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CHARTER SCHOOL LEGISLATION IN VIRGINIA: HOW RACE, REGIONAL TENSION, AND THE ABSENCE OF CRISIS PRODUCED A “WEAK” LAW

Frederick M. Hess & Bradley C. Davis*

ABSTRACT

The widespread success of charter school legislation has fostered a perception that charter schooling is apolitical and has clouded our understanding of the politics of the issue. In a case study of Virginia's charter school program, we suggest that three important political variables have been largely overlooked to date. The "weak" form of Virginia's charter school legislation can be attributed in large part to: (1) the schism between the educationally privileged communities of Northern Virginia and those of the rest of the state, (2) the lack of a perceived educational crisis, and (3) the vocal presence of minority opposition. Teacher organizations did not strongly oppose charter school legislation, but they worked to ensure that legislation would be mild. In examining the political gestation of Virginia's "weak" charter school law, this study complements existing work that has generally concentrated on "strong" laws in states like Arizona, Colorado, and Michigan. The struggle for passage in Virginia illuminates many tensions less evident in states where charter schooling passed more easily.

INTRODUCTION

During the 1990s, charter schooling emerged as perhaps the most prominent reform in American education.⁶³ By early 2000, thirty-six states

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⁶³ Charter schooling seeks to supplement the traditional model of district-operated public schools with schools that are authorized to operate independently of the local school district. Charter schools are funded on a per pupil basis, with funding contingent on the number of students a school is able to attract. The charter-authorizing entities are responsible for screening potential schools and then holding them accountable for their performance and operations. Depending on the state law and the decisions of the "authorizer," many or most state regulations are waived for charter schools. However, charter schools are still public schools and are therefore required to accept all applicants and to abide by federal and constitutional strictures regarding religion, children with

and Washington, D.C. had adopted some form of charter school legislation, and roughly 1,700 charter schools were operating across the country.⁶⁴ As one might expect, efforts to pass charter legislation in the various states have been as much about political conflict as about abstract notions of desirable policy. Nevertheless, while scholars have made admirable contributions addressing issues of program design,⁶⁵ accountability,⁶⁶ operational concerns,⁶⁷ and who attends charter schools,⁶⁸ comprehensive accounts of the politics of charter schooling have been less common.

Charter school statutes are the consequence of state legislative activity, and are frequently subject to subsequent amendment and tweaking. Charter schools themselves may be administered and regulated by various state agencies, whose own political dynamics may have important implications for educational outcomes. For these reasons, further attention to the politics of charter schooling is essential if we are to understand the nature and anticipate the effects of charter school reforms. Moreover, scholars who have examined the politics of charter school legislation have tended to focus on states such as Arizona,⁶⁹ Colorado,⁷⁰ and Michigan,⁷¹

special needs, and so on. Charter applicants are often disaffected public school teachers or principals, and they generally wish to open a school with a particular vision or focus. The promise of charter schooling is that it will alleviate concerns regarding district bureaucracy and unresponsiveness, permit new and specialized schools to open, offer more choice to parents and students, foster new models of schooling, enhance school accountability, and encourage competitive pressure that will compel traditional schools to improve.

⁶⁴ See OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT, U.S. DEP'T OF EDUC., *THE STATE OF CHARTER SCHOOLS 2000* (Beryl Nelson et al. eds. 2000) [hereinafter OERI].

⁶⁵ See Louann A. Bierlein, *The Charter School Movement*, in *NEW SCHOOLS FOR A NEW CENTURY: THE REDESIGN OF URBAN EDUCATION* 37 (Diane Ravitch & Joseph P. Viteritti eds. 1997); JOE NATHAN, *CHARTER SCHOOLS: CREATING HOPE AND OPPORTUNITY FOR AMERICAN EDUCATION* (1997).

⁶⁶ See Chester E. Finn, Bruno V. Manno & Gregg Vanourek, *Charter School Accountability: Problems and Prospects*, Address at the American Political Science Association Annual Meeting (Sept. 2-5, 1999); Sandra Vergari, *The Regulatory Styles of Charter School Authorizers*, Address at the American Political Science Association Annual Meeting (Sept. 2-5, 1999).

⁶⁷ See CHESTER E. FINN, JR., ET AL., *CHARTER SCHOOLS IN ACTION: RENEWING PUBLIC EDUCATION* (2000).

⁶⁸ See OERI, *supra* note 2; GREGG VANOUREK, ET AL., *HUDSON INSTITUTE CHARTER SCHOOLS IN ACTION PROJECT: FINAL REPORT* (Hudson Institute ed., 1997); AMY STUART WELLS, *BEYOND THE RHETORIC OF CHARTER SCHOOL REFORM: A STUDY OF TEN CALIFORNIA SCHOOL DISTRICTS* (1998).

⁶⁹ See, e.g., Stephanie Timmons-Brown & Frederick M. Hess, *Why Arizona Embarked on School Reform (and Nevada Did Not)*, in *SCHOOL CHOICE IN THE REAL WORLD* (Robert Maranto et al. eds., 1999).

⁷⁰ See, e.g., HUBERT MORKEN & JO RENEE FORMICOLA, *THE POLITICS OF SCHOOL CHOICE* (1999).

⁷¹ See, e.g., BRYAN C. HASSEL, *THE CHARTER SCHOOL CHALLENGE: AVOIDING THE PITFALLS, FULFILLING THE PROMISE* (1999).

where more aggressive legislation has been enacted. Developments in the states where activism has been less pronounced have received far less academic scrutiny. This tendency to focus on activity rather than on non-events is nothing new in political science,⁷² but it has the potential to create an uneven understanding of the processes governing charter school legislation and implementation.

In this paper we seek, with full recognition of the limits of a single case study, to help address this empirical gap by providing a case study of the passage and implementation of 1998 charter school legislation in Virginia.⁷³ The Commonwealth's version was a relatively weak and largely symbolic bill that had not produced the authorization of a single charter school by the beginning of the 1999-2000 school year.⁷⁴ In some sense, of course, these outcomes make the Virginia experience less educationally significant. On the other hand, given that during the relevant period Virginia had two strong, conservative governors, growing Republican strength in the state legislature, government leaders willing to fight for charter schools, and a "right to work" climate which essentially rendered teacher unions a non-factor, a more careful scrutiny of the legislative process may help us understand why some states may easily embrace the charter schooling concept while others, like Virginia, do not.

In particular, the passage of "weak" legislation in the midst of this charter school-friendly environment suggests the role of three variables which have received relatively little attention: (1) an intrastate conflict between high-achieving school districts and other school districts, (2) the lack of a perceived educational crisis, and (3) the vocal presence of minority opposition.

LEGISLATING CHARTER SCHOOLS

Previous work has addressed the role played by entrepreneurs, as well as by social and institutional factors, in shaping the outcomes of charter school legislation and school formation.⁷⁵ Previous scholars have found

⁷² MATTHEW CRENSON, *THE UN-POLITICS OF AIR POLLUTION: A STUDY OF NON-DECISION-MAKING IN THE CITIES* (1971).

⁷³ Notably, in 1999 at least one-third of the nation's charter laws were "weak" laws, sharing many traits with the Virginia legislation. See NINA SHOKRAH REES & SARAH E. YOUSSEF, HERITAGE FOUNDATION, *SCHOOL CHOICE: WHAT'S HAPPENING IN THE STATES* (1999).

⁷⁴ OERI, *supra* note 2.

⁷⁵ See Michael Mintrom, *Policy Entrepreneurs and School Choice* (2000) [hereinafter Mintrom, *School Choice*]; Michael Mintrom, *Policy Entrepreneurs and the Diffusion of Innovation*, 41 AM. J. POL. SCI. 738, 738-65 (1997) [hereinafter Mintrom, *Entrepreneurs*]; Michael Mintrom & Sandra Vergari, *Policy Networks and Innovation Diffusion: The Case of State Education Reforms*, 60 J. POL. 126, 126-46 (1998) [hereinafter Mintrom, *Networks*].

that policy networks and the strength of advocacy groups shape the prospects for charter school legislation.⁷⁶ Others have suggested that charter passage is influenced by contextual factors such as the maturity of the proposed legislation, whether the state is in an election year, and whether neighboring states have considered charter legislation.⁷⁷ Such systematic work has contributed significantly to helping us understand how individual actors, patterns of diffusion, and legislative characteristics affect charter school activity.

Other works have sought to focus more on the role of context.⁷⁸ Hassel, in an overview of all fifty states and accompanying case studies of charter school legislation in four states, found that Republican strength, a weak teacher union, low National Assessment of Educational Progress ("NAEP") test scores, a moralistic political culture, a high median income, and an urban population all made the passage of charter legislation more likely.⁷⁹ In a less systematic study, Morken and Formicola examined choice politics in a variety of contexts and found that advocate resources, the strength of the religious right, the presence of alternative options, and the perceived performance of schools all appeared relevant to the prospects of choice proposals.⁸⁰ Examining the background of the Arizona statute, Timmons-Brown and Hess found that a conservative climate, Republican strength in the legislature, a Republican governor, a weakened teacher's union, and perceived educational inadequacy all helped to produce one of the nation's "strongest" charter school laws.⁸¹ We seek to augment this existing body of work, particularly by examining potentially significant cultural factors, like racial division and regional differences, that may not be apparent in more systematic work and that may be less evident in states that embraced charter schooling more readily.

In education, where divergent goals and ambiguous outcomes tend to foster an emphasis on symbolic politics,⁸² political interests are particularly sensitive to context and appearances. For instance, because there is extensive disagreement about how to objectively measure

⁷⁶ See Mintrom, *School Choice*, *supra* note 13; Mintrom, *Entrepreneurs*, *supra* note 13; Mintrom, *Networks*, *supra* note 13.

⁷⁷ See Mintrom, *School Choice*, *supra* note 13; Mintrom, *Entrepreneurs*, *supra* note 13; Mintrom, *Networks*, *supra* note 13.

⁷⁸ See, e.g., Hassel, *supra* note 9; Morken & Formicola, *supra* note 8; Timmons-Brown & Hess, *supra* note 7.

⁷⁹ Hassel, *supra* note 9, at 26. Regarding NAEP scores, objective educational conditions will not necessarily reflect public sentiment regarding the status of education. This is not to dispute Hassel's point, which is that objective conditions matter, but only to suggest that perceived performance may very well have an independent effect of its own.

⁸⁰ Morken & Formicola, *supra* note 8, at 2-12.

⁸¹ Timmons-Brown & Hess, *supra* note 7, at 115-18.

⁸² See John W. Meyer & Brian Rowan, *Institutionalized Organizations: Formal Structures as Myth and Ceremony*, in *THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS* 41, 54-62 (Walter W. Powell & Paul J. DiMaggio eds., 1991).

educational conditions,⁸³ differences in perceived school quality can alter the political landscape. Policymakers may feel compelled to act, or to advocate certain legislation, even when the specific alternatives may run counter to the apparent preferences of the legislative majority. An example of such action is common in the realm of charter schooling, where legislatures have been hesitant to embrace radical choice-based remedies but also hesitant to ignore such proposals. As a consequence, they have often settled upon various forms of charter schooling as an agreeable compromise.⁸⁴

One result of such compromise has been the incorporation of a wide array of charter school laws under the umbrella of "charter schooling."⁸⁵ Such measures span from radical designs that create wide-open educational markets to modest designs that offer less regulatory freedom than magnet schooling.⁸⁶ Bierlein offers a widely utilized typology that identifies seven key dimensions which can be used to assess the relative strength of charter school legislation:⁸⁷

- 1] A charter school must be allowed to seek sponsorship from a public entity other than a local school board and/or be allowed to appeal a school board decision to another body;⁸⁸
- 2] Any individual or group should be allowed to develop and submit a charter school proposal;⁸⁹
- 3] Charter schools must automatically be exempt from most state laws, regulations, and local policies (except health, safety, civil rights, and fiscal and pupil accountability);⁹⁰
- 4] Charter schools must have full control over funds generated by its student count, including control over salaries;⁹¹
- 5] Charter schools must have legal autonomy;⁹²
- 6] There should be no limits on the number of charter schools that can be established within a given state;⁹³
- 7] Charter schools must be permitted to employ non-certified teachers.⁹⁴

⁸³ See FREDERICK M. HESS, SPINNING WHEELS: THE POLITICS OF URBAN SCHOOL REFORM 103-06 (1999).

⁸⁴ See Meyer & Rowan, *supra* note 20.

⁸⁵ See Bierlein, *supra* note 3, at 39-40.

⁸⁶ See *id.* at 47-50.

⁸⁷ *Id.* at 41-46.

⁸⁸ *Id.* at 41.

⁸⁹ See *id.* at 44.

⁹⁰ *Id.*

⁹¹ See *id.* at 45.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

In light of these criteria, it is clear that the 1998 Virginia charter school legislation signed into law by Governor James Gilmore was exceptionally weak. The legislation mandated that charters could be granted only by the local school district, made it difficult for charter schools to escape many state laws and regulations, limited the number of permissible schools, and required that charter schools use certified teachers.⁹⁵ In fact, the Virginia legislation met just two of the seven criteria (see Table 1), and both of those measures--regarding who could start charter schools and the fiscal autonomy of schools--included limiting provisions.⁹⁶ In short, the Virginia case illustrates how five years of political combat resulted in a symbolic and largely hollow "victory" for charter school advocates.

Table 1: Comparison of Bierlein's Index with Virginia's Charter School Law

Bierlein's Charter School Components	Virginia Law
1. A charter school must be allowed to seek sponsorship from a public entity other than a local school board and/or be allowed to appeal a school board decision.	NO
2. Any individual or group should be allowed to develop and submit a charter school proposal.	YES*
3. Charter schools must automatically be exempt from most state laws, regulations, and local policies.	NO
4. Fiscal autonomy - school has control over funds generated by its student count.	YES**
5. Legal autonomy - teachers are school, not district employees.	NO
6. No limits on the number of charter schools that can be formed.	NO
7. Charter schools must be permitted to employ non-certified teachers.	NO
*Conversion of a private, nonpublic, religious, or home-based program into a charter school program is prohibited.	
**Student count funds are provided, but other funding details must be negotiated with the contract.	

⁹⁵ VA. CODE ANN. §§ 22.1-212.5 to 22.1-212.13 (2000).

⁹⁶ See *id.* § 22.1-212.6; § 22.1-212.8.

METHODOLOGY

This case study was primarily assembled through documentary research of newspaper archives and state documents and through interviews with more than two dozen participants and observers. One of the authors worked for the Virginia legislature during the spring 1999 session, permitting him to observe first-hand the dynamics of that body and to speak with numerous legislators and staffers regarding the politics and passage of charter school legislation.

CHARTER SCHOOLING IN VIRGINIA

The Virginia debate over charter schooling ran, with varying intensity, from 1994 through the final enactment of legislation in 1998.⁹⁷ Ultimately, the success of charter school legislation rested upon broad support among a bipartisan coalition of legislators,⁹⁸ a coalition that looked very different from the Republican minority that first pushed charter schooling in 1994. The growth of support was the result of three key factors: Republican electoral success in legislative races in the 1990s, modifications to the charter school legislation that broadened its appeal, and changes in the larger climate of the state and national debate over charter schooling.

Entering the 1990s, Virginia had been staunchly Democratic since Reconstruction. As late as 1975, Republicans held just seventeen of 100 seats in the state House of Delegates and five of forty seats in the state Senate.⁹⁹ While national GOP candidates fared well in the state, as they did across the South, Democrats continued to hold a sizable advantage in the state legislature until a rising tide of southern Republicanism finally posed a serious threat in the early 1990s.¹⁰⁰

A Charter School Advocate Becomes Governor

Following three consecutive Democratic governors, former U.S. representative George Allen, son of the popular former Washington Redskins coach, upset the favored Democratic candidate to win the 1993 gubernatorial election. One key educational proposal Allen championed in

⁹⁷ See generally Pamela Stallsmith & Tyler Witley, *Charter Schools Get Nod: Senate Voted 29 to 11; Final House Action*, RICH. TIMES-DISPATCH, Feb. 5, 1998, at A1.

⁹⁸ See Phillip Walzer, *Could This Be the Year for Charter Schools?: Prime Proponent Has a Plan He'll Introduce Soon*, VIRGINIAN-PILOT (Norfolk), Jan. 19, 1998, at A1.

⁹⁹ See Frederick M. Hess & David L. Leal, *Republican Party Growth in Southern Legislative Elections*, VIRGINIA NEWSLETTER (Weldon Cooper Center for Pub. Service, U. of Va., Charlottesville, Va.), Vol. 75, No. 4 (1999).

¹⁰⁰ Larry Sabato, *The 1995 Elections: Running in Place*, Virginia Newsletter (Weldon Cooper Center for Pub. Service, U. of Va., Charlottesville, Va.), Vol. 72, No. 1 (1996).

his staunchly conservative campaign was charter schooling.¹⁰¹ Allen had extensive coattails in his surprising landslide, bringing the Republicans within three seats of a majority in both the state Senate and the House of Delegates (see Table 2). Republican gains meant that legislative Republicans would be able to substantively influence the state's policy agenda for the first time in memory.

In his first year, Allen combatively wielded his immense popularity. The new governor leaned on the General Assembly to enact legislation on a variety of conservative concerns, including such issues as parole reform and educational accountability. Allen's tactics drew the ire of many Richmond Democrats, making his charter school plan--from the start--a target for hostile legislators.

The educational accountability program, popularly known as the Standards of Learning ("SOLs"), would prove significant in the charter school fight. Their enactment sent a convincing signal that serious steps had been taken to ensure school quality, although concerns would later emerge about the validity and the fairness of the tests, distracting attention from other educational reforms. Championed by Allen, the SOLs and the attached proficiency tests generated national attention.¹⁰² The Standards of Learning, first adopted in June 1995, the SOLs set forth specific criteria for English, History and Social Science, Mathematics, and Science, and the Board of Education developed relevant proficiency tests.¹⁰³ Beginning with the class of 2004, each highschool student will be required to pass end-of-course tests in order to graduate. The SOLs law has been interpreted to apply to all schools, including charter schools.¹⁰⁴

Table 2: Membership in the Virginia General Assembly, 1990-1999

Year(s)	House of Delegates			State Senate	
	Democrat	Republican	Independent	Democrat	Independent
1990-91 ¹⁰⁵	61	37	2	30	10
1992-93 ¹⁰⁶	58	41	1	22	18
1994-95 ¹⁰⁷	52	47	1	22	18
1996-	52	47	1	19	20

¹⁰¹ See generally Ruth S. Intress, *House Panel Rejects VA Charter Schools*, RICH. TIMES-DISPATCH, Feb. 10, 1996, at A1.

¹⁰² See Spencer S. Hsu & Robert O'Harrow, Jr., *Allen's Back-to-Basics Plan for Schools Draws Outcry*, WASH. POST, Mar. 29, 1995, at A1.

¹⁰³ *Id.*

¹⁰⁴ See generally Walzer, *supra* note 37, at A1.

¹⁰⁵ 1990-1991 Va. Sec'y Commonwealth Rep. 262-96.

¹⁰⁶ 1992-1993 Va. Sec'y Commonwealth Rep. 284-327.

¹⁰⁷ 1994-1995 Va. Sec'y Commonwealth Rep. 336-79.

97 ¹⁰⁸					
1997-98* ¹⁰⁹	51	48	1	20	19
1998-99 ¹¹⁰	50	49	1	19	21

*A special election boosted the Democratic majority in the House by one in 1997.

Amidst his generally contentious relationship with the Democratically controlled General Assembly, Allen staked out a controversial educational stance when he refused federal funds from the national Goals 2000 program. Allen argued that federal conditions attached to the aid would give federal bureaucrats unacceptable influence on the state's schools.¹¹¹ Democratic critics attacked Allen for choosing to sacrifice \$8 million in aid over two years for the sake of ideology.¹¹² This charged and combative relationship would color the statewide educational debate throughout Allen's administration, particularly on a policy as partisan as school choice.¹¹³

The state educational situation was also confused by the fact that legislation enacted in 1995 permitted localities to elect their school boards for the first time. Consequently, across the state, new boards composed of amateur and sometimes highly political members were seated, offering a combustible new component to the education equation.¹¹⁴

The Fight for Passage

In the wake of Allen's victory, Delegate Philip Hamilton, a Republican educator from Newport News and a member of the House Education Committee, introduced an original charter school bill in 1994.¹¹⁵ His version, a blueprint of the plan eventually enacted in 1998,¹¹⁶ represented a middle ground between a "weaker" plan supported by Democratic Delegate Mitch Van Yahres of Charlottesville and a "stronger" plan backed by Governor Allen.¹¹⁷ The legislation sponsored by Van Yahres would have restricted the creation of charter schools to existing public

¹⁰⁸ 1996-1997 Va. Sec'y Commonwealth Rep. 278-321.

¹⁰⁹ 1997-1998 Va. Sec'y Commonwealth Rep. 280-323.

¹¹⁰ 1998-1999 Va. Sec'y Commonwealth Rep. 280-323.

¹¹¹ Tyler Whitley, *Va. Could Get \$6 Million in Charter School Funds: Clinton at Odds with Many Va. Democrats on the Issue*, RICH. TIMES-DISPATCH, Feb. 16, 1997, at A10.

¹¹² *See id.* (noting that in the end, Allen did accept the money after two years of wrangling).

¹¹³ *See generally id.*

¹¹⁴ *See generally* David Nakamura, *Va. Denied U.S. Funds for Charter Schools*, WASH. POST, Oct. 30, 1998, at B3.

¹¹⁵ *See generally* Andrew Cain, *Charter Schools Not a Big Priority Among Parents*, WASH. TIMES, Jan. 24, 1995, at C8.

¹¹⁶ *See* Walzer, *supra* note 37, at A1.

¹¹⁷ *See generally* Cain, *supra* note 53, at C8; Walzer, *supra* note 37, at A1; JOE NATHAN, CHARTER SCHOOLS: CREATING HOPE AND OPPORTUNITY FOR AMERICA 187-89 (1996).

schools and made the creation of any charter school contingent on support from both the local school board and the state Board of Education,¹¹⁸ with approval also requiring an endorsement from the local school board. This plan received strong Democratic backing, as it allowed legislators to back activity without altering existing school practice in any significant way.

Of the two major Republican plans proposed, Hamilton's plan was considerably weaker than Allen's. The Governor's plan featured included a "superwaiver" provision that would release charter schools from state regulations, including the Standards of Accreditation, and provided state funds to defray start-up costs. The bill did not limit the number of charter schools that could be started. Charter school teachers would not be required to hold teacher licenses, and those public school teachers who moved to charter schools and then lost their jobs would not be guaranteed the chance to resume their previous non-charter assignment.¹¹⁹ Educators and Democratic leaders fiercely criticized the Allen plan,¹²⁰ in part because, for electoral purposes, they felt it necessary to derail the Allen agenda after the governor's string of 1994 victories.

Hamilton's strategy was to enlist the support of educational associations by requiring licensing of teachers in charter schools, providing for the return of teachers to the regular public school system if they lost their position in a charter school, permitting local school districts to reject charter school applications, and limiting the number of charter schools to no more than ten per district.¹²¹ This compromise was prompted by two sources of opposition. First, many localities feared too much control by a state Board of Education dominated by Allen appointees or that an Allen-controlled Board would be too aggressive in approving charters.¹²² Second, the influential northern Virginia suburbs--which elect approximately one-fourth of the legislature--feared that a more open system would potentially permit interlopers to damage their highly regarded school systems.¹²³

The 1995 legislative session marked the first significant clash over charter schooling. With all 140 seats up for election in the General Assembly in the fall and his successful 1994 behind him, Allen pushed several pieces of legislation that he thought would help Republicans gain the seats necessary to control the legislature. The charter school bill, carried in the House of Delegates by Jay Katzen and in the Senate by

¹¹⁸ See generally Nakamura, *supra* note 52, at B3.

¹¹⁹ Cain, *supra* note 53, at C8.

¹²⁰ Jon Glass, *Charter Schools Pass First Hurdle But Proposal's Future is in Doubt*, VIRGINIAN-PILOT (Norfolk), Feb. 8, 1996, at B2; Phillip Hamilton, *Derision, Not Reason, Shot Down Charter Schools for Virginia*, RICH. TIMES-DISPATCH, Feb. 3, 1997, at A11.

¹²¹ Cain, *supra* note 53, at C8; Glass, *supra* note 58, at B2; Intress, *supra* note 39, at A1.

¹²² Interview.

¹²³ See generally Cain, *supra* note 53, at C8.

Brandon Bell,¹²⁴ was one key element in this push. At the time, nineteen states had approved charter legislation.¹²⁵ Roughly 240 charter schools had been approved nationwide,¹²⁶ with approximately 110 in operation.¹²⁷

Allen's proposal monopolized the attention devoted to charter schooling--leaving the other two proposals largely unnoticed. Backing for Hamilton on the House Education Committee was led by senior committee Republican James Dillard II of Fairfax as well as by Democratic Committee Chair Paul Council of Franklin and Alan Diamonstein of Newport News. Council supported charter schools to help bolster achievement in the poor rural area he represented,¹²⁸ while Dillard believed charter schools would help the poor, disadvantaged minorities who were being ill-served in the public schools of the state's cities.¹²⁹

Despite the influential backing Hamilton's efforts received, fierce opposition to the Allen bill left all three charter bills languishing in committee without a vote. The pressure to take some action led the General Assembly to pass joint resolutions calling for a study of charter schools.¹³⁰ The study, House Document No. 43, was prepared for the 1996 session.

The Role of Race and Region

Charter efforts gained support from child advocacy groups and the state parent-teacher association. These groups were particularly interested in the opportunity to help special needs students by chartering innovative schools.¹³¹ Charters were also supported by the Virginia Congress of PTA and the Professional Teachers Association,¹³² and the Virginia Education Association backed charter schooling in principle. Meanwhile, opposition was led by the Virginia School Boards Association, the Virginia Association of School Superintendents, and the National Association for the Advancement of Colored People ("NAACP").¹³³

While some advocates argued that charter schooling could aid ill-served minority students, vocal opponents pointed to Virginia's history with race academies in the 1950s when it sought to resist desegregation in

¹²⁴ H.B. 2535, 1995 Leg. Reg. Sess. (Va. 1995); S.B. 1037, 1995 Leg. Reg. Sess. (Va. 1995).

¹²⁵ H. Doc. No. 43, Reg. Sess., at 4 (Va. 1996).

¹²⁶ *Id.* at 7.

¹²⁷ *Id.*

¹²⁸ Interview.

¹²⁹ Interview.

¹³⁰ H.R. 551, 1995 Leg. Reg. Sess. (Va. 1995); S.R. 334, 1995 Leg. Reg. Sess. (Va. 1995).

¹³¹ Glass, *supra* note 58, at B2.

¹³² Hamilton, *supra* note 58, at A11.

¹³³ *Id.*

the post-*Brown* era as illustrative of the dangers posed by charter schooling. Charter school opponents held up the experience of race academies as symbolic of the dangers posed by school choice programs generally.¹³⁴ Within the General Assembly, opposition to charter schools was led by Democratic legislators who depicted school choice plans as elitist, discriminatory, and a distraction from other educational priorities.¹³⁵ Democratic Delegate Jerrauld C. Jones of Norfolk, chairman of the Black Caucus, helped to lead the opposition to charter school legislation.¹³⁶ Jones, along with the state NAACP, launched extensive campaigns to derail the charter school push.¹³⁷

The NAACP, which viewed charter school legislation as segregationist and likely to hurt the education offered to poor minorities in Virginia, supplied the most outspoken opposition to the charter school plans from 1994 until after the 1997 elections, when it dropped its opposition to Hamilton's modified, compromise legislation. Salim Khalfani, activities coordinator for the Virginia NAACP, saw charter schools as a covert attempt "to use public school money to create private entities that will benefit an elite group of people."¹³⁸

Crucially, legislators from Northern Virginia--outside of Delegate Dillard--were generally unresponsive to charter schooling. Just four of the region's legislators, Dillard and O'Brien in the House and Barry and Woods in the Senate, supported charter schooling. All four were Republicans, and these four represented barely ten percent of the Northern Virginia delegation.¹³⁹ In particular, legislators from the wealthy and nationally-acclaimed school systems of Fairfax, Arlington, and Alexandria were hostile to any innovations that threatened to undermine or disturb their highly regarded schools.¹⁴⁰ These legislators expressed private fears that good students would be "cherry-picked," that fragile compromises would be undermined, and that public school funding would suffer.¹⁴¹

The fact that Northern Virginia legislators made up roughly one-fourth of the legislature and were prominent in both parties helped blunt the push

¹³⁴ Andrew Cain, *House Panel Flunks Charter Schools Bill: Sponsor Denounces "Racist Language,"* WASH. TIMES, Jan. 25, 1997, at A9; Spencer S. Hsu & Ellen Nakashima, *Va. House Education Panel Kills Charter School Bill,* WASH. POST, Jan. 25, 1997, at C6; Intress, *supra* note 39, at A1.

¹³⁵ *See generally id.*

¹³⁶ Walzer, *supra* note 37, at A1. Jones would later voice his fear that charter schools would "create bastions of elitism through charter schools and vouchers and whatever other means the elitists dream up to snatch tax dollars for a privileged few." *Id.*

¹³⁷ Cain, *supra* note 72, at A9; Hsu & Nakashima, *supra* note 72, at C6.

¹³⁸ Cain, *supra* note 72, at A9.

¹³⁹ Cain, *supra* note 53, at C8.

¹⁴⁰ *Id.*

¹⁴¹ Pamela Stallsmith & Ruth S. Intress, *Charter Schools Proposal Blasted: Committee Urged to Vote Down Bill,* RICH. TIMES-DISPATCH, Jan. 21, 1997, at A1.

for charter schooling. Specifically, Northern Virginia legislators were hesitant to be linked to a bill that might later be blamed for having damaged schools which consistently graduated above-average numbers of students with above-average test scores and sent them on to prestigious colleges at an exceptionally high rate.¹⁴²

Charter school opponents such as Democratic Delegate Jim Scott sought to draw on the lack of empirical evidence to suggest the riskiness of the proposals. Scott proposed that the funds proposed for charter schooling be used instead on proven programs such as teacher training, reducing class size, or Head Start.¹⁴³ Democratic Delegate Marian VanLandingham of Alexandria saw little need for charter schools. "I think we have the flexibility to take care of some special needs now. We don't want to pull the resources of public education away for what is essentially private education."¹⁴⁴ Democratic Delegate Shirley Cooper of Yorktown worried that passing a bill on charter schools would open a "Pandora's box" for future amendments introducing measures such as school vouchers.¹⁴⁵

School board members and superintendents generally opposed charter schools, arguing that charter schools would draw off existing resources and become exclusive schools for students of well-off parents.¹⁴⁶ The chair of the Henrico County School Board termed charter schools "a private school setting with public school funds."¹⁴⁷ Many city schools were opposed to the measure because they worried charters drain needed resources from the public schools. "Give us the money for more teachers so we can have smaller classes," said Melvin Law, chairman of the Richmond School Board.¹⁴⁸ "We need to be concerned about the vast majority of students, not just one group."¹⁴⁹ Ironically, Portsmouth City Schools supported charter school legislation precisely because it hoped it could use the federal grant money to bolster its course offerings and financial health.¹⁵⁰

¹⁴² Evidence of the high quality of Northern Virginia's schools is widely acknowledged. In Fairfax County, the most populous and influential of the Northern Virginia counties, students scored seventy-eight points above the national average on the 1999 SAT test. Amana H. Saiyid, *SAT Scores Remain Stable From Last Year*, TIMES COMMUNITY NEWSPAPERS, Sep. 9, 1999, at A3.

¹⁴³ Interview.

¹⁴⁴ Cain, *supra* note 53, at C8.

¹⁴⁵ Intress, *supra* note 39, at A1.

¹⁴⁶ Walzer, *supra* note 37, at A1.

¹⁴⁷ Stallsmith & Intress, *supra* note 79, at A1.

¹⁴⁸ Joel Turner, *Charter School Funding Denied: Federal Officials Say Virginia Law is Weak*, ROANOKE TIMES, Nov. 4, 1998, at B1.

¹⁴⁹ *Id.*

¹⁵⁰ Stallsmith & Intress, *supra* note 79, at A1.

The Virginia Education Association ("VEA"), composed primarily of classroom teachers, stood on the sidelines during the course of much of the charter school debate between 1994 and 1998. The VEA restricted its energies to ensuring that any successful legislation include several key restrictions which would alleviate potential problems while also weakening the larger impact of any bill. The VEA insisted that legislation provide for no diversion of current funds from public schools, that it ensure only the voluntary assignment of faculty to charter schools, that it offer employment protection for those faculty members during their service, and that it include safeguards to assure fiscal accountability and to guard against racial segregation.¹⁵¹

In 1995, the Republicans again gained seats in both houses of the legislature. In the House, the Republicans won two new seats, narrowing the Democratic edge to fifty-one to forty-nine. The Republicans also claimed two more Senate seats, producing a twenty/twenty tie and a power-sharing agreement in that body. A crucial outcome of the agreement was that the Democrats retained an eight to seven majority on the Senate Education and Health Committee. The new House Education Committee included twelve Democrats and ten Republicans.¹⁵² Significantly, one of the few Republican casualties was Brandon Bell, chief Senate sponsor of Allen's charter school legislation, who was defeated by vocal charter school opponent John Edwards.¹⁵³

The 1996 legislative session proved less heated than the 1995 session. His party having suffered setbacks in the 1995 elections, Allen adopted a more temperate approach with the legislature. Meanwhile, Hamilton worked diligently to distance his plan from Allen's in order to win moderate Democratic support. In House Bill 776, for which Paul Council, the Democratic Chairman of the House Education Committee, agreed to serve as patron, Hamilton agreed to include language requiring charter schools to employ licensed teachers and to remain public schools.¹⁵⁴ As a result, a House subcommittee, for the first time, voted four to two in favor of recommending charter school legislation. In the House Education Committee, Council and one other Democrat backed the bill, while Republican Delegate Tom Baker, representing a Democratic-leaning district in Pulaski County, opposed it. The bill was defeated in an eleven to eleven vote.¹⁵⁵ Meanwhile, during the spring session, New Jersey became the twentieth state to adopt charter school legislation. Virginia's charter school advocates remained unable to attract significant bipartisan support.

¹⁵¹ Interview.

¹⁵² Cain, *supra* note 53, at C8.

¹⁵³ See Sabato, *supra* note 38, at 4.

¹⁵⁴ Intress, *supra* note 39, at A1.

¹⁵⁵ Stallsmith & Intress, *supra* note 79, at A1.

A New Stage in the Fight

The 1997 legislative session marked a new stage in the fight for charter schooling. Governor Allen was serving his last year and the battle lines had been clearly drawn. Hamilton again worked hard to distinguish his bill from the more controversial version previously introduced by Allen, even as elections loomed in which Democratic charter school opponent and Lieutenant Governor Don Beyer prepared to face Republican charter school advocate and Attorney General James Gilmore. NAACP president Paul Gillis threatened legislative members with defeat in November if they supported Hamilton's new measure. Gillis said at an Education Committee hearing at the Capitol on Lee-Jackson-King Day in 1997, "We're going to watch your vote. If you vote against us, we're going to come after you."¹⁵⁶ Hamilton angrily counterattacked and accused his opponents of hiding "behind racist language."¹⁵⁷ In the end, Hamilton's bill again failed in Committee on a vote of eleven to eleven.¹⁵⁸

In the Senate, Republican Warren Barry of Fairfax became the patron of legislation identical to Hamilton's.¹⁵⁹ In committee the bill lost, eight votes to seven, on a party line vote. Late in the session, Allen submitted his own charter school legislation, in part to give the Republicans an issue for the fall election. Allen's proposal fell on the same eight-to-seven committee vote in the Senate.

Conservative Republican James Gilmore won the gubernatorial election in the fall of 1997, largely on the basis of his pledge to abolish the state's car tax. Education was not a particularly prominent issue in the election. Democrats narrowly retained control of the House, and the Senate remained deadlocked twenty to twenty.¹⁶⁰ The election of Republican businessman John Hager as Lieutenant Governor did mean that Senate ties would now be broken by a Republican. Before the 1988 legislative session, Gilmore moved to strengthen the Republicans' position by offering positions in his administration to targeted General Assembly Democrats. Democratic Senator Charlie Waddell of Loudoun County and Democratic Delegate David Brickley of Woodbridge, both of whom served in predominantly Republican districts, were asked to join the new administration. Gilmore's overtures produced seven special elections during December and early January, all of which were won by Republicans. In the end, Republicans finagled a twenty-one to nineteen

¹⁵⁶ *Id.*

¹⁵⁷ Cain, *supra* note 72, at A9.

¹⁵⁸ Hamilton, *supra* note 58, at A11.

¹⁵⁹ Stallsmith & Intress, *supra* note 79, at A1.

¹⁶⁰ Peter Baker, *For the Class Cutup, a Leadership Test: A "Good-Time Guy" Faces Challenge of Making Divided Va. Senate Add Up*, WASH. POST, Feb. 7, 1996, at B1.

seat majority in the Senate and retained its fifty percent share of the House of Delegates seats.

After extensive legislative machinations, a power-sharing agreement was reached in the House of Delegates. All of the House committees except for the Rules Committee included equal numbers of Republicans and Democrats and added a Republican co-chair. This agreement was crucial to the passage of the charter school legislation. The House Education Committee added two Republicans and promoted senior Republican Dillard, a charter school advocate, to co-chair. That committee now had twelve Republicans and twelve Democrats. When the charter school bill was voted on in 1998, two Democrats still favored the bill and Republican Baker still opposed it. With two new Republican committee members, the final tally now ran thirteen to eleven in favor of the legislation (see Table 3).

Table 3: House Education Committee Membership and Voting Practices on Charter School Legislation, 1996-1998.

1996-97 sessions ¹⁶¹	Democrat	Republican	Vote Total
Supported Bill	2	9	11
Opposed Bill	10	1	11
Total Membership	12	10	22

1998 Session ¹⁶²	Democrat	Republican	Vote Total
Supported Bill	2	11	13
Opposed Bill	10	1	11
Total Membership	12	12	24

In the Senate, five Democratic members of the committee who had opposed the Hamilton/Barry bill in 1997 switched their positions and backed the legislation, resulting in a twelve-to-three victory for the charter school bill.¹⁶³ The five included Democratic floor leader Dick Saslaw,

¹⁶¹ Cain, *supra* note 72, at A9; *see also* H.B. 776, 1996 Leg. Reg. Sess. (Va. 1996).

¹⁶² S.B. 318, 1998 Leg. Reg. Sess. (Va. 1998).

¹⁶³ Joel Turner, *Charter Schools Pass 1st Test, 5 Democrats Help Get Bill Out of Committee*, ROANOKE TIMES, Jan. 30, 1998, at B1.

who said, "I was one of the most ardent foes of charter schools last year, but I changed my mind after visiting charter schools in Boston."¹⁶⁴ Saslaw pointed to low test scores in Virginia's inner cities and predicted that charter schools would benefit disadvantaged inner-city students. Although leery, two other switchers said they had decided to back the legislation as a calculated risk out of concern over the performance of low-achieving students in poor areas.

The departure of Governor Allen--to whom many Democrats were loathe to hand any victory on any issue--had made the issue less partisan. At the same time, President Bill Clinton and centrist Democrats voiced support for charter schooling, making it increasingly acceptable.¹⁶⁵ One of Hamilton's selling points to moderate Democrats was that Virginia would be eligible for at least a million dollars in federal grant money if it passed charter school legislation. Those moderates were also swayed by the inclusion of a lottery system for student selection, alleviating their concerns about discrimination.¹⁶⁶

Other changes also proved significant. Hamilton had made key compromises on student selection, teacher certification, job protection for teachers, and application of the Standards of Learning accountability mechanism to all schools.¹⁶⁷ In 1996, he had added a provision mandating that charter schools employ licensed teachers, and in 1998 he agreed to language requiring the lottery selection of students.¹⁶⁸ These measures won non-opposition and even tentative support from former foes like the NAACP and the Virginia Education Association. In early 1998, Delegate Dillard confided that the NAACP had "a change of heart to the point where if they did not support [charter school legislation], that they were not going to strenuously oppose it."¹⁶⁹

After counting votes on charter schooling in the new legislature before the 1998 session, the NAACP concluded that the legislation was going to pass and strategically chose to focus on ensuring that the legislative language would safeguard against any activity that could discriminate

¹⁶⁴ *Id.*

¹⁶⁵ Pamela Stallsmith & Tyler Whitley, *Charter Schools Get Nod*, RICH. TIMES-DISPATCH, Feb. 5, 1998, at A1; *see also* Walzer, *supra* note 37, at A1. For instance, federal legislation passed initially in 1994 and expanded in subsequent years provided tens of millions of dollars in federal aid to states that enacted qualifying charter school legislation. The legislation enjoyed strong backing from the Clinton administration.

¹⁶⁶ *See id.*

¹⁶⁷ Prepared Statement of Phillip Hamilton, State Delegate, Virginia General Assembly Before the House Education and the Workforce Committee Early Childhood, Youth, and Families Subcommittee Subject: Hearing on Charter School, Federal News Service, Apr. 9, 1997.

¹⁶⁸ *Id.*

¹⁶⁹ Interview.

against poor black children.¹⁷⁰ Emmitt Carlton, president of the Virginia NAACP, signaled the change in 1998 when he said, "I want to make real sure that whatever they do is quality legislation that helps urban kids and African-American kids in poor areas succeed in education."¹⁷¹ By early 1998, the NAACP found itself essentially working on behalf of the bill, as NAACP leaders cooperated with Hamilton to alleviate the reservations that some members still had regarding the bill.¹⁷²

Once the restricted and softened legislation made it to the floor, moderate legislators, fearful of being labeled hostile to innovation, produced sizable victory margins of sixty-five to thirty-three in the House and twenty-eight to eleven in the Senate.¹⁷³ Even with support from moderate Democrats and the NAACP, eleven of the nineteen Senate Democrats opposed the final legislation, as did four of the five black Senators.¹⁷⁴ After five years of debate, the law was signed by Governor Gilmore in April 1998 and provided for the first charter schools to be authorized by fall 1999.¹⁷⁵ The law specified that each school district could open no more than two charter schools and that charter schools must be approved by the local district in which they would operate.¹⁷⁶ At least fifty percent of charter schools in a district would have to focus on serving at-risk students.¹⁷⁷ The legislation also specified that charter schools would receive no state support, would have to apply for waivers on a single-item basis, and had to hire certified teachers.¹⁷⁸ By almost any metric, the final legislation was among the weakest charter school laws in the nation.¹⁷⁹

Implementing the Bill

With the bill's passage, the focus shifted to questions of implementation. After tortuous and heated fights, the legislation proved to have essentially no practical impact. In October of 1998, the U.S. Department of Education (DOE) denied \$6.8 million in funding for Virginia's charter schools because the DOE deemed the new law as too restrictive.¹⁸⁰ The agency has explained that the purpose of the Virginia law runs counter to federal goals for charter schooling, because it does not

¹⁷⁰ Walzer, *supra* note 37, at A1.

¹⁷¹ *See id.*

¹⁷² *See id.*

¹⁷³ Stallsmith & Whitley, *supra* note 103, at A1.

¹⁷⁴ *Id.* at A6.

¹⁷⁵ Michael Hardy, *Guidance or Reading: Localities May Choose; Gilmore Also Vetoes Plain for "Electronic Meetings,"* RICH. TIMES-DISPATCH, May 23, 1998, at B1.

¹⁷⁶ Stallsmith & Whitley, *supra* note 103, at A6. No Senate elections were held in 1997, 1997 being an off year.

¹⁷⁷ *See id.*

¹⁷⁸ *See id.*

¹⁷⁹ Turner, *supra* note 86, at B1.

¹⁸⁰ Nakamura, *supra* note 52, at B3.

provide adequate autonomy from the control of local school boards.¹⁸¹ Hamilton's proposal to require local school districts to approve charter schools dramatically undercut the legislation's practical impact. In fact, by the fall of 1999, only about a dozen of Virginia's 133 school divisions had even voted to accept applications for charter schools.¹⁸² The constraints written into the legislation provided little incentive for potential entrepreneurs and offered no recourse from skeptical school boards; by early 2000, little or no charter school interest or activity was evident across Virginia's school divisions.¹⁸³

After their initial victory, charter school advocates planned to seek legislative amendments that would strengthen the law and broaden its impact. During the 1999 session, the legislature passed HB 1577, a bill permitting several jurisdictions to work together to open a regional charter school,¹⁸⁴ allowing smaller localities to pool their resources. Additionally, the House Finance Committee debated--before rejecting sixteen votes to eight--a bill providing tax credits up to \$2500 a year for private or home schooling costs.¹⁸⁵

In Virginia's fall 1999 elections, the Republicans made small gains in the House of Delegates, claiming uncontested control of the legislature for the first time since Reconstruction.¹⁸⁶ With Republican majorities in both houses and Gilmore in the governor's office, advocates talked of taking strides to strengthen the legislation. However, their efforts to do so would continue to hinge on the ability of advocates to claim backing from moderate Democrats and Republicans and on their ability to attract support from Northern Virginia legislators.

CONCLUSION

The story of charter school legislation in Virginia is that of a fierce fight that produced little real change. This is not as atypical a result as it may seem. Outside the six or ten states that have moved aggressively into charter schooling, most states with charter school laws possess only a handful of schools.¹⁸⁷ In fact, as of the fall of 1999, seventeen of the thirty-six states with charter school legislation had twenty or fewer charter

¹⁸¹ *See id.*

¹⁸² *See generally* Pamela Stallsmith, *Inquiries Made on Charter Schools*, RICH. TIMES-DISPATCH, June 26, 1998, at B4.

¹⁸³ Phillip Walzer, *Speaker Says Vouchers Cross Political Lines*, VIRGINIAN-PILOT, Mar. 12, 1999, at B5.

¹⁸⁴ H.B. 1577, 1999 Leg. Reg. Sess. (Va. 1999).

¹⁸⁵ Walzer, *supra* note 121, at B5.

¹⁸⁶ Commonwealth of Virginia, State Board of Elections, Members of the General Assembly, House of Delegates, <http://www.sbe.state.va.us> (visited Oct. 2, 2000).

¹⁸⁷ OERI, *supra* note 2.

schools in operation.¹⁸⁸ By scrutinizing the fault lines and political conflict in a state like Virginia, where the fight over charter schooling was relatively intense, we can emerge better able to understand some of the political complications that may lead to low levels of activity and cause charter school implementation to move less aggressively than we might anticipate.

Why was the road to passage so difficult in Virginia? And why was the victory so hollow? The relative lack of success of charter school advocates may appear particularly surprising in Virginia, given the substantial advantages they enjoyed. They had supportive and influential governors, growing ranks of legislative Republicans, and a relatively conservative electorate.¹⁸⁹ However, scrutiny of the case suggests that opponents enjoyed several key advantages in the fight over charter schooling. Four factors that have been largely overlooked in discussions of charter school politics emerge as significant.

First, legislators from the Northern Virginia suburbs were wary of legislation that might tamper with or undercut their highly successful school systems.¹⁹⁰ Perhaps the most interesting finding is the suggestion that school quality is likely to retard support for school choice and that states with regions that enjoy strong public schooling are likely to witness splits along corresponding geographical lines. This is sensible, given that the risks of charter schooling increase as the quality of the locale's public schools increases. Because wealthy suburbs tend to have strong schools but also frequently elect many of the Republicans and moderate Democrats who are receptive to charter schooling, this tendency may produce unexpected political tensions in coming years. The nature of this split in a given state, the cohesion of the suburbs, and the relative strength of the two factions may prove useful in understanding the fate of charter school legislation.

Second, Virginia's troubled desegregation history lent credence and moral heft to opponents who worried that charter schools could unravel difficult decades of progress.¹⁹¹ This point is particularly relevant given the oft-voiced claim that charter schooling avoids the racial divisions that characterize the voucher debate by prohibiting selective admission of students and by creating schools that remain public schools.¹⁹² While charter school advocates may promote the legislation as inherently

¹⁸⁸ See *id.*

¹⁸⁹ See Sabato, *supra* note 38.

¹⁹⁰ See Cain, *supra* note 53, at C8; see also Spencer S. Hsu & Robert O'Harrow, Jr., *Allen's Back-to-Basics Plan for Schools Draws Outcry; Changes Would Reverse Progress*, WASH. POST., Mar. 29, 1995, at A1.

¹⁹¹ See Cain, *supra* note 72, at A9.

¹⁹² See Nathan, *supra* note 3, at 101-02.

nondiscriminatory,¹⁹³ the case of Virginia suggests that the civil rights community may reject that view and provide strong opposition to charter schooling-particularly in states marked by racial tension or a history of racial discrimination.¹⁹⁴ In the South, where memories of segregation and the race academies of the 1950s linger, the role of traditional black organizations may prove very influential in shaping charter schooling.

Third, the lack of any perceived educational crisis in the schools made it difficult for advocates to press the case for a radical and potentially risky policy.¹⁹⁵ The enactment of Standards of Learning under Governor Allen helped satisfy the demands of those who wanted to see pressure brought to bear on the schools and may have dulled the perceived need for state action.¹⁹⁶

Fourth, the Virginia Education Association and other organized interests were able to use their influence in a closely divided legislature to insist on restrictions that served to temper the effects of the legislation.¹⁹⁷ However, the VEA did not oppose charter school legislation so much as it worked to ensure that enacted legislation would be largely toothless.¹⁹⁸

The politics of charter schooling in Virginia does not appear to have been fundamentally different from that in more-studied states, though it does appear that political constraints chafed more deeply in Virginia. Why that may be is a question that requires more extensive comparative research, as does the question of whether the key dimensions of the Virginia charter school fight are present in other states with other outcomes. So far as the future of charter schooling in Virginia, much will depend on the partisan shape of state government, how the SOLs reshape perceptions of school performance in the various regions of the state, and how the key political interests respond to the changing context of education policy in twenty-first century Virginia.

¹⁹³ See *id.* at 133-34.

¹⁹⁴ See Cain, *supra* note 72, at A9.

¹⁹⁵ See Benning & Matthews, *supra* note 8-, at A1.

¹⁹⁶ See *id.*

¹⁹⁷ See Nakamura, *supra* note 52, at B3.

¹⁹⁸ See *generally id.*