# Charter Choice

Lawmakers are taking steps to ensure charter schools can continue to grow at a robust pace.

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—MAINE SENATOR GARRETT PAUL MASON

# **BY SUZANNE WEISS**

apping a hard-fought struggle between charter school advocates and opponents, in June Maine became the 41st state to adopt legislation allowing the creation and oversight of charter schools.

Organizations representing public school teachers, local school boards and district superintendents had, for 17 years, blocked every attempt to pass a charter law.

"This legislation builds upon more than 15 years of research and best practices for charter school authorization in 40 states and the District of Columbia," says Maine Senator Garrett Paul Mason, the bill's sponsor. "We've learned from their experiences, and have had many years to examine what works and what doesn't to design legislation that will ensure Maine has high-quality public charter schools."

The Maine affiliate of the National Education Association, the country's largest teachers' union, opposed Mason's bill. Even though it eventually lost the battle, the final legislation contained two provisions for which the teachers' union fought hard. First, the bill requires Maine's



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charter schools be staffed only by state-licensed teachers and principals. Second, it does not prohibit collective bargaining rights for charter school teachers.

"I want to make clear that we do not oppose charter schools on their face," says Rob Walker, executive director of the Maine Education Association, the NEA affiliate. "But there are certain things we think are crucial in the design, implementation and oversight of charter schools, and we were successful in arguing for several of those points."

Minnesota was the first state, in 1991, to pass a charter school law. California lawmakers followed in 1992. By 1995, 19 state legislatures had passed laws, and by 2003, 40 had.

For the nation's school choice movement, the recent vote in Maine was the latest in a string of victories across the country. There are now 1.8 million students across the nation enrolled in charter schools, up from 340,000 a decade ago. The number of charter schools continues to grow by roughly 7 percent a year, and is expected to top 5,300 by the end of this year. Still, charter schools represent only a little more than 5 percent of all public schools, and only about 3 percent of public school students attend them.

With the passage of Maine's legislation, only nine states now have no charter school law: Alabama, Kentucky, Montana, Nebraska, North Dakota, South Dakota, Vermont, Virginia and Washington.

Most, if not all, of the charter-related legislation enacted in 2009 and 2010 is directly attributable to the \$4.35 billion federal Race to the Top competition, which rated states higher for support of charter schools. U.S. Education Secretary Arne Duncan has indicated a keen interest in expanding the role of charter schools as part of his school reform efforts.

Key questions about the effectiveness of charter schools remain, however, with studies divided on whether charter schools are, on average, any better than regular public schools.

### **LEGISLATIVE ACTION**

Over the past three years, 16 state legislatures have lifted caps on charter-school enrollments or the number of charters allowed. Some did both.

New York lawmakers, for example, in 2010 doubled the number of charter schools allowed, from 200 to 460, while Illinois legislators in 2009 increased their number from 50 to 110. In Massachusetts, legislators in 2010 increased the

# **STRONG CHARTER SCHOOLS**

The National Alliance for Public Charter Schools lists these as key elements of strong charter school legislation.

- ◆ No caps
- ◆ A variety of schools allowed (start-up, conversion and virtual)
- ◆ Multiple authorizers available
- ◆ Authorizer accountability system required
- ◆ Adequate authorizer funding
- ◆ Transparent charter application, review and decision-making processes
- ◆ Performance-based charter contracts required
- ◆ Comprehensive charter school monitoring and data collection
- ◆ Clear processes for renewal, nonrenewal and revocation decisions
- ◆ Educational service providers allowed
- ◆ Fiscally and legally autonomous schools with independent boards
- ◆ Clear student recruitment, enrollment and lottery procedures
- ◆ Automatic exemptions from many state and district regulations
- ◆ Automatic exemption from collective bargaining
- ◆ Multi-school charter contracts allowed
- ♦ Eligibility for extracurricular and interscholastic activities for charter students
- ◆ Clear identification of special-education responsibilities
- ◆ Equitable operational funding and equal access to state/federal categorical funding
- ◆ Equitable access to capital funding and facilities
- ◆ Access to employee retirement systems

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number of students in low-performing districts allowed to attend charter schools by 35,000.

Even in states with a relatively small number of charters, support has grown. Alaska removed its cap of 60 charter schools in 2010, even though only 25 were operating at the time. Similarly in Iowa, where there were eight charter schools in the entire state, lawmakers that same year eliminated a cap of 20. In Iowa, however, only failing schools can be converted to charters; no new start-up charters are allowed. Mississippi's 2010 law, which replaced one that expired in 2007, also allows only conversion charter schools, not start-ups.

The focus of legislation has been changing recently, however. The most significant charter-related legislation passed this year has focused more on quality, accountability, autonomy and

resources than on numbers. This new emphasis has put the role of authorizers, which sponsor and oversee charter schools, in the spotlight.

School districts authorize 90 percent of all charter schools. Depending upon the state, state-level boards, colleges and universities, nonprofit organizations and mayor's offices in some big cities approve the rest.

Indiana legislators earlier this year expanded authorizers to include private four-year colleges and a state-level board. The legislation also allows "virtual" schools to achieve charter status and makes it easier for charters to use empty facilities owned by local school districts.

The New Mexico Legislature decided to require formal performance contracts between charter schools and their authorizers, boost charter schools' financial reporting requirements, and establish a new way to evaluate charter schools. New Mexico was one of only a handful of states that don't require a written performance contract between the school and its authorizer.

A new law in Florida will allow high-performing charter schools to easily add new grade levels and increase enrollment, and to replicate, on their own initiative, their particular model in any district in the state.

Wisconsin lawmakers allowed the transfer of nearly 30 mothballed school buildings in Milwaukee from the school board to the city, making them available to charter schools.

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### **RESULT OF THE RACE**

Leaders of national charter-school organizations say they are heartened by recent legislative trends—particularly the emphasis on quality control and accountability. And, in part, they say, they have the Obama administration to thank for the recent surge in support.

"From our perspective, Race to the Top was a net plus for the charter movement," says Todd Ziebarth, the National Alliance for Public Charter Schools' vice president for state advocacy and support. "But the road ahead on creating more supportive policy—particularly in providing funding equity, increasing facilities support, and strengthening authorizing standards and

practices—remains long."In addition to prodding states to ease or eliminate numerical caps, Ziebarth says, Race to the Top helped jumpstart discussions about enacting charter school legislation in several of the states without laws, including Alabama, Kentucky, Maine, Montana and West Virginia, although those states still have not passed legislation authorizing charter schools. It also helped charter supporters in Minnesota and Ohio fend off efforts to impose new caps and, in some cases, funding limits.

"What we're seeing in the charter school movement—and particularly among those who operate and authorize charters—is greater focus on scale and quality, rather than just the number of schools," says Alex Medler, vice presi-

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dent of research for the National Association of Charter School Authorizers. "There has been an evolution in what is seen as needing to improve and what counts as good policy. I think there's growing understanding that stronger accountability and quality control—far from limiting the growth of charter schools—will help ensure that more schools succeed."

### A BIPARTISAN ISSUE—IN MOST PLACES

Ziebarth also notes that, for the most part, successful charter-related bills over the past several years have enjoyed support from Democratic and Republican lawmakers alike.

"It's not a partisan issue," he says. "It's a difference in philosophy, really, between those who have allegiance to the existing system as being the only one that can run schools, and those who say 'no' to that idea. The charter school move-

ment changes the fundamental power structure of public education, saying that entities other than school districts can successfully run public schools."

The lack of a clear partisan divide was certainly what Maine's Mason, a freshman Republican who led the pro-charter school forces, experienced this year.

"There were Democrats who supported the bill and there were a number of Republicans who didn't," Mason says. "I think the opposition is based mostly on this persistent idea that charter schools will draw dollars away from traditional public schools. I wouldn't describe it as particularly fierce, but there was a lot of lobbying, op-eds in the papers, that sort of thing," he says. "And I understand why, because it's definitely a shake-up. But, to me, charter schools are all about finding a need not being addressed by traditional public schools and addressing it. They are a really good tool for expanding opportunity and choice."

In Indiana, which also passed significant charter-related legislation in 2011, it was a different—and decidedly more partisan—scenario. Charter school bills were lumped with hotly contested Republican-sponsored measures ranging from right-to-work legislation to creation of a state-funded private school voucher system.

"That really dialed up the rhetoric, fired up the teachers' unions and created a very contentious environment for education reform," says Indiana Representative Mary Ann Sullivan. In the end,

the charter school package passed in Indiana on a nearly strict party-line vote, with Sullivan the only Democrat in either chamber who voted for the bill.

"To me, the fact that the charter issue became highly partisan was regrettable, because it shouldn't have been," Sullivan says. "I know there are plenty of Hoosier



MARY ANN
SULLIVAN
INDIANA

Democrats in favor of charter schools, and the polls show that. And there was a lot more openness to the issue in my caucus at the beginning of the session, before it got tangled up with right-to-work and some of these other issues."

### **BUT DO THEY WORK?**

Over the years, charters have been hailed by both Democratic and Republican leaders as an effective way to expand choice for parents and students, increase experimentation and innova-

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tion, and free educators from many of the rules and regulations that apply to traditional public schools.

The charter school idea can be traced back to a professor at the University of Massachusetts at Amherst, Ray Budde, who suggested in the 1970s that teachers be freed from current rules and given "charters" by their local school boards to experiment with new ways of teaching, according to US Charter Schools. Strong support for the idea at the federal level dates back to 1993. That's when President Clinton and Congress joined forces to create a grant program supporting their development. By the time Clinton left office, more than 2,000 had been established across the nation.

Studies on the benefits of these nontraditional schools, however, have shown mixed results.

"The evidence in support of them is not nearly as strong as the marketing in support of them," says Peter Weitzel, co-editor of "The Charter School Experiment," published in 2010.

Although some studies show great gains in student learning and graduation rates at charters, others don't. The study most often cited by independent experts was conducted in 2009 by the Center for Research on Education Outcomes at Stanford University. That national analysis looked at charter schools in 15 states and the District of Columbia, covering 70 percent of all charter school students. It found that 17 percent were better at educating kids than their traditional public school counterparts, 46 percent were about the same, and 37 percent were worse.

In other words, like traditional public schools, some are good, some are bad and most are somewhere in between.

After the Stanford study was released, Caroline M. Hoxby, a Stanford economics professor and charter school supporter, published her study on New York City charters. Her conclusion: Most long-term charter school students fared better than their counterparts.

Matthew Di Carlo, a senior fellow at the Albert Shanker Institute in Washington, D.C., who analyzes and writes about charter school policy trends, argues the research on charter schools will remain inconclusive "until we begin asking the right questions. It's not whether some charters do better or worse, but rather why.

"How can we explain the performance of any 'good' or 'bad' school and, in so doing, hopefully identify specific policies and practices that can be used to improve all schools?" says Di Carlo. "Until we start focusing on that question, the charter school 'debate' will continue to be trench warfare, in which even huge, well-done studies settle nothing."

Maine's Mason views charter schools as "an incremental reform" that will help improve public education in Maine, provide more parental choice, attract new federal support and improve student performance.

"Oliver Wendell Holmes once said, 'Man's mind stretched to a new idea never goes back to its original dimensions,' "Mason says. "Our education system must continue to evolve to meet the changing needs of our students. The introduction of charter schools will help them do that, by injecting new ideas and new ways of doing things into our educational repertoire."

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