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BIG LEGISLATIVE WINS FOR CHARTER SCHOOLS NATIONWIDE: WHY 2021 WAS THE YEAR OF PUBLIC SCHOOL CHOICE

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SUMMARY

“If there’s one thing the pandemic has taught us about education, it’s that our parents need choice.”

That quote, from Iowa Governor Kim Reynolds’s Condition of the State address in January 2021, sums up what many state leaders were thinking during the 2021 state legislative sessions. While the COVID-19 pandemic is impacting public education in a variety of ways, it is perhaps most notable for highlighting how important it is for families to have public school choices. In states where those choices were lacking, state leaders often pushed in 2021 to get bills enacted that would expand public school options, including public charter schools.

In fact, 2021 proved to be a banner year for charter school legislation across the country. Four developments in particular stand out.

First, we saw three states that had long been holdouts on charter schools enact potentially game-changing pieces of legislation. **Iowa**, **West Virginia**, and **Wyoming** created statewide authorizers. Previously only districts could authorize, leading to very few schools across all three states.

Second, **Ohio**, which had long been known for the struggles of too many charter schools there, built upon the many positive legislative changes that have been made over the past several years by enacting a package of improvements in the budget. Perhaps most significantly, Ohio eliminated geographic restrictions on startup charter schools, which prohibited charter schools from locating in most districts. Now, they will be allowed to open in any community in the state.

Third, we saw notable progress on the perennial issue of charter school student funding equity in many states. **Arizona**, for example, created a \$30 million transportation program that will help charter schools develop new transportation solutions for their students and provide parents with direct grants to cover school transportation costs. **Colorado** provided a \$250 million increase to the cap on its Moral Obligation Program, one of the nation’s most innovative charter school facility programs (and one that has significantly reduced the costs of borrowing for charter schools).

Nevada secured equitable funding for charter school students by rewriting its public school funding system and secured \$15 million in COVID-19-relief funding for charter schools that serve Title I students. For the first time in **New Jersey**, state leaders included \$5 million of charter school facilities improvement aid in the budget.

Oklahoma established the “Redbud Fund.” Charter schools and school districts with low property tax revenue will benefit from this fund as it provides funding to “level up” charter schools and school districts to the per pupil average for building fund revenue. This fund is projected to provide approximately \$350 per student in facility funding for charter schools and school districts.

Last, charter school supporters rallied to defeat anti-charter school bills in several states, including a number of deep blue ones. **California** defeated the most damaging charter school bill this session. This bill would have imposed a significant number of new restrictions and costs on charter schools. **Illinois** fought off multiple anti-charter school bills—including one that would prohibit charter school leaders from talking about the pros and cons of unionization with their staff members. **Maine** mitigated a bill that would have gutted charter school authorizing and funding. **Rhode Island** defeated bills that would have placed a moratorium on growth and that would have created a burdensome enrollment process.

This report provides a summary of this year’s state legislative activity across the country, organized into the following categories: funding and facilities, authorizing and accountability, other issues, and no-law states.

FUNDING AND FACILITIES

- ▶ **ALABAMA** secured \$400,000 in funding for pre-planning grants for founding groups to write strong applications.
- ▶ **ARIZONA** created a \$30 million transportation program for charter school families. This program will help charter schools to develop new transportation solutions for their students and provide parents with direct grants to cover school transportation costs.
- ▶ **COLORADO**
 - Provided a \$2 million increase to the Charter School Institute mill levy equalization funding, bringing the total amount of funding to \$9 million.
 - Provided a \$250 million increase to the cap on the Moral Obligation Program.
 - Protected the Charter School Capital Construction Fund.
 - Required that the state develop and maintain a list of unused state property and determine if that property is suitable for construction or placement of certain community needs such as affordable housing or child care facilities. The legislature authorized the state to seek proposals from qualified developers to construct facilities that fit these needs. It included public schools, inclusive of charter schools, as one of the possible beneficiaries of this process.
- ▶ **CONNECTICUT**
 - Raised the public charter school per-pupil tuition rate to the statutory foundation amount of \$11,525.
 - Added additional money to the state budget to be used for phasing in weighted need-based funds for public charter school students.
 - Funded additional pre-K and middle school grades for the Stamford Charter School for Excellence.
- ▶ **GEORGIA**
 - Allowed state and local charter schools more than one opportunity to opt into the State Health Benefit Plan.



- Established a per-pupil funding weight for local charter school students (\$106 per pupil starting in fiscal year 2023).
 - Ensured districts allocate a proportionate share of federal funding to local charter schools.
 - Approved an additional \$1 million in funding for charter school facilities in the state’s fiscal year 2022 budget, which means annual funding in Georgia’s Charter School Facility Grant will now total \$4.5 million. This fund will provide every charter school in Georgia approximately \$50,000 in grant funding to help offset facility costs in the upcoming fiscal year.
- ▶ **IDAHO** deleted a provision in law that state charter facilities funding would be decreased by 10% if state K-12 education funding decreased by as little as \$0.01.
 - ▶ **INDIANA** increased the charter school facilities per-pupil allotment from \$750 per student this year to \$1,000 per student next year and then to \$1,250 per student the following year.
 - ▶ **MAINE** mitigated a bill that would have gutted charter school funding.
 - ▶ **MISSOURI** appropriated \$5 million for charter public school deferred maintenance. This provision requires that a charter school must have been in operation for at least 10 years, have a 20% reserve, is not part of a for-profit network, and own its own building.
 - ▶ **NEVADA**
 - Secured equitable funding for charter school students in the state’s rewriting of its public school funding system.
 - Secured \$15 million in COVID-19-relief funding for charter schools that serve Title I students.
 - ▶ **NEW HAMPSHIRE**
 - Increased charter school lease aid by \$20,000 per school.
 - Enabled the state department of education to compile a list of all unused public school facilities in the state and give charter schools the right of first refusal to purchase or lease those facilities.
 - ▶ **NEW JERSEY** included \$5 million of charter school facilities improvement aid in the budget. Funds will be awarded as reimbursement grants to charter schools requiring emergent health and safety facilities improvements and will be administered by the New Jersey Department of Education’s Office of Charter and Renaissance Schools.
 - ▶ **OHIO**
 - Raised funding for the quality charter school program from \$30 million to \$54 million per year.
 - Doubled the charter school facility allowance from \$250 per pupil to \$500 per pupil.
 - Created a clearer definition of an “unused facility” to prevent districts from withholding underutilized facilities from charter schools for lease or purchase under right of first refusal laws.
 - ▶ **OKLAHOMA**
 - Established the “Redbud Fund.” Charter schools and school districts with low property tax revenue will benefit from this fund as it provides funding to “level up” charter schools and school districts to the per pupil average for building fund revenue per pupil. This fund goes into effect this year and is projected to provide approximately \$350 per student in facility funding for charter schools and school districts.
 - Raised the cap on its tax credit scholarship program. As part of this effort, the state also increased the cap on donations to public schools and expanded eligible public schools to

include charter schools. Every school district in the state – including charter schools – is now eligible to fundraise and offer their donors a tax credit of up to 75% of their donation. Each school district and charter school can provide up to \$200,000 in tax credits.

▶ **TENNESSEE**

- Made appropriations for fiscal year 2022 that includes \$6 million in recurring funding and \$18 million in non-recurring funds for charter school facilities.
- Increased the amount for which a local board of education or the governing body of a public charter school must make purchases or expenditures by competitive bids from \$10,000 to \$25,000. This provision is only applicable in counties with a population greater than 40,000.
- Clarified that public charter schools, including charter schools that are authorized by the achievement school district or the Tennessee Charter School Commission, are eligible to participate in the state insurance plan.

▶ **TEXAS**

- Exempted public charter schools from property tax on leased school buildings.
- Allowed public charter schools to apply for the Jobs & Education for Texans program grants, which fund career and technical training program equipment.
- Expanded eligibility for Teacher Incentive Allotment bonuses.

▶ **UTAH**

- Established the Charter School Closure Reserve account for repayment of funds from a closed charter school. The legislature seeded the fund with \$1 million. For the next several years, each charter school will pay \$2 per student, at which time the account should reach \$2 million.

▶ **WASHINGTON** secured a provision in the capital budget that provides \$2.5 million in funding for a charter school facility project.

AUTHORIZING AND ACCOUNTABILITY

▶ **COLORADO** defeated a bill that would have made it virtually impossible for charter schools to ever overturn negative district decisions against them.

▶ **FLORIDA**

- Allowed state universities and Florida College System institutions to solicit applications and sponsor charter schools upon approval by the Florida Department of Education.
- Authorized charter schools to provide career and professional academies.

▶ **IDAHO** mitigated a bill that would have weakened accountability.

▶ **IOWA**

- Allowed charter school applicants to apply directly to the state board of education (which is now the state's only authorizing option).
- Strengthened the charter application, contracting, monitoring, renewal, and closure processes.
- Strengthened requirements for charter schools that contract with education service providers.

▶ **MAINE** mitigated a bill that would have gutted charter school authorizing.

- ▶ **MINNESOTA** established a timeline for authorizers to make required changes when the authorizer is in corrective action, allowed a charter school to transfer authorizers if the authorizer is still in corrective action after 130 business days, and clarified the actions the state commissioner of education may take against an authorizer.
- ▶ **TENNESSEE**
 - Clarified exit criteria and pathways for schools currently in the Achievement School District (ASD). Additionally, the legislation provides schools in the ASD with a higher performance record to seek approval directly from the Tennessee Charter School Commission and to retain access to their facilities rent free for the remainder of their charter contract plus three years.
- ▶ **WASHINGTON** secured a provision in the budget that allows for a less burdensome and less costly accountability audit to satisfy the time-consuming and extraordinarily expensive performance audit requirement and clarifies that the state auditor’s office rather than the school pays for these audits.
- ▶ **WYOMING**
 - Authorized the State Loan and Investment Board to be a statewide authorizer.
 - Strengthened the charter application, contracting, monitoring, renewal, and closure processes.
 - Provided application requirements for full-time virtual charter schools.
 - Provided application requirements for schools that contract with education service providers.

OTHER ISSUES

- ▶ **CALIFORNIA** defeated the most damaging charter school bill this session. This bill would have imposed a significant number of new restrictions and costs on charter schools.
- ▶ **ILLINOIS** fought off multiple anti-charter school bills—including one that would prohibit charter school leaders from talking about the pros and cons of unionization with their staff members.
- ▶ **IOWA** strengthened the autonomy of charter schools.
- ▶ **NEVADA**
 - Mitigated a bill that would have made it more difficult for charter school governing boards to contract with Charter Management Organizations (CMO) and Education Management Organizations (EMO) and for CMO- and EMO-affiliated schools to replicate and expand.
 - Mitigated a bill that would have placed burdensome teacher certification requirements on charter schools.
- ▶ **NEW MEXICO** required each charter school to provide an enrollment preference to children of that school’s employees.
- ▶ **OHIO** eliminated geographic restrictions on startup charter schools. Since their inception, charter schools have been prohibited from locating in most Ohio districts. Now, they will be allowed to open in any community in the state.
- ▶ **OREGON**
 - Allowed a public charter school to implement a weighted lottery that favors historically underserved students.
 - Allowed a public charter school to give priority for admission to students who were enrolled in

a preschool or prekindergarten program operated by the public charter school. It also allows them to give priority to students who have an economic or academic disadvantage that requires special services or assistance, including students who are from economically disadvantaged families, are identified as having special educational needs, are limited in proficiency in the English language, are at risk of dropping out of high school, or do not meet minimum standards of academic proficiency.

- Provided that a public charter school may not limit student enrollment based on gender identity.
 - Provided that “historically underserved students” can be defined as students who are at risk because of gender identity.
- ▶ **RHODE ISLAND** defeated bills that would have placed a moratorium on growth and that would have created a burdensome enrollment process.
 - ▶ **TEXAS** fixed the designation for Dropout Recovery Schools so they are evaluated and funded fairly.
 - ▶ **WYOMING** included a cap on charter schools authorized by the State Loan and Investment Board (no more than three) until the state superintendent of public instruction reviews the impacts and benefits of charter schools and provides a report to the joint education interim committee recommending that additional charter schools should be authorized.

NO LAW STATES

There are currently five states that have not enacted charter school laws: Montana, Nebraska, North Dakota, South Dakota, and Vermont. In 2021, a charter school bill was introduced in the Montana House, but it died in the House Education Committee. For the second year in a row, a charter school bill was introduced in South Dakota. This bill passed the Senate Education Committee but died on the Senate floor.