

ON THE ROAD OF INNOVATION

Colorado's
Charter School Law
Turns 20



Abstract

In 1993 Colorado became the third state to adopt charter school legislation. Born out of frustration with lackluster school performance and limited options, the Charter Schools Act resulted from the hard work and dedication of many parents, educators, and political leaders. Careful and colorful recollections from many active, influential figures combine with other original sources to highlight the foundation and origins of the Act. Trails of ideas shared through conferences, private meetings, books, and other writings converged in an opportune moment as diverse supporters learned how to translate the concept of self-governing public schools into a winning political strategy. After the law passed, Colorado's new vehicle for educational choice and innovation took root, enduring and overcoming serious legal challenges to launch, expand, and strive for more equitable treatment.

Introduction

On June 3, 1993, Colorado Gov. Roy Romer signed into law the landmark Charter Schools Act. Colorado was the third state in the country to adopt legislation enabling the creation of charter schools. Charter schools are self-governing public schools that are usually organized by a combination of community members, parents, and/or teachers. The schools enjoy more autonomy than their traditional counterparts. Free of many school district regulations and state laws, they have control over staff decisions, curriculum, and budgets.

Twenty years after the Act was adopted, some in Colorado may find it easy to take the existence of charter schools for granted. From firsthand experience, others know better. They lived through the battles, still fresh in many minds. Support for charter schools grew from years of frustration with the traditional elementary and secondary public education

system. Many local school boards repeatedly ignored or refused to meet parental demands for more educational options. Indeed, the traditional system was not doing enough to provide most children a successful educational experience.

Trying to discern the origin of charter schools unfolds a compelling, if not always straightforward, tale. Minnesota's Joe Nathan and Ted Kolderie, education thought pioneers from the first state to embrace public school choice, made early contributions that were especially influential. All told, though, numerous trails merged together to give life to the concept in Colorado. Hard work and dedication transformed the charter idea into reality. Many parents, educators, and political leaders – too many names to mention – sacrificed their time, families, and resources because they believed in the possibility of improving public education. *On the Road of Innovation* only scratches the surface of their story.

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Laying a Foundation: The 1970s

Four decades ago, few Colorado school districts offered public education options other than alternative high schools. Yet, more than two decades before the Charter Schools Act's adoption, Jefferson County parents created unique public elementary schools.

Responding to the request of parents, in 1970 Jefferson County School District R-1 supported a school that offered self-directed learning focused on the whole child.¹ In other parts of the country, similar schools were being formed with the name "open schools." During this time, Jefferson County R-1 was building open-space schools, with classrooms undivided by permanent partitions. Not wanting to associate with the open-space philosophy, the parents chose Open Living School as the name.² The Open Living School's first campus was located in Arvada. Because of strong interest from the community several other campuses were opened, including in Evergreen.³ In 1973 the Jefferson County school board formally adopted a policy for alternative education programs.⁴

Parents and students wanted to continue the Open Living program through high school. District leaders told families that if they could enroll a particular number of students a high school would be added. When Mountain High School opened in 1975, Arnie Langberg left the Village School he

helped found in Great Neck, New York, to come serve as its first principal.⁵ During his first year, Mountain High School hosted an "Un-convention" of 270 alternative education supporters with a spaghetti dinner prepared by Langberg's wife and students, and a keynote presentation by progressive education writer Jonathan Kozol.⁶ The meeting quickly grew into the statewide non-profit group Colorado Options in Education.⁷

Other parents were also unhappy with the new wave of open classrooms, expressing concerns that students no longer were learning important educational basics. These parents wanted a stricter discipline code and greater academic rigor. Since Jefferson County had approved the Open Living School, some parents believed the district should also offer a fundamental program.⁸ The parents staked their claim on the district's 1973 alternative education policy as a vehicle to establish the new school.⁹

Beginning in 1974, the program focused on "fundamental learning skills and basic knowledge" at two campuses. After an additional campus opened, in 1978 all three merged into one campus called the Dennison Fundamental School. According to Dr. Lloyd Carlton, one of Dennison's early principals, some parents would set up camp overnight to ensure their children a better position on the school's waiting list. Serving kindergarten through sixth grade, the Dennison School today is located in Lakewood.¹⁰

In 1989, on a Lakewood campus two miles away, all the Open Living programs united to serve students pre-school through twelfth grade at the Jefferson County Open School.¹¹

Despite having educational philosophies on opposite sides of the spectrum, the two schools nonetheless both had long waiting lists. The district's refusal to replicate the schools inspired some Jefferson County citizens to support state efforts to adopt a charter school law.¹² Only after the charter school law's 1993 passage did parents have a new vehicle to establish and govern autonomous public schools. Schools similar to the Open Living School and Dennison Fundamental School were some of the first charters in Jefferson County.¹³

Restless Parents and Policymakers: The 1980s

The decade of the 1980s was a pivotal time for Colorado school choice. Many parents, concerned about the state of the public schools, sought out new educational options for their children. Some saw a revolution taking place. Early in the decade, a growing number of parents began to keep their children at home to educate.¹⁴ Citizen groups organized to stand up against emerging influences in the public schools that countered traditional Judeo-Christian values.¹⁵ Jefferson County had only one fundamental school with a long waiting list. The district refused to open another.¹⁶

Denver Public Schools opened Knight Fundamental School in 1982 (later renamed Hallett Fundamental Academy).¹⁷ Late in the decade, a group of Denver residents upset about the disappearance of the arts in Denver's schools undertook efforts that culminated in the 1991 opening of the Denver School of the Arts.¹⁸

Support for school vouchers also grew. Among the many who had given up hope for the public schools was former Jefferson County teacher and legislator Tom Tancredo, then serving as the U.S. Secretary of Education's Regional Representative. In the 1980s, Tancredo and former state senator Hugh Fowler made more than one unsuccessful attempt to put a state constitutional school voucher amendment on the ballot.¹⁹

Distressed parents' own observations were reinforced in 1983. U.S. Secretary of Education T.H. Bell sounded a national alarm upon the release of the National Commission on Excellence in Education's landmark report, *A Nation at Risk: the Imperative for Educational Reform*. In the Commission's words:

Our once unchallenged pre-eminence in commerce, industry, science and technological innovation is being overtaken by competitors throughout the world...the educational foundations of our society are presently being eroded by a rising tide of mediocrity that

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threatens our very future as a Nation and a people. What was unimaginable a generation ago has begun to occur—others are matching and surpassing our educational attainments.... If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves.²⁰

A State at Risk

Many state leaders heeded the warning. In 1985, the National Governors Association (NGA) hired Joe Nathan, a former inner-city teacher and administrator from Minnesota to coordinate a project known as "Time for Results." The project had seven task forces, chaired by governors. Colorado Gov. Richard Lamm (D) co-chaired the Parent Involvement and Choice Task Force.²¹

Lamm was one of the first governors to start challenging the established education system. In a 1985 speech, he said teachers had earned an "F" for how Colorado kids were doing. According to Barbara O'Brien, who then oversaw Governor Lamm's education policy and served as his speech writer, his ad-libbed remarks caused an "explosion." At Lamm's request, O'Brien and fellow policy staffer Marva Hammond organized a Decem-

ber 1985 task force meeting about public school choice in the Colorado State Capitol Building. The governor's office believed it may have been the first national public school choice meeting. O'Brien, pregnant at the time, was disappointed she could not attend the meeting as her baby arrived late. However, while organizing the conference, she became acquainted with Nathan, who became an important influence in Colorado's public school choice movement.²²

The following June, the National Governors Association's work on the seven task forces culminated in a conference in Hilton Head, South Carolina. The list of participants included U.S. Secretary of Education William Bennett and Marc Tucker, the Executive Director of the Carnegie Forum on Education and the Economy. Also taking part were governors who would have a lasting impact on American politics in the next decade, including Bill Clinton (Arkansas), Lamar Alexander (Tennessee), and John Ashcroft (Missouri). American Federation of Teachers president Albert Shanker also participated in the meeting.²³

During the first plenary session, Lamm spoke about the need for more public school choice:

You know, it is interesting that America is a land of choices. We have 100 breakfast cereals to choose from, 200 different makes of cars. But in this one

educational area—and for some very good reasons—we have not done a lot in choice. Some of these could be magnet schools, some of them could be alternative schools, and some of them could just be different options among the public schools.²⁴

When fellow Democrat Roy Romer replaced Lamm in office in 1987, O'Brien left government service to work for the University of Colorado Denver. She eventually became the executive director of the Colorado Children's Campaign and the state's lieutenant governor from 2007 to 2011.²⁵

Pushing for More Choice

As Romer took the helm, the push for greater education freedom heated up in Colorado. In 1987, Colorado families who chose to educate their own children at home fought for legal recognition. A bill sponsored by Rep. Bill Owens (R-Aurora) and Sen. Joe Winkler (R-Castle Rock) died in the House Education Committee. By 1988, Winkler, Sen. Al Meiklejohn (R-Arveda), and Rep. Dick Bond (D-Greeley) succeeded in passing important legislation that expanded homeschool freedoms. Governor Romer allowed Senate Bill 56 to become law without his signature.²⁶

While some families demanded the freedom to educate their children at home, Rep. Jeanne Faatz (R-Denver)

began thinking about helping public school children find appropriate educational surroundings. The House Education Committee chair believed that doing so did not necessarily take additional money, but might mean just matching a student with a teacher, school, or district that had similar philosophy and goals.²⁷

In 1988 Representative Faatz introduced a bill into the Colorado legislature that would have required intra-district and inter-district open enrollment. The bill died. That same year, Minnesota became the first state to pass inter-district enrollment.²⁸ Colorado did pass the Postsecondary Enrollment Options Act, however, allowing junior and senior high school students to take college courses paid by school district funding.²⁹

Colorado's small free market think tank also entered the fray, staking its growing influence on behalf of greater educational freedom. On June 17, 1988, the Independence Institute, co-founded three years earlier by John Andrews and David D'Evelyn, held a regional Western States Education Summit under the banner "Better Schools through Wider Choice." A hundred conferees attended from 13 states.³⁰ Speakers included Joe Nathan—a key architect of Minnesota's recently adopted open enrollment law—as well as Representative Faatz, Governor Romer, and the Brookings Institution's Dr. John Chubb. Assistant U.S. Secretary of Education Chester

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Finn delivered the keynote address.³¹ An open educational marketplace and the empowerment of teachers with flexibility to meet student needs were the meeting's main themes.³²

Five articles by nationally syndicated columnist Warren T. Brookes were combined into the Independence Institute's briefing document for the Summit, "Better Schools through Wider Choice: Market Discipline, Not Spending, Is the Key." One article, "Education Reform: Thatcher Leads the Way," highlighted three parts of British prime minister Margaret Thatcher's new Education Reform Act, which gave individual schools more freedom from central bureaucracy. (Senator Owens developed a strong interest in Thatcher's program to revamp British schools. In 1990, he had the opportunity to participate in a legislative exchange program. While visiting he requested to see some of the schools firsthand.³³)

The features of the Education Reform Act were ahead of their time. First, parents could send their children to any public school. Second, each school would be governed by its own board directly elected by the parents. The board would have control over curriculum, subject concentration areas, and hiring and firing of the school staff. They even could borrow money to expand school facilities. The third part of the reform was to send the funds directly to each school based on the number of students.³⁴

Romer stated during the summer 1988 conference that he was open to the idea of public school choice, to a limited degree. Faatz meanwhile announced she would introduce in the next legislative session another "schools of choice" bill that would allow students to enroll across district lines.³⁵ At the conclusion of the conference, a straw poll was taken to test the level of support for various types of school choice. Ninety percent of the attendees favored permitting teachers and parents to initiate new schools upon motion to the district.³⁶

The next year the Denver-based Gates Family Foundation (then known as the Gates Foundation) gave the Independence Institute \$10,000 for its Project on Educational Choice in Colorado.³⁷ Institute president John Andrews and his brother-in-law David D'Evelyn, education consultant and the Institute's former vice president, ran the project. D'Evelyn was an educator who had opened two college prep residential schools in California.³⁸

Andrews used Gates funds to co-publish and distribute to every member of the Colorado House of Representatives a copy of the new book *Public Schools by Choice*.³⁹ The collection of essays discussed open enrollment and various other public education options, including charter schools. Editor and contributor Joe Nathan headlined an Independence Institute event to brief state legislators.⁴⁰ However, even with all the efforts to educate lawmak-

ers, the Faatz open enrollment bill—also sponsored by Sen. Terry Considine—died again in 1989.⁴¹

“New Public Schools”

Considine and fellow Republican Senator Bill Owens were inspired by the concept of schools that provided parents and teachers with more control and freedom from district and state bureaucracy. During a special session in 1989, the two men spearheaded the School Renewal bill, with Rep. Paul Schauer (R-Littleton) taking the role of House sponsor. “Once we had established that homeschooling made sense,” Considine explained, “then the delivery through charter schools basically builds on those same principles: parental autonomy and measured outcomes.”⁴²

The School Renewal bill provided parents and teachers with the ability to petition a school board to reorganize an existing school or to establish a new school within the district. The leaders of these “new public schools”—a term used by the legislative sponsors—would have authority over school budget, composition of school faculty, selection of district-approved curriculum, promotion, and retention policies, and the organization of the school day and school facilities. Additionally, a newly-organized school could have a curricular focus such as mathematics, science, language, or vocational education. “New public schools” also could

limit the number of students per class and choose a location convenient for parents.⁴³

The proposed School Renewal bill died in the Senate Education Committee, chaired by Republican Senator Meiklejohn.⁴⁴ The senators returned to the same committee with two more unsuccessful attempts to pass the School Renewal bill, in 1990⁴⁵ and 1991.⁴⁶

Keystone and Beyond: Gates Family Foundation Steps Up

The 1983 *A Nation at Risk* report inspired Chuck Froelicher. The former Colorado Military Academy (renamed Colorado Academy) headmaster and Gates Family Foundation executive director obtained copies of the report for all the Foundation’s trustees and made the report an agenda item for the 1987 annual meeting. Seeing more competition among the public schools was important to Charles C. Gates, the Denver rubber magnate whose family fortune launched the Foundation in 1946.⁴⁷ With Gates’ blessing, Froelicher organized a conference to expose Colorado leaders to the alarms and challenges in the report, and to learn from experts who were actively engaged in improving the public education system. Froelicher spent an entire year researching whom to invite as speakers for the conference.⁴⁸

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bring together a critical mass of Colorado's leaders with the nation's leading experts on educational reform in order that the State's leaders can learn first-hand about the successful reforms presently under way throughout the United States so that they might, if they wish, act to institute such reforms as seem to be potentially productive, throughout the state of Colorado.⁴⁹

The conference, held September 20-23, was named "Public Education: A Shift in the Breeze." Nine national leaders in public education, representing various efforts at educational reform, spoke to 225 leaders of the Colorado legislature, educational establishment, and various business and private sectors.⁵⁰ Froelicher opened the conference by arguing that Colorado's education system needed to improve in order for the state's graduates to compete in a global marketplace. While Colorado had the most educated per capita adult population in the United States, he made an urgent case that the state's education system was failing to produce proficient readers, competent writers, and logical thinkers.⁵¹ Gates, the Foundation's chairman, then laid the foundation for why Colorado needed to seek educational reform. His family's multi-national company had to establish its own remedial school to

teach basic skills to many employees who held high school diplomas.⁵²

One of the most notable speakers, American Federation of Teachers president Albert Shanker, told the crowd:

Creating good models for education reform is not enough because the process of changing our schools will be very painful. And the only way you can get people to make the painful decisions that need to be made is to create a world in public education that is similar to the business world. Without incentives, without a system in which there are winners and losers, people aren't going to make the right decisions. We need a system in which people do the right thing because it is in their own interest to do the right thing.⁵³

Encouraging Colorado to adopt a system that would create competition among schools, Shanker also asserted, "Because each school will be trying different teaching methods, we can no longer compel parents to send their kids to a given school. In other words, give parents a choice."⁵⁴

The 225 educational, business, and governmental leaders in attendance helped contribute to 19 public policy recommendations. The greatest consensus emerged around early child-

hood education, stronger teacher education standards, and performance incentives for educators. Among attendees, 84 percent supported future focus on “self-governing schools.”⁵⁵

Though not as intended, the conference ended up having a profound impact on Colorado's chief executive. Gov. Roy Romer was supposed to attend the entire conference. However, because of other responsibilities, he only made it in time to deliver his own speech. As a result, his remarks appeared out of step with the other speakers. Market-based reforms were absent from his address, which Froelicher later described as the “worst single speech about education” he had heard.⁵⁶

During a subsequent meeting with six influential legislators, Froelicher used an old adage to compare Romer's speech to the South Platte River in eastern Colorado—“a mile wide and six inches deep, too wet to plow and too dirty to drink.” Froelicher overlooked that the Democratic minority leader was among the six lawmakers. Word of his harsh opinion quickly reached Romer, and Froelicher was called into the governor's office.⁵⁷

When Froelicher arrived, Romer was waiting there with his feet on a conference table chair, enjoying a bowl of breakfast cereal. Twice the governor asked, “Chuck, are you with me or against me?”⁵⁸ Froelicher was surprised by the question. The Republican Froelicher reminded the Democ-

ratic Romer that he had voted for him for governor. Froelicher chose not to respond in hostility to the questioning of his allegiance. Instead, he used the opportunity to challenge Romer to overcome his “terrible” speech. He strongly urged the governor to listen to the tapes of the other Keystone conference speakers in order to increase his understanding of new education policy reform ideas, including self-governing schools.⁵⁹

Romer responded to the challenge. About three to four weeks later, the governor called to invite Froelicher to attend his upcoming education policy speech at the Broadmoor Hotel in Colorado Springs. The new speech was vastly improved. Romer had listened to the recording of each Keystone conference speaker. To Froelicher, it sounded as if the governor had nearly memorized the other speakers' addresses. Romer later converted the same speech and delivered it as part of his State of the State Address in January 1990, and at the National Governor's Association as a Representative of the Education and Workforce Committee.⁶⁰ Thanks in part to Froelicher's challenge, Romer became a strong ally of the education reform movement.

The Gates Family Foundation's influence extended beyond the Keystone conference. According to Peter Huidekoper, Jr., program officer at the Foundation from 1990 to 1996, Froelicher gave trustees copies of the book

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Politics, Markets and America's Schools by John Chubb and Terry Moe. At their 1990 annual meeting, each trustee reported on a chapter of the book. Huidekoper remembers Chubb and Moe's book pivotally serving as a key source of ideas for the choice movement, especially identifying educational reform needed at the institutional level built around parent-student choice and school competition. The Gates Family Foundation later would provide key support to launching Colorado charter schools.⁶¹

Open Enrollment Adopted

Relentless, in 1990 Representative Faatz came back with a bill that required only intra-district open enrollment. Students' choice to cross district lines was taken off the table. Even so, the bill died in Meiklejohn's Senate Education Committee after passing the House.⁶² Through clever maneuvering, a conference committee tacked the intra-district open enrollment provision onto the 1990 School Finance Act, sponsored by the House majority leader, Rep. Chris Paulson (R-Englewood). Faatz gives Paulson a significant amount of credit for the breakthrough passage of public school choice.⁶³ Also included in the bill were four inter-district pilot programs in four different districts. (In 1994, a year after the Charter Schools Act was passed, Governor Romer signed Faatz's inter-district open enrollment bill into law.)⁶⁴

Colorado's open enrollment system helped to lay a foundation for Colorado charter school success. According to Jim Griffin, longtime president of the Colorado League of Charter Schools, the state's open enrollment law "proved to be an invaluable precursor to the charter act—not only in making school choice so much more accessible, but also in how it has changed the culture of choice and parent expectations around options for their kids."⁶⁵

Inspired by Minnesota

Minnesota in 1991 became the first state to pass a charter school law. Soon thereafter, in Easton, Pennsylvania, a Lehigh Valley school district began to design its own charter schools. District superintendent William Moloney—who in 1997 would become Colorado's commissioner of education—wrote a *Philadelphia Inquirer* column explaining how his district borrowed the idea from Minnesota.⁶⁶

During a special Colorado legislative session in September 1991, Senator Considine introduced a bill titled "State Chartered Public Schools." It was the state's first piece of education legislation that used the term "charter." The legislation authorized individuals to apply to the state board of education to establish a public school chartered by the state. Like the School Renewal bill in the two prior regular sessions, the legislation died in

Meiklejohn's Senate Education Committee.⁶⁷

About the same time, Arnie Langberg, the former principal of Jefferson County's Mountain High School who since had taken charge of Denver's High School Redirection alternative program, helped to begin building another important bridge from Minnesota to Colorado. During a visit to see his daughter at college in Minnesota, Langberg learned of the state's unique charter school law from a couple of old friends, fellow alternative school pioneer Wayne Jennings and Joe Nathan. Seeing the chief problem with the education system as a rigid governance structure that disempowered teachers and parents, he liked Minnesota's approach. Yet he also believed Governor Romer would look to do something more innovative than merely endorse a Colorado imitation. Langberg envisioned the creation of a new independent school district to facilitate new self-governing schools.⁶⁸

Langberg gathered as part of a "Gang of Six" at the Piton Foundation to discuss the idea of charter schools and what they might look like in Colorado. Included among those who joined Langberg and Foundation grant manager Elaine Berman were Barbara Volpe from the Public Education Coalition and Rexford Brown from the Education Commission of the States (ECS).⁶⁹

Ted Kolderie, who played an influential role in the design and adoption of

Minnesota's charter school law, had asked ECS and the National Conference of State Legislatures—both national organizations headquartered in Denver—to help promote charters to other states. But greater focus was close to home. Most of the people meeting at the Piton Foundation shared concerns about poor children being left behind in the Denver Public Schools (DPS). Chartering appeared to be a possible solution to help the city's neediest children achieve success and graduate from high school.⁷⁰ Berman sent a paper over to the Gates Family Foundation that discussed the charter concept.⁷¹

Piton grant manager Berman contacted Barbara O'Brien at the Colorado Children's Campaign to see if she would be interested in advocating for self-governing public schools. At the time, the Children's Campaign was studying the impact of the Colorado Preschool Program (CPP), a subsidized educational program for children in poverty. Though sophisticated data was lacking, the organization's staff recognized that children who had gone through CPP were not doing well once they had spent several years in elementary school.⁷²

O'Brien recognized that putting her support behind charter-like legislation likely would create hostility with many of her current allies. Thus, she took a careful approach. For one intensive year, the board of the Children's Campaign studied elementary and

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secondary education policy, and specifically ways to improve results for impoverished children. O'Brien concluded that no one knew what impact charter schools ultimately would have on education, but a strong consensus accepted that the current system was not working. Therefore, O'Brien agreed to have the Colorado Children's Campaign take the lead in the promotion of self-governing schools.⁷³

Meanwhile, Langberg had found a receptive audience when he took his independent school district idea to Rep. John James Irwin (R-Loveland). Though holding many different philosophical views, the two had developed a friendly relationship when in 1990 they served together on the Colorado Governor's Conference on Library and Information Services.⁷⁴ By 1992 Terry Considine had left the Colorado Senate to run against Ben Nighthorse Campbell for U.S. Senate.⁷⁵ Sen. Bill Owens, who remained in the legislature, readily agreed to team up with Irwin to sponsor House Bill 1299, designated “Independent Public School District.”⁷⁶

HB 1299 was the first Colorado “charter”-like bill to pass out of a legislative chamber. Irwin had won election to the state legislature in 1986⁷⁷ after a successful career at Eastman Kodak. Education was his passion. He served on the State Accountability Committee.⁷⁸ Irwin believed if the money would go directly to schools rather than through the district administra-

tion that principals would be empowered to purchase services (e.g., maintenance) at lower costs.⁷⁹ He also believed strongly in parental involvement in education.⁸⁰

Under the legislation proposed by Irwin and Owens, a majority vote of teachers and parents could free schools to apply to become members of the Independent School District and to enjoy the freedom to craft their own programs.⁸¹ Irwin recognized that schools would need to have “a good plan” for breaking away from school districts. However, Colorado Association of School Executives (CASE) lobbyist Phil Fox pointed to the logistical complications and suggested an easier approach would be to “elect a new [school] board.”⁸² HB 1299 also would have allowed new schools to join the independent district.⁸³

As the bill made its way through the legislature, the *Denver Post* expressed concerns that it “could shortchange [schools] both new and old,” undermine ongoing efforts to improve public schools “from within,” and burden the state board of education with extra oversight responsibilities.⁸⁴ O'Brien crafted a bold reply, writing in defense of HB 1299:

Member schools of the Independent Public School District will provide powerful models of diverse learning environments that can inspire other schools to action. Its existence will give hope and new energy

to educators and community members whose efforts at the school level meet with resistance at the central office level.⁸⁵

HB 1299 made it through the House but died, once again, in the Senate Education Committee.⁸⁶ A new strategy was needed to pass a bill that would allow for parents and teachers to create their own schools, free from the restraints of regulation.

Citizen Demand Grows

In the early 1990s, independent citizen groups had begun to organize across the state to encourage their school districts to offer more options. Then-state senator Bob Schaffer (R-Fort Collins) attended his twin daughters' kindergarten orientation in the summer of 1992. Schaffer asked an innocuous question: *Does the students' class have a syllabus?* He wanted to help teach his kids some of the material over the summer. His inquiry appeared to offend the teachers.⁸⁷

After the meeting, seven or eight other parents approached Schaffer. They assumed that given his elected position in the state legislature, he would be able to help improve the quality of their children's education. Schaffer invited the parents to come over that evening to his house. To his surprise, about 35 people showed up to discuss the problems in the school. Soon thereafter, Fort Collins urologist Dr. Randy Everett placed a local newspa-

per ad seeking fellow citizens who wanted to join a revolution in education. Schaffer's group met with Everett. Together they began to research alternative education programs.⁸⁸

Mary Ellen Sweeney, an educator and expert on schools of choice, learned of various groups supportive of choice, besides her own, emerging in Jefferson County. A group of about 20 interested citizens, known as the Option School Council was meeting with district assistant superintendent John Hefty to look at the possibility of opening additional option schools. The Jefferson County Open School and Dennison Fundamental both had long waiting lists. Sweeney and Arnie Langberg explored the possibility of creating another school that would serve students on the Open School's waiting list.⁸⁹ Barb and John Ziegler advocated for the creation of a school focused on science and technology.⁹⁰ Carolyn DeRaad was a member of the group; she wanted to see a school that offered a rigorous academic program.⁹¹

Marilyn Blackmon helped organize a Boulder community group called Parents and Schools, in 1991.⁹² A collection of Denverites looked into starting an urban school that could be housed in the Lower Downtown Tattered Cover Book Store. The group included former high school teacher and college professor Rexford Brown, and friends, architect David Tryba; Tattered Cover

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... a *Rocky Mountain* News editorial nudged Colorado to adopt charter schools.

owner Joyce Meskis; and Wynkoop Brewery owner John Hickenlooper.⁹³

Building Momentum

Colorado policymakers' efforts to advance charter-like reform attracted positive attention from the nation's capital. U.S. Secretary of Education Lamar Alexander recognized Colorado and six other states' consideration of a charter school law in an October 1992 letter. President George H.W. Bush had asked the nation to reinvent education, which included the creation of charter schools free of restrictive state and federal rules. Alexander noted Ted Kolderie's influence over the Minnesota plan that had passed in 1991. Gov. Pete Wilson had just signed California's charter law a month before the Secretary's letter. Alexander included summaries of both states' laws.⁹⁴

A few days after Alexander's letter, a *Rocky Mountain News* editorial nudged Colorado to adopt charter schools. Former Secretary of Education Bill Bennett was in town to support Amendment 7, the 1992 school voucher ballot initiative. Polls showed the measure would fail. However, charter schools would enjoy many of the freedoms of private schools while remaining public. The editorial referred to Gov. Bill Clinton's favorable mention of charter schools in the second presidential debate. Romer too was supportive. Quotes were included from Kolderie's 1990 Progressive Policy Institute article, observing the potential to improve

district public schools through competitive pressures. The editorial concluded, "It's a principle worth putting to the test."⁹⁵

At the same time David D'Evelyn, working for the Colorado Department of Education (CDE), was meeting regularly with Peter Huidekoper from the Gates Family Foundation to keep him informed about educational reforms taking place. In September 1992 D'Evelyn came to the Gates office and asked for \$10,000 to hold a December conference to focus on charter schools. By this time, Minnesota and California had both passed charter school laws. The Foundation's new executive director, Tom Stokes, was interested but needed to make the grant to a non-profit organization. D'Evelyn thought that Barbara O'Brien from the Children's Campaign would be interested in participating. O'Brien was quick to say, "What can I do?"⁹⁶

Charter school supporters now had a grant-making foundation supporting their passion for freeing parents and teachers to create new schools. With little time to plan, O'Brien and D'Evelyn organized the December 18 conference.⁹⁷ The two main speakers at the day-long meeting were Gary Hart, the Democratic state senator who sponsored California's charter bill (and shares the name of Colorado's former U.S. Senator), and Ted Kolderie, representing the Minnesota Center for Policy Studies.⁹⁸

Just days before the conference, tragedy struck. On December 10⁹⁹ Rep. John James Irwin had picked up a package from a shipping store. It was an item he had ordered for his mother and was going to take on an airplane to deliver in person. Suddenly, he collapsed in the parking lot. The family believes he died of a heart attack.¹⁰⁰ The charter school coalition was saddened by the loss of a legislative champion, but Irwin's untimely passing was particularly difficult on D'Evelyn.¹⁰¹

A month before the start of the next session, Owens and O'Brien needed to look for another legislator to serve as the House sponsor. O'Brien approached Aurora Democrat Peggy Kerns, who had voted for the 1992 Independent Public School District legislation and later had contacted the head of the Colorado Children's Campaign to offer her help for a 1993 bill.¹⁰² Kerns provided the legislation with the bipartisan backing needed to help it pass. Owens also favored Kerns sponsoring the legislation in the House. They were both from Aurora and had worked on other issues together.¹⁰³

Kerns became interested in helping with the charter school bill because of her experience with the Democratic Leadership Council (DLC), a non-profit organization that preached a centrist brand of Democratic politics. Through its association with the Progressive Policy Institute, the DLC pub-

lished the book *Mandate for Change*. Kerns read Kolderie's chapter on charter schools. Along with the fact that fellow Democratic lawmakers Ember Reichgott Junge and Gary Hart sponsored the charter laws in Minnesota and California, respectively, Kolderie's argument helped to influence her decision to sign on as House sponsor.¹⁰⁴ Based on her past year's experience, O'Brien warned Kerns, "Here are all the groups that are going to hate you. She had no idea of the buzz she was walking into."¹⁰⁵

Owens and Kerns both spoke at the December 18 meeting, "Charter Schools: Discovering What Will Work for Colorado."¹⁰⁶ David D'Evelyn and Barbara O'Brien welcomed the attendees to the University of Colorado Denver's Tivoli Center, both speaking passionately about charter schools.¹⁰⁷ Colorado Commissioner of Education Bill Randall also addressed the crowd. Ted Kolderie provided a national perspective. Discussing the charter movement was Richard Kraft, a University of Colorado Boulder education professor and former State Board of Education member who five years earlier authored an Independence Institute paper in support of public school choice.¹⁰⁸ A panel of five prospective charter school initiators shared with conference attendees their ideas for new schools.¹⁰⁹ (See **Appendix A** for meeting agenda.)

Bob Schaffer remembers the conference well. It was the first time he met

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Barbara O'Brien. He also was impressed by California Democratic state senator Gary Hart, who explained the compromises necessary to pass the charter bill in his state. "He was there to encourage us," Schaffer said. "He told us where all the sticking points would be with the opponents and to be prepared. He was right. It was good advice."¹¹⁰

Ted Kolderie recounts a panel exchange initiated by Jack Fenlon, a retiring Republican legislator who represented the school board association. Fenlon sat with two Denver Democrats, state representative Tony Hernandez and representative-elect Doug Friednash to share questions and concerns about charter schools:

Every time Jack Fenlon, the lobbyist for the [Colorado Association of School Boards], said how important it will be to guard against the risks of charter schools someone in the audience would ask loudly, "Existing schools, too?" Fenlon talked about the need to make sure kids succeed. "Existing schools, too?" He talked about the need to close down a school that did not work. "Existing schools too?" It was very effective.¹¹¹

Kolderie's conference notes state that there was a very broad coalition for a bill:

The turnout was larger than expected. Lots of people from alternative schools. The establishment organizations, which last session would not even come to meetings to discuss the idea, this year are asking for a seat at the table.... [Fenlon] asked the legislative sponsors at the meeting if they would convene all the 'interested parties' to work out a bill. They declined to do that. They said there would be an opportunity for input. Beyond that no promises.¹¹²

Hart and Kolderie stayed over the next day to have breakfast at the Brown Palace with Governor Romer and Bill Porter, the governor's education policy aide.¹¹³ Romer acknowledged that the present system "is not working," but wanted to understand the charter idea and its politics. Amendment 7, the school voucher initiative, and a one-cent sales tax increase to fund conventional reforms both had been defeated heavily the month before. At the same time, a constitutional amendment for limiting taxes and the growth of government, the Taxpayer's Bill of Rights (TABOR), had passed.¹¹⁴

Huidekoper believes the December one-day event played a crucial role in the passage of the charter school law. The conference brought together key individuals who met for the next couple months to craft the legislation.¹¹⁵ Since the event attracted many atten-

dees from alternative schools, it also helped to build a diverse coalition from various communities.

Making Charter Schools “Real”

A different approach would be needed than had been taken with the previous year's Independent Public School District legislation. O'Brien reflected that supporters had been naïve in 1992. She erroneously assumed many people would support the charter school legislation under the same notion she did, as a step in the right direction away from existing policy that was not working.¹¹⁶

O'Brien's earlier misconceptions led her to seek the guidance of a former colleague and friend, Democratic political strategist Jim Monaghan. It was Monaghan who suggested to O'Brien the eventual winning strategy: “Make charter schools as real as possible.” In order to ensure the charter school law's passage, he advised O'Brien to gather as many signatures as possible from parents disenfranchised with the current school system, parents who would be interested in starting a charter school.¹¹⁷

In order to execute Monaghan's strategy, O'Brien recognized that the Children's Campaign would have to evolve. Accustomed to being a leadership-oriented and research-oriented organization, the Children's Campaign needed to develop a grassroots system. At first, the organization's leaders were unsure of where to build this grass-

roots base. David D'Evelyn provided the connections to reach parents, particularly from Jefferson County. Mary Ellen Sweeney was helpful, too.¹¹⁸ The Colorado Association of the Deaf also actively supported charter legislation in hopes of starting a school that would use American Sign Language to instruct deaf children.¹¹⁹

Owens, Kerns, and O'Brien worked with the drafter to construct the legislation.¹²⁰ The Children's Campaign hired Shayne Madsen and former Senate President Fred Anderson as lobbyists.¹²¹ Owens decided to start the bill in the Senate to have the fight early on with the powerful committee chair Al Meiklejohn.¹²²

A well-respected moderate Republican, Meiklejohn was first elected to the Colorado Senate in 1976. Among his numerous accomplishments, Meiklejohn piloted bomber missions over Europe during World War II, and later served as president both of the Jefferson County School Board and of the Colorado Association of School Boards.¹²³ He took great pride in the Jefferson County School District, but also expressed awareness that sometimes students have different needs and not enough alternatives existed to meet the demand.¹²⁴

Owens took Meiklejohn to lunch at the University Club and asked, “Al, what's it going to take? I need your vote. What do you need to see in the bill?” The Senate Education Committee chairman wanted to limit charter

Owens took Meiklejohn to lunch at the University Club and asked, “Al, what's it going to take?”

school contracts to five years and only allow 50 schools statewide. Meiklejohn further expressed concerns about charter schools depriving funds from public school districts.¹²⁵

Meiklejohn requested background on public school choice programs in Colorado from the nonpartisan Legislative Council staff. Included in the memorandum was a recent Colorado Department of Education report to the General Assembly on public schools of choice. At the time, Colorado school districts only operated a total of six magnet schools.¹²⁶ In 1992-93 there also were 98 alternative schools in at least 48 districts designed to accommodate "at-risk or other special needs students...such as teen parent, dropout or adult-age high school students." As many as 134 of the 176 school districts allowed students from outside the district to enroll in district schools on a tuition-free basis.¹²⁷

Senate Education Committee Showdown

Senate Bill 183 was introduced and assigned to Meiklejohn's Committee. On February 4, Senator Owens explained the bill to committee members. He asked CDE analyst David D'Evelyn to help answer the committee's questions about property taxes related to school funding.¹²⁸

Testimony subsequently was spread over three hearings. The first witness Owens called to testify on February 10, Barbara O'Brien, explained how chil-

dren were leaving the Colorado Pre-school Program ready to succeed in elementary school, but then would "wilt on the vine" after a few years. The Children's Campaign had been persuaded that charter schools offered the most effective way to get parents more involved in their children's education and to get the community invested in students' success. O'Brien believed there had never been such a diverse coalition on any issue. The Children's Campaign had received calls from all over the state in support of SB 183. She said some had been working for years on alternatives and that five schools were in position to open under the charter model. Representatives from Jefferson County, Fort Collins, Denver, Mancos, and Crested Butte attended the hearing.¹²⁹

Sen. Regis Groff (D-Denver) asked if any minority groups were backing SB 183. O'Brien highlighted support for the 1992 bill from the Latin American Research and Service Agency (LARASA), under executive director Maria Guajardo. She said the next day LARASA was holding a meeting, and Guajardo planned to have the group start imagining what a school could be like if the community were able to create one.¹³⁰

Following O'Brien to the witness table was Royce Forsyth, the First Congressional District's representative on the State Board of Education. The Democratic official had held several positions in DPS and served as the former presi-

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dent of the Colorado AFT (American Federation of Teachers). Forsyth told the committee that the State Board of Education had passed a unanimous (7-0) resolution to support charter schools. He believed teachers and parents possessed an abundance of creative energies, and should be allowed to take the initiative to create schools and do their best.¹³¹ His reasoning followed Shanker's support for the charter school idea, first expressed years earlier.

Groff acknowledged his respect for Forsyth, his former boss as a DPS educator. The two men had a serious debate during the hearing. Groff was concerned that the bulk of students were going to be left right where they were, while only a select group would benefit from charters. He was unconvinced that education would improve generally.¹³²

The next witness Senator Owens called to testify was University of Colorado professor Richard Kraft, who had spoken at the December 18 conference. Kraft testified, "We have been unable within the public sector to get as wide a range of institutions, as I believe are necessary, to meet the needs particularly of high-risk young people."¹³³ He also made the important distinction that charter schools are a mechanism, not a specific philosophy or a specific approach.

Rexford Brown, who had attended the early meetings at the Piton Foundation, shared a national perspective on

charter schools. In his opinion, the Colorado bill was a timid step and would be strengthened if charter applicants were "freer to depart from traditional bureaucratic practices." Later he pointed out the value of a networking ingredient—a way for charter schools to link together so that they become a sort of school district in their own right.¹³⁴

Dr. Randy Everett of Fort Collins shared the story of the parents who had joined him the year before to start a revolution in education. Based on their research, the group decided to design their own school using the Core Knowledge Foundation's content-based curriculum. With broad support from the community they issued a proposal to the Poudre R-1 school board.¹³⁵

On the second day of testimony, Governor Romer made his case for SB 183. He and Senator Groff tangled over the value of charter schools. Romer declared, "I just feel strongly if we don't start experimenting we're going to lose this educational race....We are getting smothered by our bureaucracy in education, both nationally and (in the) state, and we need to free it up."¹³⁶ Besides charter schools, the governor was pushing for separate legislation that would require the state board of education to adopt academic content standards.¹³⁷

Kathy Saidy from the Colorado AFT testified:

On the second day of testimony, Governor Romer made his case for SB 183.

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...CFT believes that the concept of charter schools is one that offers hope for radically reforming our public schools. However, a proper balance must be struck between allowing greater flexibility in the operation of these schools and the assurance that all children will have the opportunity to attend and benefit and that the rights of those who choose to work at these model schools will be protected.¹³⁸

Some advocated for charter schools as a means to serve particular student populations. Jerry Moers of Denver, a deaf father of four deaf children, compared the struggles hearing impaired children face in mainstream education environments with the problems many girls experience in co-educational schools. Because many deaf children were not being served well by school interpreters, he testified, many would lose self-esteem and graduate from high school with an average reading level “between third and fourth grade.”¹³⁹

**Fighting through a Formidable
Coalition**

A formidable alliance coalesced against Senate Bill 183. The Colorado Education Association (CEA), Colorado Association of School Boards (CASB), Colorado Association of School Executives (CASE), and the Colorado Parent Teacher Association

(PTA) united to form the Coalition for Great Schools. CEA president Dan Morris spoke for the coalition to oppose the bill in its present form. Morris listed several fears about charter schools and said they would oppose a bill that did any of following:

- Could siphon money from the public system
- Reduce standards by allowing unlicensed or non-educators to run schools
- Could encourage elite enclaves of students and foster segregation
- Allow private and parochial schools to receive public dollars without changing their private or religious character

The Coalition for Great Schools wanted to see a bill that “benefits all students,” and believed such a bill was possible. Suggestions included a definition of charter schools that proscribed religious affiliation or charging tuition, required a comprehensive application, reduced the State Board of Education’s role in deciding appeals to only an advisory role, guaranteed teachers who leave to work in a charter could return to district employment, and capped the number of charter schools at 20.¹⁴⁰

On the fifth day of SB 183 hearings, the committee finally entered the amendment phase. The opposing Coalition

had crafted changes, including the following provisions:

- Charter schools may operate free from school district and state regulations and policies, pursuant to a contract between the school and school district;
- No more than 20 charter schools could open statewide prior to July 1, 1998, with two of the 20 slots reserved for schools designed to assist at-risk pupils;
- Local school boards would approve charter schools within their boundaries;
- Local districts may limit the number of charter schools, and would not be obligated to establish charter schools prior to 1994-95;
- An application must show evidence that a substantial number of parents, teachers, and/or students support its formation;
- An application must be reviewed by the district accountability committee prior to consideration by the local board;
- Applicants must provide evidence to show the curriculum is educationally sound; and

- The State Board of Education could provide only an advisory recommendation on appeal.¹⁴¹

Phil Fox, still representing CASE at the time, explains that the Coalition used the old lobbyist's saw, "If you can't kill the bill, screw it up as much as you can."¹⁴²

Senator Meiklejohn brought his own version of the bill to the committee. He took all the amendments home and made his own. He described it as a re-write but said he was flexible.¹⁴³ Committee members were given about six minutes to read all the amendments. Suggesting he and his colleagues first vote on Meiklejohn's overarching amendment, because it might include some of the other proposed changes, Groff moved the bill and the amendment. The committee proceeded to discuss the Meiklejohn "strike below." Senator Owens diplomatically explained five points in the amendment he wanted to see changed or strengthened.¹⁴⁴

The introduced bill gave charter school teachers the option to contribute to the Public Employees Retirement Association (PERA) or to the Denver Public Schools Retirement System (DPSRS). Districts or schools were not required to pay the employee contribution. Meiklejohn's amendment required charter schools to fully participate in one of the

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systems. Owens explained how both programs contained an expensive employer contribution, and that he would rather allow the schools to have a choice of retirement plans.¹⁴⁵

The limit on the number of charter schools was a contentious issue throughout the legislative session. The introduced version of SB 183 placed no restriction on the number of schools. In his “strike below,” Meiklejohn included the Coalition’s wishes to limit the number to 20. When the bill left the committee the statewide cap was increased to 48 schools—eight charters in each of the state’s six Congressional districts. At least two of the eight in each district must be reserved for applications designed to assist at-risk pupils.¹⁴⁶

In the April-May 1993 *CEA Journal* union leaders described their successes amending the bill in the Senate Education Committee:

The Coalition for Great Schools (CEA, CASE, PTA, and CASB) was successful in getting its proposal substituted for the original. The Senate Education Committee struck everything in SB 183 and replaced it with the Coalition’s alternative.

Since then, the Senate Education Committee has changed a few parts of the bill and sent it to Appropriations where it passed on April 8.¹⁴⁷

Bob Schaffer, a member of the Senate Education Committee, knew the bill wasn’t perfect. Supporters would compromise as needed to get it to the governor’s desk. Because of Romer’s support, Meiklejohn was forced to take SB 183 seriously and craft a version that would work. The Senate Education Committee chairman didn’t mind the appeal to the State Board of Education. Because of the state constitution’s provision for local “control of instruction,”¹⁴⁸ bill drafters had to use precise wording for the appeal process in order to ensure its constitutionality. Meiklejohn felt the language was constitutionally sound.¹⁴⁹

As the legislative process unfolded, Barbara O’Brien stayed in regular contact with Minnesota’s Ted Kolderie, who suggested amendments to meet various objections. O’Brien, D’Evelyn, Bill Porter, and Joy Fitzgerald, a consultant to the governor’s office, dissected Meiklejohn’s rewrite and dispatched memos to Owens with guidance for second reading amendments.¹⁵⁰ Republicans owned majorities in both the Senate and the House, but not all Republicans supported a break from the status quo. O’Brien felt it was helpful to have citizens involved and available to lobby their own legislators.¹⁵¹

Owens says the CEA threw every amendment at SB 183 during the long debate on the Senate floor. To this day, he believes the bill actually lost on second reading. Sen. Don Ament (R-Iliff),

leading the opposition, called for a standing vote rather than the standard voice vote. Owens is sure the chair miscounted: Either it was a tie, or he lost. On third and final reading, though, all his necessary 18 votes were present. Since the bill was going to pass, Owens guesses that the CEA lobbyists let some of their legislators free to vote for the bill so a No vote could not later be held against them.¹⁵² The Senate third reading tally on April 21 was: 25 yes, 8 no, 2 excused.¹⁵³

Battle in the House

The day SB 183 passed the Senate, the Independence Institute published the paper *Charter Schools: Mandate for Change* by David D'Evelyn and Boulder parent Marilyn Blackmon. The publication was a primer on a very timely education reform topic. Blackmon defended parental choice and described how charter schools would serve 13 interests, including raising standards and facilitating choice. While debunking some anti-charter myths, D'Evelyn explained how charter schools would be a lever for change, a relief valve, and an educational research and development lab.¹⁵⁴ The report made available more intellectual material for the battle in the Colorado House.

The version of the legislation that reached the House of Representatives was drastically different than the version originally introduced in the Senate. Coalition opponents had suc-

ceeded in including a limit on exemptions from rules and regulations to those agreed upon in the charter contract, and in requiring district accountability committee approval of charter applications. The compromise provision allowing no more than eight charters per Congressional district also remained. Two other key changes emerged from the Senate:

- The school and the district were to negotiate financial terms (in the introduced version, 98.5 percent of per-pupil operating revenue would follow the student to the school, with 1 percent staying in the district, and 0.5 percent staying with CDE)
- All charter employees were required to be members of the PERA retirement system, and schools had to contribute, taking away the choice afforded to both in the introduced version¹⁵⁵

Nevertheless, one of the most disturbing provisions to the Coalition for Great Schools remained in the bill. Upon appeal, the State Board of Education still would have authority to grant a charter. From the Coalition's perspective, this provision wrongly trumped local school board actions. The group protested in a memo to the House Education Committee: "The State Board doesn't have to live with its override decision; the local board does." The Coalition again offered an

Kerns sought to give parents and teachers more power to put together an educational program where more kids could excel.

amendment to change the role of the State Board to advisory, and warned of two amendments that failed in the Senate but might be attempted in the House.¹⁵⁶

Rep. Peggy Kerns faced the responsibility of navigating the legislation through the State House. Her role differed from the Senate sponsor's role. Owens, in order to pass the bill through the upper chamber, made numerous concessions. Out of respect for Meiklejohn, he also did not try to change the bill back to its introduced version on the Senate floor.¹⁵⁷ Kerns was free to take a bolder approach. She wanted "to shake up the system—for the kids." One of a group of rabble-rousing Democrats who supported innovation, Kerns sought to give parents and teachers more power to put together an educational program where more kids could excel.¹⁵⁸

Kerns, along with fellow Democrat Peggy Reeves, and Norma Anderson (R-Lakewood) and Vickie Agler (R-Littleton), amended the bill closer to its original form. For instance, Kerns was glad to have the charter cap removed.¹⁵⁹ Charter schools again were automatically exempted from standard laws, rules, and regulations, except those pertaining to health and safety, and civil rights. This provision became known as the "super waiver."¹⁶⁰ However, Kerns never meant to exempt teacher licensure or accreditation.¹⁶¹

The House also modified the appeal process, but was not persuaded by the

powerful education lobby to limit the State Board of Education to an advisory role. Instead, the State Board could remand the application back to a local school board for reconsideration or with instructions to grant the charter.¹⁶²

Rocky Mountain News reporter Fawn Germer described the intense events following the initial vote of approval from the House floor:

Immediately after SB 183 passed on second reading, lobbyists were contacting lawmakers, making it clear the bill was not acceptable.

By morning every member of the House had position papers on their desks from two mighty lobbies: the Colorado Education Association and the Colorado Association of School Boards.

"We ask for a No vote said the teachers."

"VOTE NO ON THE BILL," said the school boards.¹⁶³

In Germer's account, supporters of the bill started dropping off. Kerns went to "get the big gun." Romer met with the Democratic caucus, urging them to vote SB 183 off the floor so a compromise could be made in conference committee. "There is a movement now to kill the bill. I'm asking you now not to give up on it."¹⁶⁴ Earlier Romer had

**Kerns went to
"get the big
gun."**

spoken firmly with freshman Democrats, exerting his influence to counter the formidable opposition to SB 183. At another point, the governor went so far as to break protocol, accepting Kerns' invitation to rally Democratic support from the House floor.¹⁶⁵

The House version was close to Owens' introduced bill. Reluctant legislators faced a real risk. If the House adopted SB 183, Owens could convince the Senate to accept the House version rather than reject it and send it to a conference committee. Kerns delivered her most impassioned argument of the session, telling her peers to vote their conscience and not feel bound by their promises to vote for her bill. "I relieve you of those commitments because at this point, we need to do what each one feels is right," she said.¹⁶⁶

Opponents repeated their arguments against the bill. On the other side, assistant majority leader Jeanne Faatz and Judiciary Committee chairwoman Jeanne Adkins (R-Parker) were among a few influential Republicans who lined up beside Kerns. With one final plea, the House sponsor asked her peers to "give us a chance to correct some of the problems with the bill." SB 183 narrowly passed the House, garnering one more vote than needed. Five other Democrats joined Kerns with affirmative votes.¹⁶⁷

After the House approved the amended charter school bill, Kerns

recalls the ecstatic response of the Senate sponsor. "I still remember Bill Owens rushing over to the House," she said. "He was gleeful."¹⁶⁸ Together, Owens and Kerns had achieved their primary objective; they passed SB 183 through the Senate and were able to restore the bill close to its introduced version while in the House.¹⁶⁹ The next step was to iron out the differences between the two versions.

A Heated Conference

In conference committee, Owens let Kerns take the lead. During the first meeting, the House sponsor took what she described as a "verbal beating" from Meiklejohn. The Senate Education Committee chairman went on the attack, essentially wanting to know how Kerns could spearhead something like the charter school bill. Even Kerns' husband, a National Education Association (NEA) employee, was shocked by Meiklejohn's actions as he witnessed the display. (Both Kerns and her husband were wearing their Colorado Rockies shirts, ready to go watch a game against the National League champion Atlanta Braves at Mile High a month into the club's inaugural season.) Kerns' instinct was to fight back. However, Bill Owens consistently reminded her to "settle down" and "don't get upset."¹⁷⁰

Kerns eventually prevailed. After she explained to Meiklejohn the rationale behind the amendments passed in the

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ited the char-
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coalition
again.**

House, the veteran senator started to cool his demeanor.

During the same meeting, Governor Romer visited the committee to offer his thoughts. He had been working on a speech for the National Academy of Sciences. Mentioning the video games many kids of that day were playing, Romer shared ideas on how technology offered the potential to change the way people think about schooling:

We have ways we can break through to do education in a way that absolutely grabs first the motivation of kids, the interest of kids.... It's obvious that you can't bring technology into the classroom unless you restructure. Unless you restructure the way you organize the time and the way teachers train themselves. And you can't do either unless you know where you are trying to get to—standards.¹⁷¹

The governor praised the members of the conference committee for their hard work, providing specific superlatives regarding changes to the bill. Romer was not supportive of the “super waiver” adopted by the House. Rather, he favored the Senate version, which allowed schools to be exempt only from state regulations agreed upon in the negotiated contract. Romer liked the conference committee's decision to cap the number of charter schools at 50. He was pleased the conference committee preserved the State Board

of Education's authority to override local school board decisions on charter school establishment. But Romer also expressed concern that the State Board of Education should possess some oversight ability during the approval process, in order to avoid having a local school board take an action such as chartering the entire district.¹⁷²

Before the conference committee's second meeting Kerns' older brother had a heart attack, and she had to leave for Ohio. Another Peggy stepped up to fill her shoes. Rep. Peggy Reeves (D-Fort Collins) took the responsibility to lead SB 183 through the remaining conference committee meeting and through the House when the bill returned to both legislative bodies for final approval.¹⁷³

With the support of Republicans Vickie Agler and Norma Anderson, Reeves passed the charter school bill through the final House vote. Kerns praises both Agler and Anderson for putting policy above politics. Instead of fretting over the fact that a Democrat would receive credit for co-sponsoring the bill in the House, the Republican women did whatever they could to ensure SB 183 crossed the finish line.¹⁷⁴

The night before the session's last day, May 11, 1993, the House readopted Senate Bill 183 on a 41-23 count. An hour later, the Senate approved it, 23-11, and sent it on to the governor.¹⁷⁵ (See **Appendix B** for chart comparing different key versions of SB 183.)

Tragedy and Triumph

Unbelievably, tragedy visited the charter school coalition again. Mary Ellen Sweeney remembers that she had a May 25 meeting set with David D'Evelyn to discuss the school she sought to open, Community Involved Charter.¹⁷⁶ However, he postponed the meeting because he planned a trip to Durango with James Scamman, a former DPS superintendent who worked for the Colorado Department of Education (CDE) and was assigned to the southwest part of the state.¹⁷⁷ Both men went to Durango to discuss the new charter schools legislation with local school officials and community members interested in chartering. Scamman offered to fly them in his small airplane.¹⁷⁸

William Windler also worked for CDE and knew both men. He had been up in Scamman's plane when Denver International Airport was being built. Scamman and D'Evelyn flew out on the morning of May 25. D'Evelyn expressed reservations about flying back in the rough weather, but Scamman needed to get back to Denver for a meeting the following day.¹⁷⁹ About an hour after leaving Durango to return home, the single-engine Mooney 20 disappeared off radar near a band of thunderstorms. James Scamman and David D'Evelyn immediately perished when the small aircraft crashed in the Sangre de Cristo Mountains.¹⁸⁰

Later that night, a big windstorm came through Castle Rock. Concerned about his friends' safety, Windler could not go back to sleep. The next morning, May 26, while driving into Denver, he heard a news radio report on KOA that a plane was down. He knew right away it was Scamman's plane.¹⁸¹

Barbara O'Brien felt devastated on learning of D'Evelyn's death.¹⁸² As news of the two men's sudden passing broke, Rexford Brown offered an admiring tribute. "Both of them were clear, tough thinkers who really took a deep interest in education reform. Both were really strong risk-takers with respect to their ideas," he told the *Denver Post*.¹⁸³

Kay D'Evelyn LaMontagne, D'Evelyn's wife, remembers that after the legislature approved SB 183:

Dave came home totally jubilant about the fact that the bill had passed and I turned to him and said, "You would make a great lobbyist." Because I was so impressed with all the time and effort he had put into charter schools... particularly making connections with so many folks on either side of the bill. He looked at me totally surprised and said, "I could never fight for a cause just for money... I have to believe in what I am fighting for." That really was Dave.¹⁸⁴

**"I could never fight for a cause just for money... I have to believe in what I am fighting for."
— David D'Evelyn**

The contributions D'Evelyn could have made undoubtedly were missed during this transitional period.

About a week later, on June 3, 1993, Gov. Roy Romer signed SB 183 into law.¹⁸⁵ No doubt, strategic teamwork and Romer's support gave Colorado the strong charter school law, allowing teachers and parents statewide the freedom to be innovative without burdensome bureaucratic restraints.

The final version of the bill included the following provisions:

- State Board of Education authority, on a second appeal, to remand a final decision to a local board with instructions to approve the application, renew the charter contract, or keep the school open
- A cap of 50 schools with 13 reserved for applicants who serve at-risk students
- Per contract with school district, the release of charter schools from school district policies and state regulations
- No less than 80 percent of the district's per-pupil operating revenue for charter schools
- Requirement that charter school employees be members of PERA or the DPS retirement system¹⁸⁶

Shortly after the adoption of Colorado's Charter Schools Act, the commissioner and State Board of Education created the Charter Schools Project Team to assist with implementing

the Act. The team consisted of several individuals from CDE who were trained to provide information about the new law and to answer questions about program areas such as accountability and special education.¹⁸⁷ The contributions D'Evelyn could have made undoubtedly were missed during this transitional period.

By the beginning of July, CDE had fielded over 500 calls inquiring about charter schools.¹⁸⁸ Barbara O'Brien also received calls from all over the state.¹⁸⁹ The Gates Family Foundation granted the Children's Campaign \$36,000 to support the initial steps of charter school development.¹⁹⁰

Empowered Parents

After the law had passed with a strong provision for appeals to the State Board of Education, school districts began to pay more attention to parents who wanted options. Barbara O'Brien told *Denver Post* reporter Janet Bingham, "The legislation caused a balance of power to tip just enough that school boards now have the incentive to be responsive."¹⁹¹

Dr. Randy Everett's organized band of parent activists from Fort Collins, including Sen. Bob Schaffer and his wife Maureen, finally received approval from Poudre R-1 for the Washington Core Knowledge Elementary School to become a school of choice. After months of resistance, the proposal was approved the same week the Charter Schools Act passed.¹⁹²

Though Washington Core Knowledge was not a charter school when it opened, its leaders later used the new law to free the school from a district that had become intrusive. Poudre R-1 notified the school that the two-year pilot program was over and that the district would start to determine the faculty, then fired two of Washington's instructors and replaced them with "tenure excess" teachers. After a two-year battle with the district that included appeals to the State Board of Education, as well as a lawsuit filed against the State Board and parents, the Liberty Common School opened in 1997 with Dr. Kathryn Knox as the first headmaster.¹⁹³

The state's largest school district also reacted to the passage of the law. Jefferson County's school board finally agreed to expand the World Class Leadership program offered at Bear Creek Elementary. Bear Creek parents and principal Dr. Molly Doll previously had sought the expansion but encountered resistance from district leaders.¹⁹⁴

Charter Schools Take Root

Two charter schools opened in the fall of 1993. By December of the same year, various groups of parents, teachers, and community leaders had met in Aspen, Aurora, Boulder, Center, Cherry Creek, Colorado Springs, Conifer, Crested Butte, Delta/Paonia, Denver, Durango, Lakewood, Littleton, Longmont, Northglenn, Pueblo

and Vail/Eagle Valley to map out their own programs.¹⁹⁵ Twelve more charter schools opened in 1994.¹⁹⁶

The first charter school opened in Colorado on September 10, 1993, serving 70 students between grades 6 and 8. The Connect School, based out of Pueblo County Rural District 70, was initiated by science and technology teacher John Mikulas and his wife Judy to be a school without walls. The first day of class was held in a Pueblo public library. The second day students and teachers gathered in an art center, and the third day began nature studies by the banks of the Fountain River. The Connect School used a renovated warehouse as a central gathering place before they went on excursions. Forests, museums, parks, and a real-life archaeological dig all served as means for student learning in place of the traditional classroom.¹⁹⁷

Pueblo 70 superintendent Mike Johnson and the board of education were supportive of the school. Mikulas also had backing from a group of parents.¹⁹⁸ District 70 school board vice president Bill Bolt explained that many in the district had been thinking about this type of school for a long time, and the charter school legislation provided a vehicle to get it done.¹⁹⁹

A few weeks after Connect opened, on September 29, 1993, Academy Charter School (ACS) in Castle Rock became Colorado's first totally parent-initiated charter school. The school opened in a former Sears department store. Unlike

Two charter schools opened in the fall of 1993.

**Colorado
Commissioner of Education
William
Randall demonstrated
support for
charter
schools.**

Connect, ACS parents had to work until midnight, hours before the first day of school began. They built walls, erected chalkboards, and arranged desks for the 119 students.²⁰⁰ The school focused on “structured academics and individual instruction,” based on the Core Knowledge guidelines of E.D. Hirsch’s *Cultural Literacy: What Every American Needs to Know*.²⁰¹ The school’s chief organizers were mothers Joan Torres—who gave up her paid executive position eventually to serve as dean of the school when it opened—and Laurel Iakovakis.²⁰² Meanwhile, the president of the school’s governing board was Melinda Windler, the wife of CDE staffer William Windler.²⁰³

Colorado Commissioner of Education William Randall demonstrated support for charter schools. While the Senate Bill 183 was passing through the legislature, William Windler attended meetings in Minnesota in which 10 to 12 individuals sat around a small hotel table to brainstorm the administration of charter schools. Joe Nathan and Ted Kolderie were both present, and Rexford Brown attended some of the meetings.²⁰⁴

Windler managed both to play a key role in determining how Colorado would administer charter schools and in planning the Academy Charter School. However, this dual role would eventually cause him some conflict. For a short period, Windler’s supervisor, Assistant Commissioner of Education Art Ellis, gave him an ultimatum

either to stop working on charter schools at CDE or to stop working on the creation of ACS. Luckily for Windler, after remaining persistent in the face of adversity, Ellis eventually relented. Later, Ellis said he was pleased with the interest in charter schools. He saw that the legislation had opened the door for a lot of people who were frustrated.²⁰⁶

Nearly 20 years later, both the Connect School and the Academy Charter School remain in operation.

A League is Born

One day in 1993, Mary Ellen Sweeney and Rexford Brown were playing a round of golf at the Park Hill Golf Course. Sweeney remembers being at the 17th Hole when they decided, since the Colorado Department of Education was limited to an advisory role, to help launch an organization to provide more support to charter schools.²⁰⁷ Their efforts attracted a young law student.

Jim Griffin’s interest in Colorado’s charter school movement started in 1991 as a first-year law student at the University of Denver. At the time, Griffin had a keen interest in education policy issues and was well aware of when Minnesota passed the nation’s first charter law. Griffin continued to follow the passage of Colorado’s Charter Schools Act. By January 1994, he started to research the implementation of the Act as a topic for a law review article or similar academic piece.²⁰⁸

Griffin's interest led him to a Sunday newspaper article highlighting the struggle to create some of Colorado's first charter schools. The story noted 13 charter proposals seeking approval from Denver Public Schools, and eight proposals in Jefferson County. "I would hope that we pick a few because I strongly believe in charter schools. But as a school board, we need to make sure the schools we do adopt are successful," Jefferson County board member Terri Rayburn told the *Rocky Mountain News*. Republican State Board chair Patricia Hayes sounded a similar theme in the article. "I'm hoping that we don't have a lot of appeals....If we're getting a lot of appeals, something is wrong," she said. Below the article was a listing for a Colorado League of Charter Schools' meeting at the Colorado Convention Center.²⁰⁹

Griffin attended the Colorado League of Charter Schools meeting without knowing a soul in the room. At the end of the meeting, led by Sweeney, the young man stood up to introduce himself as a law student researching Colorado charter schools. Griffin hoped to interview attendees about their involvement with the charter movement, and "in exchange" to offer them potential assistance. Sweeney suggested that Griffin pass out his phone number, to which he gladly obliged.²¹⁰

Little did Griffin know that his offer to help would turn into an extensive

commitment. He soon started receiving numerous phone calls asking for his assistance in establishing charter schools. As Griffin continued to attend League meetings, his amount of responsibilities started to increase. By the time Griffin graduated from law school, the League offered him the title and responsibility of executive director. The position initially was unpaid. However, aware of the Gates Family Foundation's keen interest in charter schools, Griffin and Mary Ellen Sweeney successfully applied for and received a three-year, \$100,000 grant in December 1994.²¹¹

The League's office was first housed in the Community Involved Charter, the school Sweeney opened to help meet the needs of families on the long waiting list at the Jefferson County Open School.²¹²

Making Their Cases

The Colorado League of Charter Schools formed in 1994 just as many charter applications were being rejected by local school districts.²¹³ Significantly, Arvada parents Barry Arrington and Denise Mund, with the help of their friend Tom McMillen, set out to establish Jefferson Academy Charter School in the northern part of Jefferson County. Both Mund and Arrington agreed to create a Core Knowledge school after reading a *Rocky Mountain News* article about E.D. Hirsch's *Cultural Literacy*. Initially, the Jefferson County school

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**The quality of
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Academy's
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quickly
became
known.**

board resisted the idea of a Core Knowledge school, arguing that it was an experimental curriculum, even though both Mund and Arrington provided evidence from Manhattan and Fair Oaks, Florida, where the program was used successfully.²¹⁴

As a result, the Jefferson County school board rejected the Jefferson Academy application. Arrington and Mund appealed to the Colorado State Board of Education, where Arrington successfully argued the appeal as the school's attorney. After the State Board remanded Jefferson Academy back to the local board, the district approved the school. Mike Munier became the first principal.²¹⁵

According to Griffin, Jefferson Academy represented the first strong charter appeal to the State Board of Education in which it was apparent the proposal had been very well constructed. At the time Jefferson County R-1, along with numerous other school districts across the state, essentially viewed charter schools as groups of parents unaware of what they were doing. Mund and Arrington, however, challenged the myth and set a precedent for charter schools when the State Board unanimously upheld its appeal.²¹⁶ The State Board delivered the message that local school districts lacked the right to deny well-written charters.²¹⁷

The quality of Jefferson Academy's charter quickly became known. Keith King, one of the co-founders of the

Cheyenne Mountain Charter Academy in Colorado Springs, repeatedly asked a busy Mund for a copy of the application. In addition to other minor changes, King simply substituted the name of his school for "Jefferson Academy" throughout the document, and submitted it to the authorizing school board.²¹⁸ King went on to serve multiple terms in the state legislature, where he earned a reputation as a K-12 education expert and charter advocate. For her part Mund was hired by CDE, where she oversaw charters at the Schools of Choice Unit from 1999 to 2011. Her principled leadership and careful guidance in matters of governance and oversight played a crucial role in fostering the development and growth of high-quality charter schools in Colorado.

Also in 1994, the neighboring Adams 12 School District gave conditional approval to the application for the Academy of Charter Schools in Westminster (distinct from the Academy Charter School in Castle Rock). Finding the tight deadlines and other requirements too stringent, organizers appealed Adams 12's decision.²¹⁹ The State Board instructed the district to approve the charter. Soon after the school opened, the district began the charter revocation process.²²⁰ The first principal resigned shortly after school started, and Kin Griffith took over as Academy business manager and principal, under district supervision. He had helped the founders of the Westminster school put together a business plan, and

knew it could have its charter revoked when he took the position.²²¹

Griffin considered Adams 12's position to be based essentially on "gotcha issues." The League of Charter Schools leader also became Academy's attorney after passing the bar in 1994. By the end of the year, Griffin argued for the school in front of the State Board of Education. The State Board voted unanimously against the district's revocation of the charter, stating that districts lacked the right to close a charter school for petty reasons.²²² State Board member John Evans told *Rocky Mountain News* reporter Berny Morson, "We had to send a strong message to the rest of the state that charter school revocation should not be taken lightly."²²³

Despite winning the first legal case he argued, Griffin did not have a smooth start to the proceedings. He remembers Chairwoman Patricia Hayes telling him that the first sentence to his legal argument was inappropriate. Griffin attempted to quote an Adams 12 school board member's revealing justification for the revocation decision: "We don't need a reason, we're the board."²²⁴ Frustrated by serious claims that Adams 12 violated the charter contract, the Academy of Charter Schools finally ended up securing the right to sue the district in a September 2001 Colorado Supreme Court ruling.²²⁵

Ultimately, the State Board's decisions on behalf of Jefferson Academy and the Academy of Charter Schools strengthened charters' position. Griffin believes the State Board made a powerful statement that dedicated citizens have the right to start and operate public schools. The joint precedent asserted the legitimacy of self-governing independent schools in Colorado. Henceforth, districts needed justifiable reasons for challenging both the application and operation of individual charter schools.²²⁶

Griffin also makes the case that charter schools had a major impact on the State Board itself, by exposing the elected constitutional body to controversial issues on more than a passing basis. Before, the State Board was mostly an honorary organization that might occasionally see controversy over the firing of a teacher.²²⁷ The Charter Schools Act helped change the State Board's influence over public school choice.

The two 1994 cases were not the only key legal challenges in the early history of Colorado charter schools. In December 1993 Denver middle school teacher Cordia Booth and a group of citizens applied to Denver Public Schools (DPS) for a charter to form Thurgood Marshall Charter Middle School. They proposed a core DPS curriculum, but delivered in a nontraditional manner. Four or five teachers would be assigned to "teams" of approximately 72 students each. Students

The Charter Schools Act helped change the State Board's influence over public school choice.

One of the biggest innovative breakthroughs to bolster the charter movement was the 2004 establishment of the Charter School Institute (CSI).

would learn in integrated “blocks” according to their needs. In February 1994, DPS denied the charter.²²⁸

The applicants were turned down twice by DPS, and twice successfully appealed to the State Board of Education. On the second appeal DPS was ordered to approve the charter. Negotiations subsequently failed, and the district refused to approve the application. DPS held to the belief that the law was unconstitutional because it gave the State Board authority to overrule a local board's decision.²²⁹

To force the district to comply with the State Board's order, the Thurgood Marshall applicants sued DPS. The lower court ruled in favor of the applicants and the State Board. DPS challenged the ruling and prevailed in the Court of Appeals. The Colorado Supreme Court took the case. Chief Justice Mary Mullarkey delivered the 1999 opinion, unanimously upholding the State Board's power to order local school boards to approve a charter. According to Griffin, the ruling delivered another key message to local school districts and helped to shift the balance of power further toward charter schools.²³⁰

The struggle for public school choice and innovation was not isolated to Colorado's more heavily populated centers. The tiny town of Crestone, with a view of the mountain where Scamman's plane crashed in 1993, became the site of what Griffin describes as Colorado's “most combative char-

ter / district arrangement” in the two decades since the state law passed.²³¹ In 1994 parents in the Saguache County community (“12 miles and half a world away educationally from their district,” Griffin says) began working to develop a K-12 expeditionary learning school. Over the course of several years, they won three State Board appeals and a court case before successfully recalling opponents on the local Moffat Board of Education to achieve final victory – and peace.²³²

Charter Schools Mature

While the Colorado League of Charter Schools and its members achieved many early successes, plenty of room for growth remained. Griffin explains how Colorado charter schools matured through a trial-by-error process. Concepts like organizing the business office, resolving potential conflicts of interest with family members starting a school together, and using the school district instead of private firms for transportation and food service needs had to be established and developed.²³³ The Daniels Fund and Walton Family Foundation, non-profit granting organizations, both “provided much-needed funding and energy” during crucial periods.²³⁴

One of the biggest innovative breakthroughs to bolster the charter movement was the 2004 establishment of the Charter School Institute (CSI). As Griffin states, after many years supporting charter schools during the appeal proc-

ess against the local school board, it became essential for the State to have its own authorizing body. Initial legislative attempts to create an alternative authorizer did not succeed.

In the early 2000s, a case involving the Steamboat Springs School District and a Montessori school set the stage for change. The mountain community's school board originally denied the charter. Two appeals secured a unanimous 2003 State Board vote ordering Steamboat Springs School District to open the school. Yet the district still refused. As a result, the following year, the League helped pass legislation to create the Charter School Institute. In 2009 CSI's authorizing power prevailed in the Colorado courts, following a constitutional challenge from local school district plaintiffs led by Boulder Valley.²³⁵

Jim Griffin stepped down from his position directing the League in May 2013 to focus on assisting similar charter school support organizations nationwide.²³⁶ In 20 years, the number of states with charters has grown from three to 42 (plus the District of Columbia). Two respected organizations separately rank Colorado's charter school law in the top 10 nationally for producing a policy environment that promotes autonomy and excellence.²³⁷ Griffin's contributions to Colorado's own enduring charter school legacy through many pioneering activities scarcely can be measured. Among other accomplishments, "he has

helped launch various first of their kind efforts in areas such as legal advocacy, facilities financing, ...group purchasing, food service and more."²³⁸

Nearing its 20th year in existence, the Colorado League of Charter Schools continues to flourish. Members of the League staff, now nearly 20 strong, developed the Colorado Growth Model now used by the state to measure academic performance of all public schools. The landscape of educators and parents they represent is much larger than two decades ago. What began with only two schools and a couple hundred students in 1993 since has mushroomed into 187 charter school campuses and nearly 89,000 students, educating nearly 11 percent of Colorado's public school enrollment.²³⁹

Conclusion

Improvements have been made to Colorado's Charter Schools Act since Governor Romer signed it into law on June 3, 1993. Two years later, one of the bill's original sponsors, Rep. Peggy Kerns, along with State Board Chairwoman Patricia Hayes, convened a special ad hoc committee to review the law and the early progress of charters. The committee recommended a number of legislative amendments, including more equitable funding arrangements and the elimination of the statewide cap on the number of charters.

By 1998 the statewide cap was removed, never since to return. The following year, shortly after he suc-

Two respected organizations ... rank Colorado's charter school law in the top 10 nationally...

Denver Public Schools made a conscious effort to embrace the growth of charter schools.

ceeded Romer to the state's chief executive office, Bill Owens, the Act's other original sponsor, signed legislation that guaranteed charter schools at least 95 percent of per-pupil revenue. Additional changes in future years have focused on further funding equity and, eventually, promoting high-quality standards for charters and their authorizers. As the millennium drew to a close, charter schools had become established across the Colorado landscape and prepared to break into the educational mainstream.

The change was especially evident in the state's capital and largest city. In the decade following the Colorado Supreme Court's 1999 *Booth* decision, leaders of Denver Public Schools made a conscious effort to embrace the growth of charter schools. Charter networks including KIPP Schools (starting with Sunshine Peak Academy), West Denver Prep (now known as STRIVE Prep), and Denver School of Science and Technology all have distinguished themselves in serving challenging student populations.

Meanwhile, fitting honors came to two of the state's influential charter pioneers whose tragic deaths preceded the Charter Schools Act's final passage. In his final year Rep. John James Irwin sponsored not only the precursor to the Act, but also the Excellent Schools Program. Thanks to a 1999 bill carried by Rep. Keith King, the formal recognition created by the Program now is adorned with his name. Since

2000 the John James Irwin Schools of Excellence Award has honored many high-achieving traditional and charter schools alike.

A recipient each year of the Irwin Award has been the D'Evelyn Junior/Senior High School. The school was organized by Jefferson County parents, including Carolyn DeRaad and Kathy Pitzer, and named after the late Independence Institute co-founder and CDE reform leader David D'Evelyn. Despite the highly influential role the school's namesake played in the passage of the Charter Schools Act, in 1994 Jefferson County R-1 denied the parents a charter but instead approved it as a district option school. Founded two decades earlier by parents who helped to lay the charter foundation, the Dennison School feeds into D'Evelyn—whose students perennially rank at or near the top of the state's ACT test-takers.

Twenty years ago, a diverse and bipartisan coalition came together to support public school choice and innovation. The alliance trusted that community members, parents, and teachers could be qualified to establish and manage public schools. What prevailed in 1993, and has grown and thrived since, provides a pristine example of how diverse players in the Colorado education policy arena uniquely, and successfully, work together on groundbreaking changes. As a result, Colorado is ahead of most other states on school reform issues.

Public charter schools are not ends in themselves. Nor are the choices they enable, or the creative ideas they foster. The state's 1993 Charter Schools Act broke through a barrier and allowed education visionaries and other champions the chance to try, to fail, and often to excel. Over time the

growing breach has accommodated more students and families who seek a more suitable approach to learn. The past 20 years on the road of innovation have provided paths to success many young Coloradans might not otherwise have known.

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Acknowledgments

Special thanks to each person who generously shared their time, their memories, and in some cases articles and other effects, to help tell this important story: John Andrews; Bill Bethke; Rexford Brown; Dr. Lloyd Carlton; Terry Considine; Jeanne Faatz; Hugh Fowler; Phil Fox; Charles Froelicher; Jim Griffin; Kin Griffith; Peter Huidekoper; John C. Irwin and Elizabeth Miller (children of the late Rep. John James Irwin); Peggy Kerns; Keith King; Dr. Kathryn Knox; Ted Kolderie; Kay D'Evelyn LaMontagne (widow of the late David D'Evelyn); Arnold Langberg; Shayne Madsen; Karen Mather; Cliff Moers; former Commissioner of Education Dr. William Moloney; Denise Mund; Joe Nathan; former Lt. Gov. Barbara O'Brien; former Gov. Bill Owens; The Hon. Bob Schaffer; Dr. Mary Ellen Sweeney; The Hon. Tom Tancredo; and William Windler.

Dedicated to the memory of charter school pioneers Rep. John James Irwin and David D'Evelyn, who didn't live to see the dream fulfilled; and to Jim Monaghan, who passed away shortly before publication. It was he who suggested to Barbara O'Brien what proved to be a winning political strategy: "Make charter schools as real as possible." We hope in some small way this paper has helped to do the same.

Appendix A

CHARTER SCHOOLS: DISCOVERING WHAT WILL WORK FOR COLORADO FRIDAY, DECEMBER 18, 1992

Colorado Children's Campaign	Lead Sponsors	Colorado Department of Education
	Gates Foundation	
United States Department of Education	Supporters	Colorado Association of Commerce and Industry
Hosted by		
University of Colorado at Denver		

AGENDA

- 8:00 Registration and coffee/juice/rolls**
- 8:30 Welcome--And Why are We Here?**
 Dave D'Evelyn and Barbara O'Brien
A Few Words From the Host,
 Tom Bellamy, Dean, School of Education, University of Colorado at Denver
Why the State Department is interested in Charter Schools
 Bill Randall, Commissioner of Education
- 8:50 Where We've Been: An Overview of the Movement for Charter
 Schools in Colorado**
 Dick Kraft, University of Colorado, Boulder
- 9:05 What's Working in Other States: Charter Schools in Minnesota and Elsewhere**
 Ted Kolderie, Center for Policy Studies, St. Paul, MN
- 9:25 Questions and Answers for Ted Kolderie**
- 9:45 Do We Really Need This Much Change?**
 Les Franklin, Director, Governor's Job Training Office
- 10:00 How it Might Work in Colorado: A Panel of Prospective Charter School
 Initiators**
 Marilyn Blackmon, Boulder Valley Schools parent
 Molly Doll, Bear Creek Academy, Lakewood/metro area
 Will Jones, Charter School Without Walls, Mancos/Westminster
 Mary Ellen Sweeney, Community Involved School, Jeffco/Denver
 Tom Synnott, Colorado's Finest Alternative School, Englewood/metro area
- 10:50 Question and Answers for Panel**

- 11:20 What We Don't Know: Questions and Concerns**
Jack Fenlon, Colorado Association of School Boards
Doug Friednash, State Representative, Denver
Tony Hernandez, State Representative, Denver
- 11:45 Questions and Answers/Responses to the Panel**
- 12:05 Working Lunch**
- 12:30 Where is California going with Charter Schools?**
California State Senator Gary Hart
- 12:50 Legislative Status Report: Where Might Colorado Go with Charter Schools?**
Bill Owens, State Senator, Aurora
Peggy Kerns, State Representative, Aurora
- 1:10 Questions and Answers for Legislators**
- 1:30 Break--Move to Workshop/Breakout Sessions**
- 1:45 The Devil is in the Details: Making Charter Schools Work**
Workshop/Breakout Sessions:
- 1) Sessions for prospective charter school groups to each meet as a group and with conference resource people to map out each group's action plan
 - 2) A session for those interested in forming a prospective charter school group
 - 3) A session for those interested in discussing the charter school legislative draft
- 3:00 Reporting from Workshop Sessions**
- 3:30 Questions and Answers About Workshop Sessions**
- 4:00 Wrap-Up**
- 4:15 Adjourn**

- Conference fee:** \$12.00, payable to Colorado Children's Campaign no later than the morning of the conference. This includes coffee, juice, and rolls in the morning, a box lunch, and pop and a snack in the afternoon.
- Location:** The Tivoli (now owned by Auraria) is at 900 Auraria Parkway, just east of I-25. Enter from the west, and take the escalators to the third floor.
- Parking:** Available for \$2.00 in the covered parking structure just west of the Tivoli.

Appendix B
Comparison of Charter School Proposals: S.B. 93-183 as Introduced, Reengrossed, Rerevised, and Enacted*

<i>Issue</i>	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Rerevised version of S.B. 93-183</i>	<i>Enacted</i>
GENERAL PROVISIONS:				
Length of charter	up to 5 years	up to 5 years	up to 5 years	up to 5 years
Legal autonomy	exempt from laws and rules governing school districts	contract reflects all requests for release from state regulations. Charter school and local board jointly request release	exempt from laws, rules, and regulations governing schools and school districts except those pertaining to health and safety and civil rights	contract reflects all requests for release from state regulations. Charter school and local board jointly request release
Number of schools allowed in state	not restricted	no more than 8 charters per congressional district (total of 48 schools) and at least 2 of the 8 in each district must be reserved for charter school applications designed to assist at-risk pupils	not restricted	no more than 50 charters shall be granted prior to 1997, and at least 13 shall be reserved for charter school applications designed to assist at-risk pupils
Number of schools allowed per school district	not restricted	limited by number per congressional district. Local district may limit the number of charter schools in a district	not restricted	restricted by statewide limits
Tuition	cannot charge tuition	cannot charge tuition	cannot charge tuition	cannot charge tuition
Those who can submit an application to start a school	one or more persons, groups, or organizations may submit application; application must reflect the degree of interest and support necessary to sustain a charter school; may include a petition signed by supporters	not specified, but application must show adequate number of parents, teachers, pupils, or combination thereof, support the formation of a charter school. Must also include a statement of the need for the school and demonstrate that the need is not being met by the school district	not specified, but application must show evidence that an adequate number of parents, teachers, pupils, or combination thereof, support the formation of a charter school. Must also include a statement of the need for a school in the school district or geographic area within the school district	not specified, but application must show evidence that an adequate number of parents, teachers, pupils, or combination thereof, support the formation of a charter school. Must also include a statement of the need for a school in the school district or geographic area within the school district

<i>Issue</i>	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Rerevised version of S.B. 93-183</i>	<i>Enacted</i>
Authority charged with approving applications to start a school	local school board where school will be located or state board on appeal	local school board where school will be located. Application must be reviewed by the district accountability committee prior to consideration by the local board	local school board where school will be located. Application must be reviewed by the district accountability committee prior to consideration by the local board	local school board where school will be located. Application must be reviewed by the district accountability committee prior to consideration by the local board
Appellate authority	state board of education	state board of education may overturn the decision of a local board only when it determines that the decision of the local board was contrary to the best interests of the children, students, school district, and community	state board of education may remand the application to a local board of education with instructions to reconsider or grant the charter only when it determines that the decision of the local board of education was contrary to the best interests of the students, school district, or community	state board of education may remand the application to a local board of education with written instructions to reconsider only when it determines that the decision of the local board of education was contrary to the best interests of the pupils, school district, or community. The instructions shall include specific recommendations pertaining to the matters requiring reconsideration. If a local board's decision is still to deny, refuse to renew, or revoke a charter a second notice of appeal may be filed. The state board has the authority to remand the decision to the local board with instructions to approve the charter application. The state board's decision is final and not subject to appeal. An appeal can also be filed upon a local board's approval of a charter application
Authority giving final approval to a school	local board or state board, if on appeal	local board or state board on appeal	local board	local board, or local board with instructions from the state board on appeal
Guidance/technical assistance for organizers	local board and Colorado Department of Education (CDE)	Colorado Department of Education	Colorado Department of Education	Colorado Department of Education

Issue	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Revised version of S.B. 93-183</i>	<i>Enacted</i>
Affiliation with a sectarian institution	school must be nonsectarian in programs, admissions, employment practices, and all other operations; may not be affiliated with a religious school	school must be nonsectarian, nonreligious, and non-home-based	school must be nonsectarian, nonreligious, and non-home-based	school must be nonsectarian, nonreligious, and non-home-based
Accountability process	the governing body of the school must make an annual report to the local board of education, the state board of education, and the public including progress of the school (in achieving goals, objectives, and performance outcomes) and a certified financial statement	as part of renewal application, a charter school must submit a report on the progress of the school in achieving the goals, objectives, pupil performance outcomes, content standards, and other terms of the initial approved charter application. Must provide a financial statement disclosing the costs of administration, instruction, and other spending categories for the school. Financial statement must be in a format understandable to the general public and allow comparison with other schools and organizations	as part of renewal application, a charter school must submit a report on the progress of the school in achieving the goals, objectives, content standards, and other terms of the initial approved charter application. Must provide a financial statement disclosing the costs of administration, instruction, and other spending categories for the school. Financial statement must be in a format understandable to the general public and allow comparison with other schools and organizations	as part of renewal application, a charter school must submit a report on the progress of the school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the initial approved charter application. Must provide a financial statement disclosing the costs of administration, instruction, and other spending categories for the school. Financial statement must be in a format understandable to the general public and allow comparison with other schools and organizations
Provisions for transportation of pupils	application must include a plan for providing transportation for pupils to and from school, if the school plans to provide transportation	application must include a description of the methods for addressing the transportation needs of pupils, particularly low-income and academically low-	application must include a description of the methods for addressing the transportation needs of pupils, particularly low-income and academically low-	application must include a description of the methods for addressing the transportation needs of its pupils and, if the school plans to provide transportation, a plan for addressing the transportation needs of low-income and academically

<i>Issue</i>	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Revised version of S.B. 93-183</i>	<i>Enacted</i>
		achieving pupils, attending the school	attending the school	low-achieving pupils attending the school
Revocation of charter	the contract can be revoked if the charter school: committed a violation of any of the conditions in the charter; failed to meet pupil outcomes identified in the charter; failed to meet accepted accounting standards; or violated any provision of law	the contract can be revoked if the charter school: committed a violation of any of the conditions in the charter; failed to meet pupil outcomes identified in the charter; failed to meet accepted accounting standards; or violated any provision of law	the contract can be revoked if the charter school: committed a violation of any of the conditions in the charter; failed to meet content of performance standards identified in the charter; failed to meet accepted accounting standards; or violated any provision of law	the contract can be revoked if the charter school: committed a violation of any of the conditions, standards, or procedures in the contract; failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the contract; failed to meet accepted standards of fiscal management; or violated any provision of law from which the school was not exempted
Revocation authority	the authority granting the charter with appeal	local board of education	local board of education with appeal	local board of education (upon appeal the state board of education can instruct the local board not to revoke the charter)
ADMISSION STANDARDS:				
Prohibited limits on admission	disability, race, creed, color, sex, national origin, religion, or ancestry	race, religion, gender, nationality, disability, or need for special education services	race, creed, color, nationality, gender, religion, disability, ancestry or need for special educational services	race, creed, color, nationality, gender, religion, disability, ancestry or need for special educational services
Allowable limits on admission	the description of the community the school seeks to serve	not specified	enrollment must reflect the cultural diversity of the district where it is located	not specified
Limits on admission based on geographic area	subject to any court ordered desegregation plan in effect in a district	enrollment must be open to any child who resides within the school district	enrollment must be open to any child who resides within the school district	enrollment must be open to any child who resides within the school district and school is subject to any court ordered desegregation plan

<i>Issue</i>	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Revised version of S.B. 93-183</i>	<i>Enacted</i>
APPLICATIONS/CONTRACTS INCLUDE:				
Educational program	mission statement	evidence to show that the curriculum is educationally sound	description of the charter school's educational programs, pupil performance standards and curriculum	mission statement, and a description of the educational program and curriculum which must met or exceed district content standards
Student outcomes	goals, objectives, and pupil performance outcomes (at least equal to pupil performance standards for the school district)	expected pupil outcomes which meet or exceed school district outcomes and teaching-learning methods to be used to attain the outcomes	pupil performance standards which must meet or exceed any model content standards adopted by the state board or the district where the school is located	goals, objectives, and pupil performance standards to be achieved by the charter school
Assessment	plan for evaluating performance and methods to measure pupil outcomes and performance standards	methods to assess outcomes	description of the school's plan for evaluating pupil performance, types of assessments, timeline for achievement of standards and procedures for taking corrective action	description of the school's plan for evaluating pupil performance, types of assessments, timeline for achievement of standards and procedures for taking corrective action
Governance structure	description of governing body of the school, the relationship between the school and the school district and the extent of parental and community involvement in school	description of governance and operation of the school, including the nature and extent of parental, professional educator, and community involvement in school	description of governance and operation of the school, including the nature and extent of parental, professional educator, and community involvement in school	description of governance and operation of the school, including the nature and extent of parental, professional educator, and community involvement in school

<i>Issue</i>	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Rerevised version of S.B. 93-183</i>	<i>Enacted</i>
School facilities/ administration	description of the facilities to be used to house the charter school and the manner in which they are to be obtained; other provisions permit the school to use the services or technical expertise of BOCES or any other organization	description of the operation of the school including evidence that the plan for the school is economically sound for the school and school district	description of the operation of the school including evidence that the plan for the school is economically sound for the school and school district; must provide a proposed budget for the term of the charter; plan for displaced pupils and employees	evidence that the plan for the school is economically sound for the school and school district; must provide a proposed budget for the term of the charter; description of the plan for displaced pupils and employees
Liability coverage	description of liability to be assumed and liability coverage to be obtained	an agreement between the district and the charter school regarding their respective legal liability and applicable insurance coverage	an agreement between the district and the charter school regarding their respective legal liability and applicable insurance coverage	an agreement between the district and the charter school regarding their respective legal liability and applicable insurance coverage
Financial audits	proposed budget and description of an annual audit process of the financial and administrative operations of the school	not specified	must provide a description of the manner in which an annual audit of the financial aid administrative operations of the school is to be conducted	must provide a proposed budget for the term of the charter; description of the manner in which an annual audit of the financial and administrative operations, including services provided by school district, is to be conducted
Admissions	proposed enrollment policy including plans to include academically low-achieving students, and if any, programs for exceptional children and children with disabilities	not specified	not specified	not specified
Student suspension/ expulsion	description of grounds and methods for suspension and expulsion	not specified	not specified	not specified
Health and safety of students and staff	must comply with laws and rules and regulations concerning health, safety, and civil rights	not specified	must comply with laws and rules and regulations concerning health, safety, and civil rights	not specified

<i>Issue</i>	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Rerevised version of S.B. 93-183</i>	<i>Enacted</i>
Ethnic diversity	plan to promote diversity and inclusiveness representative of the community it seeks to serve, both ethnically and economically	not specified	enrollment must reflect the cultural diversity of the district where the school is located	not specified
EMPLOYMENT ISSUES:				
Teacher qualifications	application includes description of qualifications to be met by teachers if different from requirements for certification or licensure (after 1994)	not specified	not specified	not specified
Leave of absence to teach in charter school	districts must provide a teacher in their employ a three-year leave of absence to work in a charter school	one-year leave of absence from school district with additional one-year leaves granted upon mutual agreement between teacher and district. At the end of three years, the relationship between the district and teacher shall be determined by the school district	one-year leave of absence from school district with additional one-year leaves granted upon mutual agreement between teacher and district. At the end of three years, the relationship between the district and teacher shall be determined by the school district	one-year leave of absence from school district with additional one-year leaves granted upon mutual agreement between teacher and district up to two additional one-year periods. At the end of three years, the relationship between the district and teacher shall be determined by the school district
Retirement benefits for teachers at charter schools	teacher maintains right to make payments to his/her account in PERA or the Denver Public Schools retirement system; school district or charter school not required to make employer contribution	employees of the school must be members of PERA or DPS retirement system. The school and teacher must make appropriate contributions to the retirement system	employees of the school must be members of PERA or DPS retirement system. The school and teacher must make appropriate contributions to the retirement system	employees of the school must be members of PERA or DPS retirement system. The school and teacher must make appropriate contributions to the retirement system

<i>Issue</i>	<i>S.B. 93-183 as Introduced</i>	<i>Senate Reengrossed version of S.B. 93-183</i>	<i>House Rerevised version of S.B. 93-183</i>	<i>Enacted</i>
Collective bargaining provisions	a description of the employment relationship that will exist between teachers and other staff and the school, as well as the proposed procedures for resolving employment disputes must be included in the contract	a description of the relationship that will exist between the charter school and its employees, including evidence that the terms and conditions of employment have been addressed with employees included in the contract	a description of the relationship that will exist between the charter school and its employees, including evidence that the terms and conditions of employment have been addressed with employees must be included in the contract	a description of the relationship that will exist between the charter school and its employees, including evidence that the terms and conditions of employment have been addressed with employees and their recognized representative, if any, must be included in the contract
Funding provisions	pupils enrolled in a charter school are counted in the enrollment of the pupil's school district of residence; CDE retains an amount equal to one-half of 1 percent of the district of residence's per pupil operating revenues multiplied by the number of students attending charter schools for use in administering the charter schools program; for each pupil attending a charter school, the district of residence must pay 98.5 percent of its per pupil operating revenues to the charter school in 12 approximately equal payments	the governing body of the school negotiates appropriate operating revenues with the school district of residence of pupils enrolled in the school	funded based upon the charter school's proportionate share of moneys in the general fund used by the school district for general operating expenditures. A charter school and the school district may negotiate an appropriate share paid by the school district to the charter school. The amount of funding negotiated must be at least equal to the number of pupils enrolled in the charter school multiplied by the per pupil operating revenues established by the general assembly for the district in which such pupils reside	pupils enrolled in a charter school are counted in the enrollment of the pupil's school district of residence. As part of the contract the school and the district shall agree on funding and any services provided by the school district. Discussions shall begin using 80 percent of the per pupil operating revenue. All services provided by the school district must be paid out of the PPOR. The amount of funding negotiated cannot be less than 80 percent of the district's PPOR multiplied by the number of students enrolled in the charter school

*Source: The first four columns were originally prepared by Legislative Council Staff, May 7, 1993. The "Enacted" column has been added for ease of comparison.

Notes

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³⁹ John Andrews, president, Independence Institute, letter to Chuck Froelicher, executive director, Gates Foundation, March 15, 1989.

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⁴⁴ Fifty-seventh Colorado General Assembly, Daily Status Sheet, Final, Tuesday, June 13, 1989.

⁴⁵ Senate Bill 90-110, Fifty-seventh Colorado General Assembly, Second Regular Session, Senate Journal, Volume 1, p. 236.

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⁴⁷ Peter Huidekoper, personal interview with Benigno, June 15, 2011.

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Special thanks to JACQUELINE TOBIN for her tremendous contributions in starting the story and getting this project off the ground, and to senior education policy analyst BENJAMIN DEGROW for his careful edits and helpful additions.

ADDITIONAL RESOURCES on this subject can be found at: <http://education.i2i.org/>.

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