NATIONAL ALLIANCE FOR PUBLIC CHARTER SCHOOLS

2023 STATE LEGISLATIVE SESSION HIGHLIGHTS

FOR PUBLIC CHARTER SCHOOLS

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SUMMARY

In 2023, charter school advocates continued to make legislative gains in statehouses across the country. These gains were made in red, blue, and purple states, oftentimes in ways that showed bipartisan support for charter schools remains firmly in place.

In looking at the results of this year's legislative sessions across the country, four developments in particular stand out. First, in perhaps the biggest win this year, **Montana** became the 46th state to enact a charter school law. After a roller coaster ride of a session, Governor Gianforte signed the Community Choice Schools Act into law on May 16, 2023. This bill creates a new statewide charter school authorizing entity and provides charter schools with the flexibility to innovate while holding them accountable for results.

Second, charter school advocates notched an unusually large number of major wins on funding and facilities legislation, with especially significant progress in **Ohio**, **Indiana**, **Wisconsin**, **Colorado**, and **Wyoming**.

Ohio included three notable provisions in its budget that will move the needle in a big way on funding equity for charter school students. It provided that:

- Charter schools that register strong performance on key report card indicators will now receive an additional $3,000 per economically disadvantaged student and $2,250 annually for all other students (up from $1,416 and $809, respectively).
- All brick-and-mortar charter schools will receive $1,000 per pupil for facilities (up from $500 per pupil).
- All brick-and-mortar charter schools will now receive an additional $650 per pupil.

Indiana also took a number of major steps this year on the funding and facilities fronts that will result in more equitable funding for charter school students. Those steps include:

- Charter schools will now receive a share of operating and school safety referendum dollars in Marion, Lake, St. Joseph, and Vanderburgh counties. If school corporations in other counties choose to share referendum dollars, they are exempted from a law that requires districts to sell or lease underutilized district facilities to charter schools for $1.
- Charter schools will now receive a share of the incremental growth in local property tax dollars with charter school students starting in Fiscal Year 25 in Marion, Lake, St. Joseph, and Vanderburgh counties.
- $25 million will be allocated to a newly established capital grant fund to assist charter schools with facility costs.
- All charter schools will be able to utilize the Indiana Bond Bank and the Common School Fund for low-interest technology and construction loans.
- The existing charter school grant increased from $1,250 per student to $1,400 per student.

Wisconsin provided a historic increase in funding for independent charter schools from $9,264 to $11,385 in 2024 and to $11,729 the year after that, with much of the increases due to a permanent change made in state law to narrow the funding gap between independent charter schools and district schools. **Colorado** provided an increase of $10 million in funding for Charter School Capital Construction and a $10 million increase to the Charter School Institute mill levy equalization funding. **Wyoming** clarified that charter schools are entitled to 100% of state average daily membership funding, 100% of state transportation funds and special education funds, and 100% of retirement funds.

Third, charter school supporters opened the door to new types of authorizers in several states, including in **Montana** (new state authorizer), **Nevada** (cities

and counties), **North Carolina** (new state authorizer), **Oklahoma** (new state authorizer, more types of universities, and accredited private institutions of higher learning), **Utah** (private institutions of higher education), and **Wyoming** (new state authorizer).

Fourth, charter school supporters successfully played successful defense on anti-charter school efforts in several states, with three of the most notable defensive victories in blue states. In **New Mexico**, the Senate Education Committee voted down a charter school moratorium bill that was proposed by the Senate President Pro Tempore by a 7-1 margin. The bill would not have allowed any more charter schools in school districts where 20% of the students already attend a charter school.

In **California**, Governor Newsom vetoed a bill that would have made harmful changes to the Charter School Facility Grant program and unnecessarily raise facilities cost for charter schools that want to establish or expand in low-income communities across the state. In **Michigan**, the legislature reversed a 20% cut to the funding of virtual charter schools proposed by the governor and instead level funded these schools.

This report provides highlights from this year's state legislative activity across the country, organized into the following categories: funding and facilities, authorizing and accountability, other issues, no law states, and harmful legislation.

FUNDING AND FACILITIES

Alabama

- Provided $10 million in one-time supplemental funding to charter schools, to be distributed on a per-pupil basis.
- Secured $400,000 in funding for pre-planning grants for founding groups to write strong applications.
- Clarified that conversion charter schools should get all of the per pupil dollars associated with the school.

Arkansas

- Created a facilities loan fund for charter schools.

California

- Defeated a bill that would have made harmful changes to the Charter School Facility Grant program and unnecessarily raise facilities cost for charter schools that want to establish or expand in low-income communities across the state.

Colorado

- Provided an increase of $10 million in funding for Charter School Capital Construction.
- Provided a $10 million increase to the Charter School Institute mill levy equalization funding, bringing the total amount of funding to $27 million.

Connecticut

- Increased the charter school line item in the state budget by $15 million.
- For the first time in nearly a decade, funded the opening of two new charter schools in the state.

Florida

- Provided more than $200 million for construction and upkeep of public charter schools.
- Required authorizers to timely review and reimburse federal grant funds to charter schools within 60 calendar days from the date of submission.
- Revised charter school eligibility criteria to receive capital outlay funds. Clarified that charter school capital outlay funding shall consist of state funds, when such funds are appropriated, and revenue resulting from the discretionary 1.5 millage and removed the state funding threshold and revised the calculation methodology for the Florida Department of Education to use to allocate state funds to eligible charter schools. Established a five-year glide path for implementation.

Idaho

- Raised the cap on the overall capacity of the state's credit enhancement tool for charter schools, allowing more schools to participate and obtain lower interest rates on bonds.
- Created a $50 million revolving loan fund to help new and recently established public charter schools obtain lower interest rates on loans, so more taxpayer dollars stay in the classroom instead of being redirected toward high-interest facility loans.

Illinois

- Provided $20 million to its charter school facilities fund to provide per pupil, state funded revenue for facilities costs for every charter public school in Illinois.

Indiana

- Required sharing of operating and school safety referendum dollars in Marion, Lake, St. Joseph, and Vanderburgh counties. If school corporations in other counties choose to share referendum dollars, they are exempted from a law that requires districts to sell or lease underutilized district facilities to charter schools for $1.
- Required sharing of the incremental growth in local property tax dollars with charter school students starting in Fiscal Year 25 in Marion, Lake, St. Joseph, and Vanderburgh counties.
- Allocated $25 million to a newly established capital grant fund to assist charter schools with facility costs.
- Allowed all charter schools to utilize the Indiana Bond Bank and the Common School Fund for low-interest technology and construction loans.
- Increased the existing charter school grant from $1,250 per student to $1,400 per student.

Michigan

- Defeated a governor-proposed 20% cut to the funding of virtual charter schools. Charter school supporters successfully worked with the legislature to reverse this proposed cut and provide level funding to virtual charter schools.

Mississippi

- Provided charter school teachers with debit cards for teacher supplies, which are already available to public school teachers.

Nevada

- Authorized the State Public Charter School Authority to award money to a charter school for the transportation of pupils and appropriated $7,000,000 for both the 2023-24 and 2024-25 school years for this purpose.

New Hampshire

- Increased the per-pupil funding for charter schools to $9,000 (up from approximately $7,300).
- Required the state commissioner of education to engage an independent mediator for appraisals of unused school district property that a charter school has made an offer to purchase or lease.

New Jersey

- Included $20 million for charter school facilities funding in its state budget.

North Carolina

- Allowed counties to utilize property taxes to provide direct appropriations to charter school capital needs, including real property, building construction and renovation, and furnishings and equipment (including technology).

Ohio

- Provided that charter schools that register strong performance on key report card indicators will now receive an additional $3,000 per economically disadvantaged student and $2,250 per non-disadvantaged student annually (up from $1,416 and $809 in Fiscal Year 23).
- Provided that all brick-and-mortar charter schools will receive $1,000 per pupil for facilities (up from $500 per pupil in Fiscal Year 23).
- Provided that all brick-and-mortar charter schools will now receive an additional $650 per pupil.

Oklahoma

- Appropriated $125 million to the Redbud Fund, which provides grants to school districts and eligible charter schools that are below the state average in local property taxes and the county-wide millage per student.
- Added a requirement for local school districts to include the charter schools within their boundaries in planning discussions for proposed bonds.

Texas

- Prohibited municipalities from discriminating against public charter schools in such areas as zoning, permitting, and fees.

Utah

- Increased the Local Replacement Fund for charter schools by $175 per pupil.

Washington

- Secured a provision in the final supplemental operating budget that provides enrichment funding for certain charter school students. This one-time funding for the 2023-24 school year is limited to small school districts, tribal compact schools, and charter schools that have less than 800 students, are in urban or suburban areas, and have less than $20,000 per pupil in budgeted expenditures for the 2022-23 school year. Overall, the Washington State Public Charter Schools Association estimates that this provision will provide approximately $6.4 million in additional public funds for charter schools in the 2023-24 school year.
- Allowed district-authorized charter schools to operate Transition to Kindergarten (TTK) programs immediately but placed a two-year moratorium on state-authorized charter schools, which are permitted to operate TTK programs beginning in the 2025-26 school year.

West Virginia

- Provided $2.4 million in supplemental funding that will be distributed in lump sum payments to the four active charter schools. This supplemental funding bill was necessary to correct an error by the West Virginia Department of Education that would have cut charter school funding by nearly one-third. The $2.4 million provides charter schools with the funding they were promised. It is not additional money beyond the roughly $6,000 per student that is allocated in the foundation formula.
- Increased charter school student funding from 90 percent to 99 percent of the foundation allocation for students in traditional county schools (a roughly $600 per charter school student funding increase beginning in 2023-24).
- Made charter schools eligible for Safe Schools funding.

- Expanded access to unused public facilities so that charter schools may use them for educational purposes.

- Established a charter school stimulus fund that will be administered by the West Virginia Professional Charter School Board.

Wisconsin

- Provided a historic increase in funding for independent charter schools from $9,264 in 2022-23 to $11,385 in 2023-24 and to $11,729 in 2024-25. $1,727 of the increase each year (which translates to 81% of the increase in 2023-24 and to 70% of the increase in 2024-25) is due to a permanent change made in state law to narrow the funding gap between independent charter schools and district schools.

Wyoming

- Clarified that charter schools are entitled to 100% of state average daily membership funding, 100% of state transportation funds and special education funds, and 100% of retirement funds.

- Provided that a charter school shall not be required to pay rent for space which is deemed available and adequate by the state construction department within the applicable district for operation of the charter school.

- Required that the state construction department review requests submitted by charter schools to determine whether space exists within the applicable district for operation of the charter school that is available and adequate.

AUTHORIZING AND ACCOUNTABILITY

Alabama

- Streamlined process for appointing members of the Alabama Charter School Commission.
- Required authorizers to go through annual training.

Arkansas

- Created an expedited application process for charter renewals for existing schools and operators that are above the statewide average for the rating system, showing exceptional growth, and abiding by all operational and financial requirements.

Colorado

- Changed the standard application window under statute to 18 months instead of 12 months so that schools can still open in the year they plan to even if they run into appeals or other challenges.

Nevada

- Allowed a city or county approved by the state department of education to authorize a charter school. However, a city or county is prohibited from authorizing a new charter school or allowing an existing charter school sponsored by the city or county to increase enrollment or operate an additional campus of an existing charter school sponsored by the city or county if the total number of pupils enrolled in charter schools sponsored by the city or county is seven percent or more of the number of pupils enrolled in public schools in the city or county other than charter schools that are not sponsored by the city or county.

North Carolina

- Converted the current "Charter Schools Advisory Board" into the "Charter Schools Review Board" and transfers the responsibility for approving or denying charter school applications, renewals, and revocations from the State Board of Education to the Charter Schools Review Board.
- Provided that either the applicant, charter school, or the State Superintendent of Education can appeal to the State Board of Education the decision of the Review Board to grant, renew, revoke, or amend a charter within 10 days of the Review Board's decision. The State Board of Education has final decision-making authority on appeal for approval of charter applications, renewals, revocations, and amendments.
- Required the Review Board to make decisions on "fast-track" replication applications no later than October 15 of the year immediately preceding the year of proposed school opening. Any appeal of the Review Board's decision would be required to be heard and decided by December 1st.
- Provided that charter schools that received a decision on an application, charter amendment, renewal, or termination from the State Board of Education after July 1, 2022, that differed from the recommendation of the Charter School Advisory Board could apply for reconsideration by the Review Board within 60 days of the enacting date of the legislation.

Oklahoma

- Established a statewide charter school board by combining the charter school duties and responsibilities of the Statewide Virtual Charter School Board and the State Board of Education into a single statewide charter school agency. The

statewide charter school board will become the sole statewide virtual charter school authorizer and an additional authorizer option for brick-and-mortar charter schools.

- Provided that accredited private institutions of higher learning may authorize charter schools.
- Removed technology centers as potential authorizers.
- Removed the requirement for sponsoring universities to maintain a teacher education program.
- Removed the administrative fees to be paid by charter schools to a statewide authorizer. All other authorizers may charge not more than 3% of State Aid for administrative services rendered. Clarified how administrative fees are to be used and publicly reported by authorizers.
- Added requirement for charter school applications to be submitted first to the local school district where the charter school will be located. The school district board must approve or deny it within 60 days. Applicants may appeal a denial to the local school board or apply to any other approved authorizer.
- Added a requirement for charter school contracts to include performance provisions based on a performance framework and outlined details for what the framework must include.
- Added the ability for authorizers to renew charter contracts for up to 10 years.
- Added the ability for an authorizer to require a corrective action plan to address expressed concerns prior to renewal or as a condition of renewal.
- Added the ability for authorizers to selectively terminate or not renew specific school sites within a charter contract.

Tennessee

- Required authorizers to adopt a progressive intervention policy whereby authorizers are able to notify their charter schools of perceived problems and provide opportunities for the schools to remedy such problems prior to revocation.
- Adjusted the mandatory charter school default closure law that a charter school must be revoked if the school appears on the state's priority list (bottom 5% of schools statewide) for two consecutive cycles by removing the automatic closure if a school appears on the list in 2022 or 2023 as an adjustment to COVID impacts and the lack of state testing in 2019-20 and accountability hold harmless provisions in 2020-2021.
- Adjusted the optional charter school closure law for when a charter school appears on the priority list for the first time by exempting schools landing on the list in 2022 or 2023.

Utah

- Required charter school authorizers that have authorized more than 10 charter schools at the same time to use procedures akin to those under the Administrative Rulemaking Act when adopting standards, guidelines, or policy.
- Permitted private institutions of higher education to become authorizers.

Washington

- Clarified in several areas of the law how charter school and authorizer accountability works in the state, resulting, in some cases, in additional training and reporting requirements for charter schools and authorizers.

Wyoming

- Established the Wyoming Charter School Authorizing Board whose mission is to authorize high-quality public charter schools throughout the state.

- Allowed an authorizer to withhold up to 3% in annual fees from a charter school's budget to pay for any costs associated with authorizing the charter school. Fees must be used exclusively for authorizing duties.

- Made the application and contracting processes more transparent, rigorous, and aligned with national best authorizing practices.

OTHER LEGISLATIVE VICTORIES

Arkansas

- Eliminated the cap on state-authorized charter school growth.
- Allowed any district receiving a "D" or "F" letter grade to be freed from certain statutory requirements and receive innovation dollars if they partner with a "transformation partner," which can include a state-authorized charter school.

Arizona

- Enacted legislation aimed at reducing the regulatory burden on Arizona's charter schools. The legislation:
  - Streamlined the processes for required website postings.
  - Allowed for additional flexibility in the individuals required to receive dyslexia training.
  - Clarified the language of the parental rights handbook, properly recognizing the differences between charter schools and school districts.
  - Allowed additional time for a school to request student records from the student's prior school.
  - Allowed flexibility in the maintenance of employment records subject to inspection by parents.
  - Eliminated the requirement that schools use the State Board-adopted kindergarten entry assessment. Schools will still be required to administer a kindergarten entry assessment. However, they will be able to choose the assessment they prefer.

Colorado

- Clarified the "public entity" status of charter schools.

Indiana

- Extended the maximum length of a charter contract from seven to 15 years.

Minnesota

- Enacted legislation that provides for more transparency and accountability regarding charter schools' relationships with charter management organizations and education management organizations.
- Enacted legislation that requires applications for new schools and site expansions to include a market need and demand study, which must include the following: current and projected demographic information; student enrollment patterns; information on existing schools and types of educational programs currently available; characteristics of proposed students and families; availability of properly zoned and classified facilities; and quantification of existing demand for the school or site.

New Mexico

- Voted down a proposed charter school moratorium by a 7-1 margin in the Senate Education Committee. The bill would not have allowed any more charter schools in school districts where 20% of the students already attend a charter school.

New York

- Included a provision in the state budget that allows 22 new charter schools to be authorized in the state, 14 in New York City and eight outside of New York City. None of the available 14 charter schools for New York City may be located in a community school district that already has 55% or more of its student population attending charter schools.

North Carolina

- Prevented any alleged impact on a Local Education Agency from consideration to approve, renew, or terminate a charter school.
- Required consideration of student subgroup performance in some charter school renewals.
- Removed previous restrictions on growth for individual charter schools that are not low performing.
- Prohibited local boards of education from discriminating against charter school students in applying or being admitted to any school or special program operated by the Local Education Agency.

Oklahoma

- Removed vague language requiring applicants to demonstrate community support.
- Added a requirement to include proposed Educational Management Organization (EMO) contracts in applications, a sponsor duty to approve or deny EMO contracts, a requirement for sponsors to include a review of any EMO contracts in annual performance evaluations of the charter schools they sponsor, and a requirement for the administrative costs paid to an EMO to be included when calculating the administrative costs of charter schools.
- Added requirement for all charter school governing board members to be residents of the state and a requirement for a minimum of two charter school governing board members to be residents within the geographic boundaries of the charter school.

Tennessee

- Updated the charter school enrollment lottery preferences for students who are at-risk, clarified the enrollment preference for children of charter school employees, and clarified and limited enrollment of out-of-district students.

Texas

- Allowed charter schools to apply for expansion up to 36 months in advance of opening, rather than the current 18 months.

West Virginia

- Clarified that institutions of higher education are permitted to operate charter schools.
- Expanded eligibility for charter school students to participate in public school sports.
- Clarified that charter schools are exempt from many state board policies and rules.

Wyoming

- Provided that authorizers serve as the Local Education Agencies for their charter schools.
- Allowed only one charter school to be authorized by the Charter School Authorizing Board between July 1, 2026, and July 1, 2028. If a charter school currently authorized by the state ceases to operate, a charter school may be approved to take its place.

NO-LAW STATES

On May 16, 2023, Montana became the 46th state to enact a charter school law when Governor Gianforte signed the Community Choice School Act into law. This bill creates a new statewide charter school authorizing entity and provides charter schools with the flexibility to innovate while holding them accountable for results. Montana enacted a second charter school law this session as well. This weaker law fails to provide charter schools with the flexibility, accountability, and independence from districts that are integral to the public charter school model.

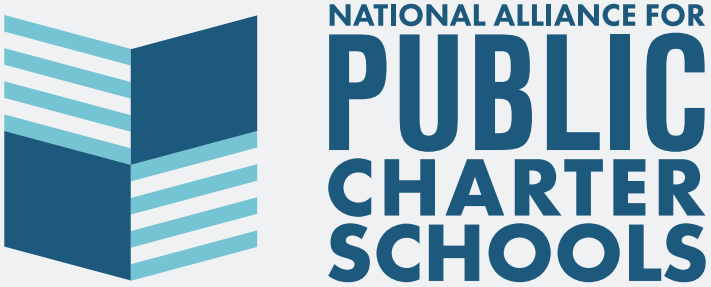
There are now four states that have not enacted charter school laws: Nebraska, North Dakota, South Dakota, and Vermont. While North Dakota didn't enact a charter school law in 2023, it did pass a bill that charged legislative management with studying school choice models implemented nationally, including charter schools. The legislative management must report its findings and recommendations, together with any legislation to implement the recommendations, to the 69th legislative assembly, which convenes in 2025.

HARMFUL LEGISLATION

Every year, charter school opponents across the country introduce a slew of anti-charter school bills or occasionally veto a pro-charter school bill. In most instances, charter school supporters are able to defeat or mitigate these actions. However, in rare instances, an anti-charter school bill is enacted, or a veto is sustained. In these instances, the National Alliance and our state partners will work to overcome these actions in the legislature or the courtroom.

- Despite strong opposition from the charter school community and their allies, Illinois enacted a bill that requires all charter schools to have a union neutrality clause in their contracts, which is essentially a "gag order" clause limiting the ability of school leaders to communicate with their staff members.

- In New Mexico, the governor vetoed a bill that would have provided for transparency on how authorizers spend the money that they withhold from charter schools for accountability and support, which is currently 2% of a charter school's per-pupil funds.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