

Beyond Weak Law, Strong Law:
Political compromise and legal constraints on charter school laws

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If one performs a Google search for “charter school laws,” the first search result is that of the Center for Education Reform’s (CER) charter school home page. The CER, through its state profiles and charter law “grades”, has become the most widely recognized source for information on charter school laws. In this paper, we argue that while the CER’s approach of labeling “weak laws” and “strong laws” is useful for pushing forward a policy agenda, this categorization does not adequately serve the needs of the charter school research community.¹

Specifically, we argue that because the CER framework does not explicitly recognize the political compromise at the center of charter school legislation, the framework does not fully capture the complexity and cross-cutting provisions at the center of charter law. We connect our argument to a set of studies, many now close to a decade old, that sought to illuminate the multitude of political interests involved in the creation of charter school laws in the states. We argue that the present direction of charter school scholarship – aimed primarily at assessing the effects of the charter movement – needs to pay more attention to the politics that initially shaped (and continue to re-shape) the charter school market. Drawing on our newly created Charter Legislation and Policy Database, we present a new approach for analyzing charter school legislation.

The paper is organized into four sections. In the first two sections, we review the literature related to charter school legislation and then present our method for analyzing

¹ We are not the first to criticize the CER’s grading strategy. Scott and Barber (2002) have made this criticism of both the CER and AFT grading schemes, arguing instead for a “competing values” or “multiple perspective” approach in line with Cibulka (1995).¹ The drawback of the Cibulka / Scott and Barber approach, acknowledged by the authors, is that the “framework fails to capture the intense lobby, advocacy efforts, and political compromising of which many charter school laws are the result.” (p. 9). We focus here on those very activities: politics and legal constraints.

and coding legislation. We argue that there is much to gain from integration of political science and legal scholarship on the issue of charter school legislation. We utilize legal methods of statutory interpretation to present new coding of charter school provisions in forty states and the District of Columbia. We illustrate the method by applying it in this paper to a set of provisions related to teacher's material interests, as well as some additional provisions for comparison purposes.

The third section of the paper illustrates how this database can be employed in traditional state political empirical analysis. We find that union bargaining rights in a state are significantly related to the provisions likely to be of material concern for teachers, but not to provisions less central to material benefits. We also find support for Ryan and Heise's (2002) hypothesis that suburban parents may be a significant constraint on the expansion of school choice options, and Henig's (2004) argument that the African-American community may resist education reforms that threaten a solid education employment base.

In the fourth section of the paper we conclude by discussing policy and research implications of the study. We argue that policy debate will be enhanced if we can interject a more nuanced understanding of charter school laws that is tied to individual charter provisions. We outline an agenda for future research, including the construction of additional indices to evaluate the substance of charter school laws.

I. Tracing the analysis of charter school legislation in existing literature

I.A. Analyzing charter school legislation

Since 1991, when Minnesota enacted the first state legislation authorizing school districts to sponsor charter schools, 40 states, Puerto Rico and the District of Columbia have signed laws allowing for the creation of charter schools. As the first state to authorize charter schools, Minnesota intended charter schools as means to: “(1) improve student learning; (2) increase learning opportunities for pupils; (3) encourage the use of different and innovative teaching methods; (4) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes; (5) establish new forms of accountability for schools; and, (6) create new professional opportunities for teachers” (Minnesota, 2004, 124D.10, Sub.1). Many of the other states have legislative intents and purposes comparable to Minnesota’s statutory language. The impetus for charter school legislation arose, in part, from frustrations with public schools. Charter schools are an attractive remedy because of potentially allowing a greater degree of school choice, autonomy and accountability while still maintaining the fundamental principles of public education such as open-enrollment, nonsectarian and nondiscrimination (Hart & Burr, 1996).

Our argument in this paper that we should recognize the complexity of charter school legislation can be seen as an extension of a line of charter school scholarship that was most prevalent at the start of the charter school movement. In this first wave of charter school research, as states were still initially forming their charter laws, much attention was given to the political foundations of the legislation. Bryan Hassel’s (1999) detailed study made it clear that legislative compromise was central to the formation of

charter school law.² From caps on the number of charter schools to limitations on who charters could contract with, Hassel found that the state political environment significantly affected the type of law passed by the legislature. Compromise in the statehouse led to charter laws that would sometimes work at cross-purposes.

Research conducted by Amy Stuart Wells in the 1990s confirmed this picture of charter school politics as confused and contested.³ Wells, et. al. interviewed policymakers from the fifty states and found that, “given its dissimilar political roots, charter school reform has come to symbolize different things to different people, including the state policy makers who propose, pass, and implement the legislation.”⁴ Wells, et. al. challenged researchers to confront these political realities.

At the same time, a series of studies and reports in the late 1990s sought to map out the details of emerging charter school legislation. Much of this early research identified complexity and variation within charter legislation across the states.⁵ Not only did charter laws vary across the states, but variation between permissive provisions and restrictive regulations was found within a single state’s charter school law.⁶ The National Study of Charter Schools, sponsored by the U.S. Department of Education, produced a series of reports over four years which identified both similarities and differences across state laws.⁷ In particular, the Jennings, et. al. (1998) cross-state analysis of 33 charter

² Hassel, B. M. (1999). *The Charter School Challenge: Avoiding the Pitfalls, Fulfilling the Promise*. Washington, D.C.: Brookings Institution Press.

³ Wells, Amy Stuart; Grutzik, Cynthia; Carnochan, Sibyll; Slayton, Julie; & Vasudeva, Ash. 1999. “Underlying Policy Assumptions Of Charter School Reform: The Multiple Meanings Of A Movement,” *Teachers College Record*, Vol. 100, Issue 3.

⁴ Wells, et. al., at 514.

⁵ See, e.g. Molnar, 1996; Vanourek, 1997; U.S. General Accounting Office, 1995; U.S. Department of Education, 1998.

⁶ See, e.g. Mauhs-Pugh, 1995.

⁷ The Fourth Year Report is available online at: <http://www.ed.gov/pubs/charter4thyear/index.html>.

school laws was a detailed study of individual charter provisions.⁸

Subsequent to this early work, several groups have maintained updated information about charter school legal provisions. The Education Commission of the States (ECS) provides an online charter school law resource, allowing users to compare charter school provisions across states.⁹ The U.S. Charter Schools web site also provides state-by-state profiles of charter school laws.¹⁰ In addition, recent studies have identified charter legal provisions relevant to specific policy questions. Wohlstetter, et. al. (2004), for instance, looked at provisions related to cross-sectoral alliances.¹¹

I.B. The weak law/ strong law framework takes hold

Beyond efforts to simply catalog the various charter law provisions, independent studies have attempted to “grade” the charter school laws. After its founding in 1993, the Center for Education Reform (CER) began rankings of state charter school laws. CER grades each state’s charter school laws, and then labels states with grades of A or B as “strong to medium strength” laws. States with grades of C-F are considered to have

⁸ Jennings, W., Premack, E., Adelman, A., & Solomon, D. (1998). A comparison of charter school legislation: Thirty-three states and the District of Columbia incorporating legislative changes through October 1998. Washington, DC: U.S. Department of Education.

⁹ The Education Commission of the States (ECS) is a non-partisan, non-profit organization. ECS “is supported financially by a combination of state fees and contracts, sponsorships, and grants from foundations, corporations and the federal government.” See: http://www.ecs.org/ecsmain.asp?page=/html/statesTerritories/state_map.htm

¹⁰ The site was originally funded by the U.S. Department of Education, but is now independent: “While the initial development of the US Charter Schools Web site involved input from numerous individuals in the charter school movement from across the country and the generous support of the US Department of Education, this site is currently supported by a consortium of organizations interested in providing accurate information and promising practices about and for charter schools.” See: http://www.uscharterschools.org/pub/uscs_docs/sp/index.htm.

¹¹ Wohlstetter, P., Malloy, C. L., Smith, J. & Hentschke, G. (August 2004). Incentives for charter schools: Building school capacity through cross-sectoral alliances. *Educational Administration Quarterly*, 40(3), 321-365.

“weak laws”.¹² To be sure, the CER is not the only group to employ a grading strategy. Other studies have graded the laws using criteria different from the CER.¹³ The American Federation of Teachers (AFT) produced a set of charter school grades, in which and Palmer and Gau (2003) graded charter school laws in terms of their provisions for authorization.¹⁴

These grading studies have drawn much attention, and the CER grades in particular frequently appear in charter school policy discussions. As noted by Scott and Barber (2002), “it is common to find the weak / strong framework used in news media reports and academic research without explication of its meaning.”¹⁵ Indeed, two recent pieces of scholarship are illustrative of the ways that the CER’s scores continue to be employed by academics studying charter schools.

Stoddard and Corcoran (2006) use the CER’s overall charter law score as a dependent variable in a Tobit regression analysis to see if support for charter schools is linked to poor public school performance or rising within-district population heterogeneity.¹⁶ The CER score is one of several outcome variables that the authors employ. In introducing the measure, the authors describe in detail the construction of the

¹² As of July 2006, CER current categorizes the states in this way: Charter School States That Have Strong to Medium Strength Laws (Grades A-B): Arizona; California; Colorado; Delaware; Florida; Georgia; Indiana; Massachusetts; Michigan; Minnesota; Missouri; New Jersey; New Mexico; New York; North Carolina; Ohio; Oklahoma; Oregon; Pennsylvania ; Washington, DC ; Wisconsin. Charter School States That Have Weak Laws (Grades C-F): Alaska ; Arkansas ; Connecticut; Hawaii; Idaho; Illinois; Iowa; Kansas; Louisiana; Maryland; Mississippi; Nevada; New Hampshire; Rhode Island; South Carolina; Tennessee; Texas; Utah; Virginia; Wyoming.

¹³ See: Wohlstetter, P., Wenning, R., & Briggs, K. (1995). Charter schools in the United States: The question of autonomy. *Educational Policy*, 9(4), 331-358.

¹⁴ American Federation of Teachers. 1996. *Charter School Laws: Do they Measure Up?* Louann Bierlein Palmer, Rebecca Gau. 2003. *Charter School Authorizing: Are States Making the Grade?* Thomas B. Fordham Institute.

¹⁵ Scott & Barber (2002), p. 5.

¹⁶ Stoddard, Christiana & Sean Corcoran. “The Political Economy of School Choice: Support for Charter Schools Across States and Districts.” National Center for the Study of Privatization in Education. Report #113. <http://www.ncspe.org/readrel.php?set=pub&cat=128>.

measure, and its ten component parts. This is a standard use of the CER data: plug the CER score in as a proxy for “strength” of charter school legislation. Another use is more informal, yet still influential. Kirst (2006) references to the CER data in his study of local and national politics that influence charter school policy.¹⁷ Kirst includes the CER rankings in an Appendix to his study, and uses the data to suggest regional variations in the types of charter school laws.

I.C. Majority of current scholarship tends not to consider legal perspectives

With the exception of a counter-trend led by political scientists (see the next section), the old line of charter research on legislation has given way to studies that focus on the outcomes of charter schools. This is important because it means that absent a redirection of research, the literature on charter school legislation is likely to be even more heavily influenced by CER’s analysis. To provide a sense of the state of current scholarship, we present in Appendix A several summary tables of recent charter school research. We believe that several trends in this literature make continued analysis of legal frameworks important.

First, a consensus seems to be building that evaluation of charter schools is not about, “Are charter schools working?” but rather, “What makes some charters work and other falter?” Buddin & Zimmer (2005) are echoing many when they conclude that, “it may be very difficult to develop universal conclusions about charter schools nationally as charter school performance varies from state-to-state, charter type to charter type, and

¹⁷ Kirst, Michael W. 2006. *Politics of Charter Schools: Competing National Advocacy Coalitions Meet Local Politics*. Report. National Center for the Study of Privatization in Education, Report #119. Online: <http://www.ncspe.org/readrel.php?set=pub&cat=137>.

even charter school to charter school.”¹⁸ Hassel’s (2005) synthesis of findings supported this conclusion, and even pro-charter school advocate Chester Finn acknowledges that charter schools are “astoundingly diverse. Some are the highest-performing schools in town. Others are total messes.”¹⁹ In trying to explain divergent results, charter school legislation may be an important factor to consider.

Charter school legislation is all the more important given that the evidence on charter school performance in terms of raising student achievement remains mixed. State legislatures still don’t know what to make of all the research. This is evidenced in a 2005 brief in *State Legislatures*, entitled “No Answers to Charter School Questions.”²⁰ In the February 2005 article, some recent works were reviewed, and policymakers were warned that, “with so many studies revealing different results, it may be too soon to compare charter schools to traditional ones. Since charter laws vary widely across the country, specific state studies that use new methodologies and the age old test of time may be the best hope for reliable data.”²¹ With questions of charters and student achievement still unanswered, analysis of charter school legislation may help to clarify answers.

I.D. Political science and charter school legislation

Political scientists have sought to move beyond the CER’s weak law / strong law approach. Witte, Shoher, and Manna (2003) argued that although the CER framework

¹⁸ Buddin, Richard, Ron Zimmer. "Student Achievement in Charter Schools: A Complex Picture." *Journal of Policy Analysis and Management*, Spring 2005, p. 351-371. p. 369

¹⁹ "Charter School Achievement: What We Know", Bryan C. Hassel, Charter School Leadership Council, 6/16/2005. Finn, Chester. "Judging Charter Schools," Hoover Institution. March 30, 2005.

²⁰ "No Answers to Charter School Questions," *State Legislatures*, Vol. 31, Issue 2, Feb. 2005, p. 8

²¹ *State Legislatures* is a magazine that “informs legislators, staff, lobbyists and the interested public about state actions and innovations in public policy issues before they reach the mainstream.” The magazine is “mailed to all state legislators, key legislative staff, members of Congress, governors, lobbyists, political scientists, librarians, universities and the interested public.” See:

<http://www.ncsl.org/programs/pubs/slmag/SLoverview.htm> (Accessed June 2005)

was “useful to earlier research,” it “provides a limited description and judgment of the values underlying these laws.”²² Witte, et. al. examine charter law provisions, and develop five dimensions to focus on: application and authorization, local oversight, fiscal support, employees, and accountability. The authors then use these dimensions of state legislation to explain the number of charter schools operating in the states. Witte, et. al. improve upon the CER methodology by more explicitly grounding their analysis in prior literature, and in performing statistical analysis to identify clustered provisions. In doing so, they find that state laws include some internal checks-and-balances: more flexibility in running charter schools is positively correlated with increased accountability requirements. The finding is important because it points out that charter laws are not homogenous; rather, the individual provisions interact with one another in complex ways.

Another line of research has sought to determine the political factors that determine the formation and makeup of charter school legislation. Using a state politics framework, Henig, et. al. 2002, Wong & Shen (2002, 2004), and Shen 2003 have all empirically investigated the link between charter law adoption and state political climate.²³ Wong and Shen (2002) used event history analysis to examine the factors that explain why certain states adopted charter school laws before others. Shen (2003) uses the same approach, but tries to avoid some methodological pitfalls by introducing Bayesian Model Averaging to the study. Henig, et. al. (2002) also examine state-level

²² John F. Witte, Arnold Shober, and Paul Manna. 2003. “Analyzing State Charter School Laws and Their Influence on the Formation of Charter Schools in the United States,” Paper presented at the 2003 Annual Meeting of the American Political Science Association.

²³ Henig, J. R., Holyoke, T. T., Moser, M., Brown, H., Lacireno-Pauet, N. 2002. “The political dynamics of charter school policies.” Paper presented at the 98th Annual Meeting of the American Political Science Association, Boston, MA. Wong, K. K. & Shen, F. X. (2002a). “Politics of State-led Reform in Education: Market Competition and Electoral Dynamics,” with Kenneth K. Wong, in *Educational Policy*, 16 (1), March 2002. Shen, F. X. (2003). “Specification Uncertainty and Model Averaging in State Policy Innovation Research.” Paper presented at the Third Annual Conference on State Politics and Policy, Tucson, AZ.

political dynamics, but place their focus on how charter school policies have changed over time. In light of the difficulty of explaining overall strength or adoption of entire charter school laws, Wong and Shen (2004) made an effort to look at the component provisions of charter school laws.²⁴ Taken together, the findings suggest that Republican party strength is positively associated with charter law “strength”, but that there is also tremendous variation within charter legislation. Politics intersects charter school laws, but not uniformly across all provisions.

I.E. Integrating political science and legal scholarship

In the present study, we aim to extend this line of political science scholarship on charter schools. In particular, we integrate perspectives from legal scholarship to enhance and expand our analysis of analysis. Although not writing on education law, Barry Friedman’s recent article in *Perspectives on Politics* provides two relevant introductory points.²⁵ First, “positive scholars who work at the nexus of law and politics need to do a better job of understanding law itself—its methodology, its substance, and its process.” In the context of charter school law, it is important to understand the administrative and education law that constrains the charter school market. Second, Friedman notes that, “empiricists in particular must take great care that the data upon which they rely presents an accurate picture of the legal world they are studying.” This caution is quite relevant to discussion of the CER grading scales. Blindly employing the CER measures of “charter school strength,” without careful state-by-state analysis of the law’s operation may lead

²⁴ “Political Economy of Charter School Funding Formulas: Exploring state-to-state variation in charter school funding formulas,” with Kenneth K. Wong. (2004). 2004 Yearbook of the American Education Finance Association. Sage Publications.

²⁵ Friedman, Barry. 2006. “Taking Law Seriously,” *Perspectives on Politics*, 4: 261-276.

to incomplete or mistaken empirical results.

We believe that both legal and social science scholarship can improve by learning from one another. Increased interdisciplinary dialogue seems appropriate for the study of policies such as charter school laws, where politics and law meet head on. Currently, such dialogue does not generally exist.

I.E.1. What legal scholars can learn from political science

From the legal perspective, legal scholars tend to ignore the school politics that are intertwined with resulting legislation.²⁶ Green and Mead (2005), in the most comprehensive book on charter schools and the law, introduce their study by stating that, “school law is the study of the relationships a school has with the state, the community, its school board, its staff, its students, and its parents.”²⁷ They do not consider another set of relationships: those in the statehouse between partisan legislators who are balancing a great number of competing interests.²⁸ School law is heavily influenced by this local and state political process.

Similarly, Green and Mead do not recognize the distinction political scientists have noted between regulatory and market-based accountability. Hess (2003) has pointed out one of the important differences between these two types of accountability: parents who have their kids enrolled in charter schools care more about that school (and hence

²⁶ There are notable exceptions to this general rule. Garrett (2005), for instance, explicitly recognized the political dimensions underpinning amendments to the charter school law. Elizabeth Garrett. 2005. “Law and Democracy: A Symposium On The Law Governing Our Democratic Process: Hybrid Democracy,” 73 *Geo. Wash. L. Rev.* 1096 at 1098.

²⁷ Green, P. C. III & Mead, J. F. 2004. *Charter schools and the law: Establishing new legal relationships*. Norwood, MA: Christopher-Gordon Publishers, Inc.

²⁸ Green and Mead, even in their diagrams, place the “state constitutional provisions” as providing the state legislature with a mandate. For most practical purposes, however, the state legislature has wide discretion in shaping educational policy. Only a small number of educational law cases go to state supreme Courts.

more about keeping it open) than the public at large cares about closing it.²⁹ In effect, charter schools may not meet the objective standard of evaluation (e.g. performance on a state achievement test), but may still be meeting the needs of its consumer/parents. Green and Mead acknowledge that “informally, parents hold schools accountable through the exercise of school choice,” but quickly move to a discussion of parental legal challenges.³⁰ What the authors ignore in their analysis is that the parental decision of choice is affected by state charter law. Just because parents are not showing in court doesn't mean that they're actions are unrelated to legal provisions.

I.E.2. What political science can learn from legal scholars

From the political science (and more generally social science) perspective, law scholarship is generally overlooked. Often this is for good reason, since legal scholars are asking different questions.³¹ But sometimes there is substantive overlap.³² In one striking example, a recent paper by two economists entitled “The political economy of school choice” did not cite a 2002 article in the *Yale Law Review* also entitled, “The political economy of school choice.”³³ To be sure, the earlier piece contained some analysis that

²⁹ Hess, F. M. (2003). “The Political Challenge of Charter School Regulation,” *Phi Delta Kappan*, 508-512. March 2004, Vol. 85, Num. 7.

³⁰ Pp. 54-56.

³¹ Questions of constitutionality, for instance, are one of the most popular topics for legal scholarship. See: Robert J. Martin. 2004. Charting the Court Challenges to Charter Schools. 109 Penn St. L. Rev. 43. Suhrud S. Gajendragadka. 2006. Note: The Constitutionality of Racial Balancing In Charter Schools. 106 Colum. L. Rev. 144. Justin M. Goldstein, Exploring “Unchartered Territory”: An Analysis of Charter Schools and the Applicability of the U.S. Constitution, 7 S. Cal. Interdisc. L.J. 133 (1998); Kevin S. Huffman, Charter Schools: Equal Protection Litigation, and the New School Reform Movement, 73 N.Y.U. L. Rev. 1290 (1998); Jason Lance Wren, Charter Schools: Public or Private? An Application of the Fourteenth Amendment's State Action Doctrine to These Innovative Schools, 19 Rev. Litig. 135 (2000);

³² One notable exception to the non-collaboration claim is the work of law professor Stephen Sugarman. School Choice and Social Controversy. 2000. Brookings Institution Press. Sugarman has also written on charter school laws specifically: Sugarman, Stephen D. & Emlei Kuboyama. 2001. Approving Charter Schools: The Gate Keeper Function. 53 Administrative Law Review 869.

³³ Stoddard, Christiana & Sean Corcoran. “The Political Economy of School Choice: Support for Charter Schools Across States and Districts.” National Center for the Study of Privatization in Education. Report #113. <http://www.ncspe.org/readrel.php?set=pub&cat=128>. Ryan, James E. and Michael Heise. 2002. “The Political Economy of School Choice,” *Yale Law Review*, 111 Yale L.J. 2043.

was not germane to the economists' discussion. But at least one of the arguments in the law review piece – that suburban communities may be strongly opposed to school choice – would have been an excellent testable hypothesis for the economists to consider.

Beyond simply discussing legal scholarship, political scientists can become more sensitive to the legal constraints within which state legislatures must operate. As discussed in a 2000 symposium published in the *Akron Law Review*, education policy is generally shaped by Constitutional considerations.³⁴ In the context of charter schools, there are a number of both Constitutional and state law principles that no charter school (no matter how “strong” it is) can violate. In our analysis Section III, we identify some of the provisions that are similar across virtually all states.

We argue that this convergence can be seen not as the result of political consensus, but rather the operation of background legal principles. The most important example are the non-sectarian and non-religious prohibition on charter school creation and operation. Why do all states have these provisions? It's not because all politicians think that religious schools should not receive public money – indeed, many of them might promote such a system. Rather, this prohibition is the direct result of Constitutional law rulings in the last half-century. While the religious example is clear, background law operates broadly to limit what charter schools can do. A better understanding of this legal background can improve political science scholarship on the topic.

Political scientists can also learn from the methods of legal scholarship. In particular, political scientists can sharpen their tools of legislative analysis in at least two ways. First, political science can spend more time with the actual primary legislative text,

³⁴ Elizabeth Reilly. 2000. Education and the Constitution: Shaping Each Other & the Next Century. 34 *Akron L. Rev. I.*

rather than relying on third party accounts. In our 2004 study, for instance, we did not read actual provisions. Instead, we relied on reports from the Education Commission of the States (2003), as well as a study by Wohlstetter, et. al. (2003). Because we did not examine the original provisions, our methods were less public than they could have been. Keeping methods public, and in particular allowing others to see the specifics of one's empirical coding scheme, is an important methodological consideration.³⁵ In the present study, we conducted original analysis on each legislative provision. We then cite to specific legislative provisions.³⁶

Second, because charter school laws are notably silent on many important issues, political scientists would do well to borrow from the wide body of legal scholarship on interpretation of statutory silence.³⁷ The general literature on statutory interpretation is too vast to summarize here, but in brief, courts will adopt an approach to statutory silence along these lines:

“As one court has aptly put it, "not every silence is pregnant." (citation omitted) In some cases, Congress intends silence to rule out a particular statutory application, while in others Congress' silence signifies merely an expectation that nothing more need be said in order to effectuate the relevant legislative objective. An inference drawn from congressional silence certainly cannot be credited when it is contrary to all other textual and contextual evidence of congressional intent.”³⁸

The important point for political scientists to derive is that just because a state legislature

³⁵ Gary King, Robert O. Keohane and Sidney Verba. *Designing Social Inquiry*. Princeton University Press. 1994.

³⁶ These coding files will be made publicly available online as well for other researchers to use and improve upon.

³⁷ A readable introduction for how courts interpret statutes is: "Statutory Interpretation: General Principles and Recent Trends," by George Costello, CRS Report 97-589, April 22, 2005. A useful introduction to various approaches to statutory interpretation is provided by Ellen P. Aprill and Nancy Staudt (2004), in their Introduction to a symposium on Theories Of Statutory Interpretation (And Their Limits), *Loyola University Law Review*, Volume 38 - Number 5 - December 2005.

³⁸ Costello (2005), citing *Burns v. United States*, 501 U.S. 129 at 136.

doesn't say anything about a particular issue, it doesn't mean there isn't a law governing that issue. It means, instead, that the governing law must be determined by reading the rest of the statute and inferring intent. In some cases, courts will turn to the doctrine of *expressio unius est exclusio alterius* (the inclusion of one is the exclusion of others).

Using an example from the provisions we study, the Minnesota code says that "A board may convert one or more of its existing schools to charter schools under this section if 60 percent of the full-time teachers at the school sign a petition seeking conversion."³⁹ The statute says nothing about whether the parents of the existing public school to be converted must also give their approval. Here, by requiring only 60% teacher approval, the Minnesota state legislature is indicating that majority parental approval is not required.

Increased interaction between the two disciplines has much to offer. We turn in the next section to the specifics of how in the present study we drew on both bodies of work.

II. Analyzing Charter Legislation

In this section we both describe our approach to analyzing legislation, and also demonstrate how this approach can be put into action. We choose to focus in this paper on a set of provisions related to teachers and the labor market. We stress, however, that our approach to legislation is a general one which can be applied to any type of provision in charter legislation. Other parts of our broader research project are already exploring provisions related to curriculum, accountability, and mechanisms of district governance.

³⁹ Minn. Stat. § 123D.10, Subd.5.

In each case, however, we follow three principles. First, we perform cross-state analysis of legislation and build up from the micro-foundations of the law, its individual provisions. Second, we use methods of legal statutory interpretation to carefully evaluate statutory silence in charter laws. Third, we recognize the complexity of charter school legislation and its interplay with state and federal law. We now discuss each of these principles in turn.

II.A. Focus on statutory language and individual charter law provisions

The first step in our approach was to analyze state legislation at the level of individual provisions. This is similar in approach to Witte, et. al. (2003) and Wong and Shen (2004). We had two goals. First, we wanted to clarify what the law was actually saying. As we discuss in Sections II.B and II.C., statutory silence and complexity can make the code quite dense. Second, we wanted to code individual provisions as objective, 0-1 dichotomous variables, suitable for use in empirical work.

As a first step in our study, in this paper, we focus on dimensions of charter school legislation that are likely to be subject to political bargaining due to the interests of teachers' unions. In the context of charter schools, both the American Federation of Teachers (AFT) and the National Education Association (NEA) have made explicit statements about what they want to see in charter school laws. At their 2005 Representative Assembly, the NEA approved an updated version of their charter school resolution.⁴⁰ Included in that resolution was a statement of principles, including: (c) Local school boards should be the only entity that can grant or renew charter applications

⁴⁰ National Education Association. 2005. "Democracy in Action," *NEA Today*, September 2005, pp. 45 – 51.

... (b) Charter schools must meet the same requirements as mainstream public schools with regard to licensure / certification and other requirements of teachers and education employees ... (c) teachers and education support professionals should be considered public employees ... (d) teachers and education support professionals should have the same constitutional and statutory rights as other public employees ... (e) charter schools should be subject to the same public sector labor relations laws as mainstream public schools and charter school employees should have the same collective bargaining rights under law and local practice as their counterparts in mainstream public schools ... (i) charter schools should meet the needs of at-risk students and those students requiring special education services ... (j) employment in a charter school should be voluntary ... and (k) charter schools should not disproportionately divert resources from mainstream public schools.”

The AFT, in their 1996 report evaluating charter school laws, identified five essential criteria for charter school success: “charter schools must be based on high academic standards; Charter school students must take the same tests as other students in the same state and district; Charter school employees should be covered by collective bargaining; Charter schools should hire certified teachers; Charter schools should have the approval of local districts; and, Charter schools should be required to make academic and financial information available to the public.”⁴¹

Teachers unions can be understood to have both limited economic interests in protecting jobs and wages, as well as more broadly based policy interests in promoting high quality teaching and learning in public schools. These two strands of union interest

⁴¹ American Federation of Teachers. 1999. *Charter Schools Update*. AFT Educational Issues Policy Brief, Number 9, June 1999. Citing: American Federation of Teachers. 1996. *Charter School Laws: Do They Measure Up?*

have been labeled as “old” or “traditional” unionism versus “new” or “reform” unionism.⁴² Reform unionism is generally more favorable to charter schools, but stresses the need for high quality teachers, accountability, and assessment. This sentiment can be seen in the unions’ call for legal provisions that maintain high standards. On the other hand, the traditional union goals are to promote job security, high wages, and benefits.⁴³ Despite the rise of new unionism, traditional union economic interests still remain prevalent.⁴⁴ Terry Moe, skeptical of new unionism, contends that the primary goal of unions is to protect jobs, wages, and benefits.⁴⁵

Most relevant to our study is the role that teachers unions play in the state level political process.⁴⁶ Moe has argued that the unions’ “massive memberships and awesome resources give them unrivaled power in the politics of education, allowing them to affect which policies are imposed on the schools by government—and to block reforms they don’t like.”⁴⁷ Whether or not their power is “unrivaled,” it is widely acknowledged that

⁴² Urbanski, Adam. "Reform or Be Reformed." Hoover Institution, Fall 2001. Hardy, Lawrence. “Public interest vs. self-interest: Debating reform unionism,” *American School Board Journal*; Jul2005, Vol. 192 Issue 7, p6-8. Unions Turn Cold Shoulder On Charters., By: Keller, Bess, Education Week, 02774232, 3/27/2002, Vol. 21, Issue 28.

Document Type: Article

⁴³ See, e.g. Unions and Public Schools: The Effect of Collective Bargaining on American Education; Eberts, Randall; Stone, Joe; 1984, Lexington, MA : Lexington Books. Teachers, Unions, and Wages in the 1970s: Unionism Now Pays; Baugh, William; Joe Stone Industrial and Labor Relations Review; 1982 Vol. 35 Issue 3, p368-376. Teacher Unions and the Cost of Public Education; Eberts, Randall W.; Joe A. Stone Economic Inquiry; 1986 Vol. 24 Issue 4, p631-644, 14p. Bargaining Laws Really Matter: Evidence from Ohio and Illinois; Saltzman, Gregory M. When Public Sector Workers Unionize; 1988, Chicago : University of Chicago Press. Edited by: Freeman, Richard B.; Ichniowski, Casey.

⁴⁴ Hess and West (2006) recent study shows that collective bargaining arrangements, a hallmark of traditional union activity, remain central to the unions’ agenda. Frederick M. Hess, Martin R. West. 2006. A Better Bargain: Overhauling Teacher Collective Bargaining for the 21st Century. American Economic Institute.

⁴⁵ Moe, Terry M. & John Chubb. 1990. *Politics, Markets, and America's Schools*. Washington, D.C.: The Brookings Institution. Moe, Terry M. “A Union by Any Other Name,” *Education Next*, Fall 2001.

⁴⁶ Teachers unions have also been shown to have significant influence at the local level, primarily through school board elections. See, e.g., Moe, Terry M. 2005. “Teachers unions and school board elections, in Howell, W., ed. *Besieged: School Boards and the Future of Education Politics*. Brookings Institution Press. Pp. 254-287.

⁴⁷ Moe, Terry M. 2001. “Taking on the Unions,” *Hoover Digest*, 2001, No. 1.

unions have the potential for significant influence in the statehouse. As Hess and West (2006) point out, both major teachers' unions have made strategic donations to protect their economic interests.⁴⁸

Because of their influence in state policymaking, as well as their interest in shaping charter school policy, teachers unions provide a useful starting point for analyzing charter legislation. In this study, we consider provisions linked to both “traditional” and “reform” unionism.

Under the *traditional unionism* umbrella, we place these provisions:

- Must the local district provide a leave of absence to teachers going to charter schools?
- If a charter teacher returns to the school district immediately after the leave of absence, are they guaranteed employment in the district?
- Is tenure automatically affected if a teacher goes to a charter school and returns?
- Are all charter school teachers automatically covered by the district or state's retirement plan?
- Are all charter school teachers automatically covered by the district's health care plan?
- Is the default arrangement for all charter schools to be subject to the district's pre-existing collective bargaining agreement?
- In order for a charter conversion to occur, must a majority of teachers approve?
- Can charters automatically hire/fire teachers without district oversight?

⁴⁸ Hess & West (2006), p. 36.

Related to *reform unionism* interests, we identify these provisions:

- Does the charter statute articulate a preference for charter schools to serve at-risk students?
- Must the charter school application go through the local school district (i.e. no alternative routes)?
- In order for a charter conversion to occur, must a majority of parents approve?
- Do at least some charter schools automatically have more relaxed certification requirements?

To be sure, the traditional/reform distinction is not a hard and fast one. We use the categorization here as an analytical tool to consider differences in the relative interest unions may have when bargaining or lobbying for these provisions in the state political process. All of these provisions, however, are likely to be shaped by political compromise, interest group contention, and legislative debates.

Whether the focus is on these provisions, or on a different set of provisions, the first step for empirical analysis is to operationalize the substance of the legislation into variables suitable for inclusion in statistical models. This first step, determining what questions to ask and how to phrase them, is an important one that deserves careful consideration. A challenge to creating accurate 0-1 variables is that there is no allowance for middle ground. We did not want to make the value judgment inherent in scales and indexes. Consider our question about whether or not districts are required to provide teachers with a leave of absence. We phrased our question: *Must* the local school district provide a leave of absence to teachers going to charter schools? The word “must” meant that we coded as 0 those states where districts *may* offer a leave of absence, and those

states where the issue was to be determined as part of the charter contract.

An alternative and more subjective approach would have been to formulate a “Leave of Absence Scale Score”, in which we included a range of possibilities: must provide leave, likely to provide leave, not likely to provide leave, leave subject to bargaining, etc. While such a scale provides more flexibility than 0-1 formulations, we believe the virtue of our approach is in its objectivity. The way we word our questions, the only debate can be about statutory interpretation. There is no room for subjective debate about the actual measure. The same cannot be said of a scale approach. For instance, how would “must provide leave” be coded relative to the alternatives. Are they all one unit apart, e.g. 1-2-3, or is there a more incremental increase? Such subjective discussions are eliminated with our approach.

Another issue that arises is what to do when a state allows for multiple types of charter schools to be governed under different rules. Louisiana’s charter legislation, for example, provides for five types of charter schools, which each have slightly different regulations from one another. Even though each of the types has an application process and an appeals process, the procedures differ slightly from one another. Therefore, making generalizations across a single state regarding a type of process (e.g., appeals, admissions, etc.) may be misleading if not carefully worded.

To use an example from our coding, we ask: Is the *default* arrangement for *all* charter schools to be subject to the *district’s* pre-existing collective bargaining agreement (CBA)? Several parts of this question should be noted. First, in this question we are looking at the district’s collective bargaining agreement, not whether or not the charter school employees can organize themselves. Second, we look to see whether this is the

default arrangement, i.e. if there is no other negotiation, would the district's agreement be binding on the charter school. Finally, to address the multiple-types of charter schools issue, we ask whether *all* charters are subject to the agreement. In Michigan, where only public school academies authorized by the school districts are subject to the CBA, we coded our question 0.⁴⁹ Again, we note that researchers could ask a variety of related questions by changing the details of the language. Changing the word "all" to "majority" or the word "district's pre-existing CBA" to "any CBA" would change the 0-1 designation in some of the states. We argue not for any particular formulation of these questions, but rather that questions be tailored to the researcher's specific goals and that the wording of those questions is carefully attended to.

Once the initial questions were formulated, we turned to the actual text of state legislation. We utilized the Lexis-Nexis database of state codes, but researchers can also find every state's code provisions online. The Law Librarians' Society of Washington maintains an online Legislative Source Book that provides links to each state's code and pending legislation.⁵⁰ In practice, the first two steps – formulating questions and turning to the text – are not separate. We refined and revised our questions in light of the statutes we read. The statutes also challenged us to think of questions that we had not considered initially.

For each question, we identified the specific legal authority that addressed the question. In Table 1, we provide our coding for the twelve provisions. We also include the legal citation for the provision. The primary cost associated with our approach is that

⁴⁹ MCLS § 380.503. Sec 503(5)(e) reads: "For a public school academy authorized by a school district, an agreement that employees of the public school academy will be covered by the collective bargaining agreements that apply to employees of the school district employed in similar classifications in schools that are not public school academies."

⁵⁰ See: <http://www.llsdc.org/sourcebook/state-leg.htm>

the coding process, and in particular finding the precise legal authority related to specific legal questions, is time consuming. We believe, however, that the benefits to this approach will outweigh the costs because the data can be utilized by other researchers who will not have to retrace every citation. Rather, these researchers will be able to locate immediately the parts of the school code most relevant to their work. We hope to have an electronic version of our coding online soon, including expansion of coding to many additional provisions.

Language is important too when reading the statutes. As a case just decided in Nevada in 2006 demonstrates, a single word can make all the difference. In the Nevada case, some former employees of the Halima Academy charter school were suing the school for wrongful termination.⁵¹ The school's defense, which was eventually upheld by the United States District Court for the District Of Nevada, turned on the language of the Nevada charter school law, which read: "Except as otherwise provided in subsection 2, the governing body of a charter school **may** make all employment decisions ..."⁵² (emphasis added). The court considered the meaning of the word "may" and determined that the legislature intended for it to be permissive, allowing the charter school to terminate employees as they had the plaintiffs in the case.

II.B. Recognize Complexity

Anyone who has coded knows that the process is tedious. But beyond tediousness, coding charter school legal provisions is especially complex because the law governing charter schools is not self-contained in state charter school statutes. State law, federal

⁵¹ 2006 U.S. Dist. LEXIS 48164 (D. Nev. July 13, 2006)

⁵² NRS section 386.595(3) (2004)

law, and administrative rules interact with the charter statute in ways that are often difficult to determine.⁵³ Jennings, et. al. (1998) have conducted the most careful legislative analysis of this sort, consulting not only judicial and advisory opinions, but also state officials to clarify ambiguities in interpretation. It has been eight years since the Jennings, et. al. report, however, and others have not carried out the same type of detailed study.

Often charter school laws refer to other statutes, and it is only by reading these other laws that one can understand how the law operates on the schools. Sometimes the references are straightforward. In Nevada, for instance, the law says that: "...on or before July 15 of each year, the governing body of each charter school shall submit the information concerning the charter school that is required pursuant to subsection 2 of NRS 385.347 to the board of trustees of the school district in which the charter school is located ...".⁵⁴ In order to understand this requirement, we have to look up Nev. Rev. Stat. 385.347. When we do, we find that it provides in great detail Nevada's program of accountability for school districts. In some states, relevant provisions are not as clearly referenced. In Wisconsin, for instance, the statute governing collective bargaining is not contained within the charter school statute itself.⁵⁵ One must also turn to a different statute to determine that charter school teachers are to be included in the definition of

⁵³ Williams, S. (1997). "State Formation of Charter Schools in Kansas," 6 Kan. J.L. & Pub. Pol'y, No. 3, 103. Robert J. Martin. 2005. Rigid Rules for Charter Schools: New Jersey as a Case Study. 36 Rutgers L. J. 439.

⁵⁴ Nev. Rev. Stat. Ann. § 386.605 (2004).

⁵⁵ Buried in the Wisconsin code on Municipal Employment is the provision that, "The commission shall place the professional employees who are assigned to perform any services at a charter school, as defined in s.115.001(1), in a separate collective bargaining unit from a unit that includes any other professional employees whenever at least 30% of those professional employees request an election to be held to determine that issue and a majority of the professional employees at the charter school who cast votes in the election decide to be represented in a separate collective bargaining unit." Wis. Stat. § 111.70.(9)d(2)(a). 111.70 (2005).

teacher or the Wisconsin Public Employee Trust Fund.⁵⁶

Federal law also intersects charter school law in important ways. Some federal law is so pervasive that we often overlook it. All states, for example, must have their charter schools follow federal Constitutional regulations related to non-discrimination and workplace safety. In other cases, the relationship between federal and state law is more contested. In New Jersey, a local school district brought a case in federal court to challenge the New Jersey charter school law on the grounds that the state law on serving disabled students was preempted by the federal Individuals with Disabilities Education Act (IDEA).⁵⁷ The federal court, after analyzing both state and federal statutes, found in favor of the state on summary judgment. Heubert (1997) and Mead (2002) has explored more in depth charter schools' responsibilities related to children with disabilities.⁵⁸ For our purposes here, it is enough to note that coding statutes is likely to require consideration of the background federal principles guiding policy in areas such as children with disabilities.⁵⁹

II.C. Interpreting statutory silence

The length and complexity of charter school legislation varies greatly across the states. The District of Columbia's charter school legislation, for instance, is 166 pages, while Iowa's is 15 pages. Why is there such difference in length? The reason is that state

⁵⁶ Wis. Stat. § 40.02.(55) (2005).

⁵⁷ 278 F. Supp. 2d 417 (2003).

⁵⁸ Jay P. Heubert, Schools Without Rules? Charter Schools, Federal Disability Law, and the Paradoxes of Deregulation, 32 Harv. C.R.-C.L. L. Rev. 301 (1997) Julie F. Mead. 2002. Determining Charter Schools' Responsibilities For Children With Disabilities: A Guide Through The Legal Labyrinth, Boston Public Interest Law Journal, Spring / Summer, 2002, 11 B.U. Pub. Int. L.J. 167.

⁵⁹ An additional area of future contention may be the interaction of federal teacher certification requirements and charter freedom from teacher certification requirements if NCLB's reauthorization introduces new requirements. Currently, NCLB defers to the charter teacher certification requirements set by state departments of education. Section 9101(23)(A)(i)

legislatures vary in the extent to which they explicitly formulate regulations for charters, versus the extent to which they remain silent. Statutory silence, which is the subject of a large literature in law, has not been addressed adequately by education policy analysts. Witte, et. al. (2003), for instance, drop variables because their coding finds that statutes remain silent on the issue.⁶⁰

In the present study of twelve provisions, we found significant statutory silence. With twelve provisions for forty states and the District of Columbia, we had a total of 492 possible provisions to be covered by statute. Of these 492 possible instances, statutes were silent 163 times. This is a silence rate of 33%. In Table 1, we indicate with the *s*-prefix all those instances where statutes were silent. With so much statutory silence, it is important to develop methods to systematically fill in the blanks. We have previously introduced the basic approach that courts will use. When available, of course, judicial decisions and opinions from the state Attorney General, can serve to illuminate confusing law.⁶¹

In some cases, we can turn additionally to legislative history. In determining, for instance, whether Missouri charter school teachers should be given automatic leaves of absence, since the actual statute is silent, we could turn to its legislative history. As originally proposed, the bill read that, Senator Francis (Franc) Flotron, Jr.'s Senate Bill 0798 read, "A district shall grant a teacher's request for a leave of absence to teach at a charter school for up to the term of the charter contract and such leave shall be extended on request by the teacher. A teacher may continue to accrue retirement benefits by paying

⁶⁰ Page 3.

⁶¹ In both Georgia (1999 Op. Att'y Gen. No. U99-4) and Louisiana (La. Atty. Gen. Op. No. 1998-341), for instance, the Attorney General issued opinions on the status of charter school teachers in the state's retirement system.

contributions as provided in the contract between the teacher and the school.”⁶² Based on this legislative history we read into the silence the intent that districts offer automatic leaves of absences.

In the vast majority of cases, there is no additional legislative, administrative, or judicial guidance. In these cases, we apply the general approach of interpreting silence in light of the overall intent of the state legislature. A good illustrative example is the question of whether or not Iowa charter schools can hire and fire teachers without district approval. The relevant statute reads this way:

Iowa Code § 256F.7. Employment and related matters: 1. A charter school shall employ or contract with necessary teachers and administrators, as defined in section 272.1, who hold a valid license with an endorsement for the type of service for which the teacher or administrator is employed. 2. The school board, in consultation with the advisory council, shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures. 3. Employees of a charter school shall be considered employees of the school district.

Based on this statute, can a charter school terminate one of its teachers if the district opposed the move? On one hand, the charter school “shall employ or contract with necessary teachers and administrators.” On the other hand, the *school board* “shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures”. These two provisions balanced one another. One might argue that the “necessary teachers” clause includes the right to hire/fire. But one might also argue that firing teachers comes under “operation” or “operating procedures”. The third provision tips the balance. Since employees of the charter school “shall be considered employees of the school district” it is likely that a school district could exercise the power to prevent a charter school from terminating a teacher. While our legal interpretations are

⁶² <http://www.senate.mo.gov/96info/bills/SB798.htm>

obviously not binding, they are based on careful reading of statutes in light of overall legislative intent. Further, by providing code citations, we make our methods public and allow other scholars to check our interpretations against their own close readings.

III. Empirical Assessment: Applying traditional state politics framework

In this section of the paper we demonstrate how the provisions we've just discussed can be readily included in an empirical analysis within a traditional state politics framework. Working at the level of individual provisions allows us to first demonstrate the lack of internal coherence between provisions, and then Test hypotheses about differences in union influence on traditional, versus reform unionism provisions.

III.A. (Lack of) correlation between individual provisions

Before conducting our regression analysis, we examined the relationship between the twelve individual provisions selected for study. Consistent with our argument that overall characterization of charter laws as uniformly weak or strong, we find that there is little correlation between the individual provisions. All correlation coefficients are reported in Table 3. Of the 66 bi-variate relationships we examine, there are only 13 relationships that reach at least a $p < .1$ level of statistical significance.

We believe that the lack of many significant relationships suggests that unions focus their attention on certain clusters of provisions, not legislation in total. For instance, there are positive correlations between protection of health, retirement, and tenure. There

is also a positive correlation between requiring local school districts to approve charters, adherence to existing district collective bargaining agreements, and preventing charters from hiring/firing teachers without district oversight. These suggest that union strength in these areas may be able to push through these provisions in tandem. These clusters of influence, however, do not seem to extend to all the provisions. To build on these preliminary correlations, we turn next to our multivariate analysis.

III.B. State politics approach

As discussed in Section II, we have chosen in this study to focus on a series of provisions that are likely to be of interest to teachers unions. Our primary hypothesis to be tested empirically is that teacher union strength will be a significant predictor of the traditional union provisions, but not as strong a predictor for the reform unionism measures.

III.B.1. Explanatory Variables

What factors are likely to explain the adoption of the labor-related charter school provisions? State politics research has traditionally sought to explain state legislative outcomes with state-level political, economic, and social factors. As discussed by Shen (2003), specifying the correct variables to include in explanatory models is notoriously difficult. With a small-N limiting the number of co-variants that can readily be included in regression analysis, the problem is even more acute for a cross-sectional study such as ours. Our approach here is to consider multiple measures of our key explanatory variable (union strength), and to ground our set of additional control variables in existing literature. Summary statistics for the independent variables are presented in Table 2.

Union Strength. Measuring teacher union strength in the states has been a persistent challenge for researchers. As summarized by Castelo (2005), early measures have looked at the pervasiveness of collective bargaining agreements.⁶³ Steelman, Powell, and Carini (2000) introduced, in addition to the percentage of teachers in the state who are covered by a collective bargaining agreement, the percentage of school district employees who are represented by bargaining units.⁶⁴ The problem with these approach – looking first at collective bargaining agreements in order to make inferences about union strength – is that it doesn't examine the factors that led to the collective bargaining agreement in the first place. Hoxby (1996) has described the identification problem.⁶⁵ Hoxby develops several strategies (e.g. difference-in-difference analyses) to address the identification problem. In our study, where the aim is to explain the existence of particular provisions in state law, Hoxby's approaches are not readily available.

The measure we use in this study comes from the Public Sector Collective Bargaining Law Data Set, created by Valletta and Freeman (1988).⁶⁶ Measured over the period 1955-1985, the data set is an attempt to numerically code public sector union strength across the fifty states. Freeman and Valletta examine state laws in five primary areas: contract negotiation, union recognition, union security, impasse procedures, and

⁶³ Castelo, Sophia. 2005. Teachers Unions in Public Education: An Assessment of Their Effects on Student Performance and the Bureaucratization of Public Schools. Stanford University Public Policy Program. Online: http://www.stanford.edu/dept/publicpolicy/programs/Honors_Theses/Theses_2005/Castelo.pdf.

Castelo notes that Eberts & Stone (1987) used the presence of collective bargaining to infer strong unionization. Eberts, Randall W. and Joe A. Stone. "Teacher Unions and the Productivity of Public Schools." *Industrial and Labor Relations Review* 40 (April 1987): 354-363.

⁶⁴ L. C. Steelman, B. Powell, and R. M. Carini, "Do Teacher Unions Hinder Educational Performance? Lessons Learned from State SAT and ACT Scores," *Harvard Educational Review* 70 (2000): 437-466.

⁶⁵ Hoxby, C. M. (1996). "How teachers' unions affect education production," *Quarterly Journal of Economics*. 671-718.

⁶⁶ R.G. Valletta and R.B. Freeman, "The NBER Public Sector Collective Bargaining Law Data Set." Appendix B in Richard B. Freeman and Casey Ichniowski, editors, *When Public Employees Unionize* Chicago: NBER and University of Chicago Press, 1988. The data set is publicly available at: <http://www.nber.org/publaw/>, and the details of the study and coding scheme are available in a Technical Appendix: <http://www.nber.org/publaw/publaw.pdf>.

strike policy.⁶⁷ The authors track public sector union strength for five groups: State employees, Local police, Local firefighters, Teachers (non-college), and Other local employees. In our study, we utilize the most recent year of data (1984) available across all states for the group of non-college teachers. We focus on the the measures most relevant to our study: the right to collective bargaining.⁶⁸ Collective bargaining rights are measured on a 0-6 scale, with higher numbers representing broader collective bargaining rights.⁶⁹

Democratic Party Strength. The relationship between charter schools and political parties is often characterized as Democrats being more anti-charter than Republican counterparts. Empirical analysis has backed up this story.⁷⁰ The political story is a complicated one, however, as since the first charter school law was passed in Minnesota in 1992, support for charter schools has come from both Democrats and Republicans.⁷¹ The New Democrat movement in the 1990s included many proponents of charter schools.⁷² In his 1996 State of the Union Address, for instance, President Clinton said: “I challenge every state to give all parents the right to choose which public school their children attend, and let teachers form new schools with a charter they can keep only if

⁶⁷ The authors develop 14 specific variables to capture these aspects of union strength.

⁶⁸ The other variables concern: whether the bargaining includes compensation bargaining, union recognition, agency shop, dues check off, union shop, right to work law, mediation availability, fact-finding availability, arbitration availability, scope of arbitration, type of arbitration, and strike policy.

⁶⁹ The variable is measured as: 0 = no provision; 1 = collective bargaining prohibited; 2 = employer authorized, but not required to bargain with union; 3 = right to present proposals; 4 = right to meet and confer; 5 = implied duty to bargain; 6 = explicit duty to bargain.

⁷⁰ Henig, et. al. (2002), Wong and Shen (2002).

⁷¹ Piphon, C. (1993). Bipartisan charter schools. *Phi Delta Kappan*, 75(2), 10-11.

⁷² Al From, director of the Democratic Leadership Council, was on record as saying: “I’m a big proponent of charter schools. I’d like to see charter school districts, where all public schools are run under contract or charter, with high standards and performance accountability, but with choice for parents and without bureaucratic restraints; though they’re less resistant than they were, the teachers unions support charter schools only reluctantly.” From, Al. 1998. “Don’t Muzzle Labor: I May Not Like All It Has To Say, But It Deserves To Be Heard,” *The New Democrat*, March 1, 1998.

they do a good job.”⁷³

Although the impact of Democratic party strength may be muted by these internal conflicts between traditional / New Democrat, it is still important to control for party strength in the state. To do so, we utilize a Ranney party control index. The Ranney index was calculated as described in Bibby and Holbrook (1999).⁷⁴ As calculated, it is a proxy for the degree to which the Democratic party holds control (in the previous 4 years) of the governor’s seat, the state House of Representatives, and the state Senate. The Ranney Index takes a value of 0-1, with 1 representing total Democratic control and 0 denoting complete Republican control. We used the party index for the year of each state’s charter law enactment, thus tracing the political history back four years (presumably the period in which political bargaining was most likely to occur).

Suburban Influence. In their analysis of the politics of school choice, Ryan and Heise (2002) argue that most analyses have failed to take adequate account of suburban parents. These parents, they argue, will generally oppose school choice programs on the grounds that it threatens their generally well performing suburban school system. Ryan and Heise argue that, “school choice plans will continue to be structured in ways that protect the physical and financial independence of suburban public schools,” but they don’t offer any empirical tests of their hypothesis⁷⁵ In this study, we consider the power of their argument by including a proxy measure for suburban influence: the percentage of

⁷³ Clinton, William Jefferson. 1996. State of the Union Address. January 23, 1996. Online: <http://clinton2.nara.gov/WH/New/other/sotu.html>.

⁷⁴ The 4-year Ranney index was calculated by averaging four percentages: “the average percentage of the popular vote won by Democratic gubernatorial candidates; the average percentage of seats held by Democrats in the state senate, in all legislative sessions; the average percentage of seats held by Democrats in the state house of representatives, in all sessions; and the percentage of all gubernatorial, senate, and house terms that were controlled by the Democrats” (Bibby and Holbrook 1999, page 93).

⁷⁵ Ryan and Heise (2002) at 2047.

non-urban residents in the state.⁷⁶ We expect that greater suburban influence will be related to more restrictive charter school policy.

Race Politics. A wide body of literature has noted the importance of race-based politics in the charter school debate. On one hand, concerns have been raised that charter schools perpetuate or even worsen racial stratification.⁷⁷ On the other hand, however, some have argued that charter schools can serve to improve educational opportunities for minorities.⁷⁸ In the context of labor market charter school provisions, the most salient argument may be Henig's (2004), that for the African-American community, urban school systems are not only important for educational purposes, but also for the jobs they provide to the minority community.⁷⁹ In the present analysis, we include the percentage of non-white residents in the state.⁸⁰ To the extent that the Henig argument holds, we would expect a higher percentage of non-white residents to be correlated with provisions that offer greater job security.

Private School Market Share. Charter schools are designed to straddle the public / private school divide, containing elements of both.⁸¹ Existing private schools may see charter schools as competing for a similar group of students and parents. Thus, we would

⁷⁶ This was calculated as the percentage of state residents who do not live within an urbanized area. We utilize state level data from both the 1990 and 2000 decennial census. In an effort to best estimate the state demographics at the time of enactment, if enactment was in 1995 or earlier, we used data from the 1990 census. If enactment was in 1996 or later, we used data from the 2000 census. All data files were downloaded from the U.S. Census STF-3 data files, available via the American Fact Finder tool online at: <http://factfinder.census.gov>.

⁷⁷ See: Frankenberg, E., & Lee, C. 2002. "Race in American public schools: Rapidly resegregating school districts." Cambridge, MA: The Civil Rights Project, Harvard University.

⁷⁸ See the collection of essays in: Rofes, Eric and Lisa M. Stulberg, eds. 2004. *The Emancipatory Promise of Charter Schools: Toward a Progressive Politics of School Choice*. New York: SUNY Press.

⁷⁹ Henig, J. R. 2004. Washington, D.C.: *Race, Issue Definition, and School Board Restructuring*. In *Mayors in the Middle: Politics, Race, and Mayoral Control of Urban Schools*, J. Henig and W. Rich ed. Princeton, NJ: Princeton University Press.

⁸⁰ We utilize the same method for assigning either 1990 or 2000 census figures. See *supra*, note 38.

⁸¹ Julie F. Mead. 2003. *Devilish Details: Exploring Features of Charter School Statutes That Blur the Public/Private Distinction*. 40 *Harv. J. on Legis.* 349.

expect greater private school market share to be associated with labor market provisions that raise the costs of teacher transfers to the charter sector. We measure private school market share by estimating the percentage of students in a state enrolled in private schools.⁸²

Size of the State School System. There is wide variation in terms of school system size across the fifty states. It is likely that statehouse politics in large states is fundamentally different from politics in smaller states because of the differences in the number of constituent interests being developed. In particular, the presence of large urban districts may drive state policy to provide for more flexible charter school opportunities to meet scaled-up demand. To control for these size-related influences, we include a measure of the size of the state school system. We measure size in this study with the number of students enrolled in the year of charter law enactment.

State Political Culture. Since Elazar's groundbreaking study on state moral culture, political scientists have been sensitive to measures of state political disposition as important factors in determining state policy.⁸³ The conservative / liberal split can be seen in the Democratic party, which is somewhat splintered on the issue of charters. More liberal Democrats remain skeptical, while New Democrats who drift to the middle of the political spectrum are more enthusiastic in their charter support.⁸⁴ We include here state

⁸² Using data from the Department of Education's Private School Universe Survey, combined with data from the Common Core of Data on student enrollment, we calculated the percentage of students who attend private schools. The measure was created by dividing total number of elementary and secondary private school enrollment by the total number of elementary and secondary students in the state (public and private). Because the private school survey is administered every other year, we calculated this measure for every odd year from 1991 through 2001. In our empirical analysis we then used the measure in the year of enactment (for odd years), or just prior to enactment (for even years). For Maryland, with enactment in 2003, we used the 2001 measure for private school market share.

⁸³ Elazar, Daniel J. 1984. *American Federalism: A view from the states*. New York: Harper Collins.

⁸⁴ In 2001, for instance, a group of New Democrats in the House and Senate wrote to President Bush on education. In that letter, these New Democrats wrote that, "We agree on the need to expand educational

political beliefs as measured in the data set compiled by Wright, McIver & Erikson (2001).⁸⁵ Wright, Erikson, and McIver's "measure of the policy preferences of state electorates was based on aggregation of response to media polls conducted by CBS News and *The New York Times*."⁸⁶ Wright, et. al. calculate ideology so that a higher score on their measure indicates a more liberal state. In the case of charter school provisions related to labor, more liberal policy positions are likely to be related to more restrictive charter school provisions.

III.B.2. Dependent variable and model specification

Dependent variables. Our dependent variables are eleven of the twelve 0-1 provisions identified in Table 1. We present summary statistics for these variables in Table 2. We do not perform regression analysis on the question of whether or not the district's collective bargaining agreement is automatically binding on the charter schools. The reason is that in six of the states, there is no collective bargaining for public school teachers at baseline.⁸⁷ Thus, in these states, the question of application of the collective bargaining agreement was not applicable. With these states reduced, the N for the

options for America's families, particularly for low-income parents, by promoting the development of independent public charter schools and broader public school choice programs." "Letter from House and Senate New Democrats to President Bush on Education Reform," February 26, 2001. Online: http://www.dlc.org/ndol_ci.cfm?kaid=110&subid=134&contentid=3083. See also: John Lyman. 2000. The Democratic Leadership Council: An Explanation of the Organization through an Examination of Education Policy. *Hinckley Journal of Politics* Spring 2000, Vol 2, No. 1 pp. 47-54.

⁸⁵ J. McIver "Sources of State Public Opinion Data" (Notes from "State Data Resources", an APSR Workshop, August 29, 2001). Wright, McIver & Erikson Data, 1976-1999 (Zip Directory format with three files. Data in EXCEL and STATA formats). Data was downloaded from: <http://socs.colorado.edu/~mciverj/wip.html>.

⁸⁶ The measure we used is updated through 1999. We used the ideology score for the year of enactment. In several cases, data was not available in the year of enactment. Maryland, Indiana, Iowa, and Tennessee all passed their charter legislation after 1999, so we used 1999 data (the most recent available). For Hawaii, we used 1995 data for 1994 enactment. J. McIver, R. Erikson and G. Wright (2001) "Public Opinion and Public Policy in Temporal Perspective: A View from the States." Paper presented at the State Politics and Policy Conference, College Station, TX (March 2001.) P. 4.

⁸⁷ The six states are Georgia, Missouri, Mississippi, North Carolina, South Carolina, and Virginia.

analysis drops to 34. More importantly, there is a very significant bias introduced because there is selection on the independent variable of interest. All of the dropped observations are weak union states.

We have a similar issue arise in the context of our leave of absence provision. In cases where charter school teachers are considered the same as public school teachers, there is no need for a leave of absence. To address this issue, we consider multiple models. In the first model, we drop observations where the two leave of absence questions are not applicable. The N for these models is 33. We then consider an alternative model (“Model B”), in which we code the dropped states as 1, under the assumption that in considering charter teachers the same as public school teachers, districts are essentially offering an indefinite leave. The results from the two models turn out to be substantively very similar.

Because these are dichotomous outcomes, we employ logistic regression. Our state-level measures of union strength, political culture, and Democratic party strength are not available for Washington, D.C., so it is not included in our analysis and our N is 40.

Putting these variables together in one equation, our final model for analysis is:

$$\begin{aligned} PROVISION_i = & \beta_0 + \beta_1 UNION_i + \beta_2 PCT_NON_WHITE_i \\ & + \beta_3 PCT_NON_URBAN_i + \beta_4 PRIVATE_SCHOOL_i \\ & + \beta_5 DEMOCRAT_i + \beta_6 ENROLL_i + \beta_7 POL_CULTURE_i + e_i \end{aligned}$$

where $PROVISION_i$ is a dichotomous variable indicating whether or not a state adopted one of the twelve charter law provisions we analyze; $UNION$ is the measure of public

sector union bargaining rights in the state; PCT_NON_WHITE is the percentage of state population that is not White, non-Hispanic; PCT_NON_URBAN is the percentage of state residents who do not live inside an urbanized area; PRIVATE_SCHOOL is the percentage of students who attend private schools; DEMOCRAT is the 4-year lagged Ranney party index of Democratic party strength; ENROLL is total public school enrollment; and POL_CULTURE is the Erikson/Wright/McIver measure.

III.C. Results of Analysis

The results of all regressions are presented in Tables 4.1 and 4.2. Because the analysis employs logit regression, the results in these tables are in log-odds. Log-odds are difficult to interpret, so we have translated the results in Table 5 into the “percent change in the odds ratios”. Each percentage value in Table 5 can be understood as answering the question, “If the independent variable were to increase one standard deviation, while all other independent variables remained the same, how much more likely would a state be to adopt a particular charter provision?”

III.C.1. Union influence mixed

The results of our analysis suggest that once additional factors are controlled for, union influence may not be as strong as hypothesized. We find our measure of union strength to be significant on some, but not all, of the traditional union interest provisions; and not significant in relationship to the reform unionism interest provisions. Unions’ mixed influence suggests that political compromises are at work. Politicians may be willing to grant union demands on certain bottom line issues, but in return, policymakers prevail on other operation issues.

States that have stronger union bargaining rights are more likely not to require leaves of absence for charter school teachers, and are less likely to allow tenure to continue unaffected by a teacher's charter transfer. On one hand, this would seem to cut against the unions' interest in having charter school teachers considered as teachers in the local school district. But on the other hand, in order to strengthen their position relative to charter schools, unions have an interest in raising the costs of charter transfer. Removing some of the tenure securities, and also placing district employment status at risk, are both ways that the costs of teaching at a charter school increase. Our results suggest that the magnitude of union influence on tenure issues is great – our analysis suggests that an increase of one standard deviation in union strength leads makes states 3 times less likely to provide tenure assurances to public school teachers leaving for charters. (Table 5).

At the same time that unions operate to raise costs of charter transfers, it appears that they make stronger assurances related to health benefits. Strong union bargaining rights are positively associated with automatic health care coverage (Table 4.1). One possible explanation for this result involves the nature of pooled health care benefits. Generally it is advantageous to have large numbers of young individuals in health care plans, because they pay in without requiring as many services as older members. There is evidence to suggest that charter school teachers are younger than their public school counterparts.⁸⁸ Thus, unions may have an interest in continuing to include the charter school teachers in their pooled health care fund.

The lack of significance of union strength on automatic participation in the district's retirement plan can likely be traced to independent interest of state legislatures

⁸⁸ Sally Bomotti, Rick Ginsberg, Brian Cobb. 1999. "Teachers in Charter Schools and Traditional Schools: A Comparative Study," *Education Policy Analysis Archives*, Volume 7 Number 22.

in providing for retirement plans for all public employees. In other words, a strong union isn't necessary for protection of retirement benefits because the state is already cognizant of this need.

While the measurement of union strength is a significant predictor for several of the traditional union interest provisions, it does not fare as well in predicting the provisions more closely related to reform unionism. These null findings support the contention that political interests are likely to target their influence on the provisions most closely related to their economic interests. Whether a charter school must give preference to at-risk students, for instance, is likely to be less of a concern for teachers unions since it does not directly affect teachers pay, benefits, or tenure.

III.C.2. Democrats and Suburbanites

Perhaps reflecting the internal divisions in the Democratic party surrounding charter schools, in none of our models do we find a significant relationship between Democratic party strength and adoption of charter law provisions. We do find, however, some support for the Ryan and Heise (2002) argument that suburban parents may be a hindrance to the expansion of school choice options. We find that the percentage of non-urban residents is positively related to the adoption of provisions that require charter schools to obtain the approval of local boards of education before operation. An increase in one standard deviation of the percentage of non-urban residents makes a state two times less likely to allow for circumvention of the local school district. This finding is consistent with the Ryan and Heise argument. Suburban school districts, in the interest of suburban parents, want to have a local check to charter school expansion.

The percentage of non-urban residents also means that states are less likely to make districts automatically provide teachers with leaves of absences to teach at charter schools (Table 4.1). This too is consistent with the notion that suburban parents would be fearful of charter schools recruiting away their strongest teachers.

III.C.3. Race and Political Culture

Our findings with regard to race provide strong support for Henig's (2004) argument that for minority constituencies, primarily African-Americans, may be concerned that charter schools threaten an important source of jobs. We find that states with greater percentages of non-white residents are more likely to be guaranteed employment in the school district after return from a charter school leave of absence, are more likely to force charters to adhere to the district collective bargaining agreement, and are less likely to allow charters to hire/fire without district oversight (Table 4.1). All three of these provisions are consistent with the argument that opposition to labor provisions in charter schools stems from concern over possible threats to stable employment. The findings are consistent with recent statements from Bob Lydia, president of the NAACP's Dallas branch. In response to President Bush's July 2006 address to the NAACP, Lydia said in an interview that, "Charter schools are a sore spot with us."⁸⁹ He pointed in his comments to the money that is moved out of the traditional public education system.

With regards to state political culture, our only statistically significant result is a positive relationship between liberal disposition and state requirements that districts provide teachers with leaves of absences if they leave for a charter school (Table 4.1). This result, because it is both surprising and its magnitude is so large, may require a re-

⁸⁹ Quoted in: Douglas, William. 2006. "Bush addresses NAACP for the first time in his presidency," McClatchy Newspapers, July 20, 2006.

examination of the variable and what underlying state characteristics it is actually picking up.

III.C.4. Private school market and size of school system

Turning to our final two explanatory variables, we find that states with larger public school systems are more likely to loosen the constraints of their labor-related provisions in charter school laws. States with larger student enrollment are less likely to require districts to provide leaves of absences, retirement benefits, health care, or jobs upon a teacher's return from a charter school. Why are larger states less stringent on these provisions, which would seem to encourage teachers to experiment with teaching in charters? The question deserves further investigation, but one preliminary explanation is the administrative costs of performing these services for charter teachers is greater in larger school systems.

Consider, for example, the administrative costs in requiring that charter school employees be covered in the local school district's health care plan. In a small system, where there may be the potential for only a small number of teachers to fit into this category, it seems feasible to track all teachers. As system size increases, however, the costs of tracking down every charter school teacher increase.

The private school market share variable is a significant predictor of labor provisions, but the relationship is not consistent across provisions. Our competition hypothesis – that private schools would have an interest in preventing charter operation – gains support from findings that states with greater percentages of students in private schools are less likely to require districts to give leaves of absences and less likely to require districts to cover charter schools in terms of retirement plans (Table 4.1). Private

school market share is also a significant factor in states making it more difficult for existing public schools to convert into charter schools (Table 4.2). At the same time, however, these states are less likely to let tenure be automatically affected by a switch to charter teaching, and more likely to ensure jobs upon return from charter teaching (Table 4.1). These mixed findings suggest to us that the relationship between private school climate and charter schools is about more than just competition. It may be that our measure of private school enrollment is also picking up a state's positive predisposition toward school choice. If this is the case, then a more favorable private school climate might lead to more favorable charter provisions. More work is necessary to tease out these competing effects.

IV. Synthesizing Legal and Empirical Analysis: Implications for policy and research

Taken together, our legal and empirical analysis of charter school legislation paint a picture of charter school laws that is more complex than is suggested by the pervasive weak law / strong law framework. In this final section of the paper, we discuss the implications of our study for policy and research.

IV.A. Implications for Policy

IV.A.1. Improving public policy discussion

Although we have criticized grading and ranking systems, we recognize that they have an important role to play in policy debates. The most important benefit is that the grades translate a large amount of complex legal material into a single number or grade that is more readily accessible. As discussed in the Foreword to Palmer and Gau's (2003) study, Chester Finn writes that:

“We are mindful that ‘grading’ states is a tricky and contentious business, yet it also makes for the clearest comparisons and judgments from the reader’s standpoint, particularly when the reader is an interested citizen, policymaker, or journalist rather than a social scientist or policy wonk.”⁹⁰

The grades are also a useful tool for charter school advocacy, as the CER has proven by becoming a leading voice in charter school policy debates.

While the grading framework is useful for these purposes, we believe that policy debate over charter schools should also be exposed to the more comprehensive and objective analysis. In this, we are in agreement with Scott and Barber (2002), who made a similar criticism. But unlike Scott and Barber, we argue that when analyzing charter school laws, our focus should be on the legal and political dynamics at work.

Recognizing these legal and political constraints can improve policy discussions by encouraging policymakers and legislators to cease seeing charter school legislation as uniformly operating in one direction. Instead, charter school legislation should be viewed as a political compromise in which provisions that encourage charter school autonomy and creation are balanced by other provisions which provide checks against that autonomy. This political bargaining takes place within a broader state and federal legal system that also shapes the final charter school law.

IV.A.2. Clarifying the law

For charter school practitioners, the law is often a central consideration. A number of charter school advocacy groups, and also state agencies, provide charter school operators with “What do I need to do in order to start a charter school?” manuals.

Scholars can help improve the accuracy of these materials by clarifying confusing legal

⁹⁰ Finn, Chester. 2003. *Foreward to Charter School Authorizing: Are States Making the Grade?* Thomas B. Fordham Foundation.

details, as well as pointing interested parties to particular statutes that might affect them. By providing cross-state comparison, scholars can help charter school operators (or charter opponents) put their state's law in proper context. For proponents putting together applications, or opponents wishing to raise legal challenges, our guide to legal citations can better enable discussion that is linked to the actual law rather than conjecture.

IV.B. Implications for Research

There are a number of possibilities for extending this study. As we have noted throughout the paper, we this paper explores only one of many possible ways to analyze the provisions. Different 0-1 questions can be asked and analyzed, and new indices can be built. A central question is how to better operationalize the strength of the teacher union interests, and to further disaggregate those union interests.

As we increase the number of provisions coded, more attention can also be paid to *intrastate* variation in charter provisions. We can better understand what provisions cluster together and which diverge. It is clear from our analysis that the terms “strong law” and “weak law” are inadequate to describe the myriad of differences between provisions that exist *within* a single “law”. It is more accurate to say that as political compromises that are influenced by many diverse interests, charter school laws are “weak” in some areas and “strong” in others.

A line of research that is already underway in studies such as Witte, et. al. (2003) is to examine what effect these internal differences have on charter school performance. For instance, do so many provisions working at cross-purposes inhibit the effectiveness of charter school's ability to improve student learning? Do some of these provisions matter more than others in determining charter school achievement or management

outcomes?

One of the challenges of analyzing legislation is that it is subject to amendment and expiration. Even as we were writing this paper, for instance, Utah amended their charter school law related to the cap on charters.⁹¹ The Center for Education Reform's grades are not updated annually, as their 2006 report relied on law updated only through 2003. A continuing challenge for our research project will be to keep the coding up to date with changing legislation, and to trace back the history of changes over time in order to build a longitudinal dataset suitable for empirical analysis.

⁹¹ The amendment went into effect on July 1, 2006. § 53A-1a-502.5. "The State Charter School Board may only authorize: (1) a maximum of five charter schools that will begin operation in the 2007-08 school year; and (2) a combined maximum student capacity of 5,000 students for the charter schools ..."

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Table 1. Summary of selected charter school provisions for analysis: [Columns: **1:** Is there a preference for serving at-risk students? **2:** Must the charter school application go through the local school district (i.e. no alternative routes)? **3:** In order for a charter conversion to occur, must a majority of teachers approve? **4:** In order for a charter conversion to occur, must a majority of parents approve? **5:** Must local district provide a leave of absence to teachers going to charter schools? **6:** Is tenure automatically affected if a teacher goes to a charter school and returns? **7:** Are all charter school teachers automatically covered by the district or state's retirement plan? **8:** Are all charter school teachers automatically covered by the district's health care plan? **9:** If a charter teacher returns to the school district immediately after the leave of absence, are they guaranteed employment in the district? **10:** Is the default arrangement for all charter schools to be subject to the district's pre-existing collective bargaining agreement? **11:** Do at least some charter schools automatically have more relaxed certification requirements? **12:** Can charters automatically hire/fire teachers without district oversight?]

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11	Col. 12
Alaska	s-0	1	s-0	s-0	N/A ^a	0	1	1	N/A ^a	1	0	s-0
code cite	14.03.250	§14.03.250 (b)	§14.03.255 (d)	§14.03.255 (d)	.	14.03.255 / 14.03.270	14.03.255 / 14.03.270	14.03.255 / 14.03.270	.	§14.03.270 (b)	14.03.255 / 14.03.270	
Arizona	0	0	s-0	s-0	N/A ^a	0	1	1	N/A ^a	0	1	1
code cite	§ 15-184	§15-183(C)	§15-181(A)	§15-181(A)		§15-187(A)	§15-187(A)	§15-187(A)		§ 15-181	§ 15-181	§ 15-181
Arkansas	1	0	s-0	s-0	N/A ^a	0	1	1	N/A ^a	1	1	s-0
code cite	§6-23- 304(1)-(3)	§6-23- 103(3)	§6-23- 302(5)(B)- (C)	§6-23- 302(5)(B)- (C)		§ 6-23-504	§ 6-23-504	§ 6-23-504		§ 6-23-101	6-17-401	§ 6-23-101
Conn.	s-0	1	s-0	s-0	1	1	1	s-1	1	1	1	s-1
code cite	§ 10-66bb	§ 10- 66bb.(e)	§10- 66aa.(2)	§10- 66aa.(2)	§10- 66dd(c)	§10- 66dd(c)	§10- 66dd(c)	§10- 66dd(c)	§ 10-66dd.	§ 10-66dd. (4)	§ 10-66dd.	§ 10-66dd.
Colorado	1	1	s-0	s-0	1	s-0	1	s-0	0	1	s-0	1
code cite	§22-30.5- 109(3)	22-30.5- 107	§22-30.5- 106(2)	§22-30.5- 106(2)	22-30.5- 111	22-30.5- 111	§22-30.5- 111(3)	§22-30.5- 111	22-30.5- 111.(2)	22-30.5- 104.(4)	22-30.5- 104(1)	22-30.5- 104.(7)(a)
California	1	1	1	s-0	0	s-1	0	s-0	0	0	1	1
code cite	§ 47614.5	See: 81 Ops. Cal. Atty. Gen. 140.	§47605(a)(2).	§47605(a)(2)	§ 47605. (M)	§ 47605.	§47611	§ 47605.	§ 47605. (M)	§ 47605.	§47605(l).	§ 47605.
Delaware	1	0	1	1	1	1	0	s-0	1	0	1	1
code cite	§ 506	§ 503	§507	§507	§507(d)	§507	§507(e)	§ 507.	§ 507.(d)	§ 507.	§507(c)	§504A(7)
Wash. D.C.	1	1	1	1	1	0	0	0	1	0	1	1
code cite	§ 38- 1702.01(a)(3).	§ 38- 1702.01	§ 38- 1702.02(b)(4) / § 38- 1802.01(a)(3)(B)	§ 38- 1702.02 (3)	§ 38- 1702.08(a)	§ 38- 1802.07(b)(2)	§ 38- 1802.07(b)(2)	§ 38- 1802.07(b)(2)	§ 38- 1702.12.	§ 38- 1702.08	§ 38- 1702.02(b)(5)	§ 38- 1702.02(15) 1702.05.(e)
Florida	1	1	1	1	1	1	0	s-0	s-1	0	0	1
code cite	§1002.33(1)	§	§	§	§1002.33(1)	§1002.33(1)	§1002.33(1)	§1002.33(9)	§1002.33(1)	§	§	§

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	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11	Col. 12
	0)(d).	1002.33(6)(b).	1002.33(3)(b)	1002.33(3)(b)	2)(e)	2)(e)	2)(i))	2)	1002.33(12)(b)	1002.33(12)(f)	1002.33(12)(a)
Georgia	0	1	1	1	s-0	s-0	1	s-0	s-0	N/A ^b	0	s-1
code cite	§ 20-2-2061	§ 20-2-2064	§20-2-2064(a)(1)	§20-2-2064(a)(2)	§ 20-2-2065	§ 20-2-2065	See: Op. Att'y Gen. No. U99-4.	§ 20-2-2065	§ 20-2-2065	.	§ 20-2-2065	§ 20-2-2065
Hawaii	s-0	1	1	1	0	0	s-1	s-1	s-1	1	s-0	s-0
code cite	§ 302A-1182	§ 302A-1182(b)	§302A-1191(b)(2)	§302A-1191(b)(2)	§ 302A-1182(c)(1)	§ 302A-1184(b)	§ 302A-1184	§ 302A-1184	§ 302A-1184	§ 302A-1184(a)(1)	§ 302A-1182	§ 302A-1182
Idaho	s-0	1	1	1	0	0	1	1	0	0	0	s-1
code cite	§ 33-5202.	§ 33-5205(1)(b)	§ 33-5205(1)(e)	§ 33-5205(1)(e)	§ 33-5205(3)(o)	§ 33-5206(3)	§ 33-5205(3)(m)	§ 33-5205(3)(m)	§ 33-5205(3)(o)	§ 33-5205(3)(p)	§ 33-5205(3)(f)	§ 33-5205
Illinois	1	1	1	1	1	0	1	s-0	1	0	1	s-1
code cite	§ 105 ILCS 5/27A-8(a)(3)	§ 105 ILCS 5/27A-6.	§ 105 ILCS 5/27A-8(b)	§ 105 ILCS 5/27A-8(b)	§ 105 ILCS 5/27A-10(b)	§ 105 ILCS 5/27A-10(b)	§ 105 ILCS 5/27A-10(b)	§ 105 ILCS 5/27A-10(b)	§ 105 ILCS 5/27A-10(b)	§ 105 ILCS 7(11)	§ 105 ILCS 10(c)	§ 105 ILCS 5/27A-7
Indiana	0	0	1	1	1	0	1	0	s-0	0	1	s-1
code cite	§ 20-24-2-1.	§ 20-24-1-9	§ 20-24-11-1	§ 20-24-11-1	§ 20-24-6-10	§ 20-24-6-10	§ 20-24-6-10	§ 20-24-3-4. / § 20-24-6-1.(d)	§ 20-24-6-1.	§ 20-24-3-4(c)(2) and § 20-24-6-1 and § 20-24-6-3 and § 20-24-6-4	§ 20-24-6-5 and § 20-24-6-6.	§ 20-24-3-4(a)
Iowa	s-0	1	1	1	N/A ^a	0	1	1	N/A ^a	s-1	0	s-0
code cite	256F.1	256F.3(3)	§ 256F.3(2)	§ 256F.3(2)		256F.7	256F.7	256F.7		256F.7	256F.7(1)	§ 256F.7.
Kansas	s-0	1	0	0	s-0	s-0	1	1	s-0	s-1	s-0	s-1
code cite	72-1903	72-1906	72-1906	72-1906	1906(b)13	1906(b)13	72-1909(a)	72-1909(b)	1906(b)13	72-1909	72-1906	1906(b)12
Louisiana	1	1	1	1	1	0	0	0	1	1	1	s-1
code cite	§ 17:3972	§ 17:3982	§17:3983(C)(1)(a)	§17:3983(C)(2)	§17:3997.B.(1)	§17:3997.A.(2)	La. Atty. Gen. Op.	§ 17:3997(B)	§ 17:3997(B)	§17:3996.D	§17:3991(C)(6)(a)(i)	§ 17:3991

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	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11	Col. 12
							No. 1998-341	(5				
Maryland	s-0	1	s-0	s-0	N/A ^a	s-0	1	s-0	N/A ^a	1	0	s-0
code cite	§ 9-101	§ 9-104.	§ 9-104	§ 9-104		§ 9-108	§ 9-108	§ 9-106.		§ 9-108.	§ 9-105	§ 9-102(11)
Mass.	s-0	0	0	0	1	s-0	1	s-0	1	0	0	s-1
code cite	§ 89.	§ 89.(g)	§ 89. (b)	§ 89. (b)	§ 89. (bb)	§ 89. (bb)	§ 89. (aa)	§ 89. (u)	§ 89. (cc)	§ 89. (u)	§ 89. (qq)	§ 89. (j)
Michigan	s-0	0	s-0	s-0	s-0	s-1	s-0	0	s-0	0	1	1
code cite	§ 380.502	§ 380.502	§ 380.502	§ 380.502	§ 380.502	§ 380.502	§ 380.502	§ 380.502	§ 380.502	§ 380.503.Se c 503(5)(e)	§ 380.505	§ 380.506
Minnesota	s-0	0	1	0	1	0	1	s-0	s-1	0	0	1
code cite	124D.10	§ 123D.10.Su bd.3	§ 123D.10, Subd.5	§ 123D.10, Subd.5.	123D.10.Su bd.20.	123D.10.Su bd.20.	123D.10.Su bd.20	124D.10	123D.10.Su bd.20.	123D.10.Su bd.21	§ 123D.10, Subd.11.	§ 123D.10, Subd.11.
Mississippi	s-0	1	1	1	N/A ^a	0	1	1	N/A ^a	N/A ^b	0	s-0
code cite	§ 37-28-1	§ 37-28- 5.(a)	§37-28- 5(b)	§37-28-5(c)		§ 37-28-17	§ 37-28-17	§ 37-28-17			§ 37-28-17	§ 37-28-17
Missouri	1	1	s-0	s-0	s-1	0	0	0	s-1	N/A ^b	1	s-1
code cite	§ 160.405.(4) (4)	§ 160.405	§ 160.400.	§ 160.400.	§ 160.420	§ 160.420.(1)	§ 160.420.(1)	§ 160.420.(1)	§ 160.420		§ 160.420.(2)	§ 160.405.(1)
Nevada	1	1	s-0	s-0	1	0	1	s-1	1	1	1	1
code cite	§386.510(2))	386.525.	§386.505	§386.505	§386.595(5)	§386.595(7)	§386.595(7)	§386.595	§386.595	§386.595(2)	§386.590(1)	§386.595(3)
New Ham.	s-0	1	1	0	s-0	s-0	0	s-0	s-0	0	1	1
code cite	§ 194-B:9	§ 194-B:3	§194- B:3(VI)(1)	§194- B:3(VI)(1)	§ 194-B:3	§ 194-B:3	§194- B:14(III)	§ 194-B:14	§ 194-B:3	§194-B:13 and §194- B:14(I)	§194- B:14(IV)	§ 194-B:3
New Jersey	1	0	1	1	1	0	1	1	1	0	1	1
code cite	§ 18A:36A-3	§ 18A:36A- 4.	§ 18A:36A- 4(b).	§ 18A:36A- 4(b)	§ 18A:36A- 14(d)	§ 18A:36A- 14(d)	§ 18A:36A- 14(d)	§ 18A:36A- 14(d)	§ 18A:36A- 14(e)	§ 18A:36A- 14(b)	§ 18A:36A- 14(c)	§ 18A:36A- 14(b)

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	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11	Col. 12
New Mex.	0	1	1	1	1	0	s-1	s-0	1	s-1	s-0	1
code cite	§ 22-8B-4.	§ 22-8B-6(A)	§ 22-8B-6(E).	§ 22-8B-6(E).	§ 22-8B-10(B)	§ 22-8B-10(C)	§ 22-8B-10(D)	§ 22-8B-8.(J)	§ 22-8B-10.(F)	§ 22-8B-4.	§ 22-8B-4.	§ 22-8B-4.C.
New York	1	1	1	1	1	0	s-1	s-0	1	0	1	s-1
code cite	§ 2850 / § 2852	§ 2851	§ 2851(3)	§ 2851(3)	§ 2854	§ 2854	§ 2854(3)(c)	§ 2854(3)	§ 2854	§ 2854(3)(b-1)	§ 2854.(3)(a-1)	§ 2853(1)
N. Carolina	1	1	1	0	1	s-0	1	1	1	N/A	1	1
code cite	§ 115C-238.29A / § 115C-238.29C.	§ 115C-238.29B	§ 115C-238.29B(a)	§ 115C-238.29B(a)	§ 115C-238.29F(e)	§ 115C-238.29F(e)	§ 115C-238.29F(e)	§ 115C-238.29F(e)	§ 115C-238.29F(e)	.	§ 115C-238.29F(e)	§ 115C-238.29F(e)
Ohio	s-0	1	0	0	1	0	1	0	1	0	0	s-1
code cite	§ 3314.01.	§ 3314.02	§ 3314.02.(B)	§ 3314.02.(B)	§ 3314.10	§ 3314.10	§ 3314.10	§ 3314.03.(a)(1)2)	§ 3314.10	§ 3314.10	§ 3314.03.(A)(10)	§ 3314.03.
Oklahoma	s-0	1	0	0	0	0	1	1	0	0	1	1
code cite	§ 3-131	§ 3-134(D)	§ 3-132	§ 3-132	§ 3-139.	§ 3-139(A)	§ 3-136.15.	§ 3-136.15.	§ 3-139(A)	§ 3-135.(B)	§ 3-135.B	§ 3-135.B.
Oregon	1	1	0	0	1	0	1	s-1	1	0	0	1
code cite	338.185	338.035.	338.035.1	338.035.1	338.135.3	338.135.4	338.135.5	338.135.4	338.135.4	338.135.8	338.135. 7(b)	338.135.2
Penn.	0	1	1	1	1	0	1	1	1	0	1	1
code cite	§ 17-1702-A.	§ 17-1717-A(c)	§ 17-1702-A.(b)(2)	§ 17-1702-A.(b)(2)	§ 17-1724-A.	§ 17-1724-A.	§ 17-1724-A.	§ 17-1724-A.	§ 17-1716-A.	§ 17-1724-A.	§ 17-1724-A.(a)	§ 17-1716-A.
Rhode Is.	1	1	1	1	1	0	1	s-0	1	0	0	s-1
code cite	§ 16-77-9.(c)	§ 16-77-4.	§ 16-77-3. / § 16-77-4.1.	§ 16-77-3. / § 16-77-4.1.	§ 16-77-3.(e)	§ 16-77-3.(e)	§ 16-77-3.(e)	§ 16-77-4.(b)(12)	§ 16-77-3.(e)	§ 16-77-4.1.	§ 16-77-4	§ 16-77-3
S. Carolina	s-0	1	1	1	1	s-0	1	s-0	1	N/A ^b	1	1
code cite	§ 59-40-20.	§ 59-40-60.	§ 59-40-100(A)	§ 59-40-100(A)	§ 59-40-130.A	§ 59-40-130.	§ 59-40-130.B	§ 59-40-60.	§ 59-40-130.	.	§ 59-40-50.(5)	§ 59-40-60.
Tennessee	1	1	1	1	0	0	1	1	s-1	0	0	s-1
code cite	49-13-106.	49-13-108.	49-13-106.(2)(A)	49-13-106.(2)(A)	49-13-117	49-13-117.	8-35-242.	49-13-119	49-13-117	49-13-118.	49-13-111.	49-13-105.

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Texas	0	0	s-0	s-0	s-0	s-1	1	0	s-0	0	1	s-1
code cite	§ 12.110	§ 12.110.	§ 12.101	§ 12.101	§ 12.111.	§ 12.111.	§ 12.1057.	§ 42.2514. But note: § 1579.251	§ 12.111.	§ 12.111.	§ 12.129. / § 12.130.	§ 12.111.
Utah	s-0	0	1	1	0	0	1	s-0	s-1	s-0	1	1
code cite	§ 53A-1a-506	§ 53A-1a-504.1	§ 53A-1a-504(2)(b)	§ 53A-1a-504(2)(b)	§ 53A-1a-512.	§ 53A-1a-512(6)	§ 53A-1a-512.	§ 53A-1a-508(3)(i)	§ 53A-1a-512(6)	§ 53A-1a-512	§ 53A-1a-512.(4)(a)	§ 53A-1a-512.1
Virginia	1	1	0	0	N/A	0	1	s-1	N/A	N/A ^b	0	0
code cite	§ 22.1-212.11.	§ 22.1-212.9.	§ 22.1-212.8.B(3)	§ 22.1-212.8.B(3)	§ 22.1-212.13.	§ 22.1-212.13.	§ 22.1-212.13.	§ 22.1-212.13.	§ 22.1-212.13.	§ 22.1-212.13.	§ 22.1-212.13.	§ 22.1-212.13.
Wisconsin	1	1	1	0	s-0	s-0	1	s-0	s-0	1	0	s-1
code cite	118.40.(3)(d)	118.40.	118.40.1(A)	118.40.1(A)	118.40.	40.02.(55)	40.02.(55)	118.40.	118.40.	111.70.(9)d(2)(a)	118.19.	118.40.
Wyoming	s-0	1	1	1	1	s-0	1	s-0	0	s-1	0	1
code cite	§ 21-3-304	§ 21-3-306	§ 21-3-306	§ 21-3-306	§ 21-3-313	§ 21-3-313	§ 21-3-311	§ 21-3-304	§ 21-3-313.	§ 21-3-307(a)(xvii)	§ 21-3-308	§ 21-3-307(a)

NOTES: All provisions coded as current through at least October 2005. "s-" indicates that the charter school statute itself is silent on this issue. As discussed in the text, we use generally accepted legal principles of statutory interpretation to determine what the state legislature most likely intended. ^a In these states, all charter school teachers are considered district employees, and thus applicability of leave of absence provisions is not applicable. ^b In states where there is no collective bargaining available for public school employees, the question of collective bargain applicability is not applicable.

Table 2. Summary of Variables Used in Analysis

Provision	No	Yes
Can charter school choose its own grades to serve?	2	39
Is a lottery required if there is over-subscription?	9	32
Must charter schools take the same standardized tests as students in non-charter public schools?	1	40
Can an existing public school be converted into a charter school?	0	41
Can a teacher be assigned to a charter school without his/her consent?	40	1
Does the statute contain explicit non-sectarian or non-religious language?	3	38
Is there a preference for serving at-risk students?	23	18
Must the charter school application go through the local school district (i.e. no alternative routes)?	10	31
In order for a charter conversion to occur, must a majority of teachers approve?	16	25
In order for a charter conversion to occur, must a majority of parents approve?	21	20
Must local district provide a leave of absence to teachers going to charter schools?	12	22
Is tenure automatically affected if a teacher goes to a charter school and returns?	35	6
Are all charter school teachers automatically covered by the district or state's retirement plan?	8	33
Are all charter school teachers automatically covered by the district's health care plan?	24	17
If a charter teacher returns to the school district immediately after the leave of absence, are they guaranteed employment in the district?	13	26
Is the default arrangement for all charter schools to be subject to the district's pre-existing collective bargaining agreement?	22	13
Do at least some charter schools automatically have more relaxed certification requirements?	20	21
Can charters automatically hire/fire teachers without district oversight?	7	34

Explanatory Variables	Obs	Mean	Std. Dev.	Min	Max
Union Strength - Union Bargaining Rights	40	3.725	1.948	0	6
Union Strength - Scope of Bargaining Rights	40	1.150	1.001	0	2
Mintrom Measure of Union Resistance	38	0.888	0.236	0	1
% Non-White in State Population	40	0.243	0.136	0.027	0.686
% Non-Urban in State Population	40	0.402	0.187	0.078	0.761
% Enrolled in Private Schools	40	0.097	0.041	0.024	0.186
Democratic Party Strength (Ranney Index)	40	0.527	0.169	0.180	0.832
Public school enrollment (000)	40	1,023	1,035	100	5,255
Political Ideology (Erikson/Wright/McIver)	40	-0.134	0.106	-0.328	0.118

NOTES: Summary statistics of the explanatory variables are for the 40 states with charter school laws, excluding Washington, D.C.

Table 3. Bi-Variate Correlation between individual charter law provisions

	[1] Leave of Absence	[2] Job Return	[3] Tenure	[4] Retirement	[5] Health benefits	[6] Local district	[7] Teacher conversion approval	[8] Parent conversion approval	[9] At-risk preference	[10] Certification	[11] Hire / fire
[2] Job Return	0.6466 ***										
[3] Tenure	-0.1887	-0.1887									
[4] Retirement	0.0891	0.0891	-0.4927 ***								
[5] Health benefits	-0.0027	0.215	-0.2084	0.4144 ***							
[6] Local district	0.0091	0.0091	-0.2469	0.007	0.1322						
[7] Teacher conversion approval	-0.075	0.0348	-0.0932	-0.1416	-0.2401	0.1278					
[8] Parent conversion approval	0.0915	0.1988	-0.128	-0.012	-0.128	0.0998	0.7807				
[9] At-risk preference	0.245	0.245	0.0509	-0.3085 **	-0.0462	0.1591	0.1032	0.0216			
[10] Certification	0.0157	0.0157	0.266 *	-0.3574 **	-0.0701	-0.327 **	0.0195	-0.0238	0.1751		
[11] Hire / fire	-0.1494	-0.2919 *	0.1879	-0.2234	-0.4076 ***	-0.1068	0.1685	0.0538	0.1402	0.3353 **	
[12] Collective bargain	0.1383	0.0109	-0.1928	0.2365	0.2173	0.3553 **	-0.2173	-0.1555	-0.0683	-0.3177 *	-0.5311 ***

NOTES: Table displays Pearson's correlation coefficients. Significance denoted as: *** for $p < .01$, ** for $p < .05$, * for $p < .1$. See Table 2 for definitions of variables.

Table 4.1 Results from Logit Regression Models for Charter School Provisions

	Must local district provide a leave of absence to teachers going to charter schools?		If a charter teacher returns to the school district immediately after the leave of absence, are they guaranteed employment in the district?		Is tenure automatically affected if a teacher goes to a charter school and returns?	Are all charter school teachers automatically covered by the district or state's retirement plan?	Are all charter school teachers automatically covered by the district's health care plan?
	A	B	A	B			
Union Strength	-1.164 *** 0.349	-1.021 *** 0.329	-0.196 0.332	-0.264 0.293	0.749 *** (0.285)	0.048 (0.396)	0.525 ** (0.264)
Union Opposition (Mintrom)							
% Non-White in State Population	-1.056 5.030	-1.413 4.368	18.016 * 9.311	12.934 ** 5.183	-2.342 (4.8)	1.794 (3.243)	7.382 (4.809)
% Non-Urban in State Population	-7.792 * 4.710	-4.331 3.966	-11.279 7.218	-5.473 4.671	-5.609 (5.241)	-8.036 (7.046)	2.3 (2.882)
% Enrolled in Private Schools	23.485 * 13.867	18.814 12.354	52.485 *** 18.253	36.175 ** 14.462	-11.878 (20.167)	-39.414 * (23.807)	-17.209 (11.647)
Democratic Party Strength	1.130 5.099	2.159 4.257	-0.023 4.624	1.585 3.462	4.379 (2.716)	-2.328 (2.802)	-1.826 (2.719)
Public school enrollment	-0.00110 *** 0.00038 19.371	-0.00101 *** 0.00035 17.978	-0.00267 ** 0.00117	-0.00218 *** 0.00068	0.00123 * (0.00063)	-0.00127 ** (0.00052)	-0.00082 * (0.00043)
Political Ideology	7.442 ***	6.557 ***	8.300	5.236	-0.456 (5.98)	-7.261 (8.95)	-1.813 (4.801)
Constant	9.910 *** 3.598	7.961 *** 2.779	1.502 5.367	0.852 4.164	-5.309 (3.512)	10.443 * (5.344)	-1.83 (2.485)
Adj. R ²	0.4395	0.3847	0.5422	0.4219	0.3948	0.2611	0.2421
N	33	40	33	40	40	40	40

NOTES: Model-B for the leave of absence models includes states in which charter school teachers are considered public school employees. See text for discussion. Models estimated using the logit command in Stata. All models use robust standard errors. Standard errors reported in (). Two-tailed significance denoted as: *** for $p < .01$, ** for $p < .05$, * for $p < .1$

Table 4.2 Results from Logit Regression Models for Charter School Provisions, continued

	Must the charter school application go through the local school district (i.e. no alternative routes)?	In order for a charter conversion to occur, must a majority of teachers approve?	In order for a charter conversion to occur, must a majority of parents approve?	Is there a preference for serving at-risk students?	Do at least some charter schools automatically have more relaxed certification requirements?	Can charters automatically hire/fire teachers without district oversight?
Union Strength	-0.064 (0.171)	0.21 (0.252)	0.103 (0.22)	-0.298 (0.219)	-0.086 (0.229)	0.019 (0.459)
% Non-White in State Population	9.477 (5.852)	2.017 (4.005)	6.592 (5.437)	-2.476 (3.404)	-0.251 (2.675)	-8.535 * (4.346)
% Non-Urban in State Population	6.004 * (3.081)	3.886 (2.925)	0.838 (3.143)	-4.129 (2.64)	-1.765 (2.502)	-8.594 * (4.464)
% Enrolled in Private Schools	12.724 (16.529)	30.809 *** (11.866)	27.589 ** (10.914)	7.896 (10.673)	1.82 (11.366)	-9.125 (11.169)
Democratic Party Strength	-2.865 (3.539)	-4.057 (3.379)	-5.6 (4.528)	3.081 (3.133)	-1.583 (2.803)	-3.081 (3.274)
Public school enrollment	-0.00021 (0.00048)	0.00024 (0.00042)	-0.00058 (0.00041)	0.00019 (0.00035)	0.00061 (0.00038)	0.00046 (0.00041)
Political Ideology	3.537 (4.429)	-7.794 (5.262)	-9.418 (6.11)	2.677 (5.248)	-1.68 (3.916)	-9.629 (6.458)
Constant	-2.124 (2.476)	-4.410 * (2.406)	-2.819 (2.463)	0.746 (1.993)	0.932 (1.975)	8.49 (5.263)
Adj. R ²	0.1324	0.2035	0.2161	0.1605	0.0920	0.3312
N	40	40	40	40	40	40

NOTES: Models estimated using the logit command in Stata. Standard errors reported in (). All models use robust standard errors. Two-tailed significance denoted as: *** for $p < .01$, ** for $p < .05$, * for $p < .1$

Table 5. Summary of percent change in odds of adopting charter school law provisions, given a standard deviation increase in each independent variable

	Union Strength	% Non-White in State Population	% Non-Urban in State Population	% Enrolled in Private Schools	Democratic Party Strength	Public school enrollment	Political Ideology
TRADITIONAL Unionism Provisions							
Must local district provide a leave of absence to teachers going to charter schools? ^a	-88.6 ***	-13.9	-73.8 *	166.9 *	21.3	-70.6 ***	599.4 ***
Is tenure automatically affected if a teacher goes to a charter school and returns?	330.3 ***	-27.2	-64.9	-38.6 *	109.5	255.8	-4.7
Are all charter school teachers automatically covered by the district or state's retirement plan?	9.8	27.6	-77.7	-80.2 *	-32.5	-73.1 **	-53.6
Are all charter school teachers automatically covered by the district's health care plan?	177.9 **	172.5	53.6	-50.7	-26.5	-57.2 *	-17.5
If a charter teacher returns to the school district immediately after the leave of absence, are they guaranteed employment in the district?	-30.7	892.7 **	-75.9	635.4 ***	-22.9	-92.6 ***	90.8
In order for a charter conversion to occur, must a majority of teachers approve?	50.6	31.5	106.5	254.4 ***	-49.6	28.4	-56.2
Can charters automatically hire/fire teachers without district oversight?	3.9	-68.6 *	-79.9 *	-31.3	-40.6	61.4	-63.9
Is the default arrangement for all charter schools to be subject to the district's pre-existing collective bargaining agreement?	-49.4	359.7 *	107.3	71.8	23.3	-97.4 **	-44.8
REFORM Unionism Provisions							
Is there a preference for serving at-risk students?	-44	-28.6	-53.7	38.3	68.2	22	32.8
Must the charter school application go through the local school district (i.e. no alternative routes)?	-11.7	262.2	206.5 *	68.6	-38.4	-19.4	45.4
In order for a charter conversion to occur, must a majority of parents approve?	22.3	144.8	16.9	210.5 **	-61.2	-45	-63.1
Do at least some charter schools automatically have more relaxed certification requirements?	-15.4	-3.3	-28.1	7.8	-23.5	87.7	-16.3

NOTES: ^a. We report here the percent change in odds as related to the "A" models reported in Table 4. Table reports the percent change in odds of adopting these charter school provisions, given a change in one standard deviation in the independent variable (e.g. democrat), all else equal. Percentages are based on logit regression models, with the EQUITY variable included. All calculations were made using the listcoef command available in the Stata package written by J. Scott Long and Jeremy Freese (www.indiana.edu/~jlsoc/spost.htm). Significance marked as: *** = p<.01; ** = p<.05; * = p <.10.