

**A Bigger Slice of the Money Pie:
Charters in Colorado and Florida win share of local tax dollars**

by Parker Baxter, Todd L. Ely, and Paul Teske

Charter schools now educate nearly 3 million students in 43 states and the District of Columbia—more than 6 percent of the total K–12 public-school enrollment. Yet some 25 years after the first charter school opened in Minnesota, the merits of charters still incite debate among educators and the public. As with so many civic disputes, money lies at the heart of this one: the issue of charter-school funding sparks controversy like few others in public education. Those who oppose charter schools assert that they divert resources from district-run schools, potentially harming students there. They also maintain that any funding disparities are justified, either because charters don't take on the same responsibilities as district schools or because they aren't controlled by local authorities. Charter advocates argue that charters are public schools, too, serving local children, and that they deserve a fair share of local education dollars.¹

What is not often debated is that charter schools, which are independently run but publicly funded, generally receive less public funding per student than district-run schools. A University of Arkansas study found that in 2011, on average, charter schools took in \$3,509 less in annual funding per student than traditional public schools. Although charters usually get equal funding from the state, they rarely have access to local supplemental funds collected by districts.²

After working for more than two decades to close the charter-school funding gap, charter advocates celebrated two victories in 2017 when Colorado and Florida both passed laws—the first in the country—mandating equitable access to certain local tax revenues for charter schools.³ The passage of the two laws gave hope to charter supporters in other states while coming as a blow to those who see charter schools as detrimental to public education.⁴

It is too soon to tell whether other states will follow the lead of Colorado and Florida, but the stories of how the laws were passed in the two states remind us that across the country, the politics of charter schools and charter funding vary greatly. Charter proponents have much to learn from this study in contrasts.

Compromise in Colorado

Charter advocates in Colorado worked for years to persuade the state legislature to equalize funding for charter schools by requiring districts to proportionately share local tax-override revenue. They came close to succeeding in 2016, when a bill passed the Republican-controlled state senate but died in the Democrat-dominated house. In February 2017, a bipartisan bill again advanced in the senate, but then stalled out for two months in the house. In the last hours of the legislative session in May, a compromise bill passed both chambers, championed by a bipartisan coalition of lawmakers in both houses.⁵

Charter schools in Colorado have historically enjoyed broad bipartisan support in the legislature and are embraced by some school districts, most notably the state's largest, Denver Public Schools. And charter enrollment in the state has grown 30 percent since 2013,⁶ with the sector now serving approximately 115,000 students in 238 schools, representing almost 13 percent of the total enrollment (see Figure 1).

Despite their popularity, charters in Colorado have always received less local tax revenue than district-operated schools. Specifically at issue has been the revenue from local mill-levy overrides (MLO), voter-approved property-tax increases that supplement a district's base funding and support a wide variety of special projects. In the November 2016 election, Colorado voters approved \$153 million in additional property taxes to be allotted for schools.⁷ MLO elections have been a boon for school districts; more than 300 such override proposals have come before voters since 1999. Prior to the 2017 law's passage, districts were not required to share these additional tax revenues with the charters they authorize. Only 33 of the state's 178 districts with MLO revenue have authorized charter schools, but these districts serve more than three quarters of Colorado's students. In 2016, 25 of the 33 already shared some portion of the additional tax dollars with their charter schools, an amount estimated to be around two thirds of what charters will be entitled to under the new law. According to a legislative calculation, about \$34 million in annual local revenue was not being shared equitably with charters.⁸

Under the new law, districts have two options for sharing the MLO revenue with locally authorized charters. They can either share 95 percent of the money with charter schools on a per-pupil basis (retaining 5 percent for administrative costs) or they can develop a plan by July 1, 2018, for equitably distributing the MLO dollars across schools based on student or program needs but without regard to the type of school receiving the funds.

The law requires the sharing of revenue from both current and future overrides approved by voters. Distributing a portion of the money to online charter schools is left up to the district's discretion, and levies passed by voters to service bonds for capital projects in the district are not included in the sharing mandate.

The 41 charter schools in Colorado that are not authorized by their local districts but by the state through its Charter School Institute (CSI) will not have access to the local revenues, though the lawmakers created a mill-levy "equalization fund" to support these schools. This fund, however, depends on an annual appropriation by the legislature. Legislative estimates suggest \$13.9 million would be needed to take the place of MLO funding for the nearly 16,000 CSI students in 2016–17.⁹

The compromise bill also includes measures to enhance fiscal and operational transparency on the part of charter schools. Charters will have to post tax documents on their websites and will no longer receive two automatic waivers—one related to competitive bidding procedures for procurement of goods and services and another giving them the authority to accept gifts, grants, and donations. Also, the state will have

to make more information available on the waivers they do grant. On the other side, school districts will have to publicly post either their intentions to distribute the funds on a per-pupil basis or the plans they devise for distributing the revenue.

This big win for Colorado charter schools will give some charter budgets a significant boost, but how much will it really affect charters and school districts?¹⁰

Aside from getting an infusion of local tax money, charters will be able to factor MLO funds into their long-term planning, since this revenue is available every year. And even though many districts already share override money with their charter schools, the amount they give out varies widely. Without the law, future voluntary payments would still be subject to the whims of elected school boards. In 2015–16, the average district shared 5.6 percent of MLO revenue, while charter schools enrolled, on average, 12.2 percent of K–12 students. The funding differences can be stark. For example, in that same year, each public-school student in a traditional school in the Cherry Creek School District received \$1,074 more of the district’s MLO revenue than a charter-school student did.¹¹

That same year, the average MLO allotment exceeded \$1,100 per pupil in the districts that received override funds. A slice of that will be a meaningful boost for charter schools, especially in the districts that are not currently sharing the funds. And since charter schools enroll far fewer students than district-run public schools, the positive

impact on charters should be greater than the negative effect on district schools, where the loss of income will be more broadly distributed.

The Colorado Political Process

An organized, behind-the-scenes campaign to persuade the state legislature to act on the school-funding issue got underway years before the law was passed in 2017. The National Alliance for Public Charter Schools (NAPCS) convened charter coalitions within eight states, including Colorado. The coalitions in these so-called Community of Practice (COP) states are “committed to improving state charter school laws in the areas of funding, autonomy, and accountability,” according to the NAPCS website.¹² In Colorado, the coalition included the Colorado League of Charter Schools, Democrats for Education Reform Colorado, the business group Colorado Succeeds, and the Colorado Charter School Institute. The coalition formally agreed to promote and coordinate pro-charter efforts and policies at the state level.

Colorado’s COP coalition played a prominent role in promoting the legislative effort, driving home several coordinated messages to the press and the public. First, they consistently stressed that charter schools were public schools, and that the nearly 115,000 charter students in the state constituted a population larger than that of the biggest school district in the state. Second, the charter-school proponents framed the issue as a simple question of equity, asserting that not sharing the revenue with all public school students,

charter or otherwise, constituted discrimination. An opinion piece in the *Denver Post* took up the equity argument with the story of “Amanda,” a mother of two dual-language charter-school students in Aurora. Was it right that her children should have limited access to speech therapy and music programs simply because their school received \$1,000 less per pupil each year than other public schools? “How is this fair to Amanda, a taxpayer, and her children?” the writers asked. “One child’s public education should not be valued any less than another’s simply because his or her parents choose a public school that happens to have the word ‘charter’ in its name.”¹³

Some advocates also stressed that charter-school students were outperforming traditional public-school students on various measures of achievement, a tactic used in Florida as well.

Opponents of mandated MLO revenue sharing argued that it would infringe upon the cherished principle of local control, particularly at a time of lagging state support for education. They charged that having to share the money with charters would amount to a budget cut for district-run schools.

Opponents also argued that splitting the funds would violate the will of voters, who had approved the taxes for their local public schools.¹⁴ Charter-school proponents countered that none of the language on the MLO ballots specified that the money would be earmarked for traditional public schools only.

Those against the law also raised the familiar criticism that charter schools would be free to use the new local dollars without the accountability and oversight required of traditional public schools. And finally, the Colorado Education Association (CEA) charged that district schools shouldn't have to share local tax dollars, since charters didn't share the unique funding they received through grants, donations, and charter-specific federal funds.¹⁵

The legislative effort began in the state senate with the March 2017 passage of a bill co-sponsored by a Colorado Springs Republican and a Democrat from Denver. That bill then “sat in the House without a hearing for almost two months, a clear indication it was doomed,” the *Denver Post* editorial board later wrote.¹⁶

With that legislation languishing in the house, co-sponsor Senator Owen Hill tried a new tack: proposing it as an amendment to the School Finance Act, the bill that provides funding for Colorado's public schools each year. Democrats and the media cried foul at this move. “It is a grave mistake to tie politically charged policy questions to a bill that must be passed annually to ensure schools receive state funding,” the *Post* editorialized.¹⁷

In a last-minute effort to salvage the bill—two days before the end of the legislative session—Representatives Brittany Pettersen (D-Lakewood) and Lang Sias (R-Arvada) redrafted the senate bill and stripped it from the School Finance Act. House Speaker Chrisanta Duran (D-Denver) backed Sias and Pettersen's effort. With the compromise measures added—the charter-school transparency and accountability requirements and

the option for districts to develop their own plans for the local tax revenues—the new bill garnered greater support from Democrats in the house. The language of the house bill also reframed the issue, stressing students and “equity” over schools. This rebranding tactic communicated that the legislators’ intent was to provide fair resources for students, not to direct more tax dollars to charter schools per se.¹⁸

The compromise bill was approved overwhelmingly in both houses with an overall vote of 77–23, and Governor John Hickenlooper, a Democrat, quickly signed the bill into law. One charter advocate called it “a historic piece of legislation.”¹⁹ The media also approved, though not without reservation. “This is not an ideal way to pass a law,” wrote the *Post*’s editors on the eve of the vote. “Those who want to comment on the legislation have little notice or opportunity to do so. And yet it’s an important compromise that has been years in the making.”²⁰

That compromise allowed both sides to tout significant wins to their constituents.²¹ The CEA’s president, who had applauded the demise of the senate bill,²² quickly praised this one as heralding “a new era of accountability and transparency to charter schools that our parents and taxpayers have never had.”²³ And charter-school supporters, though they remained concerned about funding for state-authorized charters, cheered the new income that would soon be flowing toward district charter schools. When the law goes into effect with the 2019–20 school year, the extent of its impact on both charter schools and districts will start to become clear.

Fighting in Florida

The events in Colorado demonstrated that bipartisan coalitions can form around the issue of charter funding,²⁴ but in Florida, advocates faced a tougher battle. Florida has the third-largest charter sector in the nation, with more than 650 schools serving almost 300,000 students—over 10 percent of the state’s public-school population (see Figure 2). While overall public-school enrollment grew less than 1 percent in 2016–17, charter enrollment grew 8 percent that year and has swelled 200 percent over the last decade.²⁵

As in Colorado and other states, charter advocates in Florida have been working for years to promote funding parity. That struggle bore fruit in the state legislature last May. Included in a 278-page education policy bill that regulates everything from sunscreen to recess to teacher bonuses is a provision that for the first time requires Florida districts to share local tax revenue for capital projects with charters. It also allows charters to receive their share of federal funds in cash rather than in the form of services from districts.²⁶ Moreover, \$140 million of the bill's \$419 million in increased funding for public schools is earmarked for “Schools of Hope,” a new program designed primarily to encourage successful out-of-state charter operators to open schools in Florida communities with chronically low-performing district schools.²⁷

Previously, charter and district schools in Florida each received the same per-student allocation in base operating funds from the state’s school-finance program, which

combines both state and local money. But charters did not have access to the additional local tax revenue that Florida districts are allowed to raise to pay for school construction, maintenance, and technology upgrades. In recent years, districts have used their tax authority to raise over \$2 billion in additional annual revenue statewide.²⁸ A handful of districts chose to share these funds with charters voluntarily, but the vast majority did not.²⁹

On average, Florida's charters stand to gain \$300 per student annually in capital funding from districts, beginning in 2018. To be eligible, schools must be in operation for at least two years and meet certain academic and financial standards. Hundreds of schools will qualify for the funds.

Florida Speaker of the House Richard Corcoran, a Republican who spearheaded the law's passage, predicted it would "go down as one of the greatest K-12 bills in the history of the state of Florida."³⁰ Nina Rees, CEO of the National Alliance for Public Charter Schools, said the law could be "a game-changer when it comes to giving more public school students access to high-quality charter public schools."³¹

The state's school districts and the broader education establishment have seen it differently. In contrast to the bipartisan initiative in Colorado, Florida's law was an exclusively Republican effort. When the bill was introduced two days before the legislative session ended in May 2017, newspapers across Florida joined school boards,

superintendents, teachers unions, and nearly every education-related advocacy group in opposing the legislation.

The bill passed the Florida house easily but nearly failed in the senate, where three Republicans joined the entire Democratic caucus in voting against it. Even Republican senators who voted for the legislation later voiced frustration with its content and the process.³² Legislators were not allowed to debate the bill or propose changes, because the sponsors had attached it to an annual state budget bill requiring an up-or-down vote.³³

Charter schools urged parents to broadcast their support on social media and call Governor Rick Scott to encourage him to sign the bill—but the nearly 10,000 phone calls, email messages, and other communications that poured in ran about three to one against the legislation, according to the *Miami Herald*.³⁴

Scott eventually signed the education policy bill into law, despite the massive campaign by opponents, who decried the legislation as a “monstrosity” and “corporate welfare.”³⁵

The law’s eventual impact remains to be seen. Twelve of the state’s school districts, including large ones like Miami-Dade, Broward, Duval, and Orange, have sued the state to block the law’s implementation. Several of these districts have the state’s largest numbers of charter students, with over 120,000 of them in Miami-Dade, Palm Beach, and Broward alone.³⁶

Florida districts will have to transfer significant funds from their capital budgets to charters—as much as \$96 million in 2017–18 and every year thereafter—if they can’t stop the new law in court.³⁷

Districts with the most charter-school students stand to lose the most funding. The law allows districts to deduct existing debt-service payments from the funds they must share, but many Florida districts net millions of dollars in annual capital revenue even after making debt payments—money they will now have to distribute proportionally based on enrollments.³⁸ Under the new law, during 2017–18, Miami-Dade is expected to pay out as much as \$20 million in capital funding to its charters, and Broward, about \$12 million; these sums represent approximately 10 percent of each district’s total capital funds. Palm Beach County estimates it will transfer \$230 million to charters over the next decade. That county’s school superintendent, Robert Avossa, said, “It’s the single largest piece of legislation to dismantle public education that I’ve ever seen.”³⁹ He questioned the constitutionality of funneling taxpayer money to for-profit companies to pay for school buildings the public would not own.

In the view of charter advocates, though, the new law simply brings more balance to school funding. “At the end of the day what the bill does for charter schools is it just creates equity in funding,” Ralph Arza of the Florida Charter School Alliance told the *Herald*.⁴⁰

A Tale of Two States

Why have these two funding equity initiatives played out in such starkly different ways? Money plays a role—Florida districts are going to lose more than Colorado districts—but it isn't the whole story.

In contrast to the process in Colorado, the effort in Florida was rife with partisan conflict and, by nearly all accounts, seriously flawed. The bill was approved by a margin of one vote in the senate, and even legislators who voted for it seethed afterward about how they felt blindsided, sidelined, and coerced into voting for the bill by party leaders. Florida media outlets reported in exhaustive detail the last-minute partisan dealmaking that produced the bill and the intra-party battle that almost killed it. Op-ed pages across the state excoriated the Republican leadership for their “secret budget deal.”⁴¹

The scale of Florida's charter sector may also have played a role.⁴² While charter enrollment percentages are similar in the two states, Miami-Dade, Broward, and Palm Beach counties alone have more charter-school students than the total of all students in the Denver Public Schools; and charter enrollment in Florida equals about half of Colorado's total public-school enrollment. The growth of charter schools has ignited controversy in both states, but districts in Florida, in general, have responded more combatively to that growth.⁴³

In contrast to large Colorado districts that already shared override funds with charters, the Florida districts with the greatest number of students in charters have for more than a decade seen no reason to share such tax revenues.

Another factor that likely explains Florida's different scenario is the repeated claim by state education leaders, newspapers, and some members of the public that many charter schools in the state are engaged in profiteering and private enrichment, with support from powerful political allies in the state legislature and governor's office. Unlike Colorado, where nearly all charters are operated by nonprofits and many are housed in publicly owned facilities, almost half of all charters in Florida, though technically held by nonprofits, are operated by for-profit companies. This proportion has increased 80 percent since 2004. Many of these schools also build and lease their facilities through related-party transactions with the schools' governing boards.⁴⁴

As Florida's for-profit charter sector has ballooned, the media have been relentless in their coverage, much of it focused on alleged misuse of public funds. A 2015 investigation by the *Herald* described the various ways some of the state's for-profit charters were not just making money but doing so through self-dealing. The paper reported that "charter schools have become a parallel school system unto themselves, a system controlled largely by for-profit management companies and private landlords—one and the same, in many cases—and rife with insider deals and potential conflicts of interest."⁴⁵ Some proponents of providing local capital funds to charters tried to stave off self-dealing by including language to restrict "personal financial enrichment" by charter

operators and require that facilities be owned publicly or by an unaffiliated nonprofit. But those provisions were removed from the final bill at the last minute.⁴⁶

In Colorado, charter advocates say they succeeded by framing the issue in terms of equity for all students in all public schools.⁴⁷ In Florida, advocates tried the same approach, but they ultimately won through legislative force, despite a public image of charters in the state as vehicles for private profit.⁴⁸

National Implications

Will other states follow the lead of Colorado and Florida and require districts to share additional locally generated funds with charters? It's difficult to say, especially as charter sectors vary greatly across states. But as charters continue to grow, it becomes harder for local districts to deny them access to local funds. This is especially true in states like these two, where local districts are the primary authorizers of charters.

As these different stories demonstrate, growth doesn't necessarily lead to acceptance. In states like Colorado, where charters are perceived as public schools serving local students, advocates may find they can build bipartisan support, especially in light of traditional conservative support for charter schools and the sector's continued focus on serving disadvantaged, urban students, which appeals to liberals. But in states like Florida, where charters are perceived by many as vehicles for privatization and

profiteering, even as they grow in popularity with families, charter advocates are likely to face continued controversy and conflict.

Parker Baxter is scholar in residence at the University of Colorado Denver School of Public Affairs, where Todd Ely is associate professor and Paul Teske is dean and Distinguished Professor.

¹ Researchers don't disagree about whether a district's traditional public schools get more public funding, on average, than charters. Rather, they disagree about whether to measure revenues or expenditures when making comparisons and about whether charters should even get equitable funding at all. See, e.g. Charter School Funding: Inequity Expands. <http://www.uaedreform.org/wp-content/uploads/charter-funding-inequity-expands.pdf> Charter Schools Get Less Money Than Public Schools. Is That a Problem? http://www.huffingtonpost.com/2014/04/30/charter-school-funding-_n_5242159.html Review of Charter Funding: Inequity Expands Bruce D. Baker, Rutgers University <http://nepc.colorado.edu/files/ttruarkcharterfunding.pdf> Charter School Funding: Inequity in the City <http://www.uaedreform.org/downloads/2017/05/inequity-in-the-city.pdf>

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³⁹ Editorial, “Florida’s secret budget deal undermines education, public trust” *Sun Sentinel*, June 5, 2017 <http://www.sun-sentinel.com/opinion/editorials/fl-editorial-secret-state-budget-20170605-story.html>

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⁴¹ Editorial, “Florida’s secret budget deal undermines education, public trust” *Sun Sentinel*, June 5, 2017. <http://www.sun-sentinel.com/opinion/editorials/fl-editorial-secret-state-budget-20170605-story.html>

⁴² The proportion is greater in South Florida, where close to 17 percent of Miami-Dade’s public school children went to charters during the 2015-2016 school year — around 59,000 students in a district of approximately 357,000. <http://www.miamiherald.com/news/local/education/article148915414.html>

⁴³ Baxter interview w. national charter policy expert.

⁴⁴ Singleton, John D., Putting Dollars Before Scholars? Evidence from For-Profit Charter Schools in Florida (March 3, 2016). Economic Research Initiatives at Duke (ERID) Working Paper No. 212. Available at SSRN: <https://ssrn.com/abstract=2741805>

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