

AN HISTORICAL ANALYSIS OF THE DEVELOPMENT OF CHARTER  
SCHOOL LEGISLATION IN VIRGINIA

by

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# **AN HISTORICAL ANALYSIS OF THE DEVELOPMENT OF CHARTER SCHOOL LEGISLATION IN VIRGINIA**

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(ABSTRACT)

Understanding the evolution of charter school legislation and the expectations of legislators adopting this legislation is important to school boards and school administrators in Virginia. The purpose of this research project was to delineate the historical development of charter school legislation in Virginia. A non-emergent research design was used with two steps of data collection. The first step was a review of all charter school legislation, which covered the General Assembly Sessions 1994-2000, and the second step was a series of open-ended interviews with legislators and others who participated in the charter school legislative development. This study addressed the following research questions:

1. What changes did charter school legislation undergo before members of the Virginia General Assembly finally approved it for implementation?
2. What were the expectations of the legislators who sponsored charter school legislation?
3. What, if anything, either internal or external to the Virginia General Assembly, influenced the presenters of charter school legislation?
4. Did the enacted legislation that was adopted meet the expectations of the legislator who initiated charter school legislation?
5. Are legislators and others satisfied with the current status of charter school development in Virginia?

Charter school legislative bills and related amendments from 1994 to 2000 were analyzed. Purposive and snowball sampling identified certain legislators as primary respondents, who were interviewed. After the interviews, the data were transcribed and analyzed using QSR NUD-IST. A total of eight interviews were conducted, and all respondents gave permission to record the interviews.

Six themes emerged from the interviews. These themes are 1) Partisan Politics, 2) Local Autonomy, 3) Accountability, 4) Choice, 5) Funding, and 6) Opposition. Charter school legislation is unique to each state. Also, one delegate individually championed charter school legislation in Virginia. There were some external influences (outside the Virginia General Assembly) opposing charter school legislation; primarily the National Association for the Advancement of Colored People (NAACP), the Virginia School Boards Association (VSBA), and the Virginia Education Association (VEA). Equally important, partisan politics and the opposition of the Black Caucus in the General Assembly were the two strongest internal factors in defeating early attempts at charter school passage. All interviewees reported being satisfied with the outcome of charter school legislation; however, several legislators indicated dissatisfaction with the apparent slow pace of school boards in each locality of holding public hearings to determine whether they will accept charter school applications. Additionally, accountability based upon student results, an alternative schooling opportunity for public school students, and a lottery method for student selection were important charter school characteristics for adoption.

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# CHAPTER 1

## INTRODUCTION

Currently, it is estimated that over 500,000 school-aged children are learning in settings outside the traditional public school classroom (Education Digest, 1999). Because these settings imply a deliberately *chosen* alternative in lieu of traditional forms of schooling, these educational alternatives often are referred to as “choice” in education. While the umbrella of choice commonly is thought of as existing outside the public schooling arena, such as in publicly funded vouchers for private schools, choice options may include charter schools. It may be expected that as parents become more knowledgeable of school choice, the importance of charter schools as an option to traditional public schooling may be increased.

This study will focus on an analysis of the development of charter school legislation in Virginia. In 1998 this educational option became available for public school boards to provide for children in the Commonwealth of Virginia as printed in Section 13, Article 1.2, § 22.1-212.5-212.15 in the Code of Virginia (see Appendix A). This study delineates the historical development of charter school legislation in Virginia.

Prior to reviewing Virginia charter school legislation, the national perspective of this phenomenon is presented. Charter school legislation that has been adopted in each state provides guidance for charter school characteristics and implementation in each locality. According to Nathan (1996), he believes there are basically four major legislative characteristics that uniquely distinguish charter schools: 1) they must use a lottery system to grant admission, 2) they may not charge tuition, 3) they must be nonsectarian, and 4) they must document improved student achievement. Presented in this study is 1) an overview of the national charter school movement, 2) a review of charter school characteristics, and 3) an analyzation of Virginia’s charter school legislative development.

## Charter School Definitions

Researchers have defined charter schools in a variety of ways;

- “An autonomous results-oriented publicly financed school of choice that is designed and run by teachers or other operators under contract with the public sponsor” (Buechler, 1996).
- “A public education entity operating under a contract or charter that has been negotiated between the organizers who design and run the schools and the sponsor who oversees the provisions of the charter” (Bierline, 1995).
- “Public schools under contract or charter from public agency to groups of parents, teachers, school administrators, non-profit agencies, or businesses that want to create alternatives and provide choice within the public school system” (Saks, 1997).
- “A public school of choice, which is authorized by state statutes and which is established by and operates under the terms of a charter granted to school organizers by a public sponsoring agency to whom the school is thereafter accountable” (Blakemore, 1998).
- “A public school that agrees to meet certain performance standards in exchange for exemptions from public school regulations other than those governing health, safety, and civil rights; accepts accountability for results in exchange for autonomy in the choice of methods for achieving those results.” (School Choice Glossary, 1999).

In summary, charter schools are defined as autonomous, publicly financed schools of choice, operating with a contract between the organizers and the sponsor, funded like traditional public schools, accountable for academic results, and exempt from some local and state regulations.

## Charter School Characteristics

To best describe charter schools in practice, certain characteristics and concepts have been identified as being universally common. These characteristics are public nonsectarian schools of choice that adhere to state and federal regulations while being admission free, as well as accountable for achieving educational results. They also can be granted waivers from most legal and regulatory obligations (Bierline, 1995; Nathan, 1996). Equally important, in many instances charter schools receive the same amount of revenue on a per pupil basis that traditional public schools receive. Further, although its enforcement appears highly variable, charter schools employ some sort of accountability regimen. Finally, charter schools must be non-discriminatory on the basis of race, religion, or disability in the selection of students.

## Charter School Development

Early charter schooling was initiated without the benefit of specific legislation. The first charter school was authorized by the 1991 Minnesota legislation, which occurred six years after the first charter school in the United States opened its doors in 1985. Currently, statutes to support the implementation of charter schools exist in 36 states, the District of Columbia, and Puerto Rico.

It appears that during the mid-nineties, Virginia legislators and other individuals began discussing the possibilities of charter schooling. First entered onto the legislative docket during the 1994 General Assembly, the development of charter school legislation in Virginia did not come quickly or easily. After an extended period of revision and compromise, this idea became a reality, when in 1998, charter school legislation was enacted.

## **RESEARCH DESIGN**

This is a qualitative research study employing a non-emergent research design by first, conducting data collection, and subsequently, analyzing these data.

The focus of inquiry was based on qualitative steps of data collection and data analysis.

For this study, members of the Virginia General Assembly and other individuals deemed uniquely knowledgeable were interviewed in depth. As is consistent with elite interviewing techniques (Dexter, 1970), purposive sampling coupled with limited snowball sampling was used to identify possible respondents, as well as to select the members of the legislature who were interviewed (Appendix B). In elite interviewing, a small number of interviewees is acceptable, because it is assumed that their knowledge and insights are both privileged and unique. By concentrating on fewer interviewees, it is possible to understand a particular phenomenon that is normally available to only “insiders.” By limiting the interview process to those individuals who were closest to the charter school legislative process, it is expected that the perceptions of the interviewees will form a coherent network of themes or issues without introducing “noise” in the form of hearsay or anecdotal commentary into the data record. Further, elite interviewing assumes that individuals may vary in their proximity to the phenomenon studied and those individuals are not equally or similarly knowledgeable to all aspects.

When interviews are used in a qualitative study, it is important to let the voice of the interviewee speak by not overly applying the researcher’s own views to the analysis and interpretation. However, it was important to determine how much inconsistency was present among the interviewees in both their recollection of factually verifiable information and their individual perceptions of the processes. One way to detect distortion is by “comparing an informant’s account with the accounts given by other informants” (Dexter, 1970). To assist in detecting distortion in this study, probing questions were asked during each interview to further clarify and reconcile, if necessary, perceptions provided by the other interviewees. Second, a check employed throughout the interview data collection

process was a cross tabulation of statements given by the different interviewees for instances of factual discrepancies. These procedures were done to strengthen the data credibility. Where inconsistencies occurred regarding substantive issues, such information was cautiously interpreted and was so noted. Third, all interviews occurred in a setting selected by each interviewee in order to facilitate their concentration and recollection of events. The interviews included open-ended questions (Appendix G), which were audio-taped, transcribed, and downloaded in a software program that was used to assist in data analysis. While this procedure may have increased the accuracy of information to precisely what the interviewees said, it may have interfered with gaining complete knowledge since the interviewees may have been reluctant to talk as freely or omitted possible contentious aspects. Finally, the interviews were subjected to member-checking, a process by which the transcript is provided to each respective interviewee to amend or to supplement their remarks or content prior to conducting the final analysis. This process seeks to establish confirmability for each interviewee's comments.

The researcher did not predetermine (prior to the interviews and document analysis) the categories or themes, but allowed the outcome of the research study to be inductively derived from a systematic review of the relevant data. One of the benefits derived from selecting this methodology is a deeper understanding of the phenomenon discussed using the participant's experiences than could have been ascertained solely from the written record.

### **PURPOSE OF THE STUDY**

The purpose of this study was to delineate the historical evolution of charter school legislation in Virginia, inclusive to the 1994 through the 2000 General Assembly sessions. Since the adoption of charter school legislation is relatively new in Virginia, it has not been subjected to a systematic review. To conduct this

study, Virginia legislation and other documentation pertaining to charter schools was collected and analyzed (Appendix E). Legislators and other individuals who played prominent roles in charter school development were identified and then interviewed. Interviews were deemed necessary to understand key players perceptions and intentions. From these components, an historical evolution of the charter school movement and pertinent legislation in Virginia were chronicled.

### **RESEARCH QUESTIONS**

From the beginning of charter school legislation proposed in 1994 to the final adoption in 1998, there was an evolution of change and compromise among the legislators, both proponents and foes, who helped shape the final legislation. The following five research questions were asked to examine this phenomenon.

1. What changes did charter school legislation undergo before members of the Virginia General Assembly finally approved it for implementation?
2. What were the expectations of the legislators who sponsored charter school legislation?
3. What, if anything, either internal or external to the Virginia General Assembly, influenced the presenters of charter school legislation?
4. Did the enacted legislation that was adopted meet the expectations of the legislator who initiated charter school legislation?
5. Are legislators and others satisfied with the current status of charter school development in Virginia?

These are the guiding questions that helped frame the historical development of charter school legislation as well as to understand both why and how charter school legislation became a reality in Virginia.

### **DEFINITION OF TERMS**

Terms used in this study are defined as follows:

**Interviewee:** A person who orally responds to topics of discussion or queries presented by an investigator.

**Standards of Learning (SOL):** Minimum grade level and subject matter educational objectives that students are expected to master in Virginia.

**Standards of Quality (SOQ):** Constitutionally mandated minimum program requirements for the Virginia public school divisions.

**QSR NUD·IST:** Software program used in qualitative research which sorts text data into themes, words or phrases, and explores it by comparing links and patterns.

**Document Analysis:** A qualitative research method of data collection by using different techniques to analyze existing documents.

**Purposive Sampling:** When a carefully selected group of interviewees are selected to be included in a study because of their deep understanding of some phenomenon.

**Snowball Sampling:** Where one research participant or setting leads to another.

**Structured Interviews:** "...produces a response that validly differentiates one respondent from another." (Tolor, 1995).

**Open-ended questions:** Questions asked in qualitative research that "allows respondent to speak freely and at length on the topic or questions" (Tolor, 1995) and "is not easily answered with a discrete response or a brief word or phrase." (Maykut & Morehouse, 1994).

**Average Daily Membership (ADM):** The aggregate days of membership divided by the number of pupils in membership. It is used in the Virginia Basic Aid formula.

**Elite Interviewing:** An interview technique used in qualitative research for individuals who occupy important or "exposed" positions and require special interviewing treatment relative to their expertise.

## **DELIMITATIONS**

1. The study of Virginia charter school legislation was conducted by interviewing selected Virginia legislators and other individuals who were involved in developing charter school legislation. All state legislators were not interviewed to ascertain their views concerning the development of charter schools. By delimiting the sample, it is not possible to generalize these results for the entire body of state legislators as to their intentions for charter schools. Although the sample population was small, “the questions asked enabled them to respond willingly and accurately and the characteristics of those in the survey all are similar in their actions” as the legislative body (Dillman, 1994).

2. Audio-taping the interviews should be considered a delimitation, since some interviewees may have been uncomfortable and guarded when their comments are tape-recorded. This could result in, “socially accepted responses instead of true feelings” (Dillman, 1994).

3. The time elapsed since the beginning of legislative development in 1994 through 1998 spans five sessions of the General Assembly and some interviewees may experience difficulty in remembering key points and dates.

4. Only nine states allow the conversion of private schools to charter schools; Virginia is not one of these states. This study assumed the data reported referred to *public* charter school exclusively.

## **LIMITATIONS**

Interview questions that ask for beliefs and attitudes have a high potential for measurement error. It is likely that people may be reluctant to provide truthful responses, when they are asked to share their beliefs and attitudes as opposed to being asked about personal behavior (Dillman, 1994). Additionally, by only conducting a small number of interviews, it is possible that additional external influences may be underestimated.

## **ORGANIZATION OF THE STUDY**

Provided in Chapter One is an introduction to the research, a review of the research questions, a description of the purpose of the study, an outline of the limitations and delimitations, a description of the significance of the study, and a definition of key words. In Chapter Two, an historical review of the national charter school movement and the charter school legislative development in Virginia are described. Chapter Three outlines the research methodology by 1) comparing the legislative documents, 2) identifying the sample population, 3) developing the interview questions, 4) establishing the interview protocol, 5) discussing the interviews, and 6) analyzing the interview data. Chapter Four summarizes the results of the study using an analysis of legislative documents and an analysis of interviews. Finally, Chapter Five overviews the purpose of the study, summarizes the results, presents findings, conclusions, and implications of the study, and outlines recommendations for further research.

## **SIGIFICANCE OF THE STUDY**

The charter school movement is developing into an option for local public school districts throughout the country. Over 30 states had adopted charter school legislation prior to the enactment of such legislation by Virginia. Local public school boards are being challenged to provide a wide array of programs for their increasingly diverse student populations. Additionally, if one relies on the popular press, there is a segment of the public, which has shown discontent with the local public school systems.

The significance of this study is to assist local school boards and public school administrators to understand the historical background and intentions of Virginia's charter school legislation. Also, this study describes, in the literature review, potential charter school start-up problems. Furthermore, as localities work with charter school proponents in their communities, this study assists in designing

successful charter schools by highlighting legislative expectations. To date, two years since charter school adoption, only one public charter school is operating in Virginia. If public school boards do not understand and comply with the intent of the current charter school law, increased oversight and mandates by the Virginia General Assembly could occur, which would result in a reduction of local school board autonomy. As of the writing of this study, the 2000 Virginia General Assembly revised the charter school statute to require local school boards to provide notice by December 31, 2000, of their intent to receive charter school applications. As local school boards develop strategies for establishing charter schools by complying with charter school legislation, then legislators' expectations should be realized.

## **CHAPTER 2**

### **LITERATURE REVIEW**

The literature is divided into seven sections. First, the historical development of charter schools in the United States is discussed. Next, general information and how charter schools address their most important issues, accountability, is reviewed. Third, several primary research studies overview the national charter school movement, followed by a summary of state legislators' expectations. Additionally, a review of the literature is overviewed that suggests that charter schools may not be able to fulfill their earliest expectations. Finally, the background of the charter school movement in Virginia is delineated.

#### Historical Development of Charter Schools in the United States

In Education by Charter (1988), Budde encouraged school districts to create new kinds of schools. Former President Al Shanker of the American Federation of Teachers embraced Budde's idea and he used the term "charter" to refer to teachers who were willing to try new approaches. When Shanker presented Budde's idea in Minnesota, several state legislators, including Democratic State Senator Ember Reichgott Junge, developed a charter strategy (Nathan, 1998). This initial charter strategy allowed multiple organizations to start and operate a charter, permitted converted schools to be public and non-sectarian, provided accountability for student achievement, waived many state and local rules and regulations, allowed for schools of choice to be discreet entities, provided comparable per pupil allocation of state funds, and allowed movement of teachers between traditional public schools and the newly-created charter schools (Nathan, 1996). This initial charter strategy laid the foundation for the current charter school movement.

The first American charter school opened at the City Academy in St. Paul, Minnesota, in 1985. This school was founded by two teachers and focused on students who had dropped-out of school. The school's emphasis was on

developing student responsibility and decision-making by promoting a personalized learning environment. Since then, 36 states, the District of Columbia, and Puerto Rico have approved legislation supporting the operation of charter schools. It is estimated that there were over 1,400 charter schools operating as of September 1999 (U. S. Department of Education, 2000d).

Some of the support for the growth of charter schools can be attributed to President Bill Clinton, who urged states to adopt charter legislation in his 1995 State of the Union speech (Clinton, 1995). He challenged every state to provide to all students and families the public schools that would best meet their needs. Clinton advocated that schools must be given more flexibility in order to maintain high standards. He stressed that charter schools could be an additional expansive and promising option which would help increase accountability in public education. Clinton suggested that charter schools could be tailored to meet the needs of all students, and they could promote healthy competition within the public education sector. Other governmental officials who supported Clinton and encouraged charter legislation include current U. S. Secretary of Education and former Governor of South Carolina Richard Riley (D), former Secretaries of Education William Bennett (R) and former Governor Lamar Alexander (R) of Tennessee, and former Governor Roy Roemer (D) of Colorado, and Governor John Engler (R) of Michigan.

President Clinton was able to convince Congress to appropriate millions of dollars to provide access to *start-up* funding for charter schools, and subsequently, challenged all states to pass legislation that would allow charter schools to be created while providing flexibility and holding them accountable for reaching high standards (Clinton, 1997). On October 22, 1998, President Clinton signed the “Charter School Expansion Act of 1998” to help strengthen the efforts “to support charter schools, providing parents and students with better schools, more choice,

and higher levels of accountability in public education” (Office of the Press Secretary, 1998).

### General Information

The charter school movement appears to be appealing to some parents due to characteristics that charter schools are purported to possess. This section outlines these characteristics, reviews charter school demographics, and discusses reasons that might explain why parents form charter schools.

In popular characterizations, charter schooling is often depicted as an idealized panacea that addressed perceived shortcomings in traditional public schools. According to Bierline, et. al., (1998), the charter school concept is simple, “sound school choice can be provided to families under the umbrella of public education without micromanagement by government bureaucracy,” because the management of charter schools is by committees, parents, teachers, or organizations that act as sponsors. Further, because most charter schools are public non-sectarian schools, they are financed by the same per-pupil funds that traditional public schools receive. These schools must adhere to most state and federal regulations as traditional schools, and allow students to attend tuition free. Charter school contracts may be granted to groups or individuals who are held accountable for achieving educational results, yet are freed from most legal and regulatory obligations (Bierline, 1995; Nathan, 1996). Additionally, charter schools must demonstrate accountability by meeting the charter goals and satisfying their academic and financial missions or face closure. In many charter schools, creative approaches for selecting staff members, for providing staff development, and for giving the staff the flexibility to try new evaluation instruments (Mulholland, 1994). Finally, charter schools must be non-discriminatory on the basis of race, religion, or disability in the selection of their students.

Many parents and students indicate that they select a charter school by focusing on a quality academic program with high standards, a supportive environment based on a smaller school enrollment, and a flexible approach to instructional issues (Watkins, 1996). In practice, no two charter schools are exactly alike. What follows are general traits that are often ascribed as being unique to charter schooling. First, in order to address the specific needs of its community, each charter school designs and implements its own curriculum and instructional approaches, assessment methods, management styles, and discipline policies consistent with its philosophy. Further, curriculum, instruction, and assessment practices are specified in each charter contract. This contract outlines the terms under which the charter school shall be held accountable for improving students' performance and achieving its goals. Finally, because administrative and instructional staff responsibilities may be broadly defined and are overlapping, all employees may assist in making decisions regarding pertinent issues and may also be held legally responsible for them. This level of shared decision-making may imply greater empowerment for teachers than is often perceived to be available in traditional public schools.

The charter school contract with its accountability provisions may typically drive other initiatives such as calendar extensions, and multiple grade configurations. Some charter schools have designed school calendars with longer instructional days to include before and after school programs, and longer years (Barham, 1998). Some charter schools have a non-traditional grade configuration allowing students to progress at a pace consistent with their individualized achievement. Approximately two-thirds of charter schools utilize some form of lottery for student selection. Moreover, some charter schools usually have small enrollments with the median enrollment being fewer than 150 students (U. S. Department of Education Report, 1999). Additionally, other charter schools have

more applicants than can be accommodated, thus they have a waiting list from which children can be taken on a first-come first-served basis (Mulholland, 1994; Nathan, 1998).

The demographic characteristics of charter schools indicate a similar racial and ethnic distribution when compared with their public counterpart in the same community. The study of charter schools by the U. S. Department of Education (Third Year Report, U. S. Department of Education, 1999), stated that 51% of the students in charter schools were white, compared to 58% of the students in public schools in the same school district in which the charter school was located. Black and Hispanic children in charter schools represented approximately 40% of the population, whereas in the corresponding public schools, the percentage was approximately 36%. About 60% of the charter schools serve low-income children. Thirty-seven percent of charter school students were eligible for free and reduced lunches in comparison to 38% of students in all public schools in these same states (U. S. Department of Education Report, 1999). This evidence appears to contradict the popular conception that charter schools serve only segregated student ethnicities.

Three groups of charter founders have been identified that may indicate why parents form charter schools (Bierline, 1998). The first group includes educators or teachers who have dreams of running their own schools and who claim to be frustrated in achieving their educational vision and goals by a perception of a stifling bureaucracy in the conventional public school systems. Another group of charter founders consists of parents, who express a hope or have a dream for something better for their children, but they are not able to afford private schools. A third category of founders includes what has been identified as “third parties” – individuals or groups who want to start or operate a charter school for various

reasons. Examples of these entities are non-profit businesses, organizations, corporations, and community groups.

In summary, in an ideal sense, charter schools have been touted as having unique operating characteristics based primarily on a contract with the chartering agency. Although charter schools are in theory expected to be accountable for academic results, which through the charter contract, may provide for differentiated staffing, curriculum, and unique grade level patterns; whether this concept actually exists is being seriously debated.

### Accountability

Some researchers have surveyed charter schools to assess their accountability. Below is a review of two research studies.

The Center for School Change surveyed schools for their “best practices” relating to student success and improving student achievement. A total of 31 charter schools were selected, representing eight different states. Data were collected using telephone interviews. Their conclusions indicated that teacher evaluations, student portfolios, and student presentations were the most common types of measurements used to assess students. These charter schools were found consistent in having goals to meet accountability requirements, coupled with goal-driven assessments. For improving student achievement, 21 of the 31 selected charter schools had administered at least two rounds of the same test. Gains in student achievement were measured by number of years gained, percentile rank, or normal curve equivalency scores. It is important to remember that each measure has strengths and weaknesses when judging the academic gains, and all information comes from the reporting, which is provided by the charter school operators (Cheng, et. al., March, 1998).

All charters used some form of standardized tests with the most frequent tests being the ITBS (Iowa Test of Basic Skills) Ninth Edition and the Stanford 9.

Nathan (March, 1998) found that 77% of charter schools used three or more different methods to assess student achievement; the most common types of performance measurements being teachers' evaluations, students' portfolios, and students' presentations. Nathan suggests that one needs to be careful in considering what is meant "by accountability for results." Additionally, he found that a charter schools' measurable goals, assessment instruments, and acceptable levels for student performance must be agreed upon before being granted a charter.

In summary, these above two studies reported that teacher evaluations, student portfolios, and student presentations were used to assess students with all public charters schools using some form of standardized tests to measure student performance.

#### Development Issues in Charter Schools

Two organizations have provided extensive related research regarding charter school development. One organization, the U. S. Department of Education, sponsored a national study of charter schools, as authorized by the 1994 Amendment to the Elementary and Secondary Education Act. This project was a four-year research effort to document and analyze the charter schools movement. A second organization, The Hudson Institute, conducted a two-year study of charter schools focusing on start-up problems, solutions, and policy environments, which allowed charter schools to thrive or falter. A summary and comparison of these two studies is described below.

#### Hudson Institute

The "Charter Schools In Action Project" sponsored by the Hudson Institute (1995-97), was a national study conducted in two phases. In the first phase, site visits were taken to 43 charter schools in seven states, and 35 schools submitted data. This sample represented a cross section of the approximately 225 charter schools operating during these years. There were over 600 school-linked

interviews and 107 or more with educators at the state level. This report states that the student demographics of charter schools were ethnically diverse with 63% of the sample comprised of minority group members. Approximately equal numbers of boys and girls comprised the sample. Eighty-one percent of these students had been enrolled in public schools prior to coming to charter schools. The chartering agencies were varied and their educational approaches were very imaginative. Also, students indicated general satisfaction with the education they were receiving, and teachers expressed satisfaction with their freedom to teach, their autonomy, and their personal accountability. Additionally, almost all charter schools studied had a pupil waiting list, which is reported as evidence of parents feeling welcomed and involved. Equally important was a changing attitude among school boards and local administrators from one of hostility toward charter schools to one of finding promise. Finally, the report concluded that students' needs were being met, and educational alternatives and innovations were occurring.

However, not all of the study findings were positive. For example, the first phase report showed that charter schools were not prepared for the number of students who were disadvantaged or at-risk, with over 50% of the charter schools encountering unexpected difficulties from the large numbers of disadvantaged and at-risk pupils. Moreover, charter schools received less funding than conventional schools. Fiscal issues were the greatest concern of charter school founders due to lack of capital funds and start-up funds. Finally, governance appeared to be the most common difficulty for charter schools in terms of organizational relationships.

In the second phase of the study, site visits were made to 45 charter schools in 13 states (17 schools were visited for the second time, and 18 schools that were visited in the first year participated in follow-up interviews via telephone). The second phase also included surveys with parents, teachers, and students in charter

schools. Some interesting second generation issues emerged: meager facilities were beginning to exasperate people, instructional staff members were showing signs of burn-out, and standardized test scores were not as good as expected. Parents also were starting to exert pressure for additional grade levels and an extension of the activities and services consistent with those offered by traditional public schools, specifically pupil transportation and interscholastic team sports. Although some individual schools reported improved test scores, there were no existing national or state summary reports to document this phenomenon. Nonetheless, the number of students who remained enrolled in charter schools, appeared to be very high with fewer than four percent expressing their intent to leave.

The Hudson Institute Report identified six major categories of start-up problems charter schools needed to overcome in order to be successful. These were in the areas of governance, funding, students, staffing, instruction, and facility. Governance issues arose due to tensions between and among the governing boards, administrations, parents, teachers, and other major constituencies. Various funding problems identified were the inability to manage cash flow and parents' lack of financial resources. Furthermore, these charter schools were not enrolling the kinds of students they expected to serve, nor were they expecting the challenges that the students presented. In addition, not enough total students or too many of one kind or students with different needs and challenges were attending that the schools were designed to handle were attending. Moreover, there was difficulty in attracting and hiring teachers and other staff members who were suited and trained for the apparently different charter school environment. Instructional problems were evident with the delivery and the content of the instructional material, as well as the curriculum and pedagogy. Finally, the ability to obtain a suitable building or site for the anticipated school

was frequently problematic, except when converting an existing public school that was already housed in a school building. Charter schools starting from scratch rarely had access to a facility, so they often operated in warehouses, former churches, or abandoned buildings. Even after the acquisition of suitable capital facilities, charter schools often experienced shortages of appropriate furniture, textbooks, computer hardware and software, and playground equipment. All these entities require capital funds for the school to be successful.

#### National Study of Charter Schools – United States Department of Education

The National Study of Charter Schools sponsored by the U. S. Department of Education, was a four-year research effort to document and analyze the charter school movement. The first-year report, published in May 1997, included about 90% of all charter schools in operation as of 1995-1996. The second-year report was published in May 1998, the third-year report was published in May 1999, and the fourth year report was just recently published in January 2000. The reports addressed three major issues in research and policy: implementation of the charters, impact on students, and effect on public education. In the area of implementation, types of students attending, factors influencing charter school development, and approaches states used in developing charter schools were reviewed. Conditions under which students were improving or failing and the affect charter schools had on student learning also were analyzed. Finally, the effects that charter legislation and currently operating charter schools were having on the local and state public educational systems were reviewed. This section provides an overview of the four reports.

The first year report represented data collected from telephone surveys of all 252 charter schools in operation as of July 1, 1996, as well as information collected during site visits to 42 charter schools in operation at the beginning of the 1994-95 school year. The first year report concluded that the number of charter schools

varied widely in each state, as did the number and types of agencies sponsoring charter schools. About 60% of the charter schools in this report enrolled fewer than 200 students, and 15% enrolled fewer than 50 students. The survey also indicated that admissions exceeded capacity in 74% of the charter schools. Thirty-nine percent reported using a lottery/random process for admitting students, 41% using a first-come first-served method, and 10% using a combination of lottery and first-come first-served. Additionally, approximately one third of the charter school students were eligible for free or reduced priced lunches, which was the same proportion as students in the public schools. Moreover, this report stated that the paramount reason charter schools were founded was to advance a specific educational mission, and the secondary reason was the perceived autonomy provided by charter schools. The lack of sufficient start-up funds and inadequate facilities were mentioned as the most significant barriers for charter school success.

In the second year report, 91 site visits were made to charter schools, which were operating in 23 states. The second year study employed telephone surveys, and site visits were made to several previously visited charter schools. Then an analysis was conducted of charter school legislation. This report concluded that 178 additional charter schools had opened since the first year report, however, 19 charter schools that were in operation previously were now closed.

States that had originally approved legislation were now relaxing the limits on the number of schools that could be granted charters and providing more flexibility in the charter granting process. Also, more small schools were operating with 100 or less students. While some changes were noted, the report demonstrated that some aspects of charter schools remained unchanged. For example, the same barriers and obstacles as identified in the first year study, such as start-up funding and inadequate facilities, were still evident. The second year

report identified four provisions for accountability in most charter school legislation: limited term durations for teachers, requirements for student assessment, grounds for charter revocation, and processes for renewal. Because of the desire of charter school proponents to establish more charters, pressure was placed on state legislators to relax legislative restrictions, and 11 states made changes in charter school legislation.

The third year report provided information for charter schools that were operating during the 1997-98 school year. This report relied on telephone surveys to all charter schools that were open and would cooperate during the 1997-98 school year. Field visits to 91 sites across the country and an extensive analysis of state charter laws occurred. The third year report indicated an additional 284 charter schools had opened in 1998, with approximately 1,129 charter schools operating nationwide as of September 1998. Seventy percent of these schools reported they had a waiting list. Further, thirteen additional charter schools had closed during the 1997-98 school year, bringing the total of charter schools that had closed since 1992 to 32. Charter school enrollment was now approximately 160,000 students nationwide, which represented about 0.6 % of the public school population. Also, during the 1998 legislative session, four additional states passed charter legislation thereby increasing the total of states, which had approved charter school legislation to 33 plus the District of Columbia. Only nine of the 33 states allow private schools to be converted to charter schools. Therefore, approximately 70% of the charter schools formed are from newly created schools. Additionally, funding resource limitations were a larger obstacle with newly created charter schools than with pre-existing charter schools. Finally, charter schools were starting to make progress reports to their chartering agencies for the purpose of demonstrating accountability. Approximately 80% of the charter

schools indicated they had submitted progress reports during the 1997-98 school year.

The fourth year report provided descriptive information for charter schools that were in operation during the 1998-99 school year. The results of this study were based on four rounds of telephone surveys placed to charter schools that were operational for school years 1995-96 and 1998-99 inclusive, field visits to 91 sites across the country, and an extensive analysis of state charter school laws. The response to the surveys conducted ranged from 78% to 91%. In order to protect confidentiality, no data from any states where three or fewer charter schools responded were included in the results, except in reporting school enrollment data. Since the third report conducted in 1998, an additional 401 charter schools had opened. Also, more than 1,400 charter schools were in operation as of September 1999. During the 1999 legislative session, three additional states passed charter school legislation bringing the total number of states with charter school laws to 36 plus the District of Columbia. There was very little movement during the state's 1999 legislative session of amending their charter school laws as only approximately eight states made legislative changes. Twenty-nine of the 36 states that had charter school laws had operational charter schools as of September 1999. This report was consistent with the third year report, which indicated that 70% of charter schools had waiting lists. Also, another 27 charter schools closed during the 1998-99 school year, bringing the total number of charter schools that had closed since 1992 to 59, which is approximately 4% of all charter schools. During this fourth year report, there were an additional 90,000 students enrolled in charter schools, resulting in a grand total of more than 250,000 students. This number of charter schools represents approximately 0.8% of the total public school enrollment, recording an increase of 0.2% from the third year report. The median charter school size was nearly identical to the fourth year report (1997-98), with

newly created charter schools showing a median enrollment of 128 students. The enrollment of white students in charter schools in 1998 was approximately 48%, which was slightly lower than reported in 1997-98 in the third year report. The vision of newly created charter schools was to realize an alternative vision of schooling, which was different from the traditional public school, and the reason more than one-third of pre-existing public schools reported they converted to charter schools was to gain autonomy. This report demonstrated continual resource limitations of either start up or operational funds. In the third year report, 59% of charter schools cited startup funding as a limitation, but in the 1998-99 report only 39% reported start-up funds as a limitation. It should be noted, however, that increased federal funding, including start-up funds, might have addressed this limitation. In comparison to the first year report (1995-96), the fourth year report recorded a significant increase in state monitoring of charter schools in the areas of finance, student achievement, student attendance, and instructional practices. In this fourth year report, with the exception of Mississippi, all 35 states plus the District of Columbia, which had charter school legislation, allowed pre-existing public schools to convert to charter schools. In contrast, only nine states plus the District of Columbia have legislation that allows private schools to convert to charter status.

The research methodology used to produce the United States Department of Education (USDOE) and the Hudson Institute Reports is significantly different in one major aspect. The USDOE report relied on self-reported data obtained from charter school directors while the Hudson Institute Report was based on both interviews and observations. By relying only on self-reported data (USDOE), there could be some biases reported from the charter school directors because those individuals who self-report the charter school data might not feel they have the problems that others in the organization perceive. Additionally, the USDOE

reported that approximately two-thirds of the charter schools surveyed had reported or planned on reporting student achievement data to their chartering agency. One might ask, if accountability is one of the major components of a charter school contract, then why has this initially not been occurring?

Interestingly, both reports did mirror each other in concluding that the two main reasons for charter school proponents desiring to start a charter school were autonomy and educational vision.

### State Legislative Development

Several reviews have attempted to identify the reasons that state legislators have supported charter school legislation as well as define *weak* versus *strong* definitions of this legislation. It does not appear that there exists universal agreement on these definitions; whether one is a proponent or not is the context for how different states' charter school laws are evaluated. The following is a review of three prominent studies that address this contrast.

Joe Nathan surveyed fifty legislators and policy leaders in several states trying to identify why they proposed charter school legislation because charter school development has a direct relationship to legislation being enacted in each state (Nathan 1998). The major reasons legislators cited were to help youngsters who had not succeeded in existing schools, to expand the range of schools available, to increase student achievement, to provide an opportunity for educational entrepreneurs, and to pressure the existing system to improve.

Legislators also felt charter school legislation could be strengthened by:

1. Giving charter schools the same per pupil allocation as public schools,
2. permitting more than one organization to sponsor charter schools,
3. eliminating the cap on the number of charter schools
4. giving charter schools a great deal of independence, and
5. providing some start-up funds.

Additionally, the Center for Education Reform determined that the strength of state legislation has a key impact on the actual charter school growth. The Center defines a strong law as one that, “fosters a development of numerous, genuinely independent charter schools,” and weak law as “one that provides few opportunities or incentives for charter school development.” A strong law is considered progressive and expansive, and a weak law is considered restrictive and ineffective (Center for Education Reform, 1998).

Buechler (1996) defined 12 criteria that were important in determining whether charter school legislation is restrictive or expansive. Currently, no state has active legislation that encompasses all of these components. These criteria are:

1. A variety of public or private groups may organize, sponsor, or operate a charter school.
2. At least one public authority besides the local school board may sponsor a charter school.
3. Charter schools are considered discreet, legal entities.
4. Charter schools embrace the idea of the common school by being nonsectarian, tuition free, nonselective in admissions, nondiscriminatory in practice, and accountable to a public body.
5. Each charter school is held accountable for its performance, both by parents and by its sponsoring public authority.
6. Charter schools are exempt from state and local laws and regulations, except from those related to health, safety, nondiscrimination practices, and those agreed to within the charter provision.
7. Charter schools are schools of choice for students, parents, and teachers, and no one can be forced to attend.
8. Each charter school receives the full operating funding appropriated based on its student enrollment. It is fiscally autonomous.

9. Teachers have the option to work as employees, owners, or subcontractors. If previously employed in a district, they maintain all leave provisions, seniority, retirement benefits, and retain the option to return to the district within a designated time.

10. There should be no restriction on the number of schools that can be created.

11. Start-up funds and capital funding shall be provided for charter schools.

12. A strong appeals process for charter schools shall be provided. (Bierline, 1995; Buechler, 1996).

Statutes in six states mandate most of the above criteria. Then, it is not surprising these states (Arizona, California, Michigan, Colorado, Minnesota, and Massachusetts) have two thirds of all charter schools (Buechler, 1996). The number of schools that have been started is directly related to the type of laws passed. In order for charter schools to increase, advocates have maintained that charter schools must have maximum autonomy, as well as provide multiple sponsoring entities. Without these two criteria, many charter school advocates conclude that a state's charter school is "weak."

Figure 1.0 reviews those states that have approved charter school legislation by listing the year legislation was adopted, ranking them based on strong versus weak criteria, outlining general statistics, identifying operational regulations, listing funding methods, reviewing criteria for student selection, and identifying student assessment:

<b>STATE</b>	<b>YEAR</b>	<b>GENERAL STATISTICS</b>	<b>OPERATIONS</b>	<b>FUNDING</b>	<b>STUDENTS</b>	<b>ASSESSMENT</b>
Minnesota (57)	1991	Unlimited charters allowed. Multiple chartering authorities granted. Appeal process to State Board of Education. Charter may be public, private, or new start; not home-based. Charter term - three years.	Exempt from most state and district regulation of policies.	Directly to charter based on average state per pupil revenue.	No enrollment requirement. Lottery selection method.	Meet or exceed state adopted outcome.
California (234)	1992	Convert public, new-starts, home-based, but not convert private schools. May be appealed to county board of education. Local and county boards may authorize charters. Charter term – five years.	Exempt from state, but must negotiate district policy exemptions.	Operation funding flows through district to charter school with 100% of state and district funding following student based on average district per pupil revenue.	All students eligible may have enrollment requirements. Have not identified a selection method.	Statewide assessments.
Colorado (68)	1993	No statewide limit, but local boards may reasonably limit the number of charters. Appeal process to State Board of Education. Charter may be public or new start, but not convert private nor home-based school. Charter term – three to five years.	Exemptions from district policy must be negotiated with the district and waivers from state law and must be granted by the State Board of Education.	At least 80% of state and district operations funding follows the students. The final 20% is negotiated between charter school and district.	No enrollment requirements with selection method in a nondiscriminatory manner as specified in charter.	Meet or exceed district assessment standards.
Georgia (32)	1993	No limit to number of charters. May convert public or new starts. Chartered by state board of education only. Charter term – five years.	No exemption from law except that as negotiated in charter with sponsoring district.	Through district to the charter school as negotiated with the sponsoring district.	Mostly limited to attendance area with no enrollment requirements and selection methods must be specified in charter.	Statewide assessments.

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Massachusetts (24)	1993	State board and local school committee may start charters. May convert public and start-up but not private or home-based schools with no appeals process. Charter term – five years.	No waiver from state but may negotiate district waivers for regulations and policies.	From state directly to charter schools with 100% of state and district operation funding following students based on average cost per district.	Lottery selection method. May not discriminate on achievement, physical, or mental disabilities.	Some performance and testing requirements as public schools.
Michigan (175)	1993	Unlimited charters. Numerous chartering authorities. May convert public, private, new starts, but not home-based schools. Has appeal process to other chartering authorities. Charter term – up to ten years.	May seek waivers on a case-by-case basis.	Through chartering authority to charter school with 100% of state and district operations funding following students. Based on average district per pupil revenue.	Lottery selection with no enrollment requirements.	Statewide assessments (M.E.A.P.)
New Mexico (3)	1993	Five charter schools allowed. Can convert public school only with no appeals process. State Board of Education is chartering authority. Charter term – five years.	Exemptions may be negotiated with sponsored district as specified in charter.	From district to charter school with 100% of state and district operations funding following students. Based on average district per pupil revenue.	Preference to students attending original public school prior to conversion with no selection method addressed. No enrollment requirements allowed.	Statewide assessments.
Wisconsin (45)	1993	No limit to number of charters. Authority granted only to local school boards with no appeals process. Convert public, non-sectarian private, and new starts, but not convert private sectarian or home-based schools. Charter term – up to five years.	Exempt from state but not district rules and regulations.	Through district to charter school. Funding is negotiated as specified in the charter.	Has enrollment requirements: students only in attendance area of former public school with no selection method identified.	Statewide assessments.

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Arizona (348)	1994	Ranks strongly in nation – no limit on charters. Multiple chartering authorities. Appeals can be submitted to alternative chartering authorities. May convert public, private, new starts, but not home-based schools. Charter term – fifteen years.	Waiver from state and district rules and regulations.	Through district to charter school. Funding is negotiated as specified in the charter.	No enrollment requirements. Lottery selection method.	Statewide test plus National norm referenced test.
Hawaii (2)	1994	25 charters allowed. Chartering authority is the State Board of Education. No appeals process. Converted public schools only. Charter term – four years.	Automatic waivers from most state and district regulations and policies.	100% of operations funding follows the students based on average statewide per pupil revenue,	No enrollment requirements no selection method.	Statewide assessment.
Kansas (15)	1994	15 schools allowed. Local schools boards only chartering authority. No appeals process. May convert public and new starts but not convert private or home-based schools. Charter term – three years.	Not exempt from state, but policies may be negotiated with local district and the charter.	From the district to the charter at the discretion of the school district.	The enrollment requirements must be specified in the charter using the lottery selection method.	Charter determines participation in state assessment.
Alaska (18)	1995	30 charters allowed. Local school boards are chartering authority with no appeals process. May convert public, private, new starts or home-based schools. Charter term –up to five years.	Not exempt from state rules and regulations but district policies may be specified in charter.	Through district to charter with 100% of state and district operations funding following students based on average district per pupil revenue.	No enrollment requirements with lottery selection method.	Statewide assessments.

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Arkansas (0)	1995	No limit to number of charters allowed. Chartering authority is State Board of Education, which also may request hearings for appeal but may not overturn local school board decisions. Conversion of existing public schools only. Charter term – three years.	Not exempt from state laws and regulations, but policies may be specified in charter.	Through district to charter as specified in the charter.	Enrollment and selection method not applicable since only involves existing public schools.	Statewide assessments.
Delaware (5)	1995	Number of schools is 5 each for the first 3 years and then no limit. Local school boards and state board chartering authority. May convert public and new starts, but not convert private nor home-based schools. Charter term – three years.	Automatic waiver from state and district rules, policies and regulations.	State directly to charter and district flows from district to charter with 100% of computed state funding based on state unit funding formula.	Random selection method. May not limit enrollment on academic abilities, but only on area of focus of a school with only students attending a school prior to conversion.	Local assessment developed by school board.
Louisiana (17)	1995	42 charters. Local school board chartering authority with appeal to the state board who can grant charters. May convert public and new starts, but not convert private nor home-based schools. Charter term – five years.	Automatic waiver from state and district rules and regulations and policies.	Through district for charters approved by district. Through state for schools approved by state. With 100% of state and district operations following students based on average district per pupil revenue.	Lottery selection method. May establish enrollment requirements based on specific mission of schools with no preference for enrollment.	Statewide assessments.

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New Hampshire (0)	1995	5 charters by 1997, 10 by 1999 and no limit by 2000. Convert public and new starts, but not private or home-based schools. Local school board chartering authority with appeal to state board of education, but not binding. Charter term – five years.	Automatic waiver from state.	From district to charter with 80% of district's prior year average cost per pupil following students to school.	Lottery selection with screening allowed, but must be related to the academic mission of the school.	Statewide assessments.
Rhode Island (2)	1995	Twenty with no more than 4% of statewide student population. Chartering authority is state board of regents after local school committee approves with no appeals process. May convert public, new starts; but not convert private nor home-based schools. Charter term – up to five years.	Not exempt from most states and only those policies as specified in charter with local district.	Through district to charter with 100% of state and district operations following students based on average per pupil revenue.	Selection method as specified in charter with reasonable academic standards for enrollment eligible.	Statewide testing program.
Wyoming (0)	1995	No limit to number of charters. Local school board only chartering authority with no appeal process. May convert public, new starts but not convert private nor home-based schools. Charter term – up to five years.	Not exempt from state rules, but may seek waivers on case-by-case basis from state board.	Through district to charter school as negotiated with sponsoring district as specified in charter.	No selection method addressed with some enrollment requirements permitted. Not based exclusively on academic ability or achievement.	None
Connecticut (17)	1996	24 schools through 1999 with State board of education as chartering authority with first local school board approval. No appeals process. May convert public or new starts, but not convert private nor home-based schools. Charter term – up to five years.	Not exempt except as specified in charter.	Local charters funded as specified in charter. State charters – 105% of state and district operations funding follows students based on average district per pupil revenue.	Lottery selection method with no enrollment requirements permitted.	Statewide mastery exams.

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District of Columbia (28)	1996	No more than 20 per year after 1997 in each school district. May convert public, private, or new starts, but not home-based schools. Charter authority is District of Columbia Board of Education. No appeals process. Charter term - 15 years with at least one review every five years.	Automatic waiver from both state and district rules and laws.	Directed to charter school with 100% of operations funding following students based on per pupil formula.	Random selection process, but may only limit enrollment based on the area of focus of the school.	District-wide assessments developed by school board.
Florida (112)	1996	239 conversions and 239 new starts statewide. Multiple chartering authorities with appeals to state board of education. Convert public and new starts but not convert private or home-based schools. Charter term – three, four, or five years.	Waived from most state, district laws and regulations.	Through district to charter with 100% of state and district operation funding following students based on average district per pupil revenue.	Lottery selection method with no enrollment requirements permitted.	Statewide assessments.
Illinois (19)	1996	45 total charters. Local school boards as chartering authority. Appeals to the State Board of Education, which is nonbonding. Convert public and new starts, but not convert private or home-based schools. Charter term – three to five years.	Automatically waived from most state and district rules and regulations.	Through district to charter school with no less than 95% or more than 105% per capita student tuition of district in which charter school is located.	Lottery selection method with enrollment requirements as used by a school district.	Statewide assessments.
New Jersey (52)	1996	135 charters in first four years with state commissioner of education as chartering authority. Appeal process through State Board of Education. May convert public, new starts, but not convert private or home-based schools. Charter Term – four years.	Not exempt, but may request certain exemptions in charter applications.	90% of the lesser of a) state and district operations funding, or b) state-mandated minimum per-pupil spending.	Lottery method of selection, but not base enrollment on academic achievement or ability.	Statewide testing program.

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North Carolina (83)	1996	100 charters allowed with multiple chartering authorities with appeals to the state board of education. May convert public, private new starts but not home-based schools. Charter term – up to five years.	Exempt from state and district as negotiated in the charter.	State funds directed to charter with local funds through district to charter with 100% of state and district operations following students based on average district per pupil revenue.	No enrollment requirements with lottery selection method.	Statewide assessments.
South Carolina (10)	1996	No limit to number of schools. Local schools boards chartering authority with appeals to state board of education. May convert public and new starts but may not convert private and home-based schools. Term of charter – up to three years.	Exempt from most state and district laws, rules and regulations.	Through district to charter school with 100% of state and district operations following students based on average district per pupil revenue.	The lottery selection method with no enrollment requirements permitted.	Statewide assessment and meet district standards.
Texas (38)	1996	Unlimited number of charters with local school board chartering authority and State Board of Education for open enrollment charters with no appeal process. May convert public, private, and new starts, but not home-based schools. Term of charter – 5 years.	Exempt from most state and district regulations, rules, and policies.	District charters negotiated with sponsoring district. For open charters, 100% of state and district operations follow students based on average district per pupil revenue.	Enrollment requirement may not discriminate and selection methods must be specified in charter.	Statewide testing.
Mississippi (1)	1997	Six charters allowed. State board approves charter after local school board approves with no appeal process. May convert only public schools. Exempt from state and district laws as specified in charter law. Charter term - four years.	Automatic waivers from most state and district regulations except as approved in charter law.	No funding addressed and none appropriated except as addressed in the charter.	Selection method specified in charter. No enrollment requirements.	Statewide testing.

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Nevada (5)	1997	Twenty-one charters allowed with local school boards chartering authority after approved by state board of education with no appeals process. Only new starts for charter schools with no public or private conversions. Charter term - six-years. Renewal after three years.	Automatic waivers from most state and district regulations and rules.	From state superintendent to charter schools with 100% of per pupil funding the charter.	Lottery selection method with enrollment requirements.	Statewide assessments – meet graduation requirement.
Ohio (48)	1997	Unlimited number of charters. Local school board or State Board of Education chartering authorities with appeals allowed to other chartering authorities. May convert public and new starts but not private school conversion. Charter term – up to three years.	Exempt from most state and district education laws and regulation of policies except as identified in the charter law.	From state department of education to charter with a formula by the county which is the basic statewide formula.	Lottery selection method and may limit enrollment in a particular geographical area or to at-risk students.	Statewide proficiency test.
Pennsylvania (45)	1997	Unlimited number of charters with local school boards. In 1999 the state board granting charters on appeal. May convert public and new starts. Charter term - three to five years.	Exempt from most state rules and regulations except that which is specified in the charter law.	Through district to charter with charter funding being 70-82% of districts per pupil revenue.	Lottery selection method. Discrimination is prohibited, but may limit enrollment to particular grade level or area of concentration and set reasonable criteria consistent with the charter.	Statewide assessments.
Idaho (8)	1998	No more than 60 statewide in the first five years, with not more than 12 approved in any one year with no more than two charters per year within any educational classification region. May convert public and new starts with appeals to a hearing officer to review local board action, but recommendation is not binding. Charter term - five years.	Exempt from most local and state applicable laws and regulations.	Computation of support calculated according to the Idaho Code.	Lottery or other random method of selection with preference for enrollment to children in attendance area.	In accordance with the State Education Standards.

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Missouri (14)	1998	Unlimited number of charters with local school boards, four-year colleges, community colleges, and the State Board approving charters. Appeal to State Board of Education. May convert five percent of operating public schools and new starts. Charter term - no less than five or more than 10 years.	Automatic waivers for most state and district regulations and rules.	100% of state and district funding follows students based on average district per pupil revenue.	Lottery selection method. May only limit admission based on age or grade level.	Student progress methods as developed by the State Board of Education and participating in the nationally standardized norm- referenced achievement tests.
New York (3)	1999	100 charters permitted with conversions unlimited. May convert public and new starts, but not convert private or home-based schools. No appeals process. Charter term - up to five years.	Exempt from most state and local rules and regulations.	Through district to charter school mandating 100% of funds following students.	Random selection with open enrollment with at least 50 children and three teachers required.	Meets state and region's requirements.
Utah (8)	1998	Number of charters allowed, eight No appeals process. May convert public and new starts with State Board of Education chartering agency. Charter term – three years.	Must apply to State Board of Education for waiver from rules and regulations.	75% of per pupil funding follows the child from state to school and district to school. The charter school shall pay the school district in which the student resides one-half of the amount of which the district's per pupil expenditure exceeds that value of the state funding.	Lottery method of selection.	Each school develops an accountability plan to measure student achievement, which includes state and requires Stanford Achievement Test.

<b>STATE</b>	<b>YEAR</b>	<b>GENERAL STATISTICS</b>	<b>OPERATIONS</b>	<b>FUNDING</b>	<b>STUDENTS</b>	<b>ASSESSMENT</b>
Virginia (0)	1998	Two charters per school division. No appeals. Only local school board grants charters. May convert existing public or new starts but no private nor home-school. Charter term - three years.	Not exempt from S.O.Q.'s or S.O.L.'s, but local regulations as specified in charter.	Through district to charter based on ADM funding.	Lottery selection.	Meet state S.O.Q. and S.O.L. requirements.
Oklahoma (0)	1999	Not available.				
Oregon (1)	1999	Not available.				

These charter school states represent about 250,000 students who attend approximately 1,400 charter schools nationwide. With President Clinton's expressed goal of 40 states and a total of 3,000 charter schools by the Year 2000, one can see the growing trend toward states approving charter school legislation.

#### Evidence of Inconsistent Charter School Results

Some observers of charter schools fear the negative effects charter schools could have on public education. Some indicate that policymakers will use charter school initiatives as a means to distract attention and funding away from the current broad based educational reform efforts underway in the traditional public schools. They also suggest that segregation will reappear if charter schools only enroll the brightest and best students and not include educably different students. This section will highlight four research studies to demonstrate some inconsistencies between the idealists' aspirations that charter school proponents hold and the reality of some charter schools in practice.

#### Richard Rothstein Report

Richard Rothstein (1998) feels that holding charter schools accountable is a myth because there is no consensus on how to assess educational outcomes objectively. He expresses that the trade off charter schools advocates expect is between student outcomes against deregulation of rules and policies. He states that the first-come first-served method does not prevent schools from influencing student selection by their recruiting practices, counseling efforts, and advertising philosophies. With all the rhetoric about student performance declining in public schools as evidenced by failing test scores, there is no reliable data upon which we can compare schools. It is known that student achievement is only partially affected by school effectiveness. Thus, it is difficult to compare different tests because they emphasize different skills. Moreover, he stresses that we do not update our testing on a regular basis because of the expense, and testing conditions

are not standardized. When charter schools compare student test scores from one year to the next, they do not take into consideration the student turnover. Finally, some dissatisfied students will leave each year, and new students enter, but all students are considered in the total test data bank. Ironically, with all the emphasis on academic accountability, considering the 19 charters that have been revoked, not one charter has been revoked for poor academic performance but rather for fiscal mismanagement or violation of rules.

Rothstein criticizes the Hudson Institute Report for concluding that 60% of charter schoolteachers are better, and for using that statement to assume that educational experiences are better in charter schools than in public schools. He states that with only 61% of the students favoring charter schools, on a normal distribution, one would expect 50% to say they were satisfied and 50% not satisfied. Rothstein does not believe that 61% provides a sound basis for a strong endorsement of charter schools. He believes just asking parents whether they are satisfied does not provide accountability because parents would probably say they are satisfied because they selected these schools. Rothstein finds interesting the Hudson Institute Report which blames the failure of the public schools on bureaucratic governmental control, yet teachers, parents, and principals surveyed in their charter school study indicated that they are able to meet payroll and balance budgets, yet are simply under administered.

According to Rothstein, the contention that charter schools enroll equal or larger proportions of racial, minority, or poor students is also very misleading. Many charter school laws mandate a certain percentage of students be at-risk, and that they serve low-achieving students, which provides proportions of students based on mandates, not because students select these schools freely. Charter school advocates have long said that they can deliver more structure for less money, but they are finding out that better teaching may require more money, not

less. Equally important, most charter schools do not provide secondary programs, which are more expensive to operate. Additionally, charter schools have a tendency to hire young teachers, who fall on the low end of the salary scale so they can possibly hire more teachers for the same funding as public schools that have a more experienced and higher paid staff. Finally, Rothstein asks the question, can charter schools over long periods of time sustain themselves by providing strenuous private fund raising activities? He also asks how long before volunteers must give way to employees?

In summary, Rothstein believes that student enrollment in charter schools can be tainted in the selection process, and comparing academic results between public schools and charter schools is difficult because tests and testing conditions are not equal. Also, the demographic characteristics are misleading because of charter contract requirements. Finally, Rothstein emphasizes that charter schools will not harm the cause of public education because as charter school proponents face the same problems that traditional schools confront, they will come up with the same solutions and do what public schools are currently doing.

#### University of Minnesota Report

The University of Minnesota (Seppanen 1998) conducted an eighteen-month study of charter schools in the state. This study was to determine if charter schools are doing what they are supposed to do by successfully improving student achievement.

They found the average attendance rate for charter schools in Minnesota during 1994-95 and 1995-96 was the same as for the sponsoring school district. Even though this report expressed this attendance rate as a positive advantage because of students who are more at-risk, could not the question be asked that if parents and students express a higher degree of satisfaction with their charter schools by choosing to attend, should this not be higher? Additionally, students

only indicated that 47% were happy or very happy, while 51% reported being more satisfied and 48% reported being equally or less satisfied than before. Also, older students tended to be more neutral or even unhappy about their participation in student activities and in decision-making.

This report identified other charter school problems: teachers have no one to turn to with a problem, procedures were not time-tested, little time to talk and discuss teachers' work, and teacher' new roles were very inefficient and fraught with conflict and difficulty. Because of a high percentage of inexperienced teachers, governance was a problem. Also, when charter school directors were interviewed, they indicated that fewer than 25% of the parents were involved in decision-making regarding curriculum, budget, and school policies, yet the parents reported to be more involved with their former schools. Interestingly, a different perception from the school directors in comparison to parents about parent involvement exists.

In summary, this article shows that charter schools must confront the stress for teachers, provide released time, develop learning communities, provide for socialization of staff members, and engage teachers actively in designing their roles.

#### American Federation of Teachers Report

The American Federation of Teachers (AFT) (1996) conducted another charter school research project in 25 states based on criteria of "good" and "bad" legislation. The following review compares the relationship of state charter school law to actual charter school implementation.

The AFT found not all states required charter schools to develop programs that meet or are consistent with state or local standards. They also found some states do not even require charter schools to participate in the state's accountability system. If charter school students do not have to meet the same standards as public

school students, it is very difficult to hold charter schools accountable. Equally important, no clear guidance on fees and donations for hidden expenses exists, even though no tuition is being charged. This could prohibit parents from enrolling their children in charter schools. Additionally, the AFT strongly believes that only fully certified teachers should be hired to teach in charter schools; some charter legislation does not have this requirement. Finally, they found no legislation in the 25 states studied to determine how student progress in charter schools would be compared to public school students.

In summary, the AFT report recommends that new legislation must 1) require charter schools to be based on high academic standards, 2) mandate the same tests as all other schools, 3) hire teachers who are certified, and 4) have local school districts approve the charter school, if a valid comparison between public and charter schools is expected.

### California Study

California was the second state to pass charter school legislation, and it has both the second largest number of charter schools and the most students enrolled in these schools. California conducted a study of 10 California school districts during a two and a half-year study to compare the claims of charter school advocates against the day-to-day experience of educators (Wells, 1998). Case studies of 17 charter schools in 10 school districts were conducted with over 450 interviews. Site visits were made to each of the eight charter school districts. There were two site visits made to the smaller districts, with each site visit lasting three to four days and conducted by two to four researchers. They analyzed accountability, autonomy, efficiency, choice, competition, and innovation in these charter schools.

The research revealed that California charter schools are 1) not really held accountable for enhanced academic achievement, 2) varied widely in the amount of operating autonomy they want or need, 3) had a wide variance in public

funding, 4) exercised considerable control over the types of students they serve, and 5) have not enforced the requirements to reflect racial or ethnic makeup. Moreover, teachers had a very heavy workload and there was no connection between charter schools and regular schools to share learning experiences. Finally, private resources are necessary for the survival of charter schools, because with limited access to information about charters and without pupil transportation capability, parents face serious constraints for choices. Charter schools have not become models of change and reform throughout the system.

In summary, based on the findings of the four above reports, it can be concluded that 1) there is no consensus on how to assess educational outcomes objectively, 2) there is no reliable data to compare test scores of public school and charter school students, 3) charter school teachers found their new roles fraught with conflict and difficulty, 4) it is impossible to compare charter school students' achievement with public school students when charter schools are not required in some states to participate in their accountability system, and 5) no states had laws to determine how to compare student progress in charter schools with public schools.

## Virginia's Charter School Movement

### Legislative Process

The charter school movement in Virginia is relatively new being rooted in the 1994 legislative session. Senator John Brandon Bell, II (SB 562) and Delegate Phillip Hamilton (HB 1042) proposed legislation to establish the "Charter School Act" in the Commonwealth allowing the creation of charter schools by local school boards. Both bills in the Senate and House were assigned to their respective education committees, and they were continued to the 1995 legislation session. Delegate Mitchell Van Yahres also presented a bill to establish a process for public schools to be granted charter schools, which outlined the conditions under which

charter schools could operate. This bill (HB 875) was also carried over by the Education Committee to the 1995 legislative session. These three recommended bills began the legislative movement to establish charter schools in Virginia.

Also in May 1994, Governor George Allen appointed the Governor's Commission on Champion Schools, which consisted of 53 individuals from various professions in Virginia. The charge of this committee was to

go out and listen to the people of Virginia before proposing even one preliminary recommendation. Second, after the commission has studied the issues and listened to the ideas, concerns, and suggestions of parents, the teachers in the trenches, principals, and other taxpayers and citizens, propose the bold reforms that could truly transform Virginia's educational system into one of academic excellence-with high academic standards and real accountability for improving student academic performance (Governor's Commission on Charter Schools, 1996).

The commission presented their recommendations in January 1996. The recommendations requested that:

1. localities be allowed to create public charter schools,
2. charter schools promote innovation and provide for accountability by getting freedom from state regulations,
3. charter schools be managed by their own board's of trustees,
4. charter schools be public, under local school board control, and
5. any groups or organizations wanting to start a charter must "convince the local school board of the worthiness of their plan" (Governor's Commission on Charter Schools, 1996).

In the 1995 legislative session, Delegate Phillip Hamilton again proposed legislation (HB 1625) in the House authorizing the establishment of charter schools in Virginia. This bill was referred to the Education Committee, but no action was

taken. Senator John Brandon Bell also again proposed charter school legislation (SB 1037) in the Senate. This bill was left in the Education and Health Committee. Finally, Delegate John Paul Councill (HJ 551) and Senator Elliot Schewel (SJ 334) proposed resolutions to authorize the establishing of a joint subcommittee to study other states' charter school legislation and governance before considering legislation in Virginia. Both of these bills passed.

During the 1996 legislative session and because of the recommendations of the joint subcommittee, Delegates J. Paul Councill Jr. and Phil Hamilton co-partoned HB 776 to authorize the establishment of charter schools in Virginia. This bill outlined the charter granting process, revocation process, funding mechanism, licensing requirement, personnel practices, facilities usage, and accountability process. This bill was assigned to the Education Committee, but it was defeated.

In the 1997 legislative session, Delegate Phillip Hamilton (HB 1751) and Senator Warren E. Barry (SB 1193) proposed identical charter school legislation to authorize charter schools in Virginia. Senate Bill 1193 failed in the Senate Education Committee by a vote of seven to eight, and House Bill 1751 failed in the House Education Committee by an 11-11 vote.

In the 1998 legislative session, charter school legislation in Virginia became reality. Warren Barry (SB 318) and Phillip Hamilton (HB 543) again proposed legislation to establish charter schools in Virginia. After several amendments and substitutions, the Senate voted 30-7 on March 13, 1998, to adopt charter school legislation. On March 13, the House of Representatives voted 65-27 to adopt charter school legislation. On April 16, 1998, Governor James Gilmore sent a letter to the Senate recommending changes in the proposed charter school legislation. Of the governor's 27 recommendations, all were defeated in the Senate and finally

Gilmore signed legislation approving Chapter 748, authorizing the establishment of charter schools effective July 1, 1998, in Virginia.

In the 1999 legislative session, the General Assembly passed HB 1577, patroned by Delegate John J. Davis, III, which allows for two or more school boards to establish regional schools. They could "...include regional charter schools with the consent of the State Board of Education." (HB 1577). This allows another opportunity for school systems to join together to increase the opportunity and availability for charter school development.

### Summary of Adopted Charter School Requirements

The legislation that was finally adopted in 1998 was to stimulate the development of creative programs, to provide opportunities for innovative instruction and assessment, and to create *public* charter schools. It also was to 1) provide options for parents and students within their school systems, 2) provide teachers with the vehicle to establish alternative schools with scheduling options, 3) encourage performance-based educational programs, 4) establish high standards for both teachers and administrators, and 5) develop models that could be replicated in public schools. Additionally, local school boards are given the authority to approve charters and to develop a contract between the local school board and the applicant. Moreover, any charter schools approved by local school boards must be public, nonsectarian, non-religious, and non-home-based alternative schools within the school system. Each school district can create a new charter school or can convert an existing public school into a charter school, but may not convert a private school or nonpublic, home-based-educational program into a charter school. In addition, each charter school is subject to all state and federal laws, regulations, and constitutional provisions prohibiting discrimination, but none can charge any educational fees or rent. Each school district must use a lottery process on a space available basis with open enrollment for resident

students, but may not approve more than two charters prior to July 1, 2000, with one charter being for at-risk students. Also, only one existing school in the district may become a charter school, while each charter cannot exceed three years. Procedurally, local school districts are required to have a public hearing before accepting applications and any person or organization is eligible to apply for a charter, with the decision of the school board final with no appeals process. Equally important, Virginia's charter school legislation requires each charter school to comply with the Standards of Quality (SOQ), meet or exceed the Standards of Learning (SOL), and comply with all federal anti-discrimination laws. Finally, there are certain application criteria that are required to be completed when individuals apply for a charter school: charter contract, renewal process, teacher employment/transfer responsibilities, and guidelines for funding (Barham, et.al., 1998).

In a Virginia School Board Association Newsletter, Frank Barham, Executive Director of the Virginia School Board Association, stated, "...the Virginia Legislation enacted and the governor signed the strongest, best charter school legislation in the country." His belief is based on the legislative requirement that local school boards have the final authority to approve or deny charter school applications with no appeal process regardless of their decision. His statements are in conflict with charter school advocates who maintain that states with strong charter school legislation do not restrict the number of charters per school system, do provide for an appeals process, and do allow for multiple chartering authorities. In this same newsletter, Phillip Hamilton is quick to say that "...school boards will be closely watched, and if they do not impartially consider charter schools, then the General Assembly could change the approval process" (May, 1998).

## **CHAPTER 3**

### **METHODOLOGY**

The purpose of this section is to describe the methodology and the procedures used in this study. This study was based on a non-emergent qualitative research design with two steps, document analysis and open-ended interviews. Both were used to collect data in order to gain an understanding of the evolution and implementation of charter school legislation in Virginia. Document analysis (Appendix D) was used to analyze all charter school legislation from 1994 through the 2000 General Assembly session. Open-ended interviews were conducted with members of the Virginia General Assembly and other individuals deemed to be uniquely knowledgeable about charter school legislative development.

In order to conduct this research project, the following tasks were completed:

1. A sampling procedure was devised;
2. Interview questions were validated and interviewees were identified using educational experts in public school administration;
3. A structured interview protocol was developed using approved open-ended questions;
4. Face-to-face interviews were scheduled and conducted;
5. Legislation from 1994 to 1998 was collected and analyzed; and
6. Interviews were transcribed and downloaded into a software program QSR·NUDIST to assist in analyzing the data.

The above six tasks are discussed in the sections below.

#### **Sampling**

The interviews are called “elite interviews” because of the technique of interviewing small populations of elite or influential people, which includes

legislators. In elite interviewing, a small number of interviewees is acceptable, because it is assumed that their knowledge and insights are privileged and unique. By concentrating on fewer interviewees, the researcher can acquire an understanding of a particular phenomenon that is available to only “insiders” and not commonly known. By limiting the interview process to those individuals who were closest to the charter school legislative process, it was possible to better focus on their perceptions in order to form a coherent network of themes or issues without introducing “noise” in the form of hearsay or anecdotal commentary into the data record. Further, in elite interviewing it may be assumed that individuals may vary in their proximity to the phenomenon studied and not be equally or similarly knowledgeable in every aspect.

As is consistent with elite interviewing techniques (Dexter, 1970), purposive sampling coupled with a limited snowball sampling was used to identify possible interviewees. This purposive sampling was used to select the initial primary interviewees. Selected individuals who were knowledgeable about the charter school movement in Virginia were asked to submit names of individuals they recommended interviewing about charter school legislative development (Appendix J). After compiling the list of names, those names appearing most frequently were selected as primary interviewees. Six individuals were initially identified for interviews.

Snowball sampling was also employed during the interviews to identify additional interviewees, who could provide additional contextual information. It was accomplished by having primary interviewees indicate other persons whom they believed to be an “insider” to the process. The candidate(s) whom most primary interviewees indicated were germane to the legislative process were added to the list to be interviewed. Through the use of this sampling technique, two

additional interviewees were recommended after the first five interviews and were added to the list of interviewees.

In research, “sample sizes in qualitative studies can range from one to as many as the researcher needs” (Padgett, 1998). As recommended by Padgett, the emphasis in a study need not focus on quantity but quality, and it can become “saturated with information about a specific topic.” To increase maximum variation, only those individuals who were different from the primary interviewees were considered. After the eight interviews were completed, it was determined that no more interviews were needed, because newly collected data was becoming redundant and saturated with previously collected data.

#### Validating Questions and Identifying Interviewees

Prior to scheduling interviews, interview questions were designed and interviewees were identified. This section outlines the method for validating the questions and identifying the interviewees.

The researcher’s committee assisted in designing the initial interview questions. After a draft of the questions was developed, several educational experts were selected (Appendix J) and asked to validate the questions based on the following criteria:

1. Will the interviewee have the information to provide the answers to the questions?
2. Will everyone understand the questions in a consistent way?
3. Do the questions communicate what the interviewees are supposed to describe?
4. Will any questions be too sensitive as to get only socially acceptable answers?

After receiving the responses and suggestions, the interview questions were revised to reflect the recommended changes. Eleven open-ended questions were developed to ask the interviewees during the face-to-face interviews (see Appendix G). These questions formed the basis for the interview protocol. This format was important to provide direction for the interview and to explore experiences from the interviewees about which the researcher was unfamiliar.

When interviews are used in a qualitative study, it is important to let the voice of the interviewee speak by not overly applying the researcher's own views to the analysis and interpretation. However, it was important to determine how much inconsistency was present among the interviewees in both their recollection of factually verifiable information and their individual perceptions of the processes. One way to detect distortion is by "comparing an informant's account with the accounts given by other informants" (Dexter, 1970). During each interview, probing questions were asked to further clarify and reconcile, if necessary, perceptions provided by the other interviewees. A second check employed throughout the interview data collection process, was the cross checking of the statements given by the different interviewees for possible instances of factual discrepancy against the document record. These procedures were done to strengthen the credibility of the data. Where there existed inconsistencies in substantive issues, the information was interpreted with caution and noted as such. Third, all interviews occurred in a setting of the interviewee's selection to facilitate their concentration and recollection of events. The interviews included open-ended questions, which were audio-taped, transcribed, and downloaded in a software program to assist in data analysis. While this procedure may have increased the reliability of the interviewees' responses, it may have inhibited the validity of their information as some might not have talked as freely or omitted possible contentious aspects. Finally, the interviews were subjected to member-checking, a

process in which the transcript is provided to each respective interviewee to amend or add to the remarks or content prior to the final analysis by the researcher. This process seeks to establish confirmability for each interviewee's remarks.

There was not any predetermination (prior to the interviews and document analysis) of the categories or themes, but the outcomes of the research study were inductively derived from a systematic review of the relevant data. One of the benefits derived from selecting this methodology is a deeper understanding of the phenomenon related from the participant's experiences through reliance on their own words and personal meanings than could have been ascertained from solely the written record.

Simultaneously, while designing interview questions, a process was underway to identify interviewees. Several educational experts that were familiar with the General Assembly process and state legislators were asked to submit names of individuals they believed were knowledgeable about the development of charter school legislation (Appendix J). After their recommendations were received, those names that appeared most frequently were selected as primary interviewees and contacted to request their permission to participate in the project. Initially, six primary interviewees were identified for interviews. Using snowball sampling, two additional interviewees were added to the list for a total of eight interviewees.

### Interview Protocol

Once the primary interviewees were identified, an interview protocol was developed. This section describes the protocol used for scheduling and conducting the interviews.

After the interview questions were validated and finalized, a phone call was made to the six initial interviewees to

1. introduce the interviewer,

2. explain the purpose of the research project,
3. discuss the confidentiality of the interview,
4. request interviewee to participate in the project,
5. secure permission to tape the interview, and
6. confirmed the number of individuals to be interviewed.

After all individuals agreed to participate, a time and location for the interview were scheduled. Then, a follow-up letter was sent confirming the interview date, time, and location. One individual agreed to meet on November 18, 1999 in Williamsburg during the VSBA Annual conference. Two interview sessions were held in Charlottesville, one on December 8, 1999 with the representative of the VSBA and one on December 9, 1999, with a state Senator. The representative of the VEA as well as a legislator were interviewed on December 2, 1999 in Richmond at separate locations. The last three interviewees were interviewed on January 11, 2000 at different times in their legislative offices in the General Assembly Building in Richmond.

#### Interview

Prior to conducting face-to-face interviews, the procedural requirements and the protocol were discussed with each interviewee. This section discusses the interview format in greater detail.

Before starting the interviews, the researcher gave a personal introduction and reviewed the purpose of the study. Each interviewee was then asked to sign the Consent to Participate Form (see Appendix F) immediately prior to the interview, which also contained an outline of the research project and a request to tape-record the interview. Each interviewee was informed that their responses would be confidential and that they would receive a copy of the transcribed interview for their review prior to publication of the project. All interviewees were furnished interview transcripts for their comments. Three individuals responded;

two clarified some words and one indicated that the transcription was correct. The other five participants did not respond, and no further action was taken.

No other individuals were present during the interviews between the researcher and the interviewee, except in one legislative interview, a legislative aide was present in the room because the legislator and the legislative aide shared the same office. Before starting the interview, each interviewee was handed a copy of the questions to review while the researcher checked the operation of the tape recorder. During the interviews, all interviewees appeared to be relaxed, cooperative, and willing to answer any of the questions.

Face-to-face interviews were then conducted with five of the six initial interviewees with the sixth interviewee scheduled later. During the interviews, pre-selected open-ended questions were asked. Open-ended questions are valuable when seeking opinions from individuals who understand their reasoning behind certain issues. Open-ended questions are also excellent when the researcher has “little prior knowledge about a topic” (Dillman, 1994). Open-ended questions allow the respondent to vent frustration and state strong opinions (Dillman, 1994).

During the interviews, the questions were asked as written to standardize the process with all interviewees. Occasionally, a probing question was asked to encourage the interviewees to elaborate on a point, to ascertain if the information was consistent with prior interviews, or to get more detail. All interview questions were asked in the order listed (see Appendix G), and all questions were asked each interviewee using the structured interview format described.

### Document Analysis

In order to analyze the evolution of charter school legislation in Virginia, a copy of all legislative bills and amendments that were introduced in the General Assembly from 1994 to 2000 were collected. A chart (Appendix D) was then designed that listed the date of the bill, patron, status for that year, and the

characteristics and expectations of that legislation. Changes were then identified that occurred in the charter school legislation during the five-year time period. An analysis of these changes is summarized in Chapter 4.

### Data Analysis

As a result of participating in the interviews, and because of the knowledge gained during the interviews, words with common meanings were catalogued together. After identifying these word lists, theme names were assigned that matched their meaning. Also, to assist in sorting the interview data, a text and search software program called QSR NUD·IST was used. This software program allows data to be sorted into themes, locates key words and phrases, explores linkages and patterns between categories, and stores the data in one location for further review. This section reviews the procedures used to prepare the data and the process used to analyze the data using the QSR NU·DIST software program.

After the interviews were completed, they were transcribed and saved as a text file in Microsoft Word. During the typing of each taped interview, a header was created for each transcription. These headers provided for the identification of all text units, which includes the text between one hard return and the next. Then, the interview data was imported into the software program, and stored in a section of the program called Document System. This allowed the text to be searched and coded to analyze the text of each document. By performing word and pattern searches from the interview data in the document system and using the word lists developed by the researcher, six themes were identified from the eight interviews. These themes are opposition, choice, funding, accountability, local autonomy, and partisan politics.

Coding is a very simple process of identifying a category of data, attaching a theme name, and then marking the text units that goes with that theme so all the text units on that theme can be retrieved. Each text unit from each interview was

then coded to match one of the six identified themes. After the researcher assigned all of the text units of each interview to one of the six themes, the software program accumulated all the text units for each theme, and stored the data in the index system of the software program. Next, the QSR NUD-IST software program generated a report for each one of the six themes. In each report, the header from each interview was referenced to identify the text unit where the interview originated. Additionally, the page number and the line number for each text unit were included in each report.

The name for each theme has meaning to that category throughout the research project. The importance in naming a theme is to have some place to draw together all the bits of data and ideas, which relate to that single idea. Each theme name has to come from the researcher, and it should be one that is logical and related to the data it represents. Just as important, the names of the themes also show a reflection of the data, which the researcher brings through interpreting the data. A summary of these themes is described in Chapter 4.

## **CHAPTER 4**

### **RESULTS OF THE STUDY**

The purpose of this study was to delineate the historical development of charter school legislation in the Commonwealth of Virginia. The findings are presented in three different sections. In the first section, annual legislative documents from 1994 through the 1999 Legislative Sessions are summarized. Also in this section, a comparison of the changes that occurred during the five years preceding the adoption of charter school legislation is outlined. Based on the interviews, as supplemented by the QSR NUD-IST software program, six themes were identified and presented in the second section. In the third section, a summary of the findings is presented. The purpose of the summary is to show a relationship between the six themes identified from the interview data relative to the legislative changes that occurred in charter school legislative documents during its five-year span of development.

#### **Analysis of Legislative Documents**

In this analysis, all legislative documents pursuant to the legislative record for the General Assembly Sessions from 1994 through 1999 inclusive were reviewed. Each set of documents was reviewed within the actions taken by the respective legislative bodies on the bills and each was compared with significant and related other bills. The documents are discussed in a chronological format organized according to the legislative session.

#### **Legislative Session 1994**

The 1994 General Assembly session was the first year that charter school legislation was addressed in Virginia. During this session, three charter school bills were introduced in the General Assembly, House Bill 1042 (HB1042), Senate Bill 562 (SB 562), and House Bill 875 (HB 875). The following section provides an overview of charter school legislation and the respective legislative action.

On January 25, Delegate Phil Hamilton filed House Bill 1042 which permitted the establishment of charter schools by local public school boards. HB 1042 stipulated a public school division's minimum fiscal contribution could be no less than 80% of the school division's operating revenues including state and federal categorical funds, multiplied by the charter school's ADM. The number of charters established per division could be no more than 10 prior to July 1, 1996, with one-half of the charters reserved for at-risk children. HB 1042 further required that a charter should be approved or renewed for a period not to exceed three years. Equally important, public school boards were required to hold community meetings giving appropriate public notice before granting a charter school application. Upon receipt of an application, school boards must have a public hearing within 60 days before ruling on such application. In the event of a denial of a charter application or revocation of a charter school, an appeal could be made to the State Board of Education.

Teachers employed by a charter school were considered to be on leave of absence from the school division, which could not be extended more than two consecutive years without an agreement by both the teacher and the school board. Finally, enrollment would be open to all residents in a school division on a space-by-space basis.

Simultaneously, Senate Bill 562 (SB 562) patroned by Senator John Brandon Bell II and identical to HB 1042, was filed in the Senate on January 25, 1994. HB 1042 was referred to the House Committee on Education and SB 562 was referred to the Senate Committee on Education and Health. Each committee recommended that the bills be carried over to the 1995 Legislative Session.

Delegate Mitchell VanYahres filed House Bill 875 (HB 875) during the 1994 Legislative Session. His bill differed from HB 1042 in that school divisions with at least 23% or more at-risk students in ADM could establish charter schools.

This bill allowed for a conversion of a public school into a charter school upon *two-thirds* support of the school's parents and staff while emphasizing strong parental involvement, and encouraging broad-based community coalitions. This bill has been referred to as incorporating a "site-based management" concept, because it allowed for the conversion of an existing school within the school division. In this bill, local schools submitting a petition to be granted a charter would be called "Commonwealth Charter Schools." This bill was assigned to the House Education subcommittee and was "continued" into the 1995 Legislative Session.

### Legislative Session 1995

The 1995 General Assembly session was very active for charter school legislation. Five additional bills were filed in addition to the three carry-over bills from 1994. The following section is an overview of each bill.

House Bill 2535 (HB 2535), sponsored by Delegate Jay Katzen, was identical to Senate Bill 1037 (SB 1037), sponsored by Senator John Brandon Bell II. Both were presented in their respective sessions on January 23, 1995 and both recommended that the initial term of the charter should not exceed five years, but could be renewed for any specified number of years. The bill included an appeals process under the jurisdiction of the appropriate circuit court. Moreover, in the event of a charter school closure, local public school boards were required to give preference to re-employing charter school staff. Additionally, local and state funds for the charter school would be 100% of the required state and local shares for the Standards of Quality (SOQ). The State Superintendent of Public Instruction was provided authorization to award grants to establish charter schools. HB 2535 was approved by the House Education Subcommittee, but was passed by indefinitely by the House Education Committee. SB 1037 never made it out of the Senate Committee on Education and Health.

Delegate Phil Hamilton also filed House Bill 1625 (HB 1625) during the 1995 General Assembly. His bill was very similar to HB 1042, which he presented in 1994 that was carried over, but with some modifications. These changes included a separate appeal process for the granting and denying of charters. This change in the appeal process allowed for the denial of a charter school application by the local public school board to be appealed to the State Board of Education. However, any recommendations from the State Board of Education to the local public school board as a result of the appeal were not subject to a second appeal process, regardless of the action taken by the local board. Thus, the decision of the local public school board to deny, refuse to renew, or revoke a charter was final; whereas in HB 1042, the State Board of Education's recommendation was final.

Several other differences in HB 1625 from HB 1042 were 1) changing the language of charter school teachers from being on "leave of absence" which allowed the local public school board to evaluate the return of the teacher to a non-charter school, to "volunteering for assignment" on an annual basis, which provided a "guaranteed involuntary transfer" to a non-charter school when requested by the teacher; and 2) changing the formula for funding charter schools was changed from *80% of a school division's operating revenues*, to funding *no less than 80% of the respective state and local share* required to fund the Standards of Quality.

Two other charter school resolutions were filed during the 1995 General Assembly; House Joint Resolution 551 (Delegate John Paul Council) and the Senate Joint Resolution 334 (Senator Elliott S. Schewell) (HJR 551/SJR334). Both these resolutions were identical and proposed the establishment of a joint House-Senate Subcommittee to study charter schools. Both bills recommended that the study cost may not exceed \$5,400, and required that the joint sub-committee report to the Governor during the 1996 General Assembly.

The joint House-Senate Subcommittee was to study for one year the impact that charter schools could have in Virginia, after considering

1) the provision of other states' laws, 2) actual operations of charter schools in other states, 3) the focus of the organizing groups, 4) constitutional issues in other states and the interaction of the Constitution of Virginia with the various components of the charter school concept, 5) funding issues related to the charter school concept, and 6) the various components of charter school legislation including, but not limited to, organizer eligibility, application process, charter eligibility, sponsoring authority, approval authority, governance, employment requirements, administrative responsibilities, limitations on the number of charters, contract terms and conditions, prescribed autonomy or waiver of legal requirements, curricula, student admissions, due process procedures for denials or revocations, accountability, and the state board of education's role. (Senate Joint Resolution 334, 1995).

Both the House and Senate Joint Resolutions passed in February 1995, with nine members being appointed to serve on the joint subcommittee, four from the Senate and five from the House of Delegates.

#### Legislative Session 1996

As a result of HJR 551/SJR 334 passing in the proceeding General Assembly, the joint subcommittee studying charter schools recommended (House Document 43, 1996):

1. charter schools must be public schools, with no private or non-public home based educational program becoming a charter school,
2. school boards would need to announce their intention to review, receive, and approve charter school applications,
3. charter schools must be subject to Standards of Quality,
4. localities in the Commonwealth must share in the responsibility for funding a charter school,

5. individuals, groups, or organizations could apply for a charter school application,
6. local school boards must have exclusive authority for the approval of charter schools,
7. waivers from state and local regulations must be specified and negotiated in the charter school contract,
8. enrollments must be open for any child residing in a school division,
9. charter schools' instructional personnel must be licensed by the Board of Education, and
10. school divisions cannot grant more than two charters with one-half being for at-risk children.

Delegate J. Paul Councill, Jr. and Delegate Phil Hamilton co-patroned House Bill 776 (HB 776), which incorporated the joint subcommittee study recommendations. The bill was "referred" to the House Education Committee and assigned to its subcommittee. HB 776 specified the length of a charter to be three years for either approval or renewal, with only two charters granted per public school division. It required that one-half of the charter school applications per division must be for at-risk children. There was no expressed appeal process, and the local public school board's decision to approve or revoke a charter application was final. Equally important, there was an application process that required the local public school board to adopt a resolution prior to accepting applications but did not require the local public school board to have a public hearing before approving applications. Tuition could not be charged and enrollment was open to all students in the school division.

Students enrolled in a division's charter school were to be counted in the division's ADM, and would not be reported in the fall membership for calculating

the state and local share required to fund the Standards of Quality. Moreover, HB 776 recommended that charter schools enrolling students with disabilities should receive the appropriate state and federal resources, as well as the categorical aid program funding. Finally, any employees assigned to charter schools were to be considered employees of the local public school board, could volunteer for a charter school assignment on an annual basis, and be involuntarily transferred back to a non-charter school according to local policy.

Since the vote on this bill was 11-11, the bill was defeated. However, this bill provided the foundation for subsequent charter school legislation, and most legislators would agree that the 1998 charter school legislation was crafted from HB 776.

#### Legislative Session 1997

During the 1997 Legislative Session, Delegate Phil Hamilton persisted in introducing charter school legislation by presenting House Bill 1751 (HB 1751), which was identical to SB 1193, simultaneously introduced by Senator Warren Barry. Both bills were also identical to HB 776, which was presented in the 1996 General Assembly by Delegate Paul Councill, Jr. As in the previous session, these bills were defeated in their respective committees, in the Senate by a vote of 7-8 and in the House again by a vote of 11-11.

#### Legislative Session 1998

Charter school legislation was finally adopted during the 1998 General Assembly. House Bill 543 (HB 543), sponsored by Delegate Phil Hamilton and Senate Bill 318 (SB 318), filed by Senator Warren Barry, were introduced to authorize the establishment of charter schools in Virginia. Both of these bills were very close in context to HB 776 presented in the 1996 legislative session by Delegate Paul Councill, Jr. The primary difference between the 1996 and 1998

legislation is that the 1998 bill clarified the selection process by adding “such as a lottery” as a method for student selection.

Both the respective House Education Committee and Senate Committee on Education and Health approved their respective bills, but both recommended amendments in the form of substitutes. The House amendments added language to include a lottery, but the Senate went further and recommended a lottery process on a space-available basis, with a waiting list to be established in the event that space was unavailable. Another Senate amendment required that the parents of students who were on the waiting list must be kept informed of their relative position. Senate Bill 318 recommended that the charter school be “managed” by a committee of parents, teachers, and administrators instead of “governed” by a governing body. Still, another Senate amendment contained a provision that addressed the education of at-risk children served by charter schools. Specifically, the State Board of Education must approve individual school accreditation plans relating to the performance evaluation of at-risk students, as required by the Standards of Accreditation. Another amendment recommended by the Senate Education Committee was that charter schools be required to be accountable for both the Standards of Learning (SOL) and the Standards of Accreditation (SOA). Equally important, a House amendment recommended that local school boards should be required to give public notice and hold a public hearing prior to adopting a resolution stating their intent to receive charter school applications.

Since the House and the Senate both struggled with the different and conflicting amendments proposed by each body, a conference committee comprised of three members from the House and three members from the Senate was appointed. Following considerable discussion and debate, the conference committee recommended the following:

1. expanding the student admission lottery process and the waiting list by the provision of a detailed admission policy that met the specific mission and the focus of the charter school,
2. changing the governance structure from “committee of parents” to a “management committee”
3. eliminating the requirement for at-risk children meeting the SOA while keeping the requirement for the SOQ
4. reinstating the requirement for a public notice as well as a public hearing before the school board could adopt a resolution to accept applications,
5. adding that a public notice shall appear once a week for two consecutive weeks prior to the public hearing,
6. expanding the number of charters to include the requirement that charter school in each division shall not exceed 10% of the school division’s total number of schools or two charter schools, whichever is greater with no more than two prior to July 1, 2000, and
7. modifying the requirement that one-half of the charters be reserved for at-risk children.

Both the House and the Senate included the proposed recommendations of the conference committee and approved their respective charter school legislation. On April 16, Governor James Gilmore returned Senate Bill 318 without his signature with a letter requesting the adoption of 27 amendments. His letter states that the purposes of the amendments were:

- 1) to improve the chances for innovation and success of public charter schools, 2) expand educational opportunities for at-risk children in Virginia, 3) enhance Virginia’s eligibility for federal funds, and 4) insure that public charter schools meet or exceed Virginia’s high academic standards (Gilmore, 1998).

One proposed amendment sought to modify the appeals process by allowing circuit courts to be petitioned for the purpose of reviewing the actions of local

school boards pursuant to their approval or denial of charter school applications. Another amendment recommended changing the name of the governing committee from “management committee” to “governing body.” Further, the Governor recommended holding the charter school accountable to the Standards of Accreditation. Additionally, Gilmore recommended that former public school employees should be considered employees of charter schools, rather than the school boards and subject to policies established by the charter school governing body. However, all 27 amendments Governor Gilmore proposed to the legislators were defeated. Governor Gilmore finally signed Senate Bill 318 and House Bill 543, effective July 1, 1998, authorizing the establishment of charter schools in Virginia (Section 13, Article 1.2 § 22.1-212.5 – 212.15 in the Code of Virginia).

#### Legislative Session 1999

After charter school legislation was adopted during the 1998 General Assembly, there was only one charter school bill introduced in the 1999 session. House Bill 1577 (HB 1577) was introduced by Delegate John Jay Davis III, which was designed to amend the Code of Virginia so that local public school boards, with the approval of the State Board of Education, could establish joint or regional schools, including regional charter schools. This bill recommended that the participation by a local public school board in a regional charter school would not count toward the two allowed, but would be “in addition.” This bill was referred to the Education Committee and reported out with a substitute amendment to the full house. The amendment required local public school boards jointly operating regional charter schools to decide which school division would be credited with the charter school for purposes of counting it toward the restrictions on the number of charter schools allowed. In other words, a regional charter school would count as one of the two allowed by statute. With this amendment, HB 1577 passed the House on January 27, 1999, and the Senate on February 23, 1999.

## Code of Virginia

A summary of the current statute (Code of Virginia, Chapter 13, Title 22.1, presented in its entirety in Appendix A of this document) for charter school approval in Virginia requires: 1) open enrollment through a lottery process on a space available basis, 2) waiting list to be developed if adequate space is not available, 3) informing parents of their positions on the priority list, 4) governance structure by a management committee, 5) tuition free, 6) exempt from rent for space being used within an existing facility, 7) free from local and state specified regulations except for the requirements of SOQ, 8) non-sectarian in its programs, practices, and mission policies, and 9) any person, organization, or group may submit an application. Furthermore, the local public school board must give public notice, have a public hearing, and adopt a resolution stating its intent to receive charter applications prior to accepting such applications. This public notice must appear once a week for two consecutive weeks, and the second publication shall be no sooner than one calendar week after the first publication. All decisions of the local public school board to grant, deny, revoke, or fail to renew a charter shall be final and not subject to appeal.

On or after July 1, 1998, the number of charters shall not exceed 10% of the school division's total number of schools or two charter schools, whichever is greater. Equally important, prior to July 1, 2000, no more than two charters per school division may be granted with at least one-half of the charters be reserved for schools designed to serve at-risk students. In a charter school designed with a program for at-risk students, an individual school accreditation plan shall be requested by the local public school board and be approved by the Virginia State Board of Education. This plan is for the evaluation of the performance of the school as authorized by the SOA.

Finally, each charter school may be approved or renewed for a period not to exceed three years for personnel who were employees of the local school board, and who volunteered for a one-year contractual assignment. Those employees who were not recommended for continued assignment in the charter school are to be guaranteed employment with their former public school division. Charter school students shall be included in a Virginia public school division's ADM; however, charter schools shall not be reported in the fall membership for purposes of calculating state and local per pupil shares required to fund Standards of Quality. In addition, school boards operating a regional charter school must assign this school to one of the participating school divisions to count toward their restrictions on the number of charter schools allowed.

### Analysis of Interviews

After completing an analysis of all legislative documents from 1994 through 1999 inclusive, open-ended interviews were conducted with the interviewees who were identified by purposive and snow-ball sampling. All interviews were audio-taped and then transcribed to assist in analyzing these data. A software program (QSR NUD·IST) was employed to assist in analyzing the interview data. One of the advantages of QSR NUD·IST is its capability to take words and phrases and search the text of any data to identify categories or themes. Coupled with the researcher's knowledge gained through the interviews and the strength of the word search capabilities of QSR NUD·IST, six themes were identified. These themes are labeled funding, choice, opposition, partisan politics, local autonomy, and accountability. The following sections review each theme as well as the sub-themes that were identified in each theme.

### Funding

Funding, as defined by the interviews, would be any money that could be in competition with state funding appropriated to the local public school systems.

The theme of funding was identified by the different organizations and legislators interviewed in supporting charter school legislation. After reviewing the theme of funding, three sub-themes have emerged, 1) competition, 2) federal funds, and 3) supplemental grants. This section overviews the theme of funding using the three sub-theme categories.

### Competition.

Educational funding is a priority for the Virginia School Board Association (VSBA) and one of the reasons the VSBA Delegate Assembly voted four consecutive years *not* to support charter school legislation. Frank Barham, Executive Director of the Virginia School Board Association (VSBA), emphasized that local public school divisions should not be in competition for state tax dollars because public schools that appear to be deficient should not be improved at the expense of other public schools. Also, Barham indicated that the state should not start new programs until adequate funding has been provided for the current programs, which currently exist in the public school systems. Additionally, Barham stated that the position of VSBA was to focus as much money and effort as possible to reduce class sizes in the elementary schools and to enhance programs in the junior and senior high schools, particularly for at-risk students and special populations. Further, he stated that it would be nice if the amount of money spent for state prisons be reversed so that the amount expended per pupil for education would be that of the amount expended for state prisons. Barham admitted that VSBA's Board of Directors voted four years in a row not to support charter school legislation, although it was recognized that charter school legislation had a good chance of passing during the 1998 General Assembly. It was then, at the 1997 VSBA Delegate State Assembly meeting after a four-hour debate, that the VSBA delegates voted to support public charter school legislation.

Almost all legislators interviewed made it very clear they would not support any charter school legislation that took funding away from the public school system. These individuals did not want financial support to be diminished from the State to the localities if funding was provided for charter schools. One legislator interviewed had a different viewpoint. He expressed that money is not the solution to a better education and referenced that some states have the highest per pupil expenditure yet rank very poorly in the level of education that public school students receive. His position was that putting more money into the local public schools would not necessarily guarantee a better education. Another legislator expressed that it was interesting that people are so concerned about money going for charter school development, yet do not express concerns about spending extra money for programs such as Gifted and Talented, Vocational Education, or Governor Schools. These programs seem to be accepted, yet there is strong sentiment against money being channeled toward charter schools.

Rob Jones, the Virginia Education Association (VEA) representative interviewed, stated that the VEA closely monitored public education funding including state funds for charter schools. He indicated that the VEA did not have a problem supporting charter school legislation until Governor George Allen introduced in December 1995 in his first biennial budget, a funding cut of \$50,000,000 for public education. When this occurred, the VEA perception was that supporting charter schools could reduce financial support to public school systems and subsequently, withdrew their support for charter school legislation. During the 1998 biennial, when Governor Allen's budget showed increased funds for public education, the VEA revived their support for charter school legislation. Jones suggested that when Allen proposed a funding cut for K-12 education, in effect he postponed the promotion of charter school legislation since it pressured public education advocates to rally together. Equally important, the VEA

representative stated that with federal and state grant money available and the opportunity to involve business partnerships, his organization believes there should not be any negative financial impact on the local public school systems. Finally, it is the position of the VEA that the funding of charter schools should be neither an incentive or a disincentive for local public school divisions to establish charter schools.

### Federal Grants.

When the charter school legislation passed as expected by the VSBA in 1998, the VSBA took a bold step and began an effort to have grant writers in the Virginia Department of Education obtain federal funds for charter schools in Virginia. Although the initial application for federal charter school funds was unsuccessful, with the support of the U. S. Department of Education and the Virginia Department of Education, the VSBA helped to incorporate into the application those items that were omitted the first time the application was denied. The application was then resubmitted to the USDOE, and the application for federal funds for charter schools was approved. According to Barham, the VSBA had to make a major policy shift from fighting charter school adoption for four years to assisting Virginia Department of Education officials to gain approval for Federal charter school funds.

The Commonwealth of Virginia has been awarded \$639,579 in federal funds to support charter school development. Most legislators interviewed stressed that the availability of federal funds for charter schools was instrumental in gaining legislative support for charter schools. Additionally, most legislators interviewed were unaware of the involvement of VSBA in helping secure federal funds for charter school development.

### Supplemental Funding.

One of the strengths of the charter school legislation that appeared to excite legislators was the opportunity to allow supplemental funds to help finance a charter school. Supplemental funds could come from businesses, industries, or by raising private funds to subsidize charter schools, and is an important strategy to include in a charter school application when submitting for approval. From their point of view, private funds from business and industry encourages partnerships with the business community, which allows programs to be developed based on specific needs. Several legislators discussed establishing “schools that work” programs, where businesses would help train charter school students in order to enter the work force. Almost all legislators emphasized during the interviews the importance of allowing collaboration of businesses and public schools, which can satisfy an unmet need of certain kinds of public school students. Legislators also appeared to recognize the importance of developing partnerships to help promote certain academic and vocational endeavors and to insure that the legislation was written so that supplemental funding from businesses and private organizations could be utilized.

In summary, legislators interviewed categorized the Virginia charter school legislation as “strong” based on their views of the complex nature of the application process. They emphasized that this complex process provides the accountability that they perceived that the public expects to safeguard against the misuse of any local taxpayer dollars. Also, legislators interviewed emphasized that no funding should be taken away from local public school systems to support charter schools. The legislation they approved for public charter schools provides financial partnerships with businesses to assist in the operation of the public charter school. Next, the VEA representative stated that his organization stayed on the edges of the debate, until one year when former Governor Allen’s budget

proposed a significant funding *decrease* in public education. The reasoning provided was that they could not and would not support any new initiatives such as charter schools, until funding for K-12 was reinstated. Additionally, it seemed everyone interviewed recognized federal funding to charter schools as being important and believed the opportunities are available for a charter school to be started and successful in the Commonwealth of Virginia. Legislators indicated that charter school advocates grew once individuals realized public schools funding would not suffer and charter schools would not withdraw money from public education. Interestingly, with the availability of federal funds for charter schools, one legislator stated, there was some “hypocrisy” in the rhetoric that Virginia needed to apply to get federal funds, yet at the same time legislators were working against legislation to support charter schools in Virginia. Finally, several legislators implied that once it was realized that federal funds could be made available if the Virginia legislature passed charter school laws, legislative support for charter school legislation in Virginia strengthened.

### Opposition

For the purposes of this study, the theme “opposition” is defined as individuals or groups working against the adoption of charter school legislation, because of perceived disadvantages to public education in general. When the data were analyzed from the interviews under the theme opposition, three sub-themes emerged. These sub-themes were minority groups, competition, and employment provisions. This section discusses these three sub-themes.

#### Minority Groups.

Two of the most powerful groups in opposition to charter schools were the National Association for the Advancement of Colored People (NAACP) and the Black Caucus of the Virginia General Assembly. Both organizations believed the formation of charter schools would lead to the resegregation of public schools with

a defection of non-minority students. All legislators interviewed frequently mentioned the NAACP's dissatisfaction with charter school legislation. NAACP leaders even attended a House Education Committee public hearing in 1997 on the charter school bill and threatened certain legislators by stating that if they decided to support charter school legislation, the NAACP would work to unseat them in the next general election. This fear of establishing academies for non-minority students by creating elitist schools was a strong motivator for black communities to oppose charter school legislation.

A major initiative that resulted in diminished opposition of these two groups was a visit by the Senate Charter School Committee to a charter school in Boston, Massachusetts. Although this event is discussed in-depth later, it is important to note that it was this trip that started black legislators and other opponents of charter schools to re-evaluate their opposition. The enrollment of the charter school they visited in Boston was almost all minority children, who with the support of their parents, were succeeding academically. This was perhaps the most influential event in reducing the opposition of minority groups and changing the votes of several delegates and senators.

### Competition.

As mentioned previously, the VSBA was extremely influential in defeating charter school legislation during the first four years it was introduced. Its initial policy, as approved by the VSBA, was to oppose all charter school legislation. Later, when it became obvious that charter school legislation was inevitable, the VSBA changed its position and indicated its support of charter schools under certain conditions. Although the VSBA was unafraid of competition, it believed that such competition should be fair. Barham stated the VSBA's position was that charter schools must comply with the same laws and regulations that public school systems do, or it is not fair competition. However, during their four years of

opposition, the VSBA worked very closely with Delegate Phil Hamilton, who introduced the first charter school legislation in 1994. Although the VSBA fought for four years to defeat charter school legislation, they developed a manual and scheduled a workshop on charter schools once the legislation passed. The workshop was designed to educate public school board members on the requirements of charter school legislation and to encourage local school board members to have a public hearing on whether or not they should accept charter school applications.

### Employment Provisions.

In the interviews with most legislators, they perceived the VEA was also opposed to charter school legislation for two reasons: 1) public school teachers thought their teaching positions would be jeopardized, and 2) there would be a defection of teachers from the public school system. In the interview with the VEA representative, Rob Jones, he indicated significantly different reasons for the VEA objecting to charter school legislation. The VEA's two objections were that the establishment of charter schools: 1) should not negatively affect state funding for public schools, and 2) should not be permitted to serve the elite, but should be required to grant equal access to all students seeking admission. The policy statement of the VEA concerning charter schools emphasizes that, "the importance for the success of any program is when it is initiated and nurtured at the local level." The VEA would not support any programs that could have a negative effect on local public schools. Also, the VEA is very protective of contract and employment provisions for public school employees. In its resolution statement concerning the establishment of charter schools, the VEA indicated that non-public school programs should: 1) require voluntary participation, 2) be staffed by licensed professional individuals, 3) have their own financial responsibilities, and 4) develop procedures for regular assessment and evaluation of programs. The

VEA worked with Delegate Hamilton to alter his charter school bill so that most of their objections were included so that the VEA could support charter school legislation. Finally, the VEA approved the unilateral transfer of public school teachers to charter schools, while opposing completely autonomous charter schools if they are not fiscally accountable to the public including local school boards and governing agencies. The VEA representative indicated that their opposition to charter school legislation would have dwindled if former Governor Allen had not been negative toward public education.

In summary, the Virginia School Board Association was effective in working to defeat charter school legislation during the first four years. The VSBA based its opposition on the theme of requiring fair competition between public schools and charter schools. The Virginia Education Association strongly opposed charter school legislation when former Governor Allen recommended *decreasing* funds for public K-12 education. There was strong opposition also from the Black Caucus of the General Assembly and the NAACP. Both groups were concerned that the establishments of public charter schools would reintroduce segregation to the public schools. The tactic used by the NAACP of threatening legislators with defeat in the next general election if they continued to support charter school legislation was another set back for charter school adoption. One of the major events that led to the changing of attitudes by the minority community was the visit by the Senate Charter School Committee, which included a minority member of the Senate, to Boston to see a charter school in operation. They perceived this charter school was successful because of the appearance of success and the high percentage of minority children enrolled. Interestingly, after charter school legislation passed, one of the legislators interviewed put \$250,000 in the state budget for the school system in his district to plan a charter school that could be a model replicated by the state of Virginia. He expressed disappointment that

currently, there is no interest in his community for this money. Opposition has dwindled and charter school legislation has been approved, but there is still very little movement in charter school development in the Commonwealth.

### Choice

For the purpose of this study, choice was defined as public school students having the opportunity to continue their education in another public school setting, which is considered an alternative to the traditional public school. The following sub-themes emerged from a review of the theme of choice: personal experiences and alternatives. The following section overviews these two sub-themes.

#### Personal Experiences.

During the study, several legislators discussed their own personal experiences when they attended schools. Some attended both private schools and public schools, and they believed that the private school was better because of additional opportunities and the academic climate that prevailed in these schools. These legislators were not critical about the quality of public schools, but they supported students having a choice of which school to attend. Also, two of the legislators interviewed for this study indicated that the visit to a charter school in Boston was personal to them. One legislator obtained his formal education in Boston and was familiar with this school, while the other legislator, actually attended intermediate school in the very building that currently houses one of the Boston charter schools. Both witnessed a significant difference in the operation of the school now from their earlier experiences, and could see firsthand, that choice was a motivator in the success of the children attending. Because of this visit, their opinions changed and they started believing that charter schools could be successful in Virginia.

## Alternatives to Traditional Public Schools.

The initial patron of charter school legislation who promoted charter schools every year during the five years of charter school development, stressed that one of the two reasons he proposed charter school legislation was to provide students with alternatives to traditional public schools. Even if no district takes advantage of this opportunity, the legislation that was finally adopted, provided this alternative for districts that would like to try something different.

When the legislators made their trip to Boston, Massachusetts, they talked to parents about the success of their children in the charter school. Parents expressed that their children had changed dramatically. They believed their children's attitudes changed because they had the choice to attend that school. This charter school was an alternative for these children and the parents emphasized that as the children changed dramatically, the whole community in which they lived also changed. Children and parents appeared to be motivated. This charter school provided an alternative, not one that was necessarily better, but something different than the public school.

In the interviews, it was emphasized that the availability to attend an alternative public school that is different from the traditional public school should not be predicated on the fiscal wealth of a student's parents. Also, most respondents indicated that public charter schools could not be permitted to pre-select students; only open enrollment with a lottery process, which allowed anyone to attend. Most interviewees suggested that specialized programs are difficult to offer in the public schools. In contrast, public charter schools could have a specific focus, whether it is for reading, science, vocational or any other academic initiative, and that any child in that community could attend. One interesting question raised by one of the legislative respondents was, "could charter schools fulfill the vision that people behind the charter school movement envisioned?"

Also, “does there not appear to be a conflicting agenda where, on one side, we want a free notion for education by having a choice to start a school, while at the same time we have the SOLs, which is more of a top-down state controlled agenda?”

In summary, it was the consensus of everyone interviewed that the public schools in Virginia are not bad, but they must be given the tools to assist teachers and students to improve. Interviewees stressed that charter schools could give school divisions in Virginia something to offer their localities if they chose to participate, but they did not support mandating. Additionally, legislators supported charter school legislation to inject more choice into the public school system, which could provide additional educational alternatives for public school students and parents. The legislation submitted by the first patron of charter school bills stressed that choice was one of the two essential components for charter school legislation. Another legislator emphasized that children only get one best shot at an education, so why not inject some alternatives in trying to meet the needs of as many students as possible in our diverse populations, because, “maybe it’s time for us to do something just a little different as we approach the new millennium.” Finally, the visit by several legislators to a charter school in a community, with which two had personal experiences, had a profound influence on their decision to support charter schools. There were never any comments in the interviews about charter schools competing with public schools; instead they believed that charter schools could make public schools better.

#### Partisan Politics

The theme of partisan politics was very influential during the charter school movement. For this study, partisan politics is defined as one party in the majority in the General Assembly exerting their legislative will over the other party. It was one of the major reasons that it took five years for charter school legislation to be

adopted. During the interviews, three sub-themes of partisan politics emerged: 1) compromise, 2) lobbying, and 3) political partisanship. This section provides an overview of these three sub-themes.

### Compromise.

The VSBA representative, Frank Barham, gave Delegate Hamilton credit for being the key legislator who promoted charter school legislation. Barham believed Delegate Hamilton was fair, listened to everyone, and tried to have a charter school bill that all the different groups could support while providing for fair competition with fundamental requirements. Rob Jones, the VEA representative, agreed and emphasized that Delegate Hamilton was “flexible and did an outstanding job of working with people to perfect the bill.” Further, Jones suggested that Delegate Hamilton proved to be an excellent sponsor of charter school legislation since he was credible, reasonable, and not viewed as an extremist. As indicated previously, the VSBA initially opposed charter school legislation but because “politics is the art of compromise,” Barham stated that “there are times when one has to know what issues to fight and go down the tubes fighting over or when to say a certain bill is going to pass, so switch tactics and make this bill something with which we can live.”

In interviewing Delegate Hamilton, he believed the legislative process is one of compromise and change. He expressed that when people actually read the legislation, there was little disagreement. Additionally, he believed most of the major disagreement centered on the concept of charter schools. Moreover, he indicated that it took him five years to educate his colleagues about the potential value of charter schools for the Commonwealth. He emphasized that due to his persistence and the trust and respect from his colleagues, they finally realized his bill was not intended to hurt any group of public school students or negatively affect public education. Equally important, he stressed as this trust factor became

stronger and he communicated better, legislators realized he had a very fair piece of legislation. Finally, he commented that, “persistence gets rewarded in the legislative process.” Other respondents supported the viewpoint of Delegate Hamilton and gave him credit for both his persistence and willingness to compromise on the language of the charter school legislation.

### Lobbying.

Frank Barham, the VSBA representative, stated that his lobbying responsibility is to, “stick my finger in the air and test the winds of politics.” It was during the 1998 General Assembly that he realized the political winds were shifting toward those who favored charter schools, primarily Republicans, and that it was inevitable that a charter school bill would be enacted. Barham decided that if the VSBA were to have a voice in determining the structure of charter school legislation, then the VSBA would have to abandon its opposition and join forces with its proponents. Barham also indicated that legislators were very responsive to large voting blocks. Although the VSBA does not have nearly as many voting members as other organizations, it is considered very influential by members of the General Assembly. This is particularly true now that most local school boards are elected by popular vote. Prior to 1999 the VSBA had never been in the top 50 of the most politically influential organizations in Virginia. But, in 1999 they were ranked 35<sup>th</sup>, an outcome attributed primarily to the recent shift from the appointed method of selecting school board members to the more common elected method.

Although several legislators interviewed expressed their concern about the lack of public hearings being held by local school districts, the VSBA representative stated that, “politically it is not the school board’s responsibility to go out and find individuals to have a public hearing nor the local school board’s position to promote charter schools.” Proponents of charter schools in each locality should go to their local school boards, if they’re interested in starting a

charter school. Then, he believes their school boards will have public hearings, will be fair, will listen to their constituents, and will do what their community wants.

### Political Partisanship.

In Virginia, if a bill fails to garner committee support, it will not reach the floor for a vote. All legislators emphasized that partisan politics was responsible for charter school legislation taking five years to be enacted. Democratic legislators viewed charter school legislation as a Republican initiative supported by a Republican Governor who appeared hostile to public schools, and they voted repeatedly against the legislation. Also, one legislator stated that the Blue Ribbon Commission Report, commissioned by Allen endorsing charter schools, injected a partisan discussion and could have kept charter school legislation from being adopted earlier. Those legislators interviewed who served on the House Education Committee, indicated that the vote in 1996 and 1997 was 11-11 with ten Republicans and one Democrat voting for charter school legislation and 11 Democrats voting to defeat the bills. During the 1998 General Assembly, several Democrats changed their votes and Delegate Hamilton's bill gained approval in the House Education Committee. Subsequently, because of the recommendations of the Conference Committee (three members of the House and three members of the Senate), the House and Senate crafted a charter school bill, which gained the approval of the General Assembly. One legislator interviewed stated that there, "never was a heated debate on the floor, maybe a small debate, but not a lot of real discussion and debate about charter schools." One reason it was difficult to gain committee approval centered on the issue of an appeal process. The public education community maintained that the decision to establish charter schools should be a local prerogative, and as such, charter school opponents lobbied to defeat any legislation, which included this. One legislator interviewed noted that

local districts “did not want anyone playing in their sandbox.” Several other interviewees agreed that “if the locality wanted it, fine; if they did not, that was also fine.”

Frank Barham indicated that the VSBA closely monitored the evolving political structure of the General Assembly. The VSBA decided that charter school legislation was a national issue and was among the top ten platforms issues of both Democratic and Republican parties. He also emphasized that the past two governors in Virginia were Republican, currently there is a power sharing arrangement in the General Assembly, and it was expected that soon the Republican Party would control both Chambers of the General Assembly. Equally important, the Democratic President of the United States has promoted charter schools. In essence, Virginia is faced with a Democratic General Assembly opposing a Republican charter school initiative, which is supported by a Democratic President. The VSBA representative observed that traditionally, Virginia legislators are likely to follow the lead of governors who are of the same party. He also emphasized that when a patron of a bill does not want a piece of legislation changed, it usually does not get changed in the General Assembly, especially when the governor is in the minority party. But Barham also commented that since the governor represents the majority party, he likely could have the charter school legislation revised despite the objections of the bill patron. Moreover, he stated that, “governors in this State are extremely powerful.”

The majority of the legislators interviewed, expressed satisfaction with the pace that local school boards are addressing charter school legislation. One legislator noted, “in the Virginia manner, we allow things to unfold.”

In summary, all interviewees expressed that partisan politics was one of the main barriers that caused charter school legislation to be defeated for five years. With a Republican governor supporting charter schools, Democrats viewed charter

schools as a Republican initiative, which was responsible for the early defeat of charter school legislation. Additionally, public election of most school boards in Virginia has increased Republican's political lobbying power. Finally, everyone interviewed praised Delegate Hamilton for his commitment, dedication, and persistence in compromising to get acceptable charter school legislation adopted.

### Local Autonomy

During the interviews, the participants universally addressed the issue of local school board autonomy. For the purpose of this study, local autonomy was defined by concentrating all decisions concerning the application and approval of charter schools at the local level. The local public school board was given complete discretion, including whether or not to hold public hearings concerning the establishment of charter schools. The absence of an appeal process was viewed essential if local autonomy was to be maintained. Presented in this section is a discussion of the perceptions concerning the relationship between charter school legislation and local autonomy.

Since the VSBA serves as a state association for all Virginia local school boards, it is unlikely that they would support any initiative that would decrease the power of local school boards. The VSBA representative was emphatic that charter schools must be under the control of the local school board and only the local school boards should approve or disapprove the establishment of charter schools. If there were any reduction of local control by charter school legislation, the VSBA would oppose such legislation because most school boards are elected officials, and they should be afforded control over local decisions and local expenditure of all appropriations.

All legislators interviewed also expressed they would not support any legislation that would negatively effect the autonomy of local school boards. They believe that elected school boards are responsible to their respective voters, and the

local school boards should be given the power to make decisions as well as to be held accountable for outcomes. Specifically, all legislators emphasized that they supported charter school legislation as long as local school boards were provided complete authority to approve charter school applications. Since local autonomy was viewed as paramount, the legislators indicated that it would be inappropriate for the state to mandate establishment of charter schools. Additionally, several legislators indicated they voted for charter school bills provided that the proposed legislation maintained local autonomy.

Delegate Hamilton, patron of the initial charter school bill, indicated that his legislation always gave the local school board the authority to be the chartering agency. He reasoned that if a charter school was to be established as a public school, then the public could approve or disapprove its formation.

The VEA representative, Rob Jones, explained his organization lobbied for charter school legislation, which would maintain local autonomy. The VEA appreciated that the charter school legislation, which was enacted, respects the constitutional role of local school boards. Jones also mentioned that several other states enacted lax legislation, which permits individuals to acquire public funds and use facilities, without insuring accountability. The VEA's position was clear: there must be local autonomy and accountability to the local board of education. Equally important, the VEA would not support any other chartering agency other than the local school board to authorize charter schools. Moreover, the VEA indicated Virginia historically has not highly regulated public schools, particularly before the passage of the Standards of Learning, and as a consequence, local school boards have enjoyed considerable autonomy.

Other interviewees made interesting comments pertaining to the degree of authority local school boards currently have and had in the past. The VSBA representative, Barham, stated that before the Standards of Quality were passed

and enacted in 1973, all public schools were charter schools in this state; the state had very little to do with running the local school system. Local school divisions and superintendents had the autonomy to run the schools prior to 1973, so are not charter schools advocating returning to the way education was prior to the enactment in 1973 of the Standards of Quality. Additionally, one legislator does not believe that the charter school bill really makes much difference because there is a mechanism now in the Code of Virginia and the SOQ allowing a local school board to make a request to the State Board of Education for approval from waivers from certain rules and regulations to establish innovative programs. Finally, the VEA representative stated it is ironic that charter schools are seen in Virginia as an opportunity for innovation and creativity despite the fact that public schools traditional have enjoyed considerable autonomy.

During the interviews, it became clear that legislators believed that if local school boards were to maintain control of charter schools, that the legislation could not contain an appeal process. Initially, several of the charter school bills contained an appeal process, which afforded applicants an avenue to the State Board of Education or to a Circuit Court. However, all respondents indicated that they were opposed to an appeal process because they believed that the local school boards should have final authority in approving, denying, revoking, or granting charters. One legislator based this view on the rationale that charter schools are public schools in Virginia, and are not private schools supported with public funds. Finally, another legislator indicated that if local school boards were granted full control of charter schools, good charter schools would be established.

In summary, all interviewees expressed that charter schools must be under local school board control. In order to develop a charter school, local school boards must make a long-term commitment, and engage in thoughtful planning. Although the enactment of the SOQ in 1973 diminished the degree of local

autonomy, local school boards still are afforded considerable autonomy in the Commonwealth. One illustration of this is the opportunity now of local school districts to request waivers from certain state and local regulations in order to implement innovative and creative instructional programs. Virtually no one interviewed supported an appeal process and all wanted only the local school board to have the final authority to approve, deny, revoke, or grant charters. Therefore, all persons interviewed indicated that full authority to grant school charters had to be given to local school boards for them to support charter school legislation.

### Accountability

Accountability was one of the two characteristics that Delegate Hamilton included in all charter school legislation he proposed. Accountability, according to Hamilton, meant accountability for results, which is identified in the chartering contract with the local school board for a expected level of student performance. Hamilton stated that an alternative public school program based on accountability for student performance could be a public charter school. Therefore, three-year contracts granted to charter school applicants would allow them sufficient opportunity to be accountable for student improvement by focusing on student performance goals. This belief motivated Hamilton to incorporate the SOL goals into his legislation so that charter schools would have to meet the academic criteria currently required of public school students. Next, he distinguished the difference between magnet schools and charter schools; magnet schools are not required to enter into a contract with a school board for student performance outcomes, which are required of charter schools. Prior to writing charter school legislation for Virginia, Hamilton studied charter school legislation of other states, which featured accountability provisions. Delegate Hamilton also stated he would not support any changes to existing charter school legislation, which does not ensure accountability.

The VSBA representative suggested that his organization believes in the importance of accountability, but Barham also indicated that he has not seen any research that shows charter school children are doing better academically than students who attend traditional public schools. He said, “charter schools in some states are doing fine, but no better than in the public schools.” Barham concluded that charter school students must be accountable to the SOLs and take the same achievement tests administered to public school students.

During the interviews with legislators, one individual indicated unhappiness with the decline in the moral character and achievement level of graduates of public schools. This person’s belief was that charter schools could be one avenue to raise achievement test scores and reduce discipline infractions of certain students (current research does not support this belief). Other legislators indicated that some charters should be granted for specific programs designed to meet the educational needs of students who are preparing to immediately enter the work force. One legislator indicated that charter school students should not have to comply with the SOLs. This legislator believed that this requirement could restrict the development of charter schools designed for innovative programs, and may have deterred some perspective applicants from seeking approval to establish charter schools. However, all other legislators interviewed agreed with the statement “when you get money, there should be accountability, and those students should perform to the same standards as public school children if funding is going to occur.” Finally, all respondents agreed that, “academics should be the number one priority of a charter school,” because accountability for student performance in a charter school was expressed as a high priority for all legislators interviewed.

In summary, Delegate Hamilton proposed the initial charter school legislation in 1994 and expected that accountability for academic results would be required of charter school students. All other legislators agreed with Hamilton and

indicated that student performance outcomes were necessary in charter school legislation in order to gain their support. The VSBA's position was that to support any charter school legislation, it must include accountability based on the SOL or any other tests required of public school students.

### Summary

In the first section on document analysis, charter school bills proposed during the 1994 through 1999 General Assembly were analyzed and the following basic charter school characteristics were identified: 1) open enrollment, 2) lottery method for student selection, 3) tuition free, 4) exempt from certain local and state regulations except for SOQ, 5) non-sectarian, 6) public notice and public hearing, 7) no appeal process, and 8) one-half charters to be reserved to serve at-risk students. In the second section on data analysis, six charter school themes were identified from the interviews: 1) funding, 2) choice, 3) opposition, 4) partisan politics, 5) local autonomy, and 6) accountability. These themes described the necessary characteristics and obstacles that caused charter school legislation to take five years to gain legislative approval. Also described in this section is the relationship between the six themes and relevant legislative documents.

The first theme that can be related to charter school legislation is local autonomy, which was developed through three issues: the appeal process itself, who controlled the appeal process, and the roles of public notice versus public hearing. The initial charter school legislation proposed by Delegate Hamilton in 1994 was compared to the legislation that was adopted in 1998. It is evident that the issue of the appeal process underwent change. Contained in the initial legislation was an appeal process, which gave charter school applicants redress before the State Board of Education if their applications were denied by local school boards. This theme became critical because all interviewees believed that it was essential that local school autonomy be preserved. So for local school boards

to retain this autonomy, the appeal process to the State Board of Education was removed. Although the early initial legislation only required that local public school boards conduct public hearings before they approved charter school applications, it was later expanded to require local school boards to give public notice and provide a public hearing before the school board could agree to accept charter school applications. The local school boards would have to give a public notice announcing a public hearing once per week for two consecutive weeks in their local newspapers. The public notice and public hearing were deemed important, if local communities were to be involved in their communities' decisions to accept charter school applications.

A second theme that was evident throughout legislative evolution is the characteristic of accountability, which is demonstrated by the requirement that charter school students meet the same SOL requirements of non-charter school students. Delegate Hamilton initially proposed that no more than 10 charter schools per division could be established, with one-half reserved for at-risk students; however, the final version approved in 1998 was far more conservative. No more than 10% of a school division's total number of schools or two charters, whichever is greater, could be established, with one of the two charter schools required to serve at-risk students. Also, the requirement to comply with the SOQ was evident with initial charter school legislation.

The third theme, funding, initially outlined in 1994, addressed the issue of how charter schools would be funded. The 1994 legislation required that no less than 80% of a school division's ADM operating revenue would be provided per pupil enrolled in the charter schools, thus providing a flow of state and local funds to the charter schools. Since a charter school is considered to be another public school, its ADM is included with the ADM reported to the state by the school division. Also, state categorical aid, including funds for the disabled and at-risk

students for those enrolled in charter schools, flow through the school division to their charter schools. Finally, the capability to get federal charter school funds to support charter school development helped sway some legislators to vote for charter school legislation.

The fourth theme, which was choice, was the freedom to select a public school alternative other than traditional public schools and was cited as critical by the legislators interviewed. The components of the initial legislation proposed a lottery process for enrollment on a space-by-space basis for students who were residents of the school districts that approve charter schools. Pre-selection of students by a charter school was unacceptable by all respondents unless specialized skills are required for students to attend. The patron of the initial bill, Delegate Hamilton, indicated that one of his primary reasons for introducing charter school legislation was to provide alternatives to traditional public schools.

Two themes, both which are only indirectly related to charter school legislative characteristics, were repeatedly addressed by all respondents. These two themes are opposition and partisan politics.

Two pivotal years for charter school development in Virginia was in 1996 and 1997 and was due to four very unrelated events. First, during this time, a visit by the Senate Charter School Committee to Boston, Massachusetts, for the purpose of observing a successful charter school, which served predominantly minority students, was instrumental in reducing some legislator's fears of re-segregation of the public school system. Second, former Governor Allen presented his first budget to a Democratic General Assembly, which included a funding cut for K-12 education, thereby stimulating the Virginia Education Association to lobby against charter school legislation. The VEA feared funding would be diverted from public schools to support charter schools. Third, the joint House/Senate charter schools subcommittee established the previous year, presented its recommendations for the

establishment of charter schools in Virginia which recommended 1) non-sectarian public charter schools, 2) subject to SOQ requirements, 3) open enrollment, 4) local autonomy, 5) no appeal process, 6) and licensed instructional personnel. Finally, the elections held in 1995 started shifting the balance of power away from the Democratic Party to the Republican Party. With the fear of resegregation lessening, the favorable recommendations of the House/Senate charter school subcommittee, and the shift of the balance of power to the Republican Party, charter school adoption became a reality.

In conclusion, the interviews highlighted that charter school legislation was a partisan political issue that Democrats viewed as a right wing effort designed to damage public education. With a Democratic General Assembly and charter schools being a Republican initiative, charter school legislation became entwined in partisan politics. Although a Democratic President espoused charter schools development, Democrats in the Virginia General Assembly fought against supporting charter school legislation. Equally important, the Black Caucus and the NAACP both feared that charter schools would become elitist white schools, resulting in the re-segregation of public schools. Several legislators referenced what happened in the 1954 Brown v. Board of Education decision and they did not want a return to the belief that separate was equal. This fear of re-segregation and partisan politics were the two main reasons it took five years for charter school legislation being adopted. Finally, partisan politics shifted as the Republican Party began to control the General Assembly, and the visit by the joint House/Senate charter school subcommittee tempered the re-segregation fears. So, in 1998, charter school legislation finally got to the floor of the General Assembly and a charter school statute was adopted in the Commonwealth.

## CHAPTER 5

### CONCLUSIONS AND RECOMMENDATIONS

Contained in Chapter Five are five sections, which provide an overview of the study. The first section contains the purpose of the study and describes the procedures used in gathering the data. In the second section, there is a summary of the study. The third section presents the findings by addressing the research questions, which are based upon an analysis of the data. Conclusions and implications of the study are discussed in the fourth section, and recommendations for further research are presented in the fifth section.

#### Purpose and Methodology

The purpose of this study was to delineate the historical development of charter school legislation in Virginia from 1994 through the 1999 General Assemblies. For this study, five research questions were posed:

1. What changes did charter school legislation undergo before members of the Virginia General Assembly finally approved it for implementation?
2. What were the expectations of the legislators who sponsored charter school legislation?
3. What, if anything, either internal or external to the Virginia General Assembly, influenced the presenters of charter school legislation?
4. Did the enacted legislation that was adopted meet the expectations of the legislator who initiated charter school legislation?
5. Are legislators and others satisfied with the current status of charter school development in Virginia?

Two types of data collection were employed. The first method was document analysis, which was augmented through structured open-ended interviews with probing questions. Those bills introducing charter school legislation in each year of the General Assembly were collected, analyzed, and

incorporated into a chart. A trend analysis of these legislative documents was undertaken by comparing them with the changes from the initial charter school legislation presented in the 1994 General Assembly through its approval in the 1998 General Assembly. To conduct the open-ended interviews, a standard set of questions was developed and perspective interviewees were identified. An expert panel believed to be knowledgeable in Virginian legislative affairs and charter school legislation evaluated these draft interview questions. Their recommendations facilitated the development of the final interview questions. Simultaneously, educational experts who were familiar with charter school development in Virginia were asked to submit names of individuals they recommended interviewing for this project. From these lists, persons whose names that occurred frequently were selected as interviewees. Initially, six perspective interviewees were identified and based on their responses during their interviews, by using “snowball” sampling concepts, two additional individuals were identified, bringing to eight the number of interviewees. Prior to the conducting the interviews, permission to audio-tape was requested and granted. Following the interviews, all tape recordings were transcribed and analyzed through using the software program (QSR NUD•IST). Six themes emerged from an analysis of the documents and the interviews. These themes were local autonomy, accountability, partisan politics, funding, opposition, and choice.

Of the eight individuals interviewed, six served the Virginia General Assembly, one person represented the Virginia Education Association (VEA) and another individual spoke for the Virginia School Board Association (VSBA). Of the six legislators, three served the House of Delegates and three served the Senate. Also, of the six legislators, three were Democrats and three were Republicans. They represented the eastern, northern, and central regions of the Commonwealth.

## Summary

The eight interviewees discussed the adoption process of charter school legislation as well as their expectations for successful charter school legislation. The representatives of the VEA and the VSBA also discussed what they believed was important for successful adoption of charter school legislation.

The Virginia Education Association interviewee stated that his organization was adamant in its position that current funding for public school systems should not be required to compete with new initiatives for state dollars. However, when Governor Allen's first budget in the 1996-1998 biennium contained a \$50,000,000 funding cut for K-12 education, this precipitated the VEA to react by opposing any charter school legislation. The VEA also was concerned that teachers employed by charter schools remain employees of local school boards. Further, the VEA believed that it was important for the professional staff of charter schools be certified and they should retain the option of returning to a non-charter school.

The VSBA representative admitted that the VSBA opposed charter school legislation for four years. The VSBA's major concern was that if charter schools were to be established, fairness of competition had to be insured by mandating that public charter schools comply with the state academic achievement assessments currently required of traditional public school systems. The VSBA also lobbied to require all public charter schools to be under the direct control of local public school boards. The rationale of the VSBA was that if local school boards had authority over public charter schools, local autonomy would be preserved. After charter school legislation was adopted, the VSBA supported the Virginia State Department of Education by helping write the grant application to the U. S. Department of Education to secure federal charter school funds for the Commonwealth. Evidence of VSBA supporting federal funds for charter schools in Virginia may be illustrated through their development of an operating manual

and facilitation of a workshop designed to help school board members understand the new charter schools legislation.

Legislators expressed their belief that children residing in any Virginia public school district upon approval of a public charter school should have the option to attend. All interviewees indicated they would not support any legislation where there was a pre-determined selection of students. A lottery process to provide equal opportunities for access and to maintain local control with no appeal process beyond the local school board were critical features to gain legislators support for public charter schools. African-American legislators and some members of the NAACP were concerned that charter schools could lead to the re-segregation of public schools. A visit taken by the Senate charter school committee to a charter school located in Boston, Massachusetts, which served many minority students seemed to reassure the NAACP members that their fears may be unfounded. Additionally, all legislators emphasized that academics and fiscal accountability by charter schools was a very important factor for their support.

Accountability for academic results and the option to attend an alternative educational program appeared to be the two single most important characteristics of Delegate Phil Hamilton's initial charter school legislation in 1994. Delegate Hamilton received credit and praise from the others interviewed for orchestrating, coordinating, and finally getting charter school legislation approved. In their collective view, it was his persisting, compromising, changing, and understanding all sides of the issue that resulted in the eventual passage of charter school legislation. Nearly all those interviewed suggested that Hamilton was the best choice to be the patron of charter school legislation.

As mentioned above, one of the most pivotal events that occurred during the charter school debate was a trip in 1997 taken by the Senate charter school

committee to a charter school in Boston, Massachusetts. Two of the committee members had previous educational experiences in the Boston community. During their visit, they witnessed minority children succeeding and spoke with parents who expressed satisfaction with the charter school. This event eventually changed some of the visiting legislators' attitudes. When they returned to Richmond, they expressed to their reticent colleagues that charter schools likely would not lead to re-segregation and could be good for Virginia. The following year, charter school legislation was adopted.

Another major change that occurred during charter school legislative development was the political shifting in the General Assembly. During the charter school process, Virginia elected two consecutive Republican governors, with a Democratically controlled General Assembly. Notwithstanding the fact that the United States had a Democratic President supporting charter schools, many Democrats in the General Assembly did not support charter school legislation while most Republicans and the Governor supported it. As the General Assembly moved toward a Republican majority, it was just a matter of time until charter school legislation became a reality.

Once opposition decreased with the fear of de-segregation subsiding, and the political structure moved toward Republican control, it was just a matter of producing legislation everyone could support. Ironically, some Democrats who voted against Virginia charter school legislation, wanted federal charter school funds for Virginia. Yet, for Virginia to be eligible to receive federal funds, charter school legislation had to be adopted.

As of this date, only 22 of 134 Virginia public school divisions have held public hearings to determine if their school board would accept charter school applications. One legislator interviewed stated that, "in the Virginia way, we need to give it time to evolve. We do not need to do any tinkering with the law at this

time.” Legislators expressed that until several charter schools evolve, they would be premature to assess whether charter school legislation really serves the purpose for which it was intended.

### Findings

The research questions that were initially proposed serve as the basis in summarizing the study findings:

1. What changes did charter school legislation undergo before members of the Virginia General Assembly finally approved it for implementation?

First, the initial public charter school legislation House Bill 1042 included an appeal process to the Virginia State Board of Education, but the adopted legislation (HB543ER) had no appeal process. Second, the requirement for a public hearing in the legislation (HB 1042) was expanded in subsequent legislation House Bill 543ER to include a public notice with a specified time-line for a public hearing. Additionally, the number of charter schools was reduced from ten (HB 1042) to two per school division (HB 543ER). Finally, student enrollment methods were expanded from “open enrollment” to a requirement of a “lottery process” with a waiting list for students desiring to attend.

2. What were the expectations of the legislators who sponsored charter school legislation?

Legislators believed charter schools should have the necessary teachers, equipment, technology, fiscally and educationally accountable, and should serve as an alternative to traditional public schools. Delegate Hamilton, patron of the initial charter school legislation, included choice and accountability in all the charter school legislation he introduced. Legislators stressed that charter schools, as an alternative to public schools, does not mean that the public schools are inferior, but they believe public charter schools could help serve children whose needs are not

being met by the traditional public schools. A lottery process for student enrollment and complete local autonomy are important characteristics of charter school legislation. Since most school board members are elected officials, they rightfully should be held responsible to the public for appropriated funds.

3. What if anything, either internal or external to the Virginia General Assembly, influenced the presenters of charter school legislation?

There were three external factors that influenced the development of charter school legislation in the Commonwealth. First, The NAACP threatened the House Education Committee during a public hearing on charter schools in Richmond, which for four years, helped keep charter school legislation from being adopted. Second, Governor Allen proposed in his 1996-98 budget a reduction in K-12 funds. The VEA and other public school advocates capitalized on this action to rally in opposition to any charter school laws in order to protect public schools. Third, the VSBA fought for four years to oppose charter schools. When they realized that charter school legislation was going to pass in the 1998 General Assembly, they worked with Delegate Hamilton to craft charter school legislation they could support.

Delegate Hamilton championed charter school legislation for five consecutive years in the General Assembly. Prior to presenting his first legislation in 1994, Delegate Hamilton reviewed other states' charter school bills and he believed it was time for the children of Virginia to have choices with accountability. During the four years (1994-1997) that charter school legislation was unsuccessful in the General Assembly, partisan politics was the primary internal factor for its defeat. The charter school bills proposed never got out of their respective committees to be considered by the full legislative bodies because of the split of 11 Democrats voting against and 11 Republicans voting for charter school legislation. Three reasons that some legislators changed their votes to

support charter schools legislation was 1) Virginia had to enact charter school legislation to be eligible to receive federal funding, and 2) Delegate Hamilton's persistence and perseverance during the five years it took to enact charter school legislation, and 3) some minority opposition was reduced as a result of the visit to the charter school in Boston, Mass.

4. Did the enacted legislation that was adopted meet the expectations of the legislator who initiated charter school legislation?

Of the six legislators interviewed, all either patroned a charter school bill, served on the Education Committee in their respective assemblies, or served on the Senate charter school committee which visited the charter school in Boston. All legislators interviewed supported the current public charter school legislation because it contained the following features: 1) local public school board control, 2) lottery method for selecting students for enrollment, 3) opportunity for innovative programs, 4) alternatives for public school students, and 5) accountability for educational results. Some legislators expressed surprise that more charter school applications have not been filed in their localities, because currently, only one public charter school is in operation in Virginia. One reason expressed was that the charter school legislation is considered "tight," and starting a public charter school would not be easy. Several interviewees expressed that something of the magnitude and of the importance of starting a public charter school cannot be done over-night; it must take time to plan and develop. Others expressed that since accountability required of public school students are applicable to charter school students, there is a general reluctance to seek approval to establish charter schools.

All legislators agreed that public charter school development must be given time, but three legislators made interesting suggestions. One legislator suggested that the General Assembly should make local public school boards hold public hearings. Another legislator recommended that although there is no appeal

process, “maybe authorizing four-year institutions or community colleges to approve charter schools would be good.” A third legislator recommended that if no charter schools were started in several years, the application process should be reviewed to determine whether their are burdens germane to the application process.

5. Are legislators and others satisfied with the current status of charter school development in Virginia?

All respondents expressed satisfaction with the current charter school statute. They stated that the charter school process should be allowed time to develop among Virginians because, two years since adoption is too short a time to satisfactorily evaluate. All legislators anxiously await the start-up of the first charter schools in Virginia so their expectations for charter school success could be evaluated, and they can determine if charter school legislation is doing what they intended. One legislator showed impatience and expressed that if more local school systems do not hold public hearings in their communities to receive comments on accepting charter school applications than the current 22, then maybe there should be a mandate to require public hearings.

### Conclusions and Implications

From this study, conclusions and implications have emerged which are beneficial for public school administrators and local public school boards to understand charter school development for their community. This section outlines the conclusions and implications of the study.

The conclusions of this study demonstrate that:

- 1) Current charter school laws are unique to each state. Each state adopts charter school legislation that is responsive to certain characteristics unique to that state. Almost all states allow the conversion of existing public schools to charter schools as well as allow the creation of new charter

schools, but only nine states allow the conversion of a private school to a charter school (the U. S. Department of Education's Fourth Year Report lists nine states but the Center for Education Reform only shows legislation for only six states).

- 2) One individual championed charter school legislation. Delegate Phil Hamilton was credited by everyone interviewed for his patience and persistence in communicating and compromising with legislators on certain charter school characteristics during the five years that it took for charter school legislation to be adopted.
- 3) Local school board autonomy is necessary. All interviewees expressed the importance of charter schools being public charter schools under the control of the local school boards. No interviewee stated in any interview that there was any attempt by legislators to undermine the control of local school boards, but to only support and protect their autonomy.
- 4) Partisan politics and minority opposition were the two most influential factors in defeating early charter school legislation. Virginia had a Democratic General Assembly opposing a Republican initiative, even with a Democratic president supporting charter school legislation. Not until there was a shift in the power in the General Assembly with more Republicans in General Assembly seats, was there a movement to support charter school legislation. Additionally, there was the fear of the re-segregation of public schools from the minority community, that public charter schools would become elitist white schools.
- 5) All respondents are currently satisfied with the outcome of charter school legislation. Also all interviewees were satisfied with the current charter school characteristics because the main components of an alternative for public school children with accountability for results were present. All

interviewees mentioned that in Virginia, change occurs slowly and that charter schools must be given time to develop before changing the current charter school statute.

- 6) Some interviewees are dissatisfied with the pace of local hearings being held by local school boards. During the interviews, a question was asked of all respondents if they were concerned with the small number of school boards that have held public hearings to determine if they would accept charter school applications in their localities (only 22 public school systems out of 134 have held public hearings). Several interviewees were concerned with the low number and one legislator suggested that public hearings should be mandated so local school boards would comply with this expectation of charter school legislators.
- 7) Alternatives for public school students with accountability for results are important characteristics for charter school legislation. All legislators interviewed believed that an alternative to the public schools could be an advantage for public school students as long as there was the same accountability for charter school students as there was for public school students. These two characteristics were evident in charter school legislation every year it was introduced.
- 8) A lottery method of student selection was important to legislators interviewed. They stated that they did not want any pre-determined method of student selection because for students to attend charter schools, the opportunity should be available to anyone in the relevant school district. A waiting list for students was added to the charter school legislation before final adoption so parents would know their child's relative position.

In summarizing the conclusions, Virginia has charter school legislation because legislators believed it was time for public school students to have other

alternatives in lieu of traditional public schools while still providing identical academic requirements. Also, one individual championed charter schools every year from 1994 through 1998 until charter school legislation was adopted. Additionally, minority opposition was diminished when a group of Senators from the Senate Charter School Committee visited a charter school in Boston and realized that charter schools might not lead to the re-segregation of public schools. Finally, the political structure of the General Assembly changed to a more Republican control, which increased the support for charter school legislation.

In reviewing the implications of this project, there are several issues that deserve discussion. It is common knowledge that the conservative electorate, particularly the religious right, was the driving force behind the national charter school movement. During this interview there was not any mention made of any influences of the religious right promoting the adoption of charter school legislation. Although probing questions were asked each interviewee, the religious right as a force behind the charter school movement was never mentioned. All interviewees appeared at ease, relaxed, and comfortable in answering all questions. It can only be surmised that the religious right had little or no influence in the development of charter school legislation in the Commonwealth. Another implication of the study is the small number of school systems that have held public hearings to consider accepting charter school applications in their localities. This concerned one legislator who suggested mandating that local school boards hold public hearings. If legislators mandate public hearings, this could start eroding local school board autonomy that surfaced during the interviews as an important characteristic for charter school legislation.

Since conducting these interviews, several legislative bills were introduced and adopted in the 2000 General Assembly, which now require local school boards to report by December 31, 2000, their intentions to accept or not to accept charter

school applications. Legislators appeared satisfied in the interviews with the current charter school statute, but apparently some legislators were unhappy with the number of local school boards having public hearings, and they forced this expectation by amending the 1998 charter school statute.

Another issue that has implications is that in the two years since charter school legislation was adopted, there is only one charter school in Virginia. Two reasons could be concluded for this small number: 1) private schools are not allowed to be converted to public charter schools, and 2) public charter schools must comply with the same SOLs as public schools. Legislators interviewed expressed that the charter school legislation in Virginia was considered “strong” because of the above characteristics, but perhaps these requirements serve as barriers to individuals desiring to start charter schools. Could it not be surmised that if local school boards do not accept charter school applications in their community, legislators could continue to revamp the charter school law by approving other agencies to accept charter school applications as well as possibly develop an appeal process. If these legislative changes occur, a reduction of local autonomy by public school boards would result.

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## APPENDIX A

### Code of Virginia

#### Section 13, Article 1.2, Section 22.1-212.5-212.15

212.5

Objectives; definitions

A. In order to (i) stimulate the development of innovative programs within public education; (ii) provide opportunities for innovative instruction and assessment; (iii) provide parents and students with more options within their school divisions; (iv) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management and structure; (v) encourage performance-based educational programs; (vi) establish high standards for both teachers and administrators; and (vii) develop models for replication in other public schools, charter schools may be established in Virginia as provided in this article.

B. As used in this article:

"At-risk pupil" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board of Education criteria, which research indicates may negatively influence educational success.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based alternative school located within a public school division. A charter school may be created as a new public school or through the conversion of all or part of an existing public school; however, no charter school shall be established through the conversion of a private school or a nonpublic home-based educational program.

§ 22.1-212.6

Establishment and operation of charter schools; requirements

A. A charter school shall be subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services and shall be subject to any court-ordered desegregation plan in effect for the school division.

Enrollment shall be open to any child who is deemed to reside within the relevant school division, as set forth in § 22.1-3, through a lottery process on a space-available basis. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents shall be informed of their student's position on the list.

B. A charter school shall be administered and managed by a management committee, composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors, in a manner agreed to by the charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a charter school may operate free from specified school division policies and state

regulations, except for the requirements of the Standards of Quality.

C. Pursuant to a charter agreement, a charter school shall be responsible for its own operations, including, but not limited to, such budget preparation, contracts for services, and personnel matters as are specified in the charter agreement. A charter school may negotiate and contract with a school division, the governing body of a public institution of higher education, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking which the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school division shall not exceed the division's costs to provide such services.

D. In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school division.

E. A charter school shall not charge tuition.

#### § 22.1-212.7

Contracts for charter schools; release from certain policies and regulations

An approved charter application shall constitute an agreement, and its terms shall be the terms of a contract between the charter school and the local school board. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school from school division policies. Such contract between the charter school and the local school board shall reflect all requests for release of the charter school from state regulations, except for the requirements of the Standards of Quality. The local school board, on behalf of the charter school, shall request such releases from the Board of Education.

If the charter application proposes a program to increase the educational opportunities for at-risk students, the local school board, on behalf of the charter school, shall also request that the Board of Education approve an Individual School Accreditation Plan for the evaluation of the performance of the school as authorized by the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.

Any material revision of the terms of the contract may be made only with the approval of the local school board and the management committee of the charter school.

#### § 22.1-212.8

Charter application

A. Any person, group, or organization may submit an application for the formation of a charter school.

B. The charter school application shall be a proposed agreement and shall include:

1. The mission statement of the charter school that must be consistent with the principles of the Standards of Quality.
2. The goals and educational objectives to be achieved by the charter school, which educational objectives must meet or exceed the Standards of Learning.
3. Evidence that an adequate number of parents, teachers, pupils, or any combination thereof, support the formation of a charter school.
4. A statement of the need for a charter school in a school division or in a geographic area within a school division.
5. A description of the charter school's educational program, pupil performance standards, and curriculum, which must meet or exceed any applicable Standards of Quality; the assessments to be used to measure pupil progress towards achievement of the school's pupil performance standards; the timeline for achievement of such standards; and the procedures for taking corrective action in the event that pupil performance at the charter school falls below such standards.
6. A description of the lottery process to be used to determine enrollment. A lottery process shall also be developed for the establishment of a waiting list for such students for whom space is unavailable and, if appropriate, a tailored admission policy that meets the specific mission or focus of the charter school and is consistent with all federal and state laws and regulations and constitutional provisions prohibiting discrimination that are applicable to public schools and with any court-ordered desegregation plan in effect for the school division.
7. Evidence that the plan for the charter school is economically sound for both the charter school and the school division; a proposed budget for the term of the charter; and a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the school division, is to be conducted.
8. A plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school and for the placement of charter school pupils, teachers, and employees upon termination or revocation of the charter.
9. A description of the management and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the management and operation of the charter school.
10. An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees.
11. An agreement between the parties regarding their respective legal liability and applicable insurance coverage.
12. A description of how the charter school plans to meet the transportation needs of its pupils.
13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

§ 22.1-212.9

Review of charter applications

A. After public notice, a public hearing, and adoption by the local school board of a resolution stating its intent to receive applications for the establishment of charter schools in the school division, the local school board may receive and review all applications for charter schools. The public notice shall appear once a week for two successive weeks in a newspaper having a general circulation in the jurisdiction of the school division. The second publication shall not be sooner than one calendar week after the first publication.

The local school board may establish procedures for receiving, reviewing, and ruling upon applications and shall make a copy of any such procedures available to all interested parties upon request. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant.

B. To provide appropriate opportunity for input from parents, teachers, and other interested parties and to obtain information to assist the local school board in its decision to grant a charter school application, the local school board may establish a procedure for public notice, comment, or hearings on charter school applications.

#### § 22.1-212.10

##### Decision of local board final

The decision of a local school board to grant or deny a charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal.

#### § 22.1-212.11

##### Charter school restrictions

A. On and after July 1, 1998, local school boards electing to receive applications for charter schools pursuant to § 22.1-212.9 may establish a charter school within the school division and shall be authorized to limit the number of schools so established; however, the total number of charter schools shall not exceed ten percent of the school division's total number of schools or two charter schools, whichever is greater. Further, no more than two charters per school division shall be granted prior to July 1, 2000. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the charter schools per division shall be reserved for such applications.

B. Local school boards that grant charter school applications shall report such action to the Board and shall specify the maximum number of charters that may be authorized, if any; the number of charters granted; and whether a charter school is designed to increase the educational opportunities of at-risk students.

C. Nothing in this article shall be construed to prevent a school that is the only school in the division from applying to become a charter school.

#### § 22.1-212.12

##### Charter school term; renewals and revocations

A. A charter may be approved or renewed for a period not to exceed three school years. A charter school renewal application submitted to the local school board shall contain:

1. A report on the progress of the charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board may require upon granting initial approval of the charter application.

2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the charter school and that has been concisely and clearly written to enable the school board and the public to compare such costs to those of other schools or comparable organizations.

B. A local school board may revoke a charter if the charter school:

1. Violates the conditions, standards, or procedures established in the charter school application;

2. Fails to meet or make reasonable progress toward achievement of the content standards or student performance standards identified in the charter application;

3. Fails to meet generally accepted standards of fiscal management; or

4. Violates any provision of law from which the charter school was not specifically exempted.

A charter may be revoked if the local school board determines, in its discretion, that it is not in the public interest or for the welfare of the students within the school division to continue the operation of the school.

C. Nothing in this section shall be construed to restrict the authority of the local school board to decline to renew a charter agreement.

#### § 22.1-212.13

Employment of professional, licensed personnel

A. Charter school personnel shall be employees of the local school board granting the charter.

B. Professional, licensed personnel may volunteer for assignment to a charter school. Assignment in a charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the charter school, reassignment to the charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed personnel who request assignment to a noncharter school in the school division or who are not recommended for reassignment in the charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a charter school shall be granted the same employment benefits given to professional, licensed personnel in noncharter schools.

E. Nothing in this section shall be construed to restrict the authority of the local school board to assign professional, licensed personnel to a charter school or any other public school as provided in §§ 22.1-293 and 22.1-295.

§ 22.1-212.14

Funding of charter schools; services provided

A. For the purposes of this article, students enrolled in a charter school shall be included in the average daily membership of the school division; however, charter schools shall not be reported in fall membership for purposes of calculating the state and local shares required to fund the Standards of Quality.

B. Insofar as constitutionally valid, a local school board may establish by contract an agreement stating the conditions for funding the charter school.

C. Services provided the charter school by the local school board may include food services; custodial and maintenance services; curriculum, media, and library services; warehousing and merchandising; and such other services not prohibited by the provisions of this article or state and federal laws.

D. Funding and service agreements between local school boards and charter schools shall not provide a financial incentive or constitute a financial disincentive to the establishment of a charter school.

E. Any educational and related fees collected from students enrolled at a charter school shall be credited to the account of such charter school established by the local school board.

F. Notwithstanding any other provision of law, the proportionate share of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs shall be directed to charter schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

G. The management committee of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to spend such funds in accordance with the conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the management committee of a charter school if the conditions for such funds are contrary to law or the terms of the agreement between the local school board and the charter school.

H. The Department of Education shall provide technical assistance to local school boards electing to receive, review, and act upon applications for charter schools.

§ 22.1-212.15

Evaluation of charter schools; reports

School boards establishing charter schools shall submit annual evaluations of such schools to the Board of Education. The Board shall review the evaluations against any Board regulations and policies waived for the charter schools to determine the efficacy of such waivers and whether the charter schools accomplished established goals and objectives. Such school boards shall also submit annually to the Board a comparison of the performance of charter school students and students enrolled in the regular schools of the school division and a report of the number of students enrolled in such charter schools at the end of the school year.

The Board shall report annually its findings and evaluations of any charter schools established in the Commonwealth to the Governor and the General Assembly, beginning in January 1999.

## Appendix B

### List of Respondents

J. Paul Council, Jr., Delegate, 75<sup>th</sup> District (Democrat)

Phillip Hamilton, Delegate 93<sup>rd</sup> District (Republican)

Robley Jones, Legislative Services, VEA

Frank Barham, Executive Director of VSBA

Emily Couric, Senator, 25<sup>th</sup> District (Democrat)

James H. Dillard, II, Delegate, 41<sup>st</sup> District (Republican)

Warren Barry, Senator, 37<sup>th</sup> District (Republican)

Benjamin Lambert, III, Senator, 9<sup>th</sup> District (Democrat)

## Appendix C

### Listing of Charter School Legislation (HB 1042, HB 776, and Chapter 748) summary | pdf

HOUSE BILL NO. 1042

Offered January 25, 1994

A BILL to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, relating to Commonwealth Charter Schools.

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Patrons--Hamilton, Diamonstein, Reid and Rhodes; Senator: Woods

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Referred to Committee on Education  
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Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15 as follows:

Article 1.2.

Commonwealth Charter Schools.

§ 22.1-212.5. Definitions.

As used in this article:

"At-risk pupil" means a student who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based school located within a public school divisions.

§ 22.1-212.6. Charter schools; requirements and establishment.

A. A charter school shall be a public school, subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services, and shall be subject to any court-ordered desegregation plan in effect for the school division. Enrollment shall be open to any child who resides within the school division.

A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the local school board.

B. Except as otherwise provided in this article, a charter school shall not charge tuition.

C. Pursuant to a contract, a charter school may operate free from specified school division policies and state regulations, except for the requirements

of the Standards of Quality. Upon request of the charter applicant, the Board of Education shall provide summaries of the regulations and policies to use in preparing a charter school application. The Department of Education shall prepare the summary of state regulations with existing appropriations.

D. A charter school shall be responsible for its own operation, including, but not limited to, preparation of a budget, contracting for services, and personnel matters. A charter school may negotiate and contract with a school division, the governing body of a public institution of higher education, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking which the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school division shall be provided by the school division at cost.

E. In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities.

All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

#### § 22.1-212.7. Contracts for charter schools.

A. An approved charter application shall constitute an agreement, and the terms thereof shall be the terms of a contract between the charter school and the local board of education. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school from school division policies. Such contract between the charter school and the local school board shall reflect all requests for release of the charter school from state regulations, except for the requirements of the Standards of Quality. The local school board and the charter school shall jointly request such release from the state Board of Education. Any material revision of the terms of the contract may be made only with the approval of the local school board and the governing body of the charter school.

#### § 22.1-212.8 Charter application.

A. The charter school application shall be a proposed agreement and shall include:

1. The mission statement of the charter school, which must be consistent with the principles of the Standards of Quality.
2. The goals, objectives, and pupil performance standards to be achieved by the charter school.
3. Evidence that an adequate number of parents, teachers, pupils, or any combination thereof support the formation of a charter school.
4. A statement of the need for a charter school in a school division or in a geographic area within a school division.
5. A description of the charter school's educational program, pupil performance standards, and curriculum, which must meet or exceed any applicable Standards of Quality, the assessments to be used to measure pupil progress towards achievement of the school's pupil performance standards, the timeline for achievement of such standards, and the procedures for taking corrective action in the event that pupil performance at the charter school

falls below such standards.

6. Evidence that the plan for the charter school is economically sound for both the charter school and the school division, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the school division, is to be conducted, and a plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school.

7. A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school.

8. An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if.

9. An agreement between the parties regarding their respective legal liability and applicable insurance coverage.

10. A description of how the charter school plans to meet the transportation needs of its pupils and, if the charter school plans to provide transportation for pupils, a plan for addressing the transportation needs of low-income and academically low-achieving pupils.

B. No person, group, or organization may submit an application to convert a private school or a non-public home-based educational program into a charter school or to create a charter school which is a non-public home-based educational program.

#### § 22.1-212.9. Charter application process.

A. The local school board shall receive and review all applications for charter schools. The local school board may establish a schedule for receiving applications and shall make a copy of any such schedule available to all interested parties upon request. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant. The charter school application shall be reviewed by the division accountability committee prior to consideration by the local school board.

B. After giving reasonable public notice, the local school board shall hold community meetings in the affected areas of the entire school division to obtain information to assist the local school board in its decision to grant a charter school application. The local school board shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within sixty days after receiving the application.

C. If a local school board denies a charter school application, the charter applicant may appeal the denial to the Board of Education as provided in this article.

#### § 22.1-212.10. Appeals.

A. The Board of Education, upon receipt of a notice of appeal or upon its own motion, may review decisions of any local board of education concerning charter schools in accordance with the provisions of this article.

B. A charter applicant or any other person who wishes to appeal a decision of a local school board concerning a charter school shall provide the Board of Education and the local school board with a notice of appeal within thirty days of the local school board's decision.

C. If the notice of appeal, or the motion to review by Board of Education, relates to a local school board's decision to deny, refuse to renew, or revoke a charter, the appeal and review process shall be as follows:

1. Within thirty days after receipt of the notice of appeal or the making of a motion to review by the Board of Education and after reasonable public notice, the Board of Education, at a public hearing which may be held in the school division in which the proposed charter school is located, shall review the decision of the local school board and make its findings. If the Board of Education finds that the local school board's decision was contrary to the best interests of the pupils, school division, or community, the Board shall remand such decision to the local school board with written instructions for reconsideration thereof. The instructions shall include specific recommendations concerning the matters requiring reconsideration.

2. Within thirty days following the remand of a decision to the local school board and after reasonable public notice, the local school board, at public hearing, shall reconsider its decision and make a final decision.

3. If the local school board's final decision is still to deny, refuse to renew, or revoke a charter, a second notice of appeal may be filed with the Board of Education within thirty days following such final decision.

4. Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the Board and after reasonable public notice, the Board, at a public hearing, shall determine whether the final decision of the local school board was contrary to the best interests of the students, school division, or community. If such a finding is made, the Board shall remand such final decision to the local school board with instructions to approve the charter application. The decision of the Board shall be final and not subject to appeal.

5. If the notice of appeal, or the motion to review by the Board, relates to a local school board's decision to grant a charter, the appeal and review process shall be as follows:

a. Within thirty days after receipt of the notice of appeal or the making of a motion to review by the Board and after reasonable public notice, the Board, at a public hearing which may be held in the school division where the proposed charter school is located, shall review the decision of the local school board and determine whether such decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would violate any federal or state law concerning civil rights, a court order, the provisions of this chapter pertaining to the number of charter schools permissible; threaten the health and safety of students in the school division; or conflict with the equitable distribution of charter schools among the school divisions.

6. If such a determination is made, the Board shall remand such decision to the local school board with instructions to deny the charter application. The decision of the Board shall be final and not subject to appeal.

7. Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school division in which it is located and accountable to the local school board, as provided in this chapter.

22.1-212.11. Charter schools restrictions.

A. On and after July 1995, a school board may establish a charter school within the school division and shall be authorized to limit the number of schools so established; however, no more than ten charters shall be granted prior to July 1, 1996, and at least one-half of the charters shall be reserved for charter school applications designed to increase the educational opportunities of at-risk students.

B. Local school boards which grant charter school applications shall report such action to the Board and shall specify whether or not such school is designed to increase the educational opportunities of at-risk students. The Board shall promptly notify the local school boards when the limit allowable has been reached.

C. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students.

D. Nothing in this chapter shall be construed to prevent a school within a school division in which it is the only school in the division from applying to become a charter school.

22.1-212.12. Charter school term; renewal of charter; revocation.

A. A charter may be approved or renewed for a period not to exceed three school years. A charter school renewal application submitted to the local school board shall contain:

1. A report on the progress of the charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board may require upon granting initial approval of the charter application.
2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the charter school that has been concisely and clearly written to enable the public to compare such costs to other schools or comparable organizations.

B. A local school board may revoke or deny renewal of a charter if the charter school:

1. Violates the conditions, standards, or procedures established in the charter school application.
2. Failed to meet or make reasonable progress toward achievement of the content standards or student performance standards identified in the charter application.
3. Failed to meet generally accepted standards of fiscal management; or
4. Violated any provision of law from which the charter school was not specifically exempted.

C. A charter may not be renewed if the local school board determines that it is not in the public interest or the welfare of the students within the school division to continue the operation of the school.

D. A decision to revoke or to deny renewal of the charter application may be appealed pursuant to the provisions of the chapter.

§ 22.1-212.13. Employment of teachers; leave of absence.

A. During the first year that a teacher employed by a local school board is assigned to a charter school, such teacher shall be considered to have been granted a one-year leave of absence from the school division. Such leave of absence shall commence on the first day of operation of the charter school.

Upon the request of the teacher, the local school board may extend the leave of absence for no more than two years upon the mutual agreement of the teacher and the school board. A leave of absence shall be evaluated by the local school board at the end of the third year of such leave, and the local school board shall provide written notice of its decision to the teacher, no later than five days after the decision.

B. The Board of Education shall establish policies for determining the employment status of school division employees employed by the charter school who seek to return to their former positions held in the schools of the school division.

C. Employees of a charter school shall be granted membership in the Virginia Retirement System and shall make the appropriate contributions as may be required.

22.1-212.14. Funding of charter schools; services provided.

A. For the purposes of this chapter, students enrolled in a charter school shall be counted in the average daily membership of the school division. The local school board shall report the number of such students enrolled in each charter school annually at the end of the school year to the Board of Education.

B. In so far as constitutionally valid, a school board may establish by contract an agreement stating the conditions for funding the charter school.

C. Services provided the charter school by the local school board may include food services, custodial and maintenance services, curriculum, media, and library services, warehousing and merchandising, and such other services not prohibited by the provisions of this chapter or state and federal laws.

D. In no event shall the amount of funding provided a charter school be less than eighty percent of the school division's operating revenues multiplied by the number of students enrolled in the charter school.

E. Funding and service agreements between local school boards and charter schools shall not provide a financial incentive or constitute a financial disincentive to the establishment of a charter school.

F. Educational related fees collected from students enrolled at a charter school shall be credited to the account of such charter school established by the school board.

G. Notwithstanding any other provision of law, the proportionate share of state and federal resources generated by students with disabilities and school personnel assigned to special education programs shall be directed to charter schools enrolling such students. The proportionate share of moneys

generated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

H. The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to spend such funds in accordance with the conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing body of a charter school if the conditions for such funds are contrary to law or the terms of the agreement between the school board and the charter school.

I. The Department of Education shall provide technical assistance to school boards in completing or revising charter school applications.

§22.1-212.15. Evaluation of charter schools; reports.

School boards establishing charter schools shall submit evaluations of the schools annually to the Board of Education. The Board shall review the evaluations against any Board regulations and policies waived for the charter schools to determine the efficacy of such waivers and whether the charter schools accomplished established goals and objectives. The Board shall also compare the performance of charter school students with the performance of students enrolled in the regular schools of the school division. Further, the Board shall report its findings and evaluations of any charter schools established in the Commonwealth to the Governor and the General Assembly annually, beginning on January 1995.

[Go to \(General Assembly Home\)](#)

HOUSE BILL NO. 776

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, relating to the establishment of charter schools.

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Patrons-- Councill, Hamilton, Katzen, Nelms and Rhodes

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Referred to Committee on Education  
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Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, as follows:

Article 1.2.  
Establishment of Charter Schools.

§ 22.1-212.5. Definitions.

As used in this article:

"At-risk pupil" means a student who, because of physical, emotional, intellectual, socioeconomic, or cultural factors, may not succeed in a conventional educational environment.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based school located within a public school division. A charter school may be created as a new public school or through the conversion of all or part of an existing public school; however, no charter school shall be established through the conversion of a private school or a nonpublic home-based educational program.

§ 22.1-212.6. Establishment and operation of charter schools; requirements.

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services, and shall be subject to any court-ordered desegregation plan in effect for the school division. Enrollment shall be open to any child who resides within the school division.

B. A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22-.1-212.7, a charter school may operate free from specified school division policies and state regulations, except for the requirements of the Standards of Quality. Upon request of the charter applicant, the Board of Education shall provide summaries of the regulations and policies to use in preparing a charter school application.

C. Pursuant to a charter agreement, a charter school shall be responsible for its own operations, including, but not limited to, budget preparation, contracts for services, and personnel matters as specified in the charter agreement. A charter school may negotiate and contract with a school division,

the governing body of a public institution of higher education, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking which the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school division shall not exceed the division's cost to provide such services.

D. In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities.

All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school division.

E. Except as may be otherwise provided in this article, a charter school shall not charge tuition.

#### § 22.1-212.7. Contracts for charter schools; release from certain policies and regulations.

An approved charter application shall constitute an agreement, and its terms shall be the terms of a contract between the charter school and the local school board. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school from school division policies. Such contract between the charter school and the local school board shall reflect all requests for release of the charter school from state regulations, except for the requirements of the Standards of Quality. The local school board and the charter school shall jointly request such releases from the Board of Education. Any material revision of the terms of the contract may be made only with the approval of the local school board and the governing body of the charter school.

#### § 22.1-212.8. Charter application.

A. Any person, group, or organization may submit an application for the formation of a charter school.

B. The charter school application shall be a proposed agreement and shall include:

1. The mission statement of the charter school, which must be consistent with the principles of the Standards of Quality.

2. The goals and educational objectives to be achieved by the charter school, which educational objectives must meet or exceed the Standards of Learning.

3. Evidence that an adequate number of parents, teachers, pupils, or any combination thereof support the formation of a charter school.

4. A statement of the need for a charter school in a school division or in a geographic area within a school division.

5. A description of the charter school's educational program, pupil performance standards, and curriculum, which must meet or exceed any applicable Standards of Quality, the assessments to be used to measure pupil progress towards achievement of the school's pupil performance standards, the timeline for achievement of such standards, and the procedures for taking corrective action in the event that pupil performance at the charter school falls below such standards.

6. A description of an equitable selection process to be used if the charter school's capacity is insufficient to enroll all pupils who submit a timely application and, if appropriate, a tailored admission policy that meets the specific mission or focus of the charter school and is consistent with all federal and state laws and constitutional provisions prohibiting discrimination that are applicable to public schools and with any court-ordered desegregation plan in effect for the school.

7. Evidence that the plan for the charter school is economically sound for both the charter school and the school division, a proposed budget for the term of the charter, and a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the school division, is to be conducted.

8. A plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school and for the placement of charter school pupils, teachers, and employees upon termination or revocation of the charter.

9. A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school.

10. An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees.

11. An agreement between the parties regarding their respective legal liability and applicable insurance coverage.

12. A description of how the charter school plans to meet the transportation needs of its pupils.

13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

#### § 22.1-212.9. Review of charter applications.

A. Upon adoption by the local school board of a resolution stating its intent to receive applications for the establishment of charter schools in the school division, the local school board may receive and review all applications for charter schools. The local school board may establish a schedule for receiving, reviewing, and ruling upon applications and shall make a copy of any such schedule available to all interested parties upon request. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant.

B. To provide appropriate opportunity for input from parents, teachers, and other interested parties and to obtain information to assist the local school board in its decision to grant a charter school application, the local school board may establish a procedure for public notice, comment, or hearings on charter school applications.

#### § 22.1-212.10. Decision of local board final.

The decision of a local school board to grant or deny a charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal.

§ 22.1-212.11. Charter schools restrictions.

A. On and after July 1, 1996, local school boards electing to receive applications for charter schools pursuant to § 22.1-212.9 may establish a charter school within the school division and shall be authorized to limit the number of schools so established. However, no more than two charters per school division shall be granted prior to July 1, 1998. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the charters per division shall be reserved for such applications.

B. Local school boards that grant charter school applications shall report such action to the Board and shall specify the maximum number of charters that may be authorized, if any; the number of charters granted; and whether a charter school is designed to increase the educational opportunities of at-risk students.

C. Nothing in this article shall be construed to prevent a school that is the only school in the division from applying to become a charter school.

§ 22.1-212.12. Charter school term; renewals and revocations.

A. A charter may be approved or renewed for a period not to exceed three school years. A charter school renewal application submitted to the local school board shall contain:

1. A report on the progress of the charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board may require upon granting initial approval of the charter application.

2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the charter school that has been concisely and clearly written to enable the public to compare such costs to those of other schools or comparable organizations.

B. A local school board may revoke a charter if the charter school:

1. Violates the conditions, standards, or procedures established in the charter school application;

2. Fails to meet or make reasonable progress toward achievement of the content standards or student performance standards identified in the charter application;

3. Fails to meet generally accepted standards of fiscal management; or

4. Violates any provision of law from which the charter school was not specifically exempted.

A charter may be revoked if the local school board determines, in its discretion, that it is not in the public interest or for the welfare of the students within the school division to continue the operation of the school.

C. Nothing in this section shall be construed to restrict the authority of the local school board to decline to renew a charter agreement.

§ 22.1-212.13. Employment of professional, licensed personnel.

A. Charter school personnel shall be employees of the local school board granting the charter.

B. Professional, licensed personnel may volunteer for assignment to a charter school. Assignment in a charter school shall be for one contract year.

Upon request of the employee and the recommendation of the governing board of the charter school, reassignment to the charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed personnel who request assignment to a noncharter school in the school division or who are not recommended for reassignment in the charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a charter school shall be granted the same employment benefits given to professional, licensed personnel in noncharter schools.

E. Nothing in this section shall be construed to restrict the authority of the local school board to assign professional, licensed personnel to a charter school or any other public school as provided in § 22.1-295.

§ 22.1-212.14. Funding of charter schools; services provided.

A. For the purposes of this chapter, students enrolled in a charter school shall be included in the average daily membership of the school division; however, charter schools shall not be reported in fall membership for purposes of calculating the state and local shares required to fund the Standards of Quality.

B. Insofar as constitutionally valid, a local school board may establish by contract an agreement stating the conditions for funding the charter school.

C. Services provided the charter school by the local school board may include food services; custodial and maintenance services; curriculum, media, and library services; warehousing and merchandising; and such other services not prohibited by the provisions of this chapter or state and federal laws.

D. Funding and service agreements between local school boards and charter schools shall not provide a financial incentive or constitute a financial disincentive to the establishment of a charter school.

E. Any educational and related fees collected from students enrolled at a charter school shall be credited to the account of such charter school established by the local school board.

F. Notwithstanding any other provision of law, the proportionate share of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs shall be directed to charter schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

G. The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to spend such

funds in accordance with the conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing body of a charter school if the conditions for such funds are contrary to law or the terms of the agreement between the local school board and the charter school.

H. The Department of Education shall provide technical assistance to local school boards electing to receive, review, and act upon applications for charter schools.

§ 22.1-212.15. Evaluation of charter schools; reports.

School boards establishing charter schools shall submit annual evaluations of such schools to the Board of Education. The Board shall review the evaluations against any Board regulations and policies waived for the charter schools to determine the efficacy of such waivers and whether the charter schools accomplished established goals and objectives. Such school boards shall also submit annually to the Board a comparison of the performance of charter school students and students enrolled in the regular schools of the school division and a report of the number of students enrolled in such charter schools at the end of the school year.

The Board shall report annually its findings and evaluations of any charter schools established in the Commonwealth to the Governor and the General Assembly, beginning in January 1997.

summary | pdf

CHAPTER 748

An Act to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, relating to the establishment of charter schools.

[H 543]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, as follows:

Article 1.2.  
Establishment of Charter Schools.

§ 22.1-212.5. Objectives; definitions.

A. In order to (i) stimulate the development of innovative programs within public education; (ii) provide opportunities for innovative instruction and assessment; (iii) provide parents and students with more options within their school divisions; (iv) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management and structure; (v) encourage performance-based educational programs; (vi) establish high standards for both teachers and administrators; and (vii) develop models for replication in other public schools, charter schools may be established in Virginia as provided in this article.

B. As used in this article:

"At-risk pupil" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board of Education criteria, which research indicates may negatively influence educational success.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based alternative school located within a public school division. A charter school may be created as a new public school or through the conversion of all or part of an existing public school; however, no charter school shall be established through the conversion of a private school or a nonpublic home-based educational program.

§ 22.1-212.6. Establishment and operation of charter schools; requirements.

A. A charter school shall be subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services and shall be subject to any court-ordered desegregation plan in effect for the school division.

Enrollment shall be open to any child who is deemed to reside within the relevant school division, as set forth in § 22.1-3, through a lottery process on a space-available basis. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents shall be informed of their student's position on the list.

B. A charter school shall be administered and managed by a management committee, composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors, in a manner agreed to by the charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a charter school may operate free from specified school division policies and state regulations, except for the requirements of the Standards of Quality.

C. Pursuant to a charter agreement, a charter school shall be responsible for its own operations, including, but not limited to, budget preparation, contracts for services, and personnel matters as specified in the charter agreement. A charter school may negotiate and contract with a school division, the governing body of a public institution of higher education, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking which the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school division shall not exceed the division's costs to provide such services.

D. In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school division.

E. A charter school shall not charge tuition.

#### § 22.1-212.7. Contracts for charter schools; release from certain policies and regulations.

An approved charter application shall constitute an agreement, and its terms shall be the terms of a contract between the charter school and the local school board. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school from school division policies. Such contract between the charter school and the local school board shall reflect all requests for release of the charter school from state regulations, except for the requirements of the Standards of Quality. The local school board, on behalf of the charter school, shall request such releases from the Board of Education.

If the charter application proposes a program to increase the educational opportunities for at-risk students, the local school board, on behalf of the charter school, shall also request that the Board of Education approve an Individual School Accreditation Plan for the evaluation of the performance of the school as authorized by the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.

Any material revision of the terms of the contract may be made only with the approval of the local school board and the management committee of the charter school.

#### § 22.1-212.8. Charter application.

A. Any person, group, or organization may submit an application for the formation of a charter school.

B. The charter school application shall be a proposed agreement and shall include:

1. The mission statement of the charter school that must be consistent with the principles of the Standards of Quality.
2. The goals and educational objectives to be achieved by the charter school, which educational objectives must meet or exceed the Standards of Learning.
3. Evidence that an adequate number of parents, teachers, pupils, or any combination thereof, support the formation of a charter school.
4. A statement of the need for a charter school in a school division or in a geographic area within a school division.
5. A description of the charter school's educational program, pupil performance standards, and curriculum, which must meet or exceed any applicable Standards of Quality; the assessments to be used to measure pupil progress towards achievement of the school's pupil performance standards; the timeline for achievement of such standards; and the procedures for taking corrective action in the event that pupil performance at the charter school falls below such standards.
6. A description of the lottery process to be used to determine enrollment. A lottery process shall also be developed for the establishment of a waiting list for such students for whom space is unavailable and, if appropriate, a tailored admission policy that meets the specific mission or focus of the charter school and is consistent with all federal and state laws and regulations and constitutional provisions prohibiting discrimination that are applicable to public schools and with any court-ordered desegregation plan in effect for the school division.
7. Evidence that the plan for the charter school is economically sound for both the charter school and the school division; a proposed budget for the term of the charter; and a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the school division, is to be conducted.
8. A plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school and for the placement of charter school pupils, teachers, and employees upon termination or revocation of the charter.
9. A description of the management and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the management and operation of the charter school.
10. An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees.
11. An agreement between the parties regarding their respective legal liability and applicable insurance coverage.
12. A description of how the charter school plans to meet the transportation needs of its pupils.
13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

§ 22.1-212.9. Review of charter applications.

A. After public notice, a public hearing, and adoption by the local school board of a resolution stating its intent to receive applications for the establishment of charter schools in the school division, the local school board may receive and review all applications for charter schools. The public notice shall appear once a week for two successive weeks in a newspaper having a general circulation in the jurisdiction of the school division. The second publication shall not be sooner than one calendar week after the first publication.

The local school board may establish procedures for receiving, reviewing, and ruling upon applications and shall make a copy of any such procedures available to all interested parties upon request. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant.

B. To provide appropriate opportunity for input from parents, teachers, and other interested parties and to obtain information to assist the local school board in its decision to grant a charter school application, the local school board may establish a procedure for public notice, comment, or hearings on charter school applications.

§ 22.1-212.10. Decision of local board final.

The decision of a local school board to grant or deny a charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal.

§ 22.1-212.11. Charter school restrictions.

A. On and after July 1, 1998, local school boards electing to receive applications for charter schools pursuant to § 22.1-212.9 may establish a charter school within the school division and shall be authorized to limit the number of schools so established; however, the total number of charter schools shall not exceed ten percent of the school division's total number of schools or two charter schools, whichever is greater. Further, no more than two charters per school division shall be granted prior to July 1, 2000. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the charter schools per division shall be reserved for such applications.

B. Local school boards that grant charter school applications shall report such action to the Board and shall specify the maximum number of charters that may be authorized, if any; the number of charters granted; and whether a charter school is designed to increase the educational opportunities of at-risk students.

C. Nothing in this article shall be construed to prevent a school that is the only school in the division from applying to become a charter school.

§ 22.1-212.12. Charter school term; renewals and revocations.

A. A charter may be approved or renewed for a period not to exceed three school years. A charter school renewal application submitted to the local school board shall contain:

1. A report on the progress of the charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board may require upon granting initial approval of the charter application.
2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the charter school and that has been concisely and clearly written to enable the school board and the public to compare such costs to those of other schools or comparable organizations.

B. A local school board may revoke a charter if the charter school:

1. Violates the conditions, standards, or procedures established in the charter school application;
2. Fails to meet or make reasonable progress toward achievement of the content standards or student performance standards identified in the charter application;
3. Fails to meet generally accepted standards of fiscal management; or
4. Violates any provision of law from which the charter school was not specifically exempted.

A charter may be revoked if the local school board determines, in its discretion, that it is not in the public interest or for the welfare of the students within the school division to continue the operation of the school.

C. Nothing in this section shall be construed to restrict the authority of the local school board to decline to renew a charter agreement.

§ 22.1-212.13. Employment of professional, licensed personnel.

A. Charter school personnel shall be employees of the local school board granting the charter.

B. Professional, licensed personnel may volunteer for assignment to a charter school. Assignment in a charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the charter school, reassignment to the charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed personnel who request assignment to a noncharter school in the school division or who are not recommended for reassignment in the charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a charter school shall be granted the same employment benefits given to professional, licensed personnel in noncharter schools.

E. Nothing in this section shall be construed to restrict the authority of the local school board to assign professional, licensed personnel to a charter school or any other public school as provided in §§ 22.1-293 and 22.1-295.

§ 22.1-212.14. Funding of charter schools; services provided.

A. For the purposes of this article, students enrolled in a charter school shall be included in the average daily membership of the school division; however, charter schools shall not be reported in fall membership for purposes of calculating the state and local shares required to fund the Standards of Quality.

B. Insofar as constitutionally valid, a local school board may establish by contract an agreement stating the conditions for funding the charter school.

C. Services provided the charter school by the local school board may include food services; custodial and maintenance services; curriculum, media, and library services; warehousing and merchandising; and such other services not prohibited by the provisions of this article or state and federal laws.

D. Funding and service agreements between local school boards and charter schools shall not provide a financial incentive or constitute a financial disincentive to the establishment of a charter school.

E. Any educational and related fees collected from students enrolled at a charter school shall be credited to the account of such charter school established by the local school board.

F. Notwithstanding any other provision of law, the proportionate share of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs shall be directed to charter schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

G. The management committee of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to spend such funds in accordance with the conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the management committee of a charter school if the conditions for such funds are contrary to law or the terms of the agreement between the local school board and the charter school.

H. The Department of Education shall provide technical assistance to local school boards electing to receive, review, and act upon applications for charter schools.

#### § 22.1-212.15. Evaluation of charter schools; reports.

School boards establishing charter schools shall submit annual evaluations of such schools to the Board of Education. The Board shall review the evaluations against any Board regulations and policies waived for the charter schools to determine the efficacy of such waivers and whether the charter schools accomplished established goals and objectives. Such school boards shall also submit annually to the Board a comparison of the performance of charter school students and students enrolled in the regular schools of the school division and a report of the number of students enrolled in such charter schools at the end of the school year.

The Board shall report annually its findings and evaluations of any charter schools established in the Commonwealth to the Governor and the General Assembly, beginning in January 1999.

## APPENDIX D

### SUMMARY OF CHARTER SCHOOL LEGISLATION (1994-1998)

1994

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts
HB 1042	Phillip Hamilton (Republican – 93 <sup>rd</sup> District)	Referred to committee on Ed.  Assigned to the Ed. Subcommittee.  Continued to 1995 in Education	Charter school – public, non-sectarian, non- religious, non-home- based located within a public school division.  Shall be a public school.  Governed by a governing body.	Non-discrimination.  Free from specified school and state regulations except for S.O.Q.	Open to all in relevant school division.	Contract for building.  Responsible for own operation.  Any services contracted with school division shall be provided at cost.  No rent to school division's facilities.	Between charter and local board of education.  Ten requirements of the contract.  May not convert private or non-public home-based education program or create a non-public home-based educational program.
Assessment – part of charter contract – develop pupil performance standards be achieved (one of ten requirements).							

Bill No. (cont'd.)	Application	Appeals	Number of Charters	Charter Time-line	Revocation	Funding	Tuition	Comments
HB 1042	To local school board.  Public hearing before approving charter.	To State Board of Education.  Decision of Board of Education final.	No more than 10 prior to July 1, 1996 and one- half must be reserved for at- risk.	Three years.  Renewal application must contain certain elements.	May be revoked for one of four reasons.  May be appealed.	No less than 80% of the division's ADM of charter enrollment of operating revenues. Federal or state categorical aide monies go to charter school.	None.	Permits creation of charter school by local school boards.  Annual evaluations sent from local school boards to Board of Education.

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts
HB 875	Mitchell Van Yahres (Democrat – 57 <sup>th</sup> District)	Referred to committee on Ed. Assigned to Ed. Sub-committee Continued to 1995 in education.	Each public school agree by 2/3 of licensed school personnel in a secret ballot.  Agree by 2/3 of students and parents present by secret ballot at a meeting, but parents must be more than 30% of students in ADM.	Board of Education has authority to grant exemptions.  S.O.Q. are in effect.  S.O.A. shall have flexible alternatives for charter school.	Individuals of school age living within school attendance zone.  Student can transfer from another attendance zone on first-come first-served basis.		Board of Education shall establish regulations for criteria and procedures for granting school charters to authorize the operation of.  No conversion of private schools.

Assessment – A school community commitment plan as well as a developed school improvement plan to be included with the charter petition.

The school improvement plan must include the educational achievement goals as well as performance-based and student achievement-based objectives and performance criteria to measure the objectives outlined in the school improvement plan.

Bill No. (cont'd.)	Application	Appeals	Number of Charters	Charter Time-line	Revocation	Funding	Tuition	Comments
HB 875	Presented by local board to Board of Education to grant charter school to one of its supervised public elementary or secondary schools.  An existing educational unit within a public school division.	If charter school petition is denied, the local school board must inform within 30 days the petitioning school the reasons for disapproval and what corrective actions may be taken to obtain approval.  Schools may resubmit the charter school petition.	For school divisions with 23% or more at-risk in ADM to establish charter school.  No more than 6 charters in one division superintendent's region. No more than 2 per level (elementary, middle, secondary.)	Board of Education may grant for 3-year period thereafter renew 1-3 years.	If two thirds of licensed school personnel or more than 30% of parents of students in ADM request withdrawal.  Also, if school fails to fulfill the terms of performance-based contract.	Required local apportionment for support of S.O.Q's.  Can get contributions or local funds.	None	Purpose is to get strong parental involvement, encourage broad-based community coalition, convert existing schools in community with two thirds support of parents and staff.  Site-based management of individual schools.  Called Commonwealth Charter Schools. These schools shall meet the same Standards of Accreditation as all schools are required in the school division.

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts
SB 562	John Brandon Bell II (Republican, 21 <sup>st</sup> District)	Referred to committee in Ed. Continued to 1995 in education – EXACTLY THE SAME AS HB 1042					

## LEGISLATIVE SESSION 1995

Bill No.	Patron	P/F	Charter School Definition
HB 1625	Phillip Hamilton (Republican – 93 <sup>rd</sup> District)	Referred to committee on Ed.  No action taken.	Exactly the same as HB 1042 presented in 1994 except: <ol style="list-style-type: none"> <li>1. Removed words “pupil performance standards” from charter application #2.</li> <li>2. Took out the review by a division accountability committee prior to consideration by the local school board.</li> <li>3. Eliminated a second appeal to the State Board of Education and after the local board considers the State Board’s recommendations on first appeal, the local board decision is final. Separate appeal process for the granting and denying of charters.</li> <li>4. Added to the reporting process for school boards that approved a charter school application to include the number of charters that may be authorized as well as the number of charters granted. Also eliminated the sentence that the “Board shall notify the local school board when the limit allowable has been reached.”</li> <li>5. Changed the language of employment of teachers from “leave of absence” from local school division to return to former position to one of “volunteers for assignment” in charter school on an annual basis to include guaranteed involuntary transfer to a non-charter school when employee requests to get out of a charter school.</li> <li>6. Changes funding from 80% of school divisions operating reserves multiplied by number of students in charter school to funding shall be no less than 80% of the respective state and local shares required to fund the S.O.Q.’s .</li> </ol>

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts
HB 2535	Jay Katzen (Republican – 31 <sup>st</sup> District)	Passed to education committee.  Assigned to ed. subcommittee.  Passed by indefinitely.	Public, non-sectarian, non-religious having contract with local school board.  May create new school or convert existing school.	Free from S.O.A., but not S.O.L. or S.O.Q.	May not charge tuition. Students apply – admission policy is stated in the charter.  May accept out of resident students after preference to in-resident students.  May limit admission to specific age groups, or grade levels consistent with charter agreement.	No rent for school facilities	Any person or entity may submit application.  May not convert existing private, or non-public home-based or create a charter school, which is a non-public home-based school.
Assessment included in application process.							

Bill No. (cont'd.)	Application	Appeals	Number of Charters	Charter Time-line	Revocation	Funding	Comments
HB 2535	Has 14 requirements for application.  If application denied, local board shall hold a public hearing and decision of local board can be appealed to circuit court.	Individuals may submit an application and if denied or if not renewed, may petition the circuit court for review. Action of board sustained unless board exceeded authority, acted arbitrary or capricious or abused its discretion.	For school divisions with 23% or more at-risk in ADM to establish charter school.  Board of Education may grant for 3-year period thereafter 1-3 years.  No more than 6 charters per division.  Supt. Region with no more than 2 per level (elem., middle)	5 years and may be reviewed for any specific number of years.	May be revoked.  May be appealed.	State and local funding shall be 100% of per pupil state and local share required to fund the S.O.Q.  Also provided for grants to be awarded by Superintendent of Public Instruction.	<ul style="list-style-type: none"> <li>- Individuals may apply.</li> <li>- Appeals to circuit court.</li> <li>- Administrative and instruction personnel need not be licensed by Board of Ed.</li> <li>- Local board must give preference to re-employ charter school staff under 3 conditions.</li> <li>- 100% funding to go to charter school for S.O.Q.</li> <li>- Grants to be awarded by State Supt.</li> </ul>

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts
SB 1037	John Brandon Bell II (Republican – 21 <sup>st</sup> District)						
		Referred to committee in Ed.  Left in Ed. and Health. – IDENTICAL TO HB 2535					
SJ 334	Elliott Schewel (Democrat – 23 <sup>rd</sup> District)						
		<p>Agreed to by Senate on 2/21/95.</p> <p>Resolution identical to HJ 551 (below).</p> <ul style="list-style-type: none"> <li>- Resolution to establish joint subcommittee to study charter schools – 9 members – 4 from Senate to be appointed by Senate Committee on Elections &amp; Privileges and 5 members from the House of Delegates to be appointed by Speaker.</li> <li>- Cost not to exceed \$5,400.</li> <li>- To be reported back to the Governor and the 1996 Session of the General Assembly.</li> </ul> <p>In its deliberations, the joint subcommittee shall comprehensively examine the issues related to charter schools and shall provide a recommendation on the efficacy of such legislation after considering: (1) the provisions of other states laws; (2) actual operations of charter schools in other states, including, but not limited to, the number of students in the average school, the educational purpose, concept, or curricula of the schools, the method for establishing academic standards, accountability, and any revocations and the reasons for such revocations; (3) the focus of the organizing groups; (4) constitutional issues in other states and the interaction of the Constitution of Virginia with the various components of the charter school concept; (5) funding issues related to the charter school concept; and (6) the various components of charter school legislation, including, but not limited to, organizer eligibility, application process, charter eligibility, sponsoring authority, approval authority, governance, employment requirements, administrative responsibilities, limitations on the number of charters, contract terms and conditions, prescribed autonomy or waiver of legal requirements, curricula, student admissions, due process procedures for denials or revocations, accountability, and the state Board of Education's role.</p>					

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts
HJ 551	J. Paul Council, Jr. (Democrat – 75 <sup>th</sup> District)	Agreed by House on 2/22/95. <b>Resolution identical to HJ 334</b> (above).					

## LEGISLATIVE SESSION 1996

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts
HB 776	J. Paul Council, Jr (Democrat – 75 <sup>th</sup> District)	Referred to Education Committee.  Assigned to the Ed. Subcommittee.  Defeated in Education 11-11.	Public, non-sectarian, non-religious, non- home-based schools.  May create new or convert existing – no conversion of private or non-public, religious home-based program.	Subject to State and Federal laws. Free from State and local regulations except for S.O.Q.	No tuition.  Open enrollment with an equitable selection process and a tailored admission plan that meets the charter school mission.	No rent in existing facilities.	Between the charter school board and the local school board reflecting release of local policies.
Assessment – part of charter contract – develop pupil performance standards be achieved (one of ten requirements).							

Bill No. (cont'd.)	Application	Appeals	Number of Charters	Charter Time-line	Revocation	Funding	Tuition	Comments
HB 776	13 steps in application process.  Board adopts resolution to accept application.  May have hearing on application.	No appeal  Decision of local board to approve or revoke final.	Two charters per school division with one-half of applications for at-risk children.  No more than two before July 1, 1998.	Three years for approval or renewal.	Discretion of local board.	Students counted in division's ADM but not reported in fall membership for calculating the state and local shares required to fund the S.O.Q.  State and Federal resources for students with disabilities shall be directed into charter schools.  Categorical aid program money goes to charter school.	None.	This bill is a result of the recommendations of the Joint Sub committee studying charter schools.  Employment of personnel are employees of local school board granting charter.  May volunteer for charter school assignment.  Annual assignment to charter school. If want to go back, then involuntary transfer to non-charter school granted by policy of local board.  After resolution, may accept applications for charter school.

## LEGISLATIVE SESSION 1997

Bill No.	Patron	P/F	Charter School Definition	Regulations	Enrollment	Facilities	Contracts	
HB 1751	Phillip Hamilton (Republican – 93 <sup>rd</sup> District)	Referred to committee on Ed.  Defeated in Education 11-11.	Identical to HB 776 that was presented in 1996 by Delegate Councill and others.					
SB 1193	Warren Barry (Republican – 37 <sup>th</sup> District)	Referred to Education and Health Committee.  Defeated 7-8	Identical to HB 1751 above  Identical to HB776 in 1996				Introduced at the request of the Governor.	

## LEGISLATIVE SESSION 1998

Bill No.	Patron			
SB 318	Warren Barry (Republican – 37 <sup>th</sup> District)	Identical to HB 543.		
HB 543	Phillip Hamilton (Republican – 93 <sup>rd</sup> District)	<p>Referred to Education Committee.</p> <ul style="list-style-type: none"> <li>- Assigned to Education Sub-committee.</li> <li>- Amendments made by Education Committee on 2/4/98.</li> </ul> <p>Added:</p> <ol style="list-style-type: none"> <li>1. Language in the definition of charter school stating “for the purpose of providing opportunities for innovative instructional practices pursuant to a contract with the local school board”.</li> <li>2. Removed the words “an equitable selection process, such as lottery” and added the words “a lottery process”.</li> <li>3. Added the words under <u>Review of charter application</u> “after public notice substantially in accordance with 125.2.1427 and a public hearing”.</li> </ol> <p>Passed the House on Feb 5</p> <p>Senate referred SB 318 to the Committee on Health, assigned to the Sub-committee on Education and Health and reported amendments in the nature of a substitute on 2/26. Approved by Senate with substitutes on 3/2. The substitutes were:</p> <ol style="list-style-type: none"> <li>1. Modified definition of at-risk</li> <li>2. Added section on objectives; definitions</li> <li>3. Did not include language in the definition of charter school stating “for the purpose of providing opportunities for innovation”.</li> <li>4. Added “through a lottery process on a space available basis for enrollment”.</li> <li>5. Also added a waiting list shall be established if space not available for parents requesting entry in the lottery. Develop priority waiting list using lottery process and inform parent of students’ position on list.</li> </ol>	This bill identical to HB 776 except as noted at end.	<p>From HB 776 presented changes:</p> <ol style="list-style-type: none"> <li>1. Added to section on application in #6 dealing with selection process the words “such as a lottery”.</li> <li>2. Added Code of Virginia reference to assignment of personnel.</li> </ol>

Bill No.	Patron			
HB 543 (cont'd)		<ol style="list-style-type: none"> <li>6. Changed that the charter school be managed by committee of parents, teachers and administration, and representative sponsors in a manner agreed to by charter school applicant and local board.</li> <li>7. Added that the goals and educational objectives must also meet the S.O.A. as well as S.O.L.</li> <li>8. Added the requirement for a public hearing and giving public notice.</li> <li>9. Added a section requiring if the charter school application proposes a program to increase the education of at-risk children, the local school board and the charter school must request the State Board of Education to approve an Individual School Accreditation Plan for the evaluation of the performance of the school as authorized by the SOA.</li> </ol> <p>On March 6, Conference Committee was appointed of three delegates and three members of Senate. The conference committee recommended the following amendments:</p> <ol style="list-style-type: none"> <li>1. Keep the objectives; definition section.</li> <li>2. Keep change in at-risk definition.</li> <li>3. Keep lottery process and priority list for parents, but added if appropriate, a tailored admission policy that meets the specific mission of the charter school.</li> <li>4. Changed wording to management committee, composed of...instead of committees of parents, etc.</li> <li>5. Keep individual school accreditation plan for at-risk.</li> <li>6. Removed requirement for meeting S.O.A.</li> <li>7. Added that the number of charters shall not exceed 10% of school division's total number of schools or two charter schools, whichever is greater. No more than two prior to July 1, 2000. Requires one-half charter be reserved for at-risk.</li> <li>8. Strengthened the charter applications process by requiring a public notice, a public hearing, and adopting a resolution before board accepts applications. Also stated that the public notice shall appear once a week for two consecutive weeks.</li> </ol>		
<p>Both House and Senate adopted their respective bills with the committee recommendations and sent the bill to the Governor for his approval. The Governor sent a letter to the Senate proposing 27 amendments to the proposed legislation. All 27 amendments were defeated and the bill was finally adopted by the Governor on May 19, 1998, effective July 1, 1998.</p>				

## Appendix E

### LIST OF PROPOSED CHARTER SCHOOL LEGISLATION

<u>Year</u>	<u>Bill Numbers</u>	<u>Name of Bill</u>	<u>Patron</u>
1994	HB 1042	Commonwealth Charter Schools	Phillip Hamilton
1994	SB 562	Commonwealth Charter Schools	John Brandon Bell, II
1994	HB 875	Commonwealth Charter Schools	Mitchell Van Yahres
1995	HB2535	Charter Schools	Jay Katzen
1995	SB 1037	Charter Schools	John Brandon Bell, II
1995	HB1625	Charter Schools	Phillip Hamilton
1995	SJ 334	Study; Charter Schools	Elliot S. Schewel
1995	HJ 551	Study; Charter Schools	Paul Councill, Jr.
1996	HB 776	Charter Schools	Paul Councill, Jr.
1996	House Document 43	Report of Joint Subcommittee Studying Charter Schools	
1997	HB 1751	Charter Schools	Phillip Hamilton
1997	SB 1193	Charter Schools	Warren Barry
1998	SB 318	Charter Schools	Warren Barry
1998	HB 543	Charter Schools	Phillip Hamilton
1998	Governor Gilmore's Amendment to SB 318		
1999	HB 1577	Charter Schools	John J. Davies, III

## Appendix F

### CONSENT FORM FOR INTERVIEWS

#### VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

##### Informed Consent for Participants of Investigative Projects

Title of Project \_\_\_\_\_

Investigator(s) Terry E. Arbogast

#### **I. The Purpose of this Research/Project**

The purpose of this study is to review the historical development of charter school legislation in Virginia. Two qualitative methods of data collection will be used; document analysis and open-ended interviews. A matrix will be designed to analyze legislative changes that occurred from the 1994 through the 1999 legislative sessions. All legislative bills and any pertinent documents that can be obtained will be part of this analysis. Face-to-face interviews will also occur with individuals who played a significant role in charter school development. Approximately 15 interviews will be conducted.

#### **II. Procedures**

I am planning to schedule one interview with selected individuals, that will last approximately one hour using open-ended questions, and allow each person the opportunity to express his or her views on predetermined questions. I am asking for permission to tape the interviews that will then be transcribed and downloaded into a software program to sort the data for common themes, phrases, and categories of information. I will be the only person to have access to the tapes.

#### **III. Risks**

I do not foresee any risks to you other than a possible breach of confidentiality. If any quotes or your name is used in my paper, I will send a copy prior to my submitting for you to review, edit, or change. The tapes will be destroyed two years after the end of the study.

#### **IV. Benefits of this Project**

Reviewing the historical evolution of charter school legislation from 1994-1999 and interviewing individuals will identify an understanding of the expectations for charter school legislation. This also provides an opportunity to determine if the outcomes of the adopted legislation met or exceeded the expectations of those individuals who were instrumental in charter school development. The historical review will be valuable to understand the evolution of charter school legislation. No promise or guarantee of benefits can be made to encourage you to participate. If you would like a summary of the research results when it is completed, I will be glad to provide a copy.

**V. Extent of Anonymity and Confidentiality**

I will not release the results of the study to anyone other than individuals working on the project without your written consent. All tapes will be secured and stored by the interviewer. No one will have access to the tapes other than the transcriber and myself. If names or quotes are used in this paper, participants will be sent a copy to allow for editing and approval before final submission.

**VI. Compensation**

There will be no compensation provided for participants in this project.

**VII. Freedom to Withdraw**

Your participation in this research project is voluntary and you may withdraw from the study at any time. You are also free not to answer any questions or respond to any situations that you so desire. All findings will be published in an electronic format to Virginia Polytechnic Institute and State University.

**VIII. Approval of Research**

The research project has been approved as required by the Institutional Review Board for Research involving human subjects at Virginia Polytechnic Institute and State University by the Department of Educational Leadership and Policy Studies.

**IX. Subject’s Responsibilities**

I voluntarily agree to participate in this study and my only responsibility is to be interviewed in order to participate.

**X. Subject’s Permission**

I have read and understand the Informed Consent and conditions of this project. I have had all my questions answered. I hereby acknowledge the above and give my voluntary consent for participation in this project and give (\_\_\_\_) do not give (\_\_\_\_) permission for the interview to be taped.

If I participate, I may withdraw at any time without penalty. I agree to abide by the rules of this project.

\_\_\_\_\_  
Signature Date

Should I have any questions about this research or its conduct, I may contact:

(540) 745-9402 \_\_\_\_\_  
Investigator(s) Phone

(540) 231-9711 \_\_\_\_\_  
Faculty Advisor Phone Richard Salmon

---

H. T. Hurd  
Chair, IRB

Phone

**Subjects must be given a complete copy (or duplicate original) of the signed- Informed Consent.**

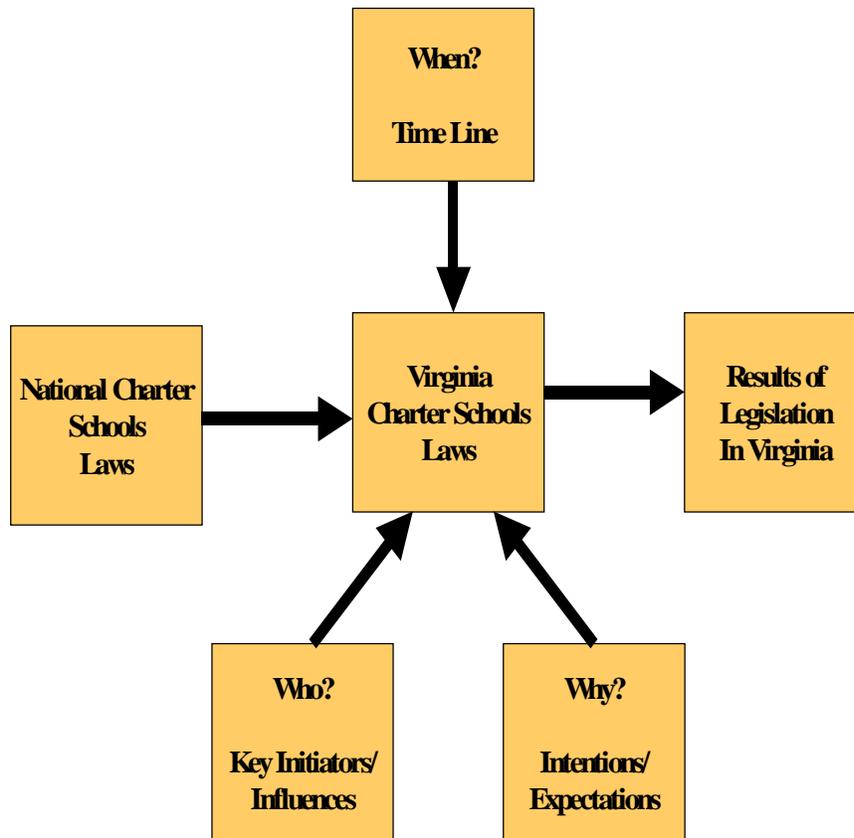
## APPENDIX G

### INTERVIEW QUESTIONS

1. How would you describe your vision to improve education in the Commonwealth?
2. In your role as parent, teacher, citizen, or legislator, what experiences have you had with any school choice options?
3. How would you describe your involvement in the development of charter school legislation in Virginia?
4. What were the main influences that supported charter school legislation being adopted in Virginia?
5. What influences can you identify in opposition to the adoption of charter school legislation that it took four legislative sessions to be successful?
6. What impact, if any, do you believe charter schools in Virginia will have on the public schools?
7. What were your expectations for charter school legislation?
8. In your opinion, how could the current Virginia charter school legislation be changed to meet your expectations?
9. In your work with the charter school legislation, did you use or rely on models from other states? If not, where did you receive your background and knowledge on charter schools?
10. If you were doing this study, whom would you recommend I speak with about the development of Virginia charter school legislation?
11. Is there anything else that I have not asked you that you would like to say about charter schools?

Appendix H  
CONCEPTUAL MODEL

**CONCEPTUAL MODEL OF THE HISTORICAL DEVELOPMENT OF  
CHARTER SCHOOLS**



APPENDIX I  
LEGISLATIVE TERMS

Acts of Assembly	The compilation of all legislation passed by the General Assembly and signed into law, and certain resolutions agreed to by the General Assembly.
Adjournment	Termination of a session for that day, with the hour and say of the next meeting being set prior to adjournment.
Adjournment Sine Die	The final adjournment of the legislative session.
Amendment	A change made to legislation in committee or on the chamber floor that adds, revises or deletes language to the legislation.
Amendment in the	A substantive redrafting of legislation that incorporates changes in a new version. A substitute can be offered in committee or on the chamber Nature of a Substitute floor.
Bill	A proposal to amend, repeal or add sections to the Code of Virginia or Acts of Assembly.
Calendar	Daily printed agenda of business for each house. Also contains scheduled committee meetings and public hearings.
Carried Over	A vote for no further consideration of legislative proposal during even-year session and the legislation is carried over to the next session. No bills may be carried-over in an odd-year session.
Chapter	A bill passed and signed into law.
Charter Bill	Legislation relating to powers of counties, cities and towns specifically granted by the General Assembly. Charters and changes thereto are not codified and are only found in the Act of Assembly.

Code of Virginia	A compilation of laws of the Commonwealth. The Code is arranged alphabetically by subject and each subject heading is referred to as a “Title.”
Committee	Group of legislators from the House of Delegates or Senate organized for the purpose of considering and deciding upon the disposition of a bill or a resolution.
Conference Committee	Group of six legislators (three from the House of Delegates and three from the Senate) which meet to resolve differences between versions of a specific bill as passed by their respective bodies.
Committee Docket	A list prepared by the committee clerk of all legislation pending before a standing committee or sub-committee.
Effective Date	Date which a Chapter of the Acts of Assembly becomes a law. All laws become effective on July 1 <sup>st</sup> in the year passed unless otherwise specified. Laws passed at a Special Session become effective on the first day of the fourth month following adjournment unless otherwise specified.
Emergency Date	Due to an emergency, the law is effective when signed by the Governor.
Engrossed	A legislative stage when a bill passes the second reading in its body of origin. If amended, the engrossed version of the legislation is printed incorporating all agreed to amendments.
Enrolled	Legislation which has passed both the House of Delegates and the Senate, if signed by the Speaker of the House and the President of the Senate and has been sent to the Governor, but not yet signed. Once signed, the bill becomes a law and is a Chapter of the Acts of Assembly.
Morning Hour	A period at the beginning of each day’s session when members may introduce distinguished visitors to their

colleagues or speak on any subject by asking for a “point of personal privilege.”

Patron

Legislator who introduces a specific piece of legislation is referred to as the patron. Other legislators may show their support by signing on as co-patrons.

Passed by  
Indefinitely (PBI)

A committee action which usually defeats the legislation for the session.

Resolution

Legislation which requests a study, or expresses legislative opinion or sentiment on a particular issue. Resolutions do not have the force of law and do not require the signature of the Governor.

Veto

Action by which the Governor refuses to sign legislation passed by the General Assembly. The Governor has the power to “line-item veto” an item of the budget bill. A two-thirds vote of each body is required to overturn a veto.

## APPENDIX J

### LISTS OF EDUCATIONAL EXPERTS

#### Validation of Interview Questions

Ralph Shotwell  
Steve Janosik  
Richard Salmon

#### Identification of Interviewees

Richard Pulley  
John Schreck  
J. Jack Davis

## EPILOGUE

### Legislative Session 2000

Charter school legislation was adopted in the General Assembly in 1998. In the 1999 legislative session, only one charter school bill was submitted for consideration, but in the 2000 General Assembly, there was a renewed interest in the current charter school statute. In this session, three charter school bills were filed: House Bill 785 (HB 785), House Bill 742 (HB 742), and Senate Bill 411 (SB 411).

House Bill 785, sponsored by Delegate Paul Clinton Harris, Sr., was identical to Senate Bill 411 sponsored by Senator Warren Barry. Both bills were presented in their respective sessions on January 21, 2000 and recommended adding to the current charter school law that 1) any individual aggrieved by the denial or revocation of a charter application may petition the Circuit Court having jurisdiction in the school division, 2) the SOA be a requirement for public charter schools, 3) that public school boards provide public notice by December 31, 2000 of its intent to accept or not accept applications for charter schools, 4) that charter schools not be reported in the Fall Membership in calculating the state's share to fund the SOQ's if the enrollment at the charter school is less than 100 students and constitutes less than five percent of the total enrollment of the relevant grades in that school system, and 5) that the Board of Education may charter a regional charter school. SB411 was assigned to the Education and Health sub-committee of the full committee and reported back to the Senate Committee on Education and Health with amendments in the nature of a substitute. These amendments 1) recommended eliminating the judicial review, 2) clarified

charter schools as *public* charter schools, and 3) eliminated the Board of Education having the authority to charter regional charter schools. This bill, (SB411), passed in the Senate on March 7, 2000 and is currently awaiting final approval by the Governor. Simultaneously, HB 785 was referred to the House Committee on Education, referred to the House Education sub-committee and reported from the Education Committee with a substitute. Eventually, HB 785 was approved by the House on March 10, 2000 with the same amendments as previously outlined, and is also awaiting the Governor's signature.

Additionally, during this General Assembly, House Bill 742 was filed by Delegate Anne G. Rhodes, which permitted the creation of a residential charter school for at-risk students by a single school division or a joint school by two or more school divisions with no obligation of the school boards to fund any services of the residential charter school. This bill was reported out from the Committee of Education, passed in the House on February 23 and in the Senate on February 21. This bill (HB 742) is also awaiting the Governor's signature.

## VITA

Terry Arbogast was born in Littlestown, Pennsylvania, on June 17, 1946. After graduating from Littlestown High School in 1964, he then proceeded to attend Bridgewater College from where he received a Bachelor of Science Degree in the spring of 1968.

Terry started his educational career in the Greene County Public System where he taught Biology and General Science from 1968 through 1971. During this same three-year period, Terry attended the University of Virginia and in the spring of 1971 received his Master's Degree in Educational Leadership. Mr. Arbogast accepted an administrative position in the Fauquier County Public School division in 1971 and served in several administrative capacities from 1971 to 1993. During this 22 years of tenure, Terry served as Assistant Principal and Principal of Williams C. Taylor Junior High School from 1971 to 1985. He, then accepted the position of Supervisor of Personnel for the Fauquier County Public School System. In 1987, he was promoted to Director of Personnel and served in that capacity until 1991 when he was named Assistant Superintendent for Administration.

In 1993 Mr. Arbogast accepted the position of Division Superintendent for the Floyd County Public School System and is currently serving in that capacity. Mr. Arbogast received the Certificate of Advanced Graduate Studies from Virginia Polytechnic Institute and State University in May, 1999, and received the Doctorate of Education Degree in May, 2000. Mr. Arbogast currently resides in Floyd County with wife, Dill, and has two sons, Terry and Robert.