

Minnesota Friends of Public Education
Testimony before the Minnesota Senate
Education Sub-committee on Governance and Structures
April 5, 1991

The *Minnesota Friends of Public Education* strongly opposes S.F. 630 authorizing outcome-based schools. We believe that this bill does not provide the public accountability, public oversight, protection of rights, fiscal responsibility, and public benefit consistent with the expectations our society holds for public schools which justify public funding of those schools. We believe this bill would set precedents which are poor public policy, and further, that the risks entailed under the policies outlined here are not justifiable by any unique benefits which might be provided in terms of public education.

Our objections to this bill are perhaps best seen in the context of work we have done previously in developing a definition of a public school. This definition has been shared with you in previous sessions and copies are attached to these remarks. We believe that the school defined in S.F. 630 violates several tenets we hold about the nature of public schools.

Some specific examples:

1. In section 1, Subdivision 1 [Purposes] we question the propriety, from a public policy point of view, of seeking to create and publicly fund "autonomous schools" [*line 15*] or schools intended to "create...opportunities for teachers and other educators...to own a school or departments or programs of the school". [*lines 17-19*] How can a school which is autonomous or "owned" by a group of teachers be legitimately called public? If it is not public, it should not be funded with tax money.
2. Section 1, Subdivision 3 [Sponsor] allows 9 potential sponsoring agencies, only one of which is publicly elected (#1, a local school board). The others have varying degrees of formal public accountability, and the joint powers board listed [*pg. 2, lines 2-4*] could conceivably have no public accountability at all. We do not see these unelected agencies as adequate representatives of the public trust for the purpose of creating schools according to the provisions of this bill.
3. According to Subdivision 5 [Contract], a school need provide only one of the allowed purposes to be eligible for a contract. It would be possible to create a school whose only avowed purpose was to create an autonomous school or a school which teachers could own. As noted, we question the appropriateness of this approach to public education.
4. Subdivision 7 specifically exempts the school being created from all state

statutes and rules other than those required by the bill. We submit that there are several requirements thus waived which have been enacted to serve the public interest and for which this bill makes no adequate provision. Most notably, a literal reading of the bill would indicate that the school is exempted from all regulations regarding accounting practices or financial management (such as UFARS). The bill only makes reference to requirements for audits, but the basic foundations for fiscal responsibility are not provided for. There are no provisions for public oversight or access (such as those found in the Open Meeting Statutes) or for due process protections for any person associated with the school other than the requirements of the Pupil Fair Dismissal Act.

5. The provisions of Subdivision 9 [Admission Requirements] are written loosely enough to invite abuse. Specifically, item 3 allows a school to "...limit its admission to pupils who...have a specific affinity for the school's teaching methods, the school's learning philosophy, ..." etc. There is no provision in the bill which defines who determines the potential student's "affinity" or even who articulates the standards this "affinity" is to be measured against. We submit that it would be relatively easy for a school to operate under this clause in ways that were not in the best interests of the children in question or of the public. The bill does not provide for due process, recourse or redress in the matter of admission policies.
6. Subdivision 10 [Pupil Performance] requires that the school must meet the outcome standards set by the state, but where such standards are lacking, the school must meet the standards defined in its contract. Given that the state has not yet set its outcome standards and may not for some period of time, it would be possible for a school to be contracted for under very vague or loosely written standards if the sponsoring authority is not sufficiently rigorous in the terms it sets in the contract. The proper definition of outcome standards is a lengthy and complicated process. It seems to us unlikely that anyone eager to establish a school under this bill will take the time and effort needed to write adequate standards in the period before the state has defined its required outcomes. The standards such a school would be held to, therefore, could be substantially below those currently set for public schools. We question the public benefit of such a situation.
7. Subdivision 11 [Employees] provides for the initial hiring of licensed teachers. It does not require that any other staff be licensed. Given the general waiver of rules already mentioned, there presumably is no requirement that any staff other than teachers be licensed. Under this bill, even teachers may be exempted after one year if the staff so requests. This subdivision also explicitly gives the board of directors of the school the right to dismiss teachers and nonlicensed employees. It does not state that such dismissal need be for cause or that it need follow any tenets of due process. Indeed, should the employees of the school choose not to organize for collective bargaining, there are no process provisions whatsoever for the protection of employee rights (or the rights of students,

parents or public with respect to employee issues.)

8. Subdivision 24 grants the sponsor, members of the board of a sponsor..., and employees of a sponsor immunity from civil or criminal liability "with respect to all activities related to an outcome-based school". This is more protection than they would be granted for the activities of normal public schools. Such comprehensive immunity may not be in the best interest of the students, the employees, or the parents involved with the school. It also may not be in the interest of the public.
9. This bill specifically allows an outcome-based school to use capital expenditures equipment revenue for "any purpose related to the school." [Section 2, subdivision 2] This flexibility is not allowed to regular public schools. What public interest does it serve to exempt outcome-based schools?
10. In the event of the termination of a contract school, the sponsor shall pay any debts of the school from its liquidated assets. Given the lax financial provisions for such a school, there is some likelihood that the debts could exceed the assets. Who is then responsible for discharging the debts?
11. Section 1, Subdivision 6 [Advisory committee] provides for an advisory committee to be formed by the state board of education to provide comment and advice in certain circumstances. Note that only the state board of education, not any of the other potential sponsors, is required to have such a committee. Why? The circumstances under which the committee acts are defined by the race of the persons in the organization proposing to create a school. We submit that the provisions of this subdivision are clearly discriminatory.

Taken altogether, we believe that this bill proposes to provide public funding for loosely defined schools which do not provide adequate safeguards in the areas of public oversight and access, public accountability, fiscal responsibility, due process, protections against arbitrary discrimination, or legal recourse to qualify as public schools appropriate for public support.

We do not believe that any overriding public interest is served by the provisions of this bill. The avowed purpose is to provide latitude for creativity and improvement in public education. We do not believe that the waivers granted here are necessary to accomplish that purpose. Much reform and experimentation is taking place in Minnesota's public schools under current legislation. The state board of education has been outspoken about its willingness to grant waivers for specific experiments with promise; the present project on outcome-based education in Rochester is a good example. The Minneapolis Public Schools has been able to create the experimental Public School Academy with only an adjustment of Special Education requirements, and its even-more-innovative Chiron School was created entirely within current rules. The St. Paul Saturn school is another example of

innovation currently possible. There are others.

The *Minnesota Friends of Public Education* believe that this bill is not in the best interests of children or the public. We believe that it creates dangerous precedents and possibilities which are not justified by the public benefit which it promises to produce. We believe that it is unnecessary and unwise. We urge you not to approve S.F. 630.