



2011 STATE LEGISLATIVE SESSION HIGHLIGHTS

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OVERVIEW

In the past year, public charter schools have garnered intense national scrutiny. Working in our favor, we've had increased political support from the Obama Administration, new pro-public charter school majorities in state capitols, and several recently appointed state superintendents of education that back charters. We've also had increased media attention from the likes of The Oprah Winfrey Show and the release of the films *Waiting for Superman* and *The Lottery*.

Notwithstanding these positive factors, we've also faced significant challenges as we've navigated the turbulent waters of charter school advocacy at the state level. Most significantly, state budgets remain strained, leaving lawmakers little room to make big financial investments in charter schools (such as through new dollars for charter facilities costs). We also still face well-funded opposition that is looking to stymie charters by imposing caps and moratoria, cutting funding, and re-regulating the operation of charter schools.

Thus far, charter school advocates have been able to achieve many positive policy gains, with several more potentially on the way before the year is finished. We have also been able to play strong defense against efforts to roll back previously made gains.

WINS, LOSSES, AND PENDING ACTIVITIES

This report provides a summary of the legislative wins, loses, and pending activities for the charter school movement across the country. To organize the plethora of activity that's taking place, we have organized the summary into the following categories: caps and moratoria; authorizing and accountability; funding and facilities; and new laws. We have tried to be as comprehensive as possible, but please let us know if we've missed some important developments in your states.

CAPS AND MORATORIA

Wins:

- **Arkansas:** Passed a bill that allows an additional five more open-enrollment charter schools per year if the total number of charters is within two of the current cap of 24 open-enrollment charter schools.
- **Florida:** Enacted a law allowing virtual charter schools.
- **Indiana:** Removed existing caps on the number of charter schools that the Mayor of Indianapolis could authorize on an annual basis and on the number of students that can enroll in virtual charter schools.
- **New Mexico:** Defeated a measure that would have imposed a six-year moratorium on charter schools.
- **North Carolina:** Enacted a law to remove the state's current cap on the number of charter schools statewide.
- **Tennessee:** Enacted a bill that removes its current caps on the number of charter schools and a bill that removes its restrictions on the types of students that are eligible to enroll in charter schools.
- **Utah:** Raised its cap on the number of students that can enroll in charter schools statewide.

Losses:

- **Idaho:** A bill to remove the state's cap on charter schools failed to pass.
- **Iowa:** A bill that would have allowed start-up charter schools passed the House but died in the Senate (Iowa only allows conversion charter schools).
- **Mississippi:** A bill that would have allowed start-up charter schools passed the Senate but died in the House (Mississippi only allows conversion charter schools).
- **Missouri:** A bill to allow charter schools to open throughout the state passed the House but died in the Senate (Missouri currently only allows charter schools to open in Kansas City and St. Louis).
- **Texas:** A bill to lift the cap died.

Pending:

- **California:** A bill that would impose a cap of 1,450 charter schools through January 1, 2017 has passed the Assembly and is awaiting action in the Senate.
- **Illinois:** A bill to allow an additional five charter schools devoted exclusively to students from low-performing or overcrowded schools to operate at any one time in Chicago (above the current cap of 75 charter schools in the city) passed both chambers of the legislature and is awaiting action by the governor.
- **Massachusetts:** A bill to improve on moratorium on charter schools is alive.
- **Michigan:** Supporters continue to fight to lift the cap on university-authorized charters.
- **New Hampshire:** A bill to remove the pilot nature of the section of the state's charter school law that allows the state board of education to authorize 20 charter schools has passed the legislature and awaits action by the governor.
- **New Jersey:** A bill to impose a three-year moratorium on charter schools is alive.

- **Ohio:** A bill that would allow start-up charters in certain districts in addition to "challenged" districts (those rated "academic watch" or "academic emergency") is pending.
- **Wisconsin:** A bill to eliminate a cap on the number of students that can enroll in virtual charter schools is pending.

AUTHORIZING AND ACCOUNTABILITY

Wins:

- **Florida:** Established new authorizing standards and processes for schools and networks for schools deemed "high performing" by the state board of education.
- **Indiana:** Created a new statewide alternative authorizer, allowed certain non-profit colleges and universities to serve as authorizers, established authorizer accountability standards and processes, and created automatic closure provisions for chronically low performing charter schools.
- **Minnesota:** Allowed for a one-year extension for current charter school authorizers to become approved by the state.
- **Nevada:** Established a new statewide authorizer.
- **New Mexico:** Established quality control provisions (i.e., approval, performance contracting, oversight, and renewal, non-renewal, and revocation processes) for the charter school sector.
- **North Carolina:** Clarified accountability provisions for chronically low performing charter schools.
- **Oklahoma:** Expanded the types of applicants serving students in juvenile detention centers that are allowed to apply to the state board of education for authorization.
- **Tennessee:** Allowed the Achievement School District to authorize charter schools in certain situations.
- **Wyoming:** Created a uniform application and renewal process for charter schools.

Losses:

- **Mississippi:** Bill to expand eligible authorizing entities passed Senate but not House.
- **Missouri:** The House passed a bill to expand eligible authorizing entities and to require the automatic closure of chronically low performing charters, but it died in the Senate.
- **North Carolina:** A provision to create a new statewide authorizer was stripped from the bill to lift the cap that was enacted by the state.
- **Oklahoma:** Bill to expand eligible authorizing entities failed.
- **South Carolina:** Bill to expand eligible authorizing entities failed.

Pending:

- **California:** There are two bills of note in California: 1) Charter advocates are supporting a bill to increase charter school accountability by prohibiting an authorizer from considering or granting a renewal to a charter school that has existed for more than four years unless the school meets at least one of five standards outlined in the bill. After meeting at least one of those standards, an authorizer may or may not renew a school. A school that is not renewed, but meets the targets, may appeal the decision to the county office of education and the state board of

education; 2) Charter advocates are also fighting an effort to pass a bill that would allow authorizers to use a finding of negative fiscal impact on the school district as a reason to deny a charter petition. Additionally, the bill would only allow an appeal of a denial if the appeal alleges that the school district governing board committed a procedural violation in reviewing the petition. Finally, the bill deletes the countywide and statewide benefit charter option. This bill would vastly restrict charter school appeal rights, ability to serve a broad range of students, and would insert fiscal aspects into the petition approval process for the first time.

- **Illinois:** A bill to create a single-purpose statewide alternative authorizer with strong authorizer accountabilities has passed both chambers and awaits action by the governor.
- **Massachusetts:** A bill to establish a state charter school commission has been introduced.
- **New Hampshire:** A bill to remove the pilot nature of the section of the state’s charter school law that allows the state board of education to authorize 20 charter schools has passed the legislature and awaits action by the governor.
- **New Jersey:** A bill to expand eligible authorizing entities is active. A negative bill that would require a local referendum vote in a school district before the state commissioner of education could approve a charter school application is also active.
- **Ohio:** As part of the budget bill that passed the House, there were several provisions included that would significantly weaken authorizing and accountability in the state. The Senate stripped all of these provisions out of the budget bill that it recently passed. The budget bill is now in a conference committee of the House and the Senate, where lawmakers are hammering out a final version of the bill.
- **Pennsylvania:** A bill is pending that will expand eligible authorizing entities in the state.
- **Wisconsin:** A bill that will expand eligible authorizing entities in the state and establish authorizing accountability requirements has passed the Senate Education Committee and the Assembly Education Committee and awaits action by the full Senate and Assembly.

FUNDING AND FACILITIES

Wins:

- **Arizona:** Minimized funding cuts to charter schools due to state budget constraints (\$50 to \$55 per student for charter schools compared to \$135 per student for traditional public schools).
- **Arkansas:** Allowed charter schools to occupy commercial spaces to house a school.
- **Indiana:** Established the Charter School Facilities Assistance Program to provide several avenues for charter school facility funding and created provisions in the law to allow charter schools better access to surplus district buildings.
- **Massachusetts:** Defeated a measure to change the state funding formula to limit special education funding for charter schools.
- **Michigan:** Won an \$11 per student increase for charters during a tough state budget, assured that charters were included in supplemental appropriations triggered by federal stimulus dollars (at \$197 per student), and secured charter school access to the state’s new “best practices” fund.
- **Oklahoma:** Enacted a law creating charter school eligibility for government lease rates and a law allowing charter schools to be considered as governmental agencies for tax exemption purposes.

- **Tennessee:** Enacted a law to provide charter schools with free or low cost access to school district facilities.
- **Utah:** Passed a bill to give charter schools greater flexibility in using start-up funds, a bill to exempt charter schools that purchase land for future school construction from paying property taxes, and a bill to reinstate charter school administration funding at \$100 per student.
- **Wisconsin:** Enacted a law to transfer decision-making power over vacant facilities from Milwaukee Public Schools to the City of Milwaukee.

Losses:

- **Colorado:** A bill that would have provided charter schools with enhanced ability to request use of underused or unused district facilities failed.
- **Connecticut:** A bill to provide infrastructure support and funding to charter schools failed.
- **Idaho:** A bill to provide a mechanism for charter schools to obtain a state guarantee for facility loans died.
- **Maryland:** A bill to establish the Public Charter School Revolving Loan Fund was defeated in the House. Another bill requiring county boards of education to inform public charter schools of unused school buildings also failed.
- **North Carolina:** Provisions to provide more equitable funding and facilities support to charter schools were stripped from the bill to lift the cap that was enacted by the state.
- **Oklahoma:** A measure to allow a governing body of a charter school to issue bonds failed.
- **Utah:** A bill to change how “local replacement funding” is calculated for charters failed.

Pending:

- **California:** Charter supporters are working to protect the current funding for charter school facilities aid programs.
- **Oregon:** Charter supporters are working to get a bill passed that will provide more equitable funding to charters.
- **Pennsylvania:** There are two bills related to charter funding that are pending in the legislature: 1) The first bill proposes changes to the funding formula for charter schools adds additional deductions a district can take from the gross average cost per student before flowing the funds to a charter school. It also eliminates the requirement that districts pay charters for some children enrolled in kindergarten; 2) The second bill provides for direct payment of funds from the state department of education to all charters and creates an advisory committee to investigate and recommend changes to the currently complicated and unfair method for funding charters.
- **Rhode Island:** Two active bills would raise facilities aid reimbursement for charters from 30% to 40% of costs over a two-year period.
- **South Carolina:** Passed a bill that increases funding for state-authorized brick and mortar charter schools by \$3,250 per student and for state-authorized virtual charter schools by \$1,750 per student. This funding is now secured as a line item in the state budget (previously it was just a year to year proviso). The governor is expected to sign this bill.
- **Texas:** A bill to extend the state’s permanent school fund guarantee to sound charter schools is pending.

NEW LAWS

Pending:

- **Maine:** As of June 21, 2011, a charter schools bill has passed key votes in the House and Senate. When the Maine legislature reconvenes on June 28, 2011, it is expected to conduct final procedural votes in both chambers and send the bill to the governor, who is eager to sign it.

Losses:

- **Alabama:** The House Education Committee passed a weak charter schools bill, which ended up dying on the House floor.
- **Kentucky:** The Senate passed a weak charter schools bill (SB 3). A much stronger bill was introduced in the House (HB 103). However, neither bill received a hearing in the House before the session ended and died.
- **Montana:** A strong charter schools bill passed the House, but died in the Senate.
- **Vermont:** An effort to pass enabling charter school legislation failed this session.
- **West Virginia:** Charter bills were introduced in the House and Senate, but failed to move.