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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**54th Legislature, 1st Session, 2019**

<b>Bill Number</b>	<u>HB434</u>	<b>Sponsor</b>	<u>C. Trujillo/ Bash/ Sariñana/ Garratt/ Thomson</u>
<b>Tracking Number</b>	<u>.212689.1</u>	<b>Committee Referrals</b>	<u>HEC/ HSEIC</u>
<b>Short Title</b>	<u>Charter School Authorization Moratorium</u>		
<b>Analyst</b>	<u>Stiles</u>	<b>Original Date</b>	<u>2/18/19</u>
		<b>Last Updated</b>	<u>2/26/19</u>

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**BILL SUMMARY**

Synopsis of Bill

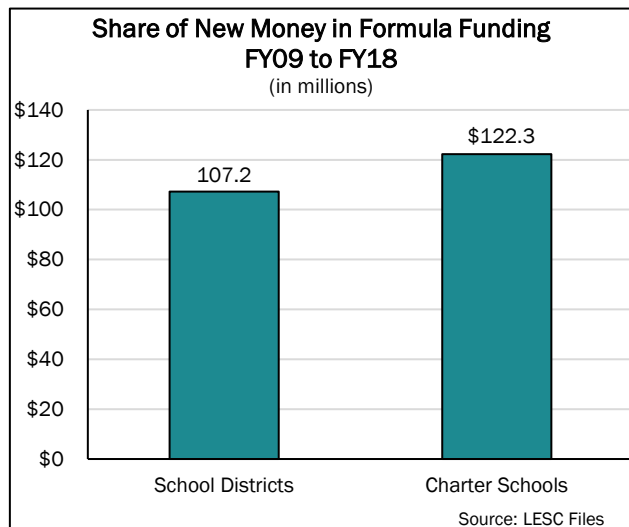
House Bill 434 (HB434) would place a moratorium on the opening of any new charter school from June 14, 2019 through January 1, 2022. The bill would prohibit chartering authorities from accepting or approving any new initial applications for charter schools during this period.

**FISCAL IMPACT**

The bill contains no appropriation.

Of the \$229.5 million in additional formula funding appropriated through the funding formula in the last decade, 53 percent of the new funding has been allocated to charter schools, which serve 7 percent of New Mexico's student population. The charter school approval is outside of the legislative process, essentially allowing approximately 90 charter school authorizers to have the ability to grow the number of public schools in the state. This can impact traditional public schools, which are funded from the same pool of money and do not necessarily experience a drop in costs equal to the loss in funding caused by the movement of students from traditional schools to charter schools. In the 2019 charter cycle, 18 new charter schools have submitted notices of intent to the Public Education Department (PED).

Charter schools have historically received more operational funding per student than traditional schools. In FY18, students in traditional public schools generated an average of \$7,678 per student in formula funding, whereas students in charter schools generated \$8,745 per student, or 14 percent more than students in traditional



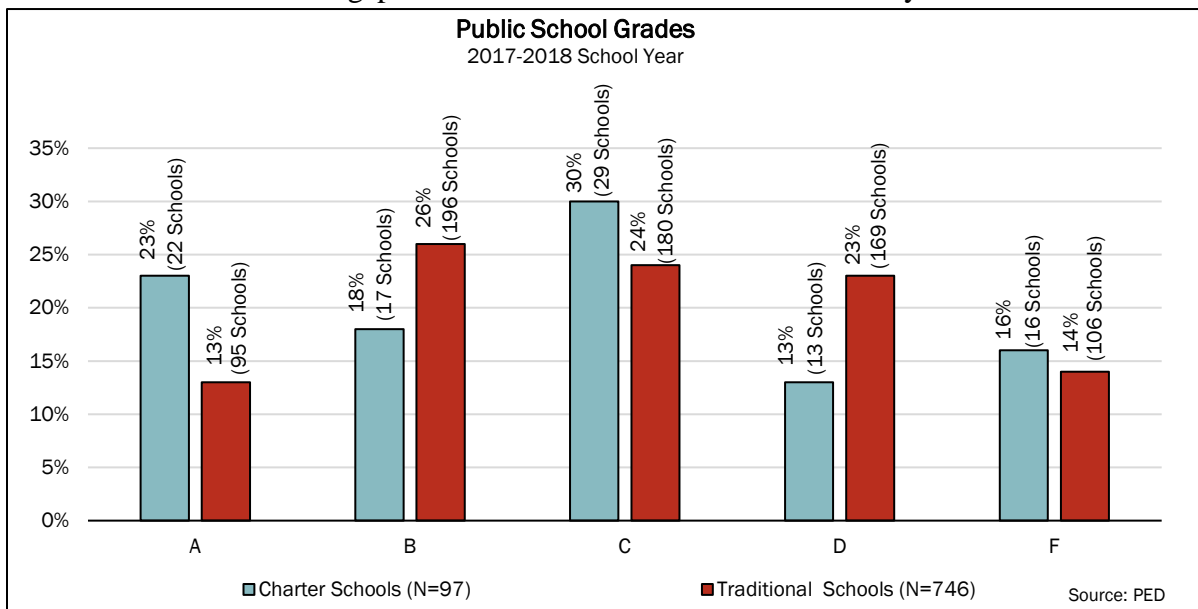
public schools. Charter schools receive a larger share of their funding from small school size adjustment program units, despite many charter schools being located in urban areas. Additionally, the smaller size of charter schools makes it easier to gain enrollment growth program units.

HB434 could potentially reduce lease assistance reimbursement requests in future years. The Public School Capital Outlay Council (PSCOC) oversees the lease assistance program pursuant to Subsection I of Section 22-24-4 NMSA 1978. While school districts are eligible to apply for lease reimbursements, charter schools are currently the only recipients, and lease reimbursements are the primary funding source for charter school facilities. Lease reimbursements have grown from \$2 million in FY05 for 37 leases to more than \$15.7 million in FY19 for 100 leases for 91 charter schools (some charter schools have multiple leases). Originally the lease reimbursement rate was calculated to cover approximately 50 percent of charter school lease costs; however, because the calculation originally relied on school district space to establish a per-student reimbursement rate, lease reimbursements have covered more than 60 percent of charter schools’ average annual lease costs over the past 10 years. It is important to note that while PSCOC administers the lease assistance program, its primary mission is to fund projects such as standards-based awards which ensure that the inequities identified in the *Zuni* lawsuit are addressed.

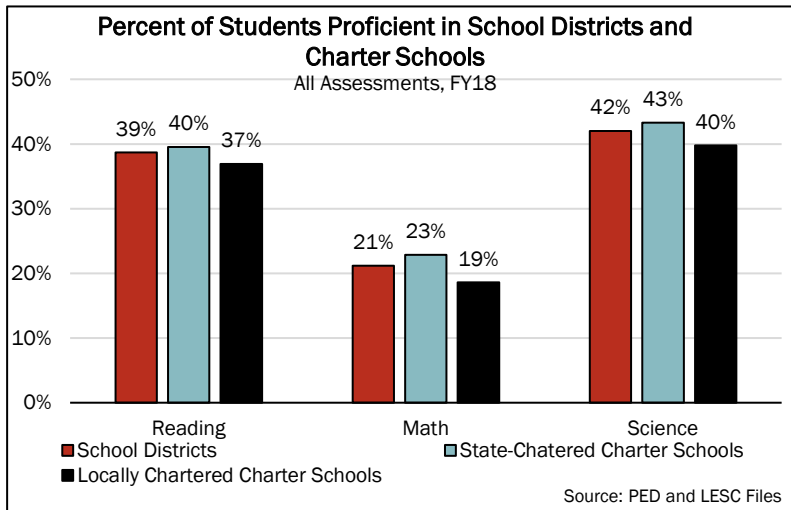
In October 2017, PED received a \$22.5 million, five year grant from the U.S. Department of Education to grow charter schools in New Mexico. PED notes if HB434 is enacted PED will not be able to comply with the terms of the grant and any funds not sub-granted to eligible entities may revert. Additionally, PED notes existing charter schools that would otherwise be eligible for federal expansion and growth support under the grant may be negatively impacted.

**SUBSTANTIVE ISSUES**

Charter schools in New Mexico can currently be authorized by the state through the Public Education Commission (PEC), or locally through a local school district. Of the 96 charter schools currently in operation in the state, 52 are in Albuquerque. In the 2018-2019 school year PEC is the chartering authority for 51 charter schools, 23 of which are located in Albuquerque. Albuquerque Public Schools is the chartering authority for 29 charter schools and other local school districts are the authorizers for 16 charter schools throughout the state. The application process for charter schools is dependent on the authorizers, although New Mexico authorizers have been working to standardize state authorizing practices. HB434 would create a three-year moratorium on new



charter schools, while not affecting the 96 charter schools currently approved throughout the state. The moratorium does not limit charter school renewals or place caps on student enrollment.



Although the number of charter schools has remained flat in recent years, the number of charter schools grew 33 percent between FY10 and FY18, and the number of charter school students has doubled from 13 thousand in FY10 to 26 thousand in FY18. According to PED, which administers the A-B-C-D-F School Rating Act, 41 percent of charter schools and 39 percent of traditional schools received an A or B school grade in FY18. Students who attend charter schools perform similarly to

students who attend traditional schools on reading math and science proficiency tests.

In 2019 there are 18 notices of intent for new charter schools. Notices of intent were due in January 2019, and applications are due in June 2019. In 2018 there were 18 notices of intent; however only three charter schools completed the application process, and two charter schools were approved.

### ADMINISTRATIVE IMPLICATIONS

PED notes HB434 would have a direct impact on two FTE grant-supported staff in PED’s Charter School Division who were hired to manage the grant and coordinate grant-funded activity. PED further notes it has received 18 notices of intent for new charter school applicants for the 2019 cycle. PED must make a decision on all submitted applications received by June 1. PED notes if HB434 would prevent charter schools that have submitted notices of intent from having applications approved, the administrative implications of HB434 are immediate because the Charter School Division is currently working with charter schools that have submitted notices of intent.

### OTHER SIGNIFICANT ISSUES

The New Mexico Attorney General notes the secretary of PED has broad authority, including the statutory power to waive provisions of the Public School Code, therefore it is possible the secretary may waive the moratorium.

PED notes HB434 does not make it clear whether a moratorium would negatively impact charter schools that have already begun the process of having a charter granted.

### CONSEQUENCE OF NOT ENACTING THE BILL

PED analysis notes if HB434 is enacted it will not allow PED to comply with the terms of its recently awarded federal grant, and PED may lose up to \$22.5 million in federal dollars. One of the goals of the grant is to support opening high-quality public charter schools in New Mexico through a rigorous sub-grant application process. The performance outcomes for the grant include awarding 15 sub-grants to new charter schools and seven sub-grants for existing high-quality to

expand. HB434 would prevent the state from complying with the grant requirements for this federal funding.

**RELATED BILLS**

SB429 places stipulations on virtual charter schools to improve authorization of virtual charter schools, oversight, and monitoring.

**SOURCES OF INFORMATION**

- LESC Files
- New Mexico Attorney General (AG)
- Public Education Department (PED)

**AMS/mc/mhg**