need of these students."

Speaking in opposition to the bill and charter schools was the chief lobbyist for the MN School Board Association. He testified that the bill would create "an alternative system of private schools with no rules that is publicly funded." The Minneapolis Federation of Teachers, as well as a lobbyist for the MN Education Association (MEA) also spoke against the bill. The MEA lobbyist focused on the proposal which would allow unlicensed public school teachers in the second year of the chartered school. She also raised the issue of funding following the student: "If funding followed the students, there would be dramatic impact on other programs schools can offer."

Within days of the hearing, Senator Reichgott (Junge) invited charter school advocates and opponents to a meeting to find a way to address concerns. She wrote in *Zero Chance of Passage*: "While I disagreed with many of their objections, I was committed to searching for some middle ground. I thought if they could perhaps achieve some visible 'victory', they might remain, at the very least, neutral on the bill."

However, as the meeting and subsequent meetings took place, the list of concerns by the opponents mounted. The opponents wanted to eliminate the provision in the bill that would allow post-secondary institutions to sponsor schools as well as the ability of the state school board to sponsor schools; to eliminate the provision that would allow unlicensed teachers to teach in charter schools as well as the provision which would allow the contracting of teaching services to agencies or groups which were not part of a district collective bargaining unit. The unions wanted provisions about licensing, tenure, and collective bargaining.

Involved in these discussions were two opponents: **Louise Sundin**, President of the Minneapolis Federation of Teachers, and Vice President of the MN Federation of Teachers, as well as a Vice President of the American Federation of Teachers, and **Rose Hermodson**, the lobbyist for the Minneapolis Federation of Teachers.

Given the concerns of the MN Federation of Teachers and discussions with advocates and Senate colleagues, Senator Reichgott (Junge) prepared amendments to the bill that would only have school districts be sponsors and require licensed teachers. The amendments were presented at the bill's second hearing on April 16th.

**COMMENT:** 20 years later, Sundin and Hermodson would play a different role in terms of chartered public schools. Sundin became the first board chair of the **Minnesota Guild of Public Chartered Schools**, a single purpose authorizer created by the Minneapolis Federation of Teachers and initially funded by the American Federation of Teachers, while Hermodson became an Assistant Commissioner at the MN Department of Education. Her portfolio included school choice programs and charter schools.

## Vol. 13 – Opposition in the House

Originally Published: November 30, 2021

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While Senator Reichgott (Junge) was meeting with opponents of charter schools to find “some middle ground” in the Houses, the House Education Committee Chair **Rep. Bob McEachern** had made it clear that he opposed charter schools.

In a 2011 interview, Rep. Kelso, the chief author, explained:

*Rep. McEachern thought (chartering) was a stupid idea... He looked at things from a core set of principles. He was opposed to vouchers, and he saw charter schools as a form of vouchers. End of story. There was no changing his mind... He was a key person on the house side that was adamantly and inalterably opposed. Everyone knew exactly as he was thinking.*

Given this reality, Rep. Kelso only asked for an informational hearing on her bill instead of a vote, which she was convinced would have been defeated if it had a vote. The bill did get a hearing at the end of a two-hour committee meeting where five other bills were held.

In that same 2011 interview, Rep. Kelso stated:

*The hearing did not make much of an impression on me. I think the predictable people said the predictable things. There was never a lot of interest in charter schools on the house side. ... The whole establishment was opposed to the idea, but not stirred up about it. My feel was that the teachers never got riled up about this .... My cynical suspicion was that someone pretty important somewhere along the line told them [not to worry because] it wasn't going to happen.*

The limited time for testimony at the end of the hearing meant not everyone got to testify, but people could and did submit written testimony. Among the supporters of chartering was **Mindy Greiling**, chair of the Roseville Area School Board:

*From my perspective as a school board member, I support applying for charters from either the [Minnesota State] Board of Education or the local board... I encourage you to give every consideration to liberate willing schools. I believe that enabling charter schools to exist would also provide a catalyst for real change with the system that would benefit all students, I urge you to vote for HF 773.*

Rep. Kelso knew that without the support of Rep. McEachern, the opposition of the establishment, and the fact that the informational hearing did not get much attention or have much impact, the only way for charter schools to become a reality was through the senate including chartering as a provision in their omnibus bill.

In that 2011 interview, she stated: “It was crystal clear to me, from whenever I decided to get involved in this, that the only hope for this was to have it come out of the senate omnibus bill in the Conference Committee.”

However, charters would only have a chance at being in the final Conference Committee omnibus if at least three of the five House conferees were supporters of charter schools. The eventual decision on who would be the

House conferees rested with the Speaker of the House, **Rep. Robert Vanasek**, whose position on charters was not known to Rep. Kelso at the time.

**Historical Note:** Mindy Greiling would be elected to the MN House of Representatives in 1992 and eventually serve as the Chair of the House Education Finance Committee. She served in the MN Legislature until 2013.

## Vol. 14 – The Future Rests in the Senate

Originally Published: December 7, 2021

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The future of chartering did indeed rest with the Senate, so that is where the opposition focused its lobbying efforts in preparation for both the April 16th hearing on the charter bill and Omnibus Education Bill.

Senator Reichgott (Junge) wrote in her book *Zero Chance of Passage* that Ted Kolderie wrote her a memo on March 25th which stated, "The MEA clearly does not accept it (the bill). The state office has put out word to the local leadership to tell their legislators over Easter recess to defeat SF 630."

In early April, the MN School Boards Association (MSBA) in its Legislative Update, wrote:

*It is being advanced as an extension of open enrollment and site-based management. It could also be perceived as an extension of the homeschool – in the other direction.... Please share your feelings on this one with your legislators. The concept of chartered schools will be a part of the Omnibus bill unless we can prevent this idea from being established as state policy.*

The MN Federation of Teachers (MFT) and the Robbinsdale Teachers Federation, which had previously endorsed Senator Reichgott (Junge), joined in opposing the bill.

The Minnesota Education Association (MEA) published a four-page document titled "Why MEA opposes charter schools." The document called the concept of chartered schools "insulting" and a "costly hoax" that would create "more bureaucracy" and allow "unlicensed teachers." It then listed what they saw as six flaws in the charter school concept:

**First**, the proposal risks creating elite academies for the few and second-rate schools for the many – a multi-tiered system of public education with no guarantee of equity in facilities or curriculum...

**Second**, we depend on public schools to teach society's democratic values. This important charge could be thwarted by chartered schools...

**Third**, among the many "freedoms" proposed for chartered school is lax enforcement of standards. It is incredibly naive to expect the market to protect our children in a system with such a lack of accountability...

**Fourth**, foremost among these lax standards would be the ability of chartered schools to hire nonlicensed teaching personnel...

**Fifth**, the chartered school scheme would be costly. Additional layers of bureaucracy would be required to start up and oversee charter schools.. It could be chaotic...

**Finally**, chartered schools provide an open door to vouchers...

Senators were being bombarded with these concerns, objections, and myths about the chartered school concepts. Senator Reichgott (Junge) wrote that some of her colleagues were "down right angry" about the union opposition. The questions and fears these myths raised required Senator Reichgott (Junge) to try to calm things. She wrote, "I spent a good part of my days calming fears among my colleagues and setting the record straight about what the chartering bill actually meant to do."

It led her to realize that the efforts she had made to find common ground with the unions and other opponents were never going to lead to these groups' support. So, the question as she put it was, "Could we even pass chartering legislation through the senate and house dominated by union-supported DFL majorities if the teacher unions were fully mobilized against it?"

In the end, the decision was to go for it (the Senate had already passed it in the 1989 and 1990 sessions). The charter school bill passed the Committee and became part of the Senate Omnibus Education Bill. The next challenge would be to have charter friendly members on the Conference Committee from both chambers.

## ***Vol. 15 – December 10th: A Historic Day***

Originally Published: December 10, 2021

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**Today, December 10th is an important day in the history of Minnesota's charter school story.**

30 years ago today, December 10, 1991, the Minnesota State Board of Education approved the request of the Winona Independent School District #861 to sponsor (authorize) **Bluffview Montessori School** in Winona. In its letter to the **Winona School District Board Chair Mr. Stuart Miller**, the State Board stated about the Board approving the request: "This was an historic moment for both Winona and the State Board because Bluffview is the first charter request to be presented and approved."

So, Bluffview has the distinction of being the first charter school authorized in the United States. Winona School District was the authorizer of Bluffview Montessori until 2020 when Winona School District withdrew as an authorizer of schools. Bluffview Montessori is now authorized by Volunteers of America - Minnesota.

**Historic Note:** Mr. Stuart Miller, who has since passed, was the uncle of the current Majority Leader of the Minnesota Senate – **Senator Jeremy Miller**.

## Vol. 16 – The Conference Committee

Originally Published: December 14, 2021

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In the legislative process, the Conference Committee is where *real* legislating takes place when the House and Senate have different positions on an issue, so who the members of the Conference Committee are is crucial.

Given the Senate's history of bipartisan support for chartered public schools for three consecutive years, it was not surprising that the five Senate conferees were all charter supporters: **Senator Ron Dicklich** (DFL-Hibbing), **Senator Greg Dahl** (DFL-Ham Lake), **Senator Gary DeCramer** (DFL-Ghent), **Senator Sandy Pappas** (DFL-St. Paul), and **Senator Gen Olson** (R-Mound).

On the House side, who the Conferees were would be critical as three of them would have to support including charters in the final Omnibus Education bill. The House Conferees had two DFL members that supported charters – **Rep. Ken Nelson** (DFL-Minneapolis) and **Rep. Becky Kelso**, (DFL-Shakopee) – and two DFL opponents of chartering – **Rep. Bob McEachern** (DFL-Maple Lake) and **Rep. Jerry Bauerly** (DFL-Sauk Rapids). The deciding vote would be cast by **Rep. Gary Schafer** (R-Gibbon). Rep. Schafer was a supporter of chartering. Senator Ember Reichgott (Junge) wrote in *Zero Chance of Passage*, "With Kelso, Schafer, and Nelson as chair, the three house votes needed to finally adopt the chartering provisions from the senate bill into the Conference Committee report seemed, for the first time, very real."

In the legislature, nothing is really *real* until the legislature adjourns sine die, and with the Conference Committee in place, things did start to get real – but not as Senator Reichgott (Junge) had expected. Once the Conference Committee was announced, the opposition to chartering mobilized for action. The MN Federation of Teachers (MFT) sent an action memo to its members stating, "We need you to act today! Call Members of the Conference Committee and tell them to vote "No!" on the charter school bill."

It is said that timing is everything – While MFT was mobilizing against the charter school provisions, there was debate about the position of Al Shanker, president of the AFT, given that the Minnesota charter provisions were based on his talk at the Itasca Seminar back in the fall of 1988.<sup>1</sup>

In a 2011 interview for *Zero Chance of Passage*, Rep. Nelson stated:

*When we got into the debate about charter schools [in conference committee], the Minnesota Federation of Teachers was against it and made it clear they were against it. I would say, "Well, Shanker supports this, you know." McEachern would challenge that and get upset about that. So... I went and called Shanker. I happened to get him right on the phone before he was leaving on a trip. I said, "Hey, we've launched this charter school idea based on your idea... But... Your local unions out here are beating up on us. What's going on?" Nelson continued, "Shanker said, 'Well, the structure of the AFT is to kind of let the locals decide their own destiny.'"*

The local state union led by **Sandra Peterson**, MFT President shared in a September 2011 interview for *Zero Chance of Passage*, "Our members were very threatened. We had votes against charter schools... That's why,



even though [we] might support Shanker's forward thinking, and Ember, who said, 'This is to avoid vouchers,' we lobbied her a lot about not doing this."

Lobby they did – in the last two weeks of the session, the unions did an all-out press on all House members to pressure the House Conferees to reject the charter school bill completely.

**Comment:** Senator Ember Reichgott (Junge) was not on the Conference Committee as she was chair of the Property Tax Committee and therefore was on the Tax Conference Committee

<sup>1</sup> Volume 8 – October 19, 2021 Issue of Celebrating Charters @ 30 – Minnesota's Story

## Vol. 17 – The Pressure Is On

Originally Published: January 4, 2022

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As the Conference Committee convened the week of May 10th, the opponents of chartering put the pressure on the House members, especially Rep. Ken Nelson, chair of the House Education Finance Committee. The MFT did a full court press on Rep. Nelson. While they were meeting with him to try to convince him to change his position on chartering, behind the scenes, they were recruiting another legislator, **Myron Orfield**, to run against him in 1992 (redistricting in 1991 put Orfield and Nelson in the same district for the 1992 election).<sup>1</sup>

In a 2011 interview for the book *Zero Chance of Passage*, Senator Reichgott (Junge) wrote:

*...Louise Sundin [President of the MFT], confirmed that the unions were in conversations with Nelson about chartering. When asked whether the union threatened to back another DFL opponent in the next election, she replied. "Oh no. We wouldn't threaten out loud. We were in the background, grooming somebody else for the spot."*

Meanwhile, Rep. McEachern, a member of the Conference Committee and a charter opponent, brought **Rose Hermodson**, the MFT lobbyist, to a private meeting with some conferees during the final negotiations between the House and Senate. In her book, Senator Reichgott (Junge) quotes Rep. Nelson:

*We were meeting in one of the rooms at the capitol. It was not a large meeting room, and I don't know how public it was, or if this was just an effort between the house and senate to knock heads again and come to agreement. But what McEachern did ... was bring in Rose Hermodson to ... speak against [chartering] to house and senate conferees. [It was] totally inappropriate to have a lobbyist come into a conference committee like that... I think it was one of those meetings where you try to get things focused apart from the public eye... [It] really put pressure on me because she was not only the lobbyist for MFT but active in my district.*

Rep. Nelson knew that in the Conference Committee process compromise was likely. So, in the meetings with the unions he listened, and eventually began to draft an amendment to the charter legislation in the hope that the compromise would keep chartering alive. As word got out that he was working on an amendment, proponents of chartering and Senator Reichgott (Junge) got nervous.

Reichgott (Junge) thought she had already compromised a lot with the unions by giving up on post-secondary institutions being sponsors and ensuring that all teachers in chartered schools would be licensed.

As Senator Reichgott (Junge) wrote: "With compromise in the wings, the question now became 'What's critical and what's not?' for successful chartered schools."

<sup>1</sup> **NOTE:** What neither the MFT nor anyone else knew at the time was that after his 10th election in 1990, Rep. Nelson had decided the 1991-92 term would be his last, as he had been awarded a Bush Fellowship. He was willing to push chartering even against the union pressure.

## Vol. 18 – The Compromise, Pt. 1

Originally Published: January 12, 2022

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“What’s critical and what’s not” for successfully chartering schools became the basic questions for charter school proponents, given the talk of a compromise being put together by Representative Nelson. In *Zero Chance of Passage*, Senator Reichgott (Junge) wrote that on May 11th, Ted Kolderie wrote her a memo that stated:

*What’s Critical – everybody – and this includes emphatically the teachers who are interested in the idea getting enacted – agrees on these:*

1. *The State Board, as an alternative sponsor. (The only one that counts.) The up-front exemption from the rules.*
2. *The separate bargaining unit for teachers.*

In that memo there was also concern about “The Killer Amendment” – an amendment that would limit the sponsor to the local board and limit the number of chartered schools.

As proponents were defining the critical provisions of chartering and identifying where they could compromise, Representative Nelson was working on compromise language in order to get the charter provisions approved by the Conference Committee and eventually the House.

So, what were the compromises he proposed?

1. *A chartered school must be approved by both the local school district and the Minnesota State Board of Education. There were no alternative sponsors.*
2. *Only eight chartered schools would be allowed in the entire state; a single school board could approve no more than two.*
3. *Only licensed teachers could form and operate a chartered school. A majority of the chartered school’s board of directors would have to be licensed teachers employed at the school.*

Senator Reichgott (Junge) wrote in her book of her disappointment upon hearing about the compromise:

*...As I waited to hear the elements of Nelson’s amendment, I had an uneasy feeling in the pit of my stomach. I don’t remember who finally told me. I don’t think it was Nelson himself. I just remember my reaction: I burst into tears. To me, the battle was over.*

*I was stunned. Never in my worst scenarios, did I imagine that a chartered school would need double approval – by both the local school district and the state board. Never did I imagine that only teachers*

*could start a chartered school. What about parents? As an attorney, I couldn't fathom how a board made up of a majority of teachers could govern a school....*

While Senator Reichgott (Junge) saw the amendment as the end of the fight for chartered schools, Representative Nelson saw the compromise as the way forward to getting chartering enacted into law.

## Vol. 19 – The Compromise, Pt. 2

Originally Published: January 18, 2022

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While Senator Reichgott (Junge) saw the compromise amendment as the end of the road, Rep. Nelson and other legislators who supported chartering saw it as the road to keep chartering moving forward. In a 2011 interview for *Zero Chance of Passage*, Rep. Nelson recalled:

*It wasn't to kill it. It was actually to keep it alive. And, I think it really helped to keep it alive.... I thought the one amendment with teachers in charge was a good one. It was the original Shanker vision. But also, why not? It just seemed to me teachers knew best. We limited it to eight schools, and I thought that was enough for a trial run. And approval by the local board and the state board – we knew the state board would do it .... And then the local board – you didn't want the local board fighting everything...*

Senator Dicklich, also a strong charter supporter, approved of the compromise. Senator Dicklich stated:

*I just wanted to get the charter schools started. I was interested in one. I wasn't going to hold this thing up and have them stalemate it, because I wasn't willing to just take eight schools. That's my feeling. Let's look and see how things are.*

Even Representative Becky Kelso, the House author, supported the compromise amendment. In a 2011 interview she stated: "To me, the narrowing was not a bad thing. I thought it was a reasonable way to start. You get what you can, then you get what you want".

Despite these legislative supporters being in favor of the compromise, Senator Reichgott (Junge) and other proponents saw the compromise as the dead kneel of chartering. So, the question for Senator Reichgott (Junge) became – do you accept the compromise or do you lay the bill over for another year?

Senator Dicklich recalled saying to Senator Reichgott (Junge):

*Ember, do you want this thing or not? Three years you've been here... If you don't make it this year, you'll probably never make it. Things only have a shelf life. Let's get it. We'll go after more in future years.*

In the end, Senator Reichgott (Junge) wrote to the Senate Conferees and thanked them for their support and resigned herself to the charter amendment as part of the charter provisions.

The charter provisions were the last provisions the Conference Committee dealt with. Three of the five House members agreed to the compromise and three Senate members agreed (the other two Senators were supporters but absent) so the compromise amendment passed and chartered schools were in the Conference Committee Omnibus Bill.

## Vol. 20 – Not Over Yet

Originally Published: January 26, 2022

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While it is never over until the full House and Senate pass an Omnibus Bill, normally the bills do not face a motion to send the bill back to the Conference Committee – but that's what occurred in the House when the Omnibus Education Bill reached the House floor. The Omnibus Education bill not only had opposition because of the charter provisions, but also because of a new education funding formula in the legislation.

Senator Reichgott (Junge) had been afraid of a motion to send the bill back to Conference coming from a DFL opponent of chartering. However, the motion to send the bill back came from three Republicans who were opposed to the new education funding formula because the school district that they represented would have been adversely affected.

During the debate on the motion to send the bill back to Conference, Rep. Nelson, the author, stated: "On the motion.... We have been negotiating as much as we can with the Senate. They are adamant on several of those provisions..." that MEA and MFT were opposed to. "We did our best to modify those. The Senate wants those much stronger."

Rep. Charlie Weaver, a Republican co-author of the charter bill addressed the House about the charter provisions stating:

*I know you are getting a lot of heat from the teaching organizations. The MEA and MFT both endorsed me last time. I'm telling you this is bad policy to send this back... I encourage you to take a look at the language in the bill. This does not open the door for any kind of dangerous charter school where there is a group of crazies teaching our kids. This language is tough, tough language.*

There were also members who spoke in favor of the motion to send the bill back to Conference including **Rep. Mary Murphy**, a DFL representative from Duluth and union supporter. Senator Reichgott (Junge) wrote in *Zero Chance of Passage* that "Murphy had apparently intended to be the DFLer to make the motion to return the bill to Conference Committee. But the Republicans had trumped her motion."

Rep. Bob McEachern, Chair of the House Education Committee and charter opponent, told the House:

*I encourage you to support the... Motion... You all received a letter from the teachers' unions saying they can't support the bill. There are only about two or three little points in the bill that they're not supporting, so if we can get to a Conference Committee, we can clear those up. We've been threatened by the gentleman over in the senate, that he'll [hold the bill]. Well, we've had those before since I've been here, and we have always gotten a bill out, so don't be threatened by that.*

The Speaker called for the vote on the motion to return the bill to conference. The vote was 60 in favor of the motion to return the bill to conference and 64 against, with 10 members not voting. The Omnibus bill and chartering survived by the narrowest of margins.

The debate on the bill resumed and in the end the Omnibus Education Bill (with chartering in it) passed the House on a vote with 85 in favor, 45 against, and 4 not voting.

The Senate voted two days later and passed the Omnibus Education Bill on a vote of 56-11.



## Vol. 21 – The Senate Debate

Originally Published: February 1, 2022

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During the Senate debate of the Omnibus Education Bill, Senator Reichgott (Junge) used the occasion to speak publicly about chartering and address the opponents of chartering.

*It has been most unfortunate that the opponents to this proposal, modified as it is, have flooded the legislature with misinformation about this proposal. They claim that this would jeopardize the seniority rights and salaries and benefits of teachers. They neglect to tell you that charter schools are voluntary and only those teachers who wish to participate will do so.*

*Opponents fear that charter schools will not operate under the same rules and regulations as other public schools. My response is, amen. Aren't we all trying to remove state mandates from education and other areas? How many teachers have you known who have burned out over many years because they fought the system and lost? Frustrated teachers are leaving the profession because they can't express themselves and teach as they would like, because there is too much bureaucracy and too much resistance. In the end, both teachers and students lose.*

*Opponents say this would subtract dollars from public school district general funds. That will happen no more than any other choice program that we've established so far. If a student leaves a school for a better opportunity, isn't this a healthy reallocation of our state dollars?*

*Opponents state that unlicensed personnel will be allowed to teach. This is absolutely false, as the bill clearly states. I changed the legislation to accommodate the concerns in this area raised by teachers. Yet, even after the legislation was changed, legislators were told differently.*

*And finally, perhaps the biggest issue of all: Chartered schools are a new kind of public school. They are not private schools. No tuition can be charged. All learners who apply must be considered on a first-come, first-serve basis, or by lot. The bill clearly prohibits the use of dollars for any sectarian or religious schools. Yet the opponents tell you otherwise.*

*Members of the senate, you deserve better than this. Members, we've heard these fears before. They are the same horror stories we heard when this legislature passed open enrollment and postsecondary options. Today we point with pride to the success of these programs and the students who have achieved in them. I expect no less of the charter school proposal.*

*Please vote to make chartered schools a reality.*

Even though chartering passed, there were different thoughts about what had passed. Senator Reichgott (Junge) and other proponents who had worked on the issue for 3 years were deeply disappointed by the final charter provisions. House members, on the other hand who had thought there was "zero change of passage" were ecstatic. In her 2011 interview for the book *Zero Change of Passage*, Rep. Kelso, the House author stated: "I thought it was spectacular... I thought the fact that it went through was unbelievable... The chances were slim. It's miracle that it passed."

On June 4, 1991 – Governor Arne Carlson, who had not expressed support for chartering, signed the Omnibus Education Bill into law.

## Vol. 22 – What Happened Next

Originally Published: April 19, 2022

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**NOTE:** The February 1st issue of this publication stated that next week's topic would be "What Happens Next." Well, what happened was I had a series of heart related issues and procedures that led to me being hospitalized and limited in my activities. The plan is to pick up where we left off in Minnesota's Charter School Story.

Within a matter of weeks after Governor Arne Carlson signed chartered public schools into law allowing up to eight charters, **Minnesota's U.S. Senator David Durenberger (R)** raised the idea of chartered public schools nationally by introducing federal legislation ("Public School Redefinition Act of 1991") on July 31st to provide start-up grants to approved charter schools. The legislation was co-authored by **Senator Joe Lieberman (D)** of Connecticut. By the fall of 1991, Michigan, California, and several other states were discussing and debating charter legislation. Start-up funding would be enacted in 1994 and eventually would become the Charter School Program (CSP).

In Minnesota, things started to move forward to figure out how the new law would be implemented and how people would go about starting chartered schools.

*In mid-June about 40 people gathered in late afternoon in a room at the Humphrey Institute... a roomful of people who want to start schools and people who want to help them. There was the subtle current of electric expectations – the fears and uncertainties stirring around in a mixture of visions and promise. It is the stuff of which movements are made.*<sup>1</sup>

While these folks had visions of new schools, the reality at the beginning was that a private school was the first school to seek a charter – **Bluffview Montessori** in Winona. On December 10, 1991, the State Board of Education approved Winona's school district to sponsor Bluffview. The school was scheduled to open as a chartered public school in the fall of 1992. However, that opening was delayed until March 2, 1993, because of the opposition of five elementary principals and a grievance filed by the local teacher's union.

Within days of the State Board approving Winona's sponsorship of Bluffview, the St. Louis County School District board agreed to sponsor a charter school in **Toivola-Meadowlands**. This was a unique situation because it would replace a traditional public school that was closing. The State Board of Education approved the school on February 20, 1992.

The pace of approvals pick-up in the spring of 1992.

In April, the State Board approved **Cedar-Riverside School**, sponsored by the Minneapolis School District, as well as **Metro Deaf**, sponsored by the Forest Lake School District.

While the State Board was approving these schools, there was an effort in the MN House of Representatives to repeal the charter school law. It failed.

In May, the State Board of Education approved **City Academy**, sponsored by the St. Paul School District. City Academy has the distinction of being the first charter school to open in the United States, by virtue of the delay in Winona and the other schools planning to open in 1993.

In February 1993, **New Heights School**, sponsored by the Stillwater School District, was approved by the State Board and also opened in the fall of 1993. **Skills for Tomorrow**, sponsored by the Rockford School District, was also approved but did not open until March 1994.

<sup>1</sup> From *Zero Chance of Passage*, 2012, Ember Reichgott Junge, page 206.

## ***Vol. 23 – The Research, Pt. 1***

Originally Published: April 26, 2022

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The first research on Minnesota's nascent chartered public-school sector was conducted in 1994 by the MN House of Representatives' Research Department.

While the report looked at the process of establishing chartered schools and what issues school districts were debating about being sponsors, the report focused on the six (6) chartered schools (Bluffview, Cedar-Riverside, City Academy, Metro Deaf, New Heights, and Toivola-Medowlands) in operation during the 1993-94 school year. That year, the six schools had a total enrollment of 617.

So, what did the research find about charter proposals and the debates of school boards relative to sponsoring a chartered school from 1991-1994?

- 21 chartered schools were proposed and 62% were approved
- 13 schools were sponsored by local districts
- 1 school was sponsored by the State Board of Education
- 8 school proposals were rejected (4 were proposed from small communities)

In terms of the type of school programs proposed:

- 9 were new programs directed at specific student populations (Deaf students, American Indian, at-risk students, vocational-technical ed, etc.)
- 9 were proposals from existing schools or programs (i.e. Bluffview, Toivola- Meadowlands)
- 3 were proposals directed at the general student population (New Country, Canon Valley, MPLS Community Learning)

The researchers surveyed the school board members from the 20 school districts who were debating whether to sponsor a charter school and interviewed the superintendents from those districts. They found that 213 (61%) school board members focused the discussion on concerns about charters and 135 (39%) focused on the benefits of chartering schools.

The discussions of the concerns and benefits of chartered schools focused on four issues: 1] The effect the charter school might have on the district; 2] Philosophical issues about chartering; 3] Specific issues about individual charter proposals; and 4] Issues about the educational approach of the proposed charter school.

## ***Vol. 24 – The Research, Pt. 2***

Originally Published: May 3, 2022

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The research conducted by the Minnesota House of Representatives' Research Department about Minnesota's first six charter schools (Bluffview, Cedar-Riverside, City Academy, Metro Deaf, New Heights and Toivola-Meadowlands) was conducted in February 1994. The research found the following:

- Enrollment in the six schools ranged from 16 – 196 students
- Total enrollment in the six schools was 617 students
- The student to teacher ratio ranged from 4:1 to 20:1
- Three (3) of the six schools were designed to serve special student populations: at-risk students; deaf and hard of hearing students; and low-income neighborhood students
- The amount of state per pupil aid was the same as traditional districts
- Salary compensation systems varied between schools: flat rate for all staff; traditional steps and lanes
- Each school had different contracted student outcomes for accountability: outcomes specific to the student population the school served (i.e., remain arrest free and maintain attendance in school); and others more general (i.e., demonstrate the knowledge, skill, and attitude required to communicate with words, numbers, etc.)
- The schools had little effect on the sponsoring district

The research report outlined the details of the student outcomes of the six schools as they existed in February 1994.

The researchers also surveyed parents from the schools with a response rate to the surveys of 38%. The questions focused on why the parents chose the school, and the sources of satisfaction and dissatisfaction with the school.

### **Reasons for Choosing the School**

- School curriculum
- School features (i.e., small classes; longer classes; location; good environment; etc.)
- Unhappy with prior school
- Good teachers and parental involvement

In terms of what parents thought of the schools, twice as many parents indicated satisfaction as compared to dissatisfaction.

### **Sources of Satisfaction**

- School curriculum
- Teachers
- School features
- Effect on students

- Parental involvement
- Other – (See school features above)

**Sources of Dissatisfaction**

- Other (i.e., unclear report cards; insufficient meeting notices; student dress code; etc.)
- Resources
- Growing pains
- Effect on students
- Space
- Administration
- Transportation
- Personnel

## ***Vol. 25 – The Four Problems***

Originally Published: May 10, 2022

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So, what were the problems that the six charter schools were facing in 1994? The MN House Research Report found four problems:

### **TRANSPORTATION, FACILITIES, SPECIAL EDUCATION, and RELATIONSHIPS WITH SPONSORS**

#### **Transportation**

The report stated that the transportation arrangement in law can cause problems for both the charter and the sponsoring district. "The charter schools are frustrated because they must coordinate their calendars and starting times in order to fit the district's transportation schedule. This makes it difficult to structure anything but a traditional schedule." On the other hand, "The districts are frustrated because of poor communication from some charter schools on the number and location of pupils that will require transportation and requests from far corners of the district for transportation to the charter schools." Districts pointed out that transporting students from all over the district to the charter could be very expensive.

The report pointed out the unique transportation issues of special education students who attend Metro Deaf stating, "This problem is symptomatic of the transportation problems most districts face when transporting special education students – it is not solely a charter school issue."

#### **Facilities**

The report noted that there were a number of problems with facilities. First, "Charters have no accesstobondingforbuildingsorotherleviestomeetdistrict'songoingfacilitiesneeds." Second, "... the charters have searched, with varying degrees of success, for inexpensive and suitable space." Third, while a couple of charters lease old school buildings no longer used by districts for relatively "negligible rent", schools must find funds to pay for repairs, handicap accessibility, and ensuring the building is up to code. Fourth, because schools have a hard time finding facilities, one school is exploring the idea of constructing a new facility.

#### **Special Education**

The report starts out by stating, "School districts throughout the state are facing significant, unreimbursed costs for special education." It then points out that charter schools face two problems. The first problem was that "Many are unfamiliar with the special education funding process, and they were unprepared to provide the assessments and services needed." The second issue was that "Some charters simply assumed that the resident district would provide any services they required."



## Relationship with Sponsor

The report states that, "This appears to be one of the most problematic areas for both the charter school and the sponsoring district." The report pointed out that sponsoring districts were unsure of their role in terms of both accountability and responsibility to provide services to the schools. Charters on the other hand felt like they were "being tolerated at best and at worst unwanted." The report goes on to state, "Nowhere in law, rule, or past practice is there a formal process for charter schools to interact with their sponsoring district." It points out that both the sponsor and charter need to define their roles and build a relationship and that each situation is unique.

**COMMENT:** The interesting thing is that 30 years later these are still issues in both similar and somewhat different ways.

## ***Vol. 26 – The Early Years of Charter Law***

Originally Published: May 17, 2022

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When the chartered public school law was enacted in 1991, the schools were not called chartered schools. In the law, they were called "outcome-based schools" as the authors of the legislation believed that the name would broaden support for passage, given that "charter schools" legislation failed in 1989 and 1990. The name "charter schools" did not appear in legislation until 1995.

In **1992**, there was an effort to repeal the "outcome-based schools" charter school law. It failed by eight votes in the House.

In **1993**, there was new momentum to the charter school movement due to recognition that there were issues that needed to be addressed in the 1991 legislation. The following amendments were enacted in 1993:

- The cap on the number of schools was raised from 8 to 20
- An appeal process to the State Board of Education was created when a local district elected not to sponsor an outcome-based school
- Recognized that teachers who provided instruction and contracted with a cooperative could vote in the board elections
- Allowed for the conversion of an existing school to become an outcome-based school
- Required sponsor authorization to be in written form and signed by both the sponsor and the board of the outcome-based school
- Allowed outcome-based schools to be located outside of the sponsoring district if there was no objection by another district
- Eliminated the ability of the school to limit enrollment to pupils who had a specific affinity for the school's teaching methods, such as learning philosophy, or specific subjects such as math, science, fine arts, performing arts, or a foreign language
- Expanded the types of facilities a school could lease
- Required that the sponsor and school operators disseminate information on how to form and operate an outcome-based school to targeted groups – low-income families and communities, and students of color
- Allowed a school to appeal a nonrenewal or termination decision by a sponsoring district to the State Board of Education

In **1994**, the Legislature made only two changes to the "charter school" law:

- The cap on the number of schools was raised from 20 to 35 schools
- Allowed schools to lease space from sectarian organizations if the space was constructed as a school facility

## ***Vol. 27 – What's In a Name?***

Originally Published: May 24, 2022

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The 1995 Legislature did formally rename what everyone knew were chartered schools from what they were called in the 1991 legislation "outcome-based schools" to "**Results Oriented Charter Schools.**"

**NOTE:** The name "outcome-based schools" had been adopted by the authors of the 1991 legislation in the hope that the name would garner more support from legislators.

While the renaming was an important symbol, there were **two significant policy statements** in the 1995 legislation. First, a declaration of what charter schools were and how they fit into public education, and second, a declaration of what charter schools were not.

The law was amended to make clear that charter schools were public schools. "**A charter school is a public school and is part of the state's system of public education.**" That declaration was closely followed in statute by, "**A charter school shall not be used as a method of providing education or generating revenue for students who are being home- schooled.**"

Over the years, these two policy statements have been important guideposts in public policy decisions and the screening of potential school developers.

**The 1995 session also amended the charter law in the following ways:**

- Raised the cap on the number of charter schools to 40 from the 1994 cap of 35
- Expanded the institutions that could sponsor a school to include a community college, a state university, a technical college, and the University of Minnesota
- Required that charter school boards comply with the Open Meeting law
- Clarified that the granting or renewal of a charter by a sponsor could not be conditioned on the bargaining unit status of the employees of the charter school
- Clarified that if charter school employees had a bargaining unit, that it was separate from the sponsoring district's bargaining unit – unless the school employees, the charter school board of directors, the exclusive representative of the sponsoring district, and the sponsoring district's board all agreed to include the charter school employees in the sponsoring district's bargaining unit.
- Defined charter school teachers as public school teachers for the state retirement program (TRA – Teachers Retirement Association)

**The 1995 legislation addressed one of the four issues facing charter schools that were identified in the 1994 House Research Department Report on Charter Schools.** The law was amended to:

- Allow a charter school to provide student transportation itself to students who resided in the sponsoring district in which the charter school was located
- Provide a charter school that provided its own transportation funding for transportation as a traditional district
- Required charter schools to provide parents with information regarding transportation upon enrollment of the pupil
- Allow the charter school to reimburse parents 15 cents per mile, a limit of 250 miles per week, for students who lived outside of the district in which the school was located.
  - **NOTE:** The rate and mileage have not changed in 27 years.
- Required charter schools that were going to use the sponsoring district's transportation to notify the sponsoring district and state department of education by no later than July 1st

## ***Vol. 28 – The Evolution of Charter School Law***

Originally Published: June 1, 2022

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Minnesota's charter school law continued to evolve in the late 1990's as the number of schools grew.

In **1997**, the Legislature enacted **two game changing financial measures** regarding chartered schools. The biggest game changing financial measure was the **enactment of building lease aid** to provide funding to assist schools in paying for lease costs. The law contained a two-prong formula for determining the amount of lease aid a school would receive. The Legislature appropriated \$1,078,000 for FY 98 and \$1,577,000 in FY99 (**Note:** The appropriation for next fiscal year FY23 is \$99,819,000).

The other financial game changer was the creation of **charter school start-up grants**. A charter school was eligible for a grant of \$50,000, or \$500 times the number of pupil units, whichever was the greater. \$500,000 was appropriated in FY98 and \$1,000,000 for FY99.

In terms of policy, there were also two significant changes which:

- Defined non-teaching staff as public employees for retirement purposes and required schools and employees to contribute to PERA (Public Employees Retirement Association)
- Required that the State Department of Education review and comment on the evaluation by a school district of the charter school before a charter contract was renewed.

**What Did Not Get Enacted In 1997?** – Legislation to allow the State to issue capital loans to charter school sponsors (traditional school districts) to acquire land and buildings for charter schools that have been in operation for at least three years.

**1998** – The only change the 1998 Legislature made in the charter school law was to add "intermediate school district boards" as potential charter school sponsors.

**1999** – Like the 1997 Legislature, the 1999 session also enacted two significant financial measures – one related to **Integration Revenue** and the other about **Transportation Aid**:

The first stated, "a charter school is eligible for the **state aid portion of Integration Revenue** for students enrolled who are residents of districts that are eligible for integration revenue if the enrollment of the pupil in the charter school contributes to desegregation or integration purposes."

The other clarified that "if a charter school elected not to provide transportation, the aid shall be reduced by the amount per pupil until specified for the district where the charter school is located."

There were also two other financial provisions, one increased the per pupil amount of lease aid and the other clarified the state aid payment schedule for new charter schools.

The **big policy change** in 1999 was an amendment to the law which stated, "**A person, without holding a valid administrator's license, may perform administrative, supervisory or instructional leadership duties.**"

There were also a couple of process changes; one set the number of days a board had to vote after receiving a charter application and another the amount of time the charter contract had to be completed after the state board approved the sponsor's proposed authorization of a school.

## Vol. 29 – New Growth & Accountability

Originally Published: June 7, 2022

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The new decade brought new challenges and new opportunities for Minnesota's charter schools. In 2000, there were three areas of the charter school law that were the focus of the Legislature: **school finance accountability, sponsors, and enrollment preferences.**

In terms of **enrollment preferences**, the Legislature put the first preferences in law:

- **The first:** a required preference for siblings of enrolled pupils and foster children before accepting students by lottery.
- **The second:** a required preference for a pupil that resides in a "town" where the only school is a charter with a particular grade.
- **The third:** a required preference for a pupil that lives within two miles of the charter and the next closest public school is more than five miles away.

There were also changes made regarding who could sponsor a charter and the **relationship between the school and sponsor:**

- First, the law was amended to **allow a school to transfer to another sponsor with the approval of the commissioner**
- Second, a nonprofit organization could be approved to be a sponsor if the **nonprofit was a 501(C) 3 organization, a member of the MN Council of Nonprofits or MN Council of Foundations**, registered with the attorney general, and reported an end of year fund balance of at least \$2 million
- Third, the law **clarified that a private college sponsor** which offered two-year or four-year degrees and registered with the higher education service office could be a sponsor
- Fourth, added community colleges, universities, and technical colleges **governed by the board of trustees of the Minnesota state colleges and universities.**
  - **NOTE:** MNSCU was just beginning to come together to put these institutions under a common board.
- Fifth, in recognition that there were costs associated with monitoring and evaluating fiscal and student performance, the law was amended to allow a sponsor to assess **an annual fee of up to \$10 a student, with a maximum of \$3,500**

There was also a provision enacted that gave the commissioner the **authority to terminate an existing sponsorial relationship** if the charter school had a history of: 1) financial mismanagement; or 2) repeated violations of the law.

In terms of **charter schools and financial management**, the law was changed to:

- Require that charter schools **comply** with the requirements for state audits
- Give the commissioner **authority to reduce charter school state aid** if the school employed a teacher that was not licensed or approved by the board of teaching
- Clarify that charter schools were **subject to the requirements** in law when the school went into **statutory debt**
- Clarified that charter schools could apply for a **grant to receive the state portion of integration revenue for enrolled students who are residents of a district eligible for integration revenue.**

The grants had to be competitively determined and demonstrate that enrolling pupils in the charter school would contribute to the desegregation or integration purposes defined by the commissioner



# ***Vol. 30 – Celebrating Chartering at 10 Years***

Originally Published: June 14, 2022

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2001 was the 10th year since Minnesota enacted the nation's first charter school law. To recognize that milestone, on February 8th 2001, the Minnesota House of Representatives adopted a resolution to congratulate Minnesota's charter schools. The bi-partisan resolution was sponsored by Representatives Seagren, Penas, Greiling, Mares, and J. Johnson.

## **A House Resolution Congratulating Minnesota's charter schools.**

**WHEREAS**, ten years ago, Minnesota became the first state in the nation to enact legislation allowing the creation of charter schools, which have prompted innovation and new choices in public education and new opportunities for students; and

**WHEREAS**, under the law, the role of public school boards was transformed from merely delivering public education services to purchasing services, setting goals, measuring performance, and enforcing accountability; and

**WHEREAS**, charter schools are independent public schools where teachers and parents have autonomy regarding budget, staffing, curriculum, and teaching methods; and where public school funding follows the student to the charter school; and

**WHEREAS**, City Academy, the nation's first operating charter school, opened in St. Paul in September 1992; and

**WHEREAS**, since the Minnesota Legislature passed the first charter school law, 36 states and the District of Columbia have passed laws authorizing charter schools, and some 1,700 charter schools serve about 350,000 students around the nation; and

**WHEREAS**, charter school successes have included better student performance for students with special needs, as well as high levels of satisfaction among students, teachers, and parents; and

**WHEREAS**, Minnesota's charter school law has taken a balanced approach by encouraging growth of charter schools while holding them accountable; and

**WHEREAS**, in October 2000, the Minnesota charter school law was named a winner in the Innovations in American Government Awards Program, of the Kennedy School of Government at Harvard University, and was among only ten recipients of one of the nation's most prestigious public service awards; and

**WHEREAS**, the award also includes a \$100,000 grant that will be used to increase public awareness of charter schools and to encourage replication by other states;

**NOW, THEREFORE, BE IT RESOLVED** by the House of Representatives of the State of Minnesota that it extends recognition and gratitude to the many persons who have contributed to the birth, growth, and success of charter schools:

**The members of the 1991 Minnesota Legislature**, especially the chief authors of 1991 S.F. 630 and H.F. 773, Senator Ember Reichgott Junge and Representative Becky Kelso and co-author Senator Gen Olson;

**The governors** who gave their steadfast support to the charter school initiative, Governor Rudy Perpich and Governor Arne Carlson;

**The legislative staff members and department personnel** who labored long to work out the details of the legislation;

**The sponsors and school districts** who have had the courage and commitment to back charter schools;

**The charter school educators, administrators, and parents** whose valuable, innovative, and committed work has turned a legislative hope into reality; and

**The many organizations throughout the country** who work toward education reform to ensure the best possible education for all children.

**NOTES: Rep. Seagren**, House Education Finance Committee Chair (1999-2004, Commissioner of Education (2004 – 2010) --- **Rep. Greiling**, House Education Finance Committee – Education Reform Committee Chair (1993 -1994), House Education Finance Committee Chair (2007-2010) --- **Rep. Jeff Johnson** – House Education Policy and House Education Finance Committee Member (2001- 2004) unsuccessful Republican Candidate for Governor in 2014 and 2018.

# Vol. 31 – The 2001 Legislative Changes

Originally Published: June 23, 2022

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While the House was adopting a resolution to celebrate the 10th anniversary of the charter law and chartered schools, it was also working on legislative proposals to address a series of accountability issues. **The 2001 Legislature enacted a series of accountability measures** which dealt with conflict of interest, board governance, finances, and facilities.

## Conflict of Interest

- The Legislature prohibited employees or agents, or contractors with a for-profit or non-profit entity which the school contracted from serving on the school's board of directors. It also gave the authority to void a contract if there was a violation of this prohibition.
- It also clarified that conflict of interest **did not apply** to compensation paid to a teacher employed by the school who also serves as a member of the board of directors.

## Board Governance

- The Legislature required that a non-profit corporation or a cooperative be established and the charter school board have at least five (5) members.
- It also required that by the end of the third year of operation, the majority of the board needed to be teachers employed by the school. It also gave the commissioner the authority to waive this requirement, and
- Additionally, it required the commissioner to annually provide timely financial management training to new board members and ongoing training to the other board members. It also specified the topics for the training.

## Audit

- The Legislature required that a charter school must submit an audit report to the commissioner by December 31st each year.
- It required that the audit must follow governmental auditing standards and the Federal Single Audit Act, as well as a series of state laws regulating public finances.
- It also required that if the audit indicated that material weakness exists, the school was required to submit a written report about how the weakness would be resolved.
- Additionally, it also required the audit to include a copy of all agreements for corporate management service, and required that if the entity providing the professional services was a non-profit, it must submit a copy of its IRS report by February 15<sup>th</sup>.
- Finally, it clarified that the school must make available in a timely manner the minutes of the members, board of directors, and any committee having any of the authority of the board, as well as financial reports and a summary of assets and liabilities upon request of an individual.

**Facilities and Lease Aid**

- The Legislature prohibited a charter from entering into a lease of property with a related party unless the lessor was a non-profit corporation or cooperative and the lease cost was reasonable.
- It then defined "related party", "affiliate", "close relative", "person".
- It also required that leases include a provision that if the school closes, the commissioner has the right to recover from the lessor any lease payments in excess of those that are reasonable under the lease aid law.
- Then the law was amended to define the criteria for the commissioner to approve or deny the lease aid application and prohibited the school from using lease aid for custodial, maintenance services, utilities, or other operating expenses.

**Aid Payments to Charter Schools**

- The Legislature established how funding would be paid if a charter school closed prior to the end of the school year.
- It also established a quarterly report requirement for the school to be able to receive state aid payments during the first three years of operation, and then in subsequent years submit student enrollment information to the department in the form and manner requested.

**Charter School Advisory Council**

- The Legislature established a seven (7) member advisory council to be composed of individuals who have demonstrated experience with or interest in charter schools. It went on to define the matters related to charter schools that should be brought to the attention of the commissioner.

**Authorizing**

- The Legislature gave the authority to the commissioner to sponsor charter schools.
- It also gave a school district the authority to create a corporation for the purpose of creating their own charter school.
- Finally, it increased the amount a sponsor could assess for monitoring and evaluating the fiscal and student performance of the school.

## ***Vol. 32 – 2001-03: What Passed, What Didn't***

Originally Published: June 28, 2022

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The most significant proposal in the 2001-2002 session **that did not get enacted** was legislation to allow chartered public schools to directly purchase and own facilities. The bi-partisan bill was introduced in both the House and Senate. In the House, it was authored by Rep. Alice Seagren (R) and Rep. Entenza (DFL). In the Senate, the bill was authored by Senator Pappas (DFL), Senator Olson (R), and Senator Kelly (DFL).

**NOTE:** The issue of facilities and lease costs were raised in a February 2001 report that will be the subject of the next issue of *Celebrating Chartering @ 30 – MINNESOTA'S STORY*

**The bill would have allowed chartered schools to purchase and own school facilities directly** if they met certain criteria and received the approval of the commissioner. The bill also would have created Building Facilities Aid for those schools, which would have been separate from Lease Aid.

**NOTE:** Over the last 15 years, MACS has proposed direct ownership for schools that meet certain criteria, state bonding for charter school facilities, and revamping Lease Aid to become Facilities Aid with differentiated aid for schools that own buildings versus those that lease.

**The 2003 session focused on building upon the changes enacted in the 2001 session:**

It changed how the **Charter School Advisory Council** operated, clarifying that the commissioner appointed members and that members served staggered three-year terms. It also took away the Council's role to review charter school applications and recommend approval or disapproval.

The law also expanded the authority of sponsors and what organizations could sponsor schools. The Chamber of Commerce were approved as sponsor and the St. Paul Chamber of Commerce became the sponsor of Minnesota Business Academy.

The law also gave **sponsors the authority to approve additional sites and grade expansions** beyond those in the original school charter.

There were also two accountability measures that were changed and three changes in funding for charters due to the state's financial problems.

**Transportation** - clarified that when a traditional district provided charter school students school bussing, that district controlled the scheduling and routes, the manner and methods, the discipline of pupils on the bus, and any other matter related to the transportation of those students.

**Teacher Leave of Absence** – clarified that a traditional district was not required to give a teacher more than a five-year leave to teach in a chartered public school, and any time beyond that was at the sole discretion of the traditional district school board.

- **Lease Aid** – lease aid was reduced from \$1,500 to \$1,200.
- **Integration Aid** – the ability for charters to apply for the aid portion of integration aid was eliminated.
- **Start-Up Aid** – charters in their first year of operation in FY2004 and FY2005 were made ineligible for the state start up aid.

All three of these funding changes were part of the Legislature's cuts in education funding due to the state's financial situation.

## Vol. 33 – The Entenza Report

Originally Published: July 5, 2022

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The focus on accountability of charter school finances, as well as the proposal for direct ownership of facilities in the 2001 Legislature, has roots in a 2001 report: *Charter Schools and the Use of Public Funds: A Systemic Review of 50 Minnesota Charter Schools*, published in February 2001 by **Representative Matt Entenza** and **Lauren Taken**.

**NOTE:** This Report would be followed up by an Office of the Legislative Auditor Report in June 2003 that The Legislative Audit Commission directed be conducted when it met in April 2002.

The Entenza Report begins, "After the collapse of **Success Academy** in June 2000, it was clear that some charter schools had serious financial problems. Success Academy's for-profit management not only badly mismanaged the school finances (leaving a debt of over one million dollars) but appeared to engage in criminal use of public funds. The subsequent collapse of **Right Step Academy** only contributed further to this perception."

The Report was based on an independent review of over fifty (50) certified audits of charter schools for the years 1999 and 2000. The Report laid out **five areas of concern** and documented the concerns with evidence based on the audits.

**First**, most charter schools failed to provide financial data following the guidelines required by state law. **Evidence:** 65% of charter schools violated the law for submitting the school's audit to the commissioner in 2000.

**Second**, most charter schools failed to provide even minimally adequate supervision over their use of public funds. **Evidence:** 73% of charter schools violated national accounting standards.

**Third**, there was strong evidence that substantial conflicts of interest existed in the management of our non-profit charter schools by for-profit management companies. **Evidence:** For-profit management fees that range from 23% to as high as 99% of revenue.

**Fourth**, the interests of charter schools are often unprotected and they pay lease rates that are far in excess of market rates, while other schools lack effective oversight of leases because their board is not independent of the board that controls the leased property. **Evidence:** the fact that some management companies are also landlords of schools they manage, as well as for-profit administrators using building lease aid to pay the mortgage on their own property.

**Fifth**, one of the clearest problems is the lack of independence of charter school boards. **Evidence:** management companies and school administrators serving on the board of the school, as well as the fact that minutes of board meetings when available to do not indicate whether those members of the board abstained from votes concerning conflicts of interest.

The Report then details the financial concerns specific to each school and goes in-depth about the financial mismanagement of Success Academy.

**The Report concludes by saying:**

***Most charter school administrators and board members want to do the right thing for their students. Organizations like the Minnesota Association of Charter Schools do an excellent job of providing technical support for charter schools. Unfortunately, the serious lack of financial accountability in charter schools is not only creating the potential for trouble, but is causing a real misuse of funds by a few unethical administrators. Left alone, this situation will lead to the end of independent charter schools (meaning being their own district). Consequently, swift standards for accountability must be established by the Legislature and implemented by DCFL and the Association of Charter Schools.***



## Vol. 34 – The 2003 OLA Report, Pt. 1

Originally Published: July 12, 2022

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The issues raised in the 2001 Entenza Report, which spurred legislative changes in 2002, also led to the Legislative Audit Commission in April 2002, which directed the Office of Legislative Auditor to conduct an evaluation of charter school financial management. The OLA Report, titled **CHARTER SCHOOL FINANCIAL ACCOUNTABILITY**, was issued in June 2003.

In the cover letter accompanying the Report, James Noble, the Legislative Auditor, writes:

*Legislators were interested in the extent of charter schools' financial problems and how well the Department of Education and charter school sponsors are overseeing the schools' fiscal performance. Legislators also had questions about the state's program for reimbursing charter schools for building lease expenses.*

The Report begins by providing background information on the state of chartered schools in the state, including the number of chartered schools existing in FY2002 (76 schools), the process for opening a school, the schools that had closed by FY2002 (15 schools), the financial accounting requirements, governance and oversight, and the types (6) and number of sponsors (39).

The Report then focuses on the issues of financial management and facilities/lease aid.

### FINANCIAL MANAGEMENT STATUS FINDING

The Report found that charter schools are vulnerable to financial difficulties, but for fiscal year 2002, roughly the same proportion of charter schools and school districts ended the year in SOD – Statutory Operating Debt (12% of charters vs. 10% of traditional districts).

**FACTORS** – A variety of factors were identified as contributing to the charter schools' financial problems:

- Poor financial planning
- Insufficient monitoring of actual budgeted revenues and expenses
- Lack of an independent school board
- Misunderstandings regarding state requirements
- Insufficient resources to handle unexpected expenses or low enrollment

The Report then goes on to detail what some schools were doing to resolve their financial problems, as well as what **MDE was doing in terms of financial oversight and assistance**. MDE implemented quarterly monitoring of school enrollment and adjusted aid several times a year, provided training, and one-to-one assistance for schools on the SOD watch list.

Finally, the Report deals with the **role of sponsors** in terms of financial oversight of the schools. The Report shows the vast differences in how sponsors envisioned their role. The key points in the Report are:

- "The role of charter sponsors is ill defined, and the scope and nature of the sponsors' financial oversight activities varies widely."
- "Many sponsors had a hands-off relationship with their charter schools."
- "The extent to which sponsors should actively assist charter schools was a point of contention between some schools and their sponsors."

Based on its evaluation of the financial management and oversight, the OLA outlines seven (7) recommendations:

1. Implement a two-stage approval process that requires new charter schools to demonstrate that they have the skilled personnel and financial systems in place before enrolling students.
2. Modify the model charter school contract to include more detailed requirements regarding budgeting, financial reporting, and training for school administrators and board members.
3. Enhance trainings offered to charter school board members to better meet the intent of the law.
4. To the extent possible, expand quarterly enrollment monitoring to all charter schools.
5. MDE should initiate a process to more clearly define the scope and nature of the sponsor's role regarding charter school financial management and recommend to the Legislature any needed changes to the charter school law.
6. The Legislature should consider amending the charter school law to state that charter school contracts may be terminated for repeated failure to meet deadlines for submitting financial data and financial audit reports.
7. The Legislature should consider amending the charter school law to remove the requirement that teachers constitute a majority of charter school board members.

## ***Vol. 35 – The 2003 OLA Report, Pt. 2***

Originally Published: July 19, 2022

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The second question addressed in the OLA Report was, **“Is the Lease-Aid program an effective way to help charter schools obtain school facilities?”**

To answer the question, the OLA did an analysis of lease expenditures and lease-aid payments, looked at the reasonableness of lease costs, and conducted interviews with charter school directors and board chairs.

### **The findings:**

- Lease-aid is an important component of charter school funding (FY02 lease costs accounted for 14% of charter school expenditures)
- Charter school administrators believe that lease-aid is essential to charter schools' financial viability
- Charter school lease rates appear to compare favorably with rates the State of Minnesota pays for office space
- Lease rates vary considerably among charter schools (FY03 – range from \$1.95 per square foot to \$21.92 per square foot)
- On average, the amount of space charter schools lease is within the Department of Education's guidelines
- To circumvent the prohibition against using state funds to buy buildings, some charter schools have established affiliated nonprofit building corporations that issue bonds or obtain loans to acquire school buildings
- Charter schools' use of affiliated corporations to purchase buildings has introduced a gray area to the state's policy on building ownership

The OLA's answer to the question that it was asked about the effectiveness of Lease-Aid was:

***We think the time is right for the legislature to once again weigh the advantages and disadvantages of allowing charter schools to buy buildings.***

## Vol. 36 – The State Auditor's 2006 Report

Originally Published: July 26, 2022

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The concerns about the financial management of charter schools continued to be a primary focus well into the decade of 2000-2009.

In the summer of 2004, Representative Entenza issued another in a series of reports on the financial management of charter schools. The report found that of 88 charter schools, 26 failed to submit their financial data to the commissioner by the December 31st deadline in 2003. The report also pointed out that several charter schools did not provide board minutes as requested and required under the Data Practices Law. His report called for more oversight of charter school finances by the Department of Education.

In the fall of 2004, another charter school, Colonel Charles Young Military Academy, financially collapsed. This failure of financial management prompted the MN Department of Education to require management training for charter school boards and sponsors.

In 2005, legislation was proposed to give the commissioner the authority to close charters if they missed financial deadlines.

In 2006, the MN State Auditor issued a report titled: ***Financial Trends of Minnesota School Districts and Charter Schools 2001-2005***. The Report had three purposes: 1] to provide citizens and policy makers a greater understanding of education finances, 2] offer a way to compare districts and charters in terms of revenues and expenditures; and 3] communicate areas of concern regarding oversight.

At the end of the Report, the State Auditor included a four-page Addendum about the financial management of charter schools. The Auditor wrote:

*While the concept undoubtedly served many students well, it is a fact that many charter schools have been poorly managed. **It does not appear that this mismanagement is intentional in most cases, rather, many charter schools appear to suffer from a lack of financial training and expertise.***

*In light of financial problems charter schools have and are experiencing, **the State Auditor's Office will be increasing its oversight of charter schools.** Specifically, the office has begun conducting desk reviews of annual audits submitted by charter schools.*

*Because charter schools are publicly funded entities, financial mismanagement is especially troubling. **Not only do charter school students miss out on educational opportunities when finances are mismanaged, the public trust is also violated as taxpayer dollars are squandered.** As the taxpayer's watchdog, **the State Auditor's Office will work to ensure that public dollars are spent appropriately in charter schools so that an interesting and innovative concept is given the opportunity to succeed.***

# Vol. 37 – Recommendations & Clarifications

Originally Published: August 2, 2022

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In November 2005, the Minnesota House of Representatives' Research Department published an updated **Information Brief on Minnesota's Charter Schools** for legislators. The Brief updated information about the role of sponsors, charter contracts, application and start-up process, finances and financial management, facilities, statutory requirements for charters, causes and process for closing a school, and the Charter School Advisory Council. The last section of the Brief laid out issues that required legislative clarification.

**The Brief laid out eleven (11) areas that required clarification:**

- 1] The process for closing a charter school** – the law is incomplete and people lack administrative experience in the process of closing a school.
- 2] Timely Board Elections** – the parameters of what constitutes “timely” are unclear.
- 3] Duty to Disseminate Information** – the parameters of this duty for sponsors (school districts) are unclear.
- 4] Supplemental Applications** – it is unclear whether the commissioner must approve a supplemental application before a sponsor can authorize a school's expansion.
- 5] Instruction & Supplemental Programs & Services for Younger & Older Students** – it is unclear whether charters have the authority to provide instruction for early childhood or adult basic education given that they may provide these programs, but do not receive general funding for them and are prohibited from charging tuition.
- 6] Length of the School Year** – Since 2000, the length of the charter school year has been unclear as to whether the school must meet the number of schools days as laid out in law.
- 7] Application Deadline** – Given there is no statutory deadline by which a sponsor must apply to authorize a school, a common deadline might facilitate better planning and organizing for opening a school.
- 8] Board Membership** – Clarity is needed for whether a member of the sponsor's board of directors may serve on the board of directors of the school it sponsors.
- 9] Conflicts of Interest for Nonprofit Entities** – There is a need to clarify that a member of a charter school's board of directors must disclose any conflicts of interest not just with for-profit entities, but also non-profit entities which the school contracts for services, goods, or facilities.

**10] Transportation Reporting Deadline** – There is a need to examine whether requiring charter schools to notify the district earlier than July 1 would help in scheduling, setting routes, and deciding a school's transportation methods.

**11] Admissions Requirements & High School Graduation Incentives Program** – Clarification is needed for why the criteria and administration for enrolling eligible students in the High School Graduation Incentives Programs is different for charter schools and districts.

Subsequent legislation in the following years addressed almost all these issues.

## Vol. 38 – 2005-07 Legislation & Framework

Originally Published: August 9, 2022

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The accountability measures in the 2005 legislation focused on charter school sponsors. The law was amended to require the sponsor's affidavit to the commissioner to layout, "how the sponsor intends to oversee the fiscal and student performance of the charter school and to comply with the terms of the written contract between the sponsor and the charter school board of directors..."

The law was also amended to require those provisions be put in the charter contract and to require that "the sponsor must submit to the commissioner timely information for the review and comment" before a contract is renewed with a charter school. It also spelled out a process for the sponsor or charter school board to voluntarily terminate the contract at the end of the contract term and change sponsor if the commissioner approved the change. Finally, it defined a timeline for notifications of renewal or nonrenewal by the sponsor.

In 2007, the Legislature removed the provision for how long a board had to decide whether to sponsor a charter school. It also clarified that when a charter school closes, the students' educational records must be transferred to their resident school districts within 10 business days. There, the records are required to either be retained or transferred to other schools the students will attend.

There were several other proposals regarding the accountability of a charter school's board of directors, the required trainings for board members, compliance with public records, conflict of interests, charter contracts, as well as enrollment lotteries, and allowing charter school students to participate in extracurricular activities in their resident district. None of these proposals were adopted in 2007, nor in 2008.

*In April 2007, the Legislative Audit Commission directed the Office of the Legislative Auditor to evaluate charter schools. Legislators had questions about the achievements of charter schools and whether students who attend charter schools are performing adequately on key academic measures. Legislators also had questions about the oversight and accountability of charter schools.*

**The Evaluation Report**, issued in June 2008, provides an overview of Minnesota's charter school system and addresses the following questions:

- What programs do charter schools offer and what types of students do they serve?
- How do charter schools' academic performances compare with that of district schools?
- What factors contribute to any differences?
- How well do sponsors (organizations that authorize charter schools) and the Minnesota Department of Education oversee charter schools?
- To what extent have charter schools experienced financial difficulties?
- To what extent has the Minnesota Department of Education implemented recommendations made in the Office of the Legislative Auditor's 2003 report on charter school financial accountability?

# Vol. 39 – The 2008 OLA Report, Pt. 1

Originally Published: August 16, 2022

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In April 2007, the Legislative Audit Commission directed the Office of the Legislative Auditor (OLA) to evaluate charter schools. The Report, issued in June 2008, states, "Legislators had questions about the achievement of charter schools and whether students who attend charter schools are performing adequately on key academic measures. Legislators also had questions about the oversight and accountability of charter schools."

The Report starts out by reviewing the components of the charter school law and then provides an overview of the demographics of charter schools in 2007. It notes that there were 143 schools enrolling about 24,000 students, roughly 3% of Minnesota's K-12 students. It also notes that compared to statewide averages, charter schools enroll significantly higher percentages of "minority" students (52% compared to 22%), free or reduced-price lunch students (53% to 30%) and limited English proficiency students (21% to 7%). The Report states that the percentage of special education students was comparable to traditional districts, charters 12% and districts 14%.

To answer the questions relative to school achievement and students performing adequately on key academic measures, the OLA examined how charter schools demonstrated Annual Yearly Progress (AYP) on the MCA-II exams and compared them to other schools with similar demographics.

## The Findings on Academic Performance

*In 2007, students in Minnesota charter schools generally did not perform as well on standardized academic measures as students in Minnesota district schools; however, after accounting for certain demographic factors and mobility, the differences in performance were minimal.*

The Report notes that, "Almost 15% of charter schools had 100 percent mobility or greater in 2007."

Based on interviews, the OLA noted that there was concern that the MCA-II assessments did not reflect the achievements or growth of students. The Report stated that "Student growth or progress tests may better reflect the relative impact and success of a school." Schools also pointed out the importance of embedding students' cultures into the school environment as a factor in student success.

## The Findings on School Finances

While the Report focuses less than the previous OLA Report on **charter school finances**, the Report does state the following: "Historically charters have had financial problems. Based on our analysis of MDE financial data since 2003, we found that: In general, charter schools' financial health is comparable to the financial health of independent school districts."

The Report also states, "While the Minnesota Department of Education provides financial management training as required by law, the training is not geared toward board members of existing charter schools."



To answer the questions about **oversight and accountability**, the OLA examined the oversight by both sponsors and the Minnesota Department of Education.

### **The Findings on Oversight**

*We found that some oversight roles are duplicative while gaps in oversight exist in other areas. Both sponsors and MDE approve charter school applications, leading to a duplication of effort and misunderstandings regarding each organization's role. Furthermore, the department has not implemented standards that sponsors should meet. Because sponsor expectations are not clear, sponsors perform their roles in a variety of ways. This can lead to gaps in oversight when sponsors do not fulfill their responsibilities.*

The Report provides a chart with seven areas of responsibilities and practices, showing the gaps and areas of duplication. One area of duplication was the approval of applications, while a gap existed in terms of the lack of review of sponsor charter school evaluations. "...MDE, did not provide the required review and comment for almost three-fourths of the evaluations it had on file."

**The Report also looks at what follow-up had been done by MDE to the 2003 OLA Report on Charter School Financial Health and Accountability.** "The Department of Education has implemented a number of the recommendations presented in the OLA's 2003 evaluation on charter school financial accountability. However, the scope and nature of the sponsor's role still needs to be more clearly defined."

The Report also states, "OLA's 2003 report also discussed the importance of lease aid for charter schools and the issue of facilities in general. At that time, OLA recommended that the Legislature address whether charter schools could own their own buildings. To date, the Legislature has not taken action on this recommendation."

## ***Vol. 40 – The 2008 OLA Report, Pt. 2***

Originally Published: August 24, 2022

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While the findings in the 2008 Office of Legislative Auditor (OLA) Report on charter schools covered academic performance and school finances, the recommendations of the report focused entirely on oversight issues. The recommendations were summed up by a phrase in the report: "Accountability and oversight for charter schools and their sponsors should be strengthened."

### **THE RECOMMENDATIONS**

#### **MDE and Sponsor Roles**

- With respect to oversight, the Legislature should clarify the roles of both the MN Department of Education and sponsors. For the Legislature, the OLA laid out three options, including the benefits and drawbacks of each.

**Option 1: Increase Sponsor Authority** – would require sponsors to be approved and demonstrate capacity to do oversight.

**Option 2: Create an Independent Board of Charter School Authorizing** – would eliminate sponsors and have one authorizer that sponsors and evaluates all charter schools.

**Option 3: Eliminate Sponsors** – MDE would become a sponsor and conduct oversight of all charters.

**The Report further states that if the Legislature chooses Option 1,** "The Minnesota Department of Education should implement standards for charter school sponsors and provide additional training to ensure that sponsors have the capacity to meet them. Additionally, the Minnesota Department of Education should periodically verify that charter school sponsors meet the department's standards."

#### **Charter School Board Governance**

- The Minnesota Department of Education should provide financial management training tailored to board members of established charter schools. Additionally, the Legislature should require all new charter school board members to attend financial management training within one year of being elected.
- The Legislature should amend the charter school law to remove the requirement that teachers must comprise a majority of charter school board members

## **Conflict of Interests**

To improve and clarify Minnesota's conflict of interest laws for charter schools, the Legislature should:

1. Expand Minnesota's charter school conflict of interest laws to match federal requirements;
2. Expand Minnesota's charter school conflict of interest laws to address sponsor conflicts; and
3. Remove requirements that charter schools follow school district conflict of interest laws.

In the closing of the Report, the OLA again reminded the Legislature that it had recommended that it should address whether charter schools could own their own buildings.

# ***Vol. 41 – The Second Generation Law***

Originally Published: August 30, 2022

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Unlike the tweaks to the charter school law that were made almost every year since its enactment in 1991, the changes made in 2009 were substantial and comprehensive. In fact, there were changes in every one of the 26 subdivisions of the charter school law (MN Statute 124D.10) and three significant changes to MN Statute 124D.11, which dealt with charter school aid payments. The result of the 2009 legislation was a second generation charter school law.

## **1 – SPONSORS/AUTHORIZERS:**

- Sponsors became authorizers
- Authorizers had to apply and meet criteria
- New fee structure for authorizers
- Authorizers were required to have processes and procedures in place for authorizing schools
- Evaluation of authorizer performance every five years
- Criteria for creating single-purpose authorizers

## **2- CHARTER SCHOOL BOARDS:**

- Prohibited related parties to serve on boards
- Required board member elections to take place by the end of the school's third year of operation
- Required a 30-day notice for board elections
- Established training requirements for board members
- Clarified which people could vote for the board
- The chief administrator and chief financial officer were made ex-officio non-voting board members
- Eliminated the teacher majority board member requirement
- Established a legal process for changing the structure of the board

## **3 – CONFLICTS OF INTEREST:**

- Clarified who and what constituted a conflict of interest
- Allowed the commissioner to void contracts if there was a proven conflict of interest
- Prohibited an employee, agent, or board member of an authorizer from serving on the board of a school it authorized
- Prohibited an authorizer from making the granting or renewal of a charter contingent on a school being required to contract, lease, or purchase goods or services from the authorizer

## **4 – ADMISSIONS:**

- Required a lottery policy be developed, published, and used when accepting students by lot
- Granted the authority to school boards to give enrollment preference for children of schoolteachers
- Prohibited a school from establishing any criteria or requirements for enrollment inconsistent with the law

- Prohibited the distribution of services or goods of value to students, parents, or legal guardians to induce, term, or condition enrolling in the school

## **5 – EMPLOYMENT:**

- Clarified that employees must be given written description of the terms, conditions, and personnel policies when offers of employment are made
- Required charter school boards to establish qualifications for all persons holding administrative, supervisory, or instructional leadership roles
- Required professional development plans for those who hold administrative, supervisory, and instructional leadership positions and required documenting their progress in the annual report
- Clarified the timeline and eligibility of teachers from traditional districts to teach in charter schools

## **6- LEGAL REQUIREMENTS:**

- Clarified that charters were exempt from all laws and rules that applied to a public school, school board, or school district unless the statute or rule specifically cited charters or if the charter school law listed that law or rule
- Required compliance with federal health and safety laws
- Required compliance with statewide accountability requirements about standards and assessments
- Clarified that charter schools and charter boards were subject to the MN Employment Law
- Required charter schools to comply with transfer of student record laws
- Required charter school boards to document that the school had appropriate liability insurance

## **7 – CHARTER CONTRACTS:**

- Required contracts to have school closure plans
- Established a process for a mutual non-renewal and transfer of authorizer
- Established a timeline for non-renewal notices by authorizers

## **8- FACILITIES:**

- Legalized affiliated building companies (ABC's)
- Established eligibility, criteria, and a process for creating affiliated building companies
- Clarified the types of entities that charter schools could lease space from

## **9 – FINANCES:**

- Revised the state aid payment schedule for new schools
- Established procedures for aid payments owed by the school, or money the school needed to repay the state upon the school's closure
- Established that the commissioner had authority to withhold state aid to a charter for multiple reasons, including the school owing a government agency (TRA) or a school district

There were even more changes besides these. **2009 did create a second generation charter school law.**

## Vol. 42 – America's First Charter School

Originally Published: September 7, 2022

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**City Academy, St. Paul**, became the first chartered public school in the country when it opened its doors on **September 7, 1992**. In a 2005 interview, founder and director **Milo Cutter** states that the reason for starting City Academy was, "To start a small high school. At the time there were very few options for students" ages 16 to 21 who had dropped out or were at the risk of dropping out. The school was based on the ideas learned from students who participated in a pilot summer program.

The school opened with 35 students and three full-time teachers. Last school year (2020-2021), the school enrolled 150 students with a staff of 10 teachers.

With the assistance of the then **St. Paul Mayor Jim Scheibel**, the school found a home at a city recreation center on the eastside of St. Paul. In 1994, the school moved to another city recreation center on the eastside, which has since been its home for 28 years.

In 1993, the school began its 29-year participation in the **YouthBuild** program, which provides workplace experiences for students in the construction trades, while earning credits toward graduation. The school has also been continuously accredited since 1993 by **AdvancedED**. Since 1997, the staff have conducted Action Research Projects in collaboration with the University of Minnesota.

City Academy was originally sponsored by the **St. Paul Public School District**, then by the **College of St. Catherine**, and is now authorized by Innovative Quality Schools (IQS).

In 2000, during National Charter School Week, **President Bill Clinton** visited City Academy to recognize its success as the first chartered school in the nation:

*I'm here today because I want all of America to know about you – and through you, to understand what might be done in other communities with the charter school movement to give all our children the education they need, and the education our country needs for them to have in a 21st century information economy.*

In his remarks about the charter school laws, he stated:

*Now, the one problem we have had is that not every state has had the right kind of accountability for the charter schools. Some states have laws that are so loose that no matter whether the charter schools are doing their jobs or not, they just get to stay open, and they become like another bureaucracy. Unfortunately, I think even worse, some states have laws that are so restrictive it's almost impossible to open a charter school in the first place.*

He continued:

*So the second point I want to make to the people, especially to the press folks that are traveling with us who have to report this to the country, is that not only has this first charter school in America, City Academy, done great, but Minnesota's laws is right. You basically have struck the right balance. You have encouraged the growth of charter schools, but you do hold charter schools responsible for results. That's what every state in the country ought to do.*

**CONGRATULATIONS** to the staff, students, and alumni of City Academy on 30 years of providing great educational opportunities to meet the needs of each individual student.

## ***Vol. 43 – 2010: Unfinished Business***

Originally Published: September 13, 2022

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While the 2009 Legislature legalized **Affiliated Building Companies (ABCs)**, there was agreement that this solution was short term and that the goal was to finally address direct ownership of facilities in the 2010 session.

Given her stewardship of the 2009 legislation, **Senator Kathy Saltzman** was charged by leadership to take lead on the charter school facilities issues in the Senate. Senator Saltzman authored the legislation in the Senate, while **Representative Linda Slocum** carried the bill in the House. While the bill did get a hearing in the House, action was focused over in the Senate. A couple dozen meetings were held with school leaders, lenders, lawyers and other interested parties, and multiple hearings in the Senate Education Committee.

The final legislation would have done the following:

- Prohibit any new ABC's from being established,
- Establish accountability requirements for existing ABC's
- Establish a process for transitioning from an ABC to direct ownership
- Revamp the Lease Aid program to create 3 types of facilities aid, lease aid for schools that lease space, transitional facilities aid for schools with existing ABC's, and building aid for schools that no longer have outstanding bonds or mortgages.
- Allow a charter school to own facilities directly,
- Establish eligibility criteria for schools seeking to own a facility,
- Create a state Charter School Facilities Authority that would approve schools seeking to own facilities,
- Grant the Charter School Facilities Authority the ability to issue revenue bonds for charter school facilities,
- Establish a total amount of bonding authority of the Charter School Facilities Authority
- Establish processes for the sale of the bonds, repayment of bonds by schools, oversight of situations involving defaults on the bonds, mandatory technical assistance for schools in potential default, etc. etc. etc.
- Require an annual inventory of vacant public buildings which could be utilized for long-term lease to charter schools

Despite the enormous effort and work to craft the legislation and get buy-in from all the various stakeholders, the bill failed in Conference Committee. The House was willing to go along with the charter school facilities legislation if the Senate would agree to legislation the House wanted that would allow traditional districts' school boards to renew certain levies without voter approval. In the wee hours of the last night of the session, neither the Senate nor the House were willing to compromise with the other, so neither the Senate nor the House provisions made their way into the final Conference Committee bill.

**NOTE:** Twelve (12) years later, the direct ownership of charter school facilities and related proposals are still not resolved.



**P.S.** There was one piece of legislation regarding charter schools passed in 2010. The law was changed to accelerate the cash flow aid payments for small charter schools whose enrollment was 100% special education.

## ***Vol. 44 – The Recodification of the Law***

Originally Published: September 20, 2022

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The 2009 changes to the charter law ushered in a decade long period (2011-2021) where most changes were clarifications of language or were technical in nature. The most significant change occurred in 2016 with the **Recodification of the Law**. The recodification accomplished two important things:

**First**, since the beginning, the charter school provisions were found in Chapter 124.D – Education Programs. Charters were seen in the law as a type of academic program. The recodification took charters out of the education program law and created a new and separate chapter in law 124E - Charter Schools.

**Second**, the recodification provided an opportunity to eliminate obsolete provisions and put the various provisions of the law in a logical order.

In **2011**, there were several technical changes and clarifications of language adopted which would disappear with the recodification in 2016. There were some changes that were made that are still part of the law:

- Require that charter school board elections be held on days when school is in session
- Require that charter schools indemnify and hold harmless the authorizer and the commissioner from any liability that might arise for the operation of the school
- Require that the auditor make information available about the school's financial audit to the commissioner or authorizer upon request
- Expand a charter school board's authority to give an enrollment preference to all staff, not just teachers
- Modify the provisions and process if an authorizer and school mutually agree to a change in authorizer

In **2012**, the only provision enacted would allow shared time programs between charter schools and nonpublic schools (the provision was deleted in the Recodification).

In **2013**, there were both a few important and technical changes. The important changes:

- A requirement that charter school boards adopt a nepotism policy
- A prohibition on immediate family members from serving on the charter school board
- A requirement that the charter school board adopt a teacher evaluation policy
- A requirement that facility leases have an annual certain amount and an escape clause if the school closes (the amount certain clause was eliminated in the Recodification).

If there was one significant policy change in the decade, it was the change in the purposes of chartered schools. The law was amended to make "The primary purpose of charters to improve all pupil learning and all student achievement."

**COMMENT:** Given the narrow way in which student achievement is measured by the state, this change which the Association opposed, has weakened and undermined the mission of chartered schools which was to be innovative labs for public education. At one time, a proposed charter needed to document what innovative purposes the school was going to address to get a charter approved. The change in the law has no requirement for the school to be innovative and states that there are additional purposes of charters and now defines the innovative focus as an additional purpose.

After 2013, there was only a handful of policy and technical changes in 2015, 2017, and 2021 and no changes in 2014, 2018, 2019, and 2020.

**2015** – the law established a process for the mergers of charter schools, and established the number of months an authorizer must give notice of their intent to withdraw as an approved authorizer

**2017** – the law was amended to define charters to include pre-school and pre-K programs as part of the schools and contract, and amended to ensure that schools received lease aid for the portion of the day a student is participating in Postsecondary Enrollment Options

**2021** – the law was changed to allow a schools to transfer authorizers after a certain time if the authorizer was still in corrective action based on the evaluation the authorizer received through MAPES

# ***Vol. 45 – An Agenda for the Fourth Decade***

Originally Published: September 27, 2022

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The agenda for the fourth decade of chartering in Minnesota can be summed up in three short ideas:

- **Fair and equitable funding for students who attend chartered public-schools.**
- **A rational policy approach for charter school facilities.**
- **A rebalancing between accountability and autonomy/innovation.**

**FUNDING** - Over the years, a myth and a policy approach have led to a growing gap between the funding for students who attend chartered public-schools and students who attend traditional public schools. The myth is that chartered public schools can and/or should educate students for less than traditional public schools. The idea that charter school students should receive less funding for their education was never part of the original chartering deal. The policy approach, which has exacerbated the growing funding gap, is the transferring of education costs from the state to local district levies. Charter schools do not have access to those levies, nor do they receive equivalent state funding in lieu of local levies.

**FACILITIES** - The one provision of the charter school law which has never been updated states that charter schools cannot use public funds to purchase facilities. The consequences of not updating the policy have led to the creation of additional non-profits organizations which own facilities, while not providing any asset for the state lease aid investment. While this provision made sense in 1991 when chartered public schools were still experimental, it is financially irresponsible today. It is time to update the law.

**ACCOUNTABILITY & AUTONOMY/INNOVATION** – Over the last two decades, school and student accountability has been measured and documented through standardized tests. The result of this approach has created an environment that does not value or recognize different and innovative practices in terms of measuring learning outcomes and the establishment of new forms of accountability for schools – both of which are goals defined in the charter school law.

There is a need to rebalance organizational and operational accountability issues from a bureaucratic compliance approach to one based on a demonstration of competency and actual performance.

# *Epilogue*

Originally Published: September 27, 2022

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Over the course of this 45-part series, the focus has been on telling the history and evolution of Minnesota's first-in-the-nation chartered public school law from its beginning, when the framework for the law was first outlined on a napkin at the Itasca Seminar in 1988, through today.

However, the history of the law only gives us hints about the events and people who have shaped chartering over the last 30+ years. While the evolution of the law is critically important given it provides the framework for chartering, it is only one aspect of the history of chartered public schools. There are numerous events and people who have shaped Minnesota's chartered school story.

**So, there is much yet to be told.**





## ***About the Author***

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**Eugene Piccolo**

Eugene Piccolo (1953-2024) was the Executive Director of the MN Association of Charter Schools (MACS) from 2005-2023 and worked to “unleash education from convention.” A St. Paul native, he was known for his determination, persistence, and emphasis on putting students first. After taking over as Executive Director at MACS, Eugene facilitated the turnaround of the Association. Prior to MACS, Eugene was a teacher, principal, and the Assistant Commissioner at the Minnesota Department of Education from 1996-1999.







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