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## FISCAL IMPACT REPORT

Trujillo, CH/Bash/  
 Sariñana/Garratt/  
**SPONSOR** Thomson **ORIGINAL DATE** 2/18/19  
**LAST UPDATED** \_\_\_\_\_ **HB** 434  
**SHORT TITLE** Charter School Authorization Moratorium **SB** \_\_\_\_\_  
**ANALYST** Hawker

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

Parenthesis ( ) indicate expenditure decreases

Relates to: SB1, SB245, SB331, SB429

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

New Mexico Attorney General (NMAG)

Public School Facilities Authority (PSFA)

### SUMMARY

#### Synopsis of Bill

House Bill 434 places a moratorium on new charter schools, prohibiting a chartering authority from accepting or approving a new charter school from June 14, 2019, through January 1, 2022.

### FISCAL IMPLICATIONS

HB434 does not contain an appropriation. A moratorium on new charter schools may result in a decrease in charter school enrollment growth and small school size adjustment units, because newly-opened charter schools tend to generate a significant portion of their funding from these units. A decrease in units would increase the unit value, or per unit SEG allocation, for all existing school districts and charter schools, assuming the total SEG appropriation remains constant. Similarly, any school closures during a moratorium would decrease units and subsequently increase the unit value.

PED notes if HB434 were enacted, the department will not be able to comply with the terms of its \$22.5 million U.S. Department of Education grant. The purpose of the grant is to support opening high-quality public charter schools.

## **SIGNIFICANT ISSUES**

The number of charter schools in New Mexico has increased, from 64 in FY08 to 96 in FY19. HB434 will stop new state and local charter schools from opening in FY20 and FY22. Preliminary FY19 student membership in charter schools totaled 26.2 thousand membership, based on average enrollment in charter schools on the second and third reporting date of FY18 and projected first reporting date enrollment in three new charter schools.

Under current law, the charter school authorization process has the effect of committing the state to new financial obligations outside of the legislative budget process. Between FY08 and FY18, 90 independent charter school authorizers created new entities with aggregate enrollment larger than the state's second largest school district, without consideration of the impact these new entities have on the state budget. The Legislature has typically not included additional funding in the public school support budget to fund charter school growth, leading to a dilution of funding for existing charter schools and traditional public schools. A cap on charter school membership would give the Legislature the ability to increase appropriations with increases to the charter school cap, making charter school authorization a part of the budget process.

PED states:

“Fifteen new state-authorized charter schools were approved in the last six years, down from 30 schools in the prior six years. Only one state-authorized charter school was closed from 2008-2013, while 12 state-authorized charter schools closed from 2014-2018. Nearly all state-authorized charter schools have waiting lists, demonstrating high unmet demand. In the last two years, there has been an 8% increase in higher-performing (A and B) schools and a 19% decrease in the lowest performing (D and F) schools from 2017 to 2018, cutting the number of D and F schools down to only two—in both cases, the PEC voted to not renew the charter schools due to chronic low performance. While the health of the charter school sector is stronger than ever before, especially in the state-authorized portfolio of schools (50+), the work of continually improving oversight and monitoring will improve in increasing the overall quality public charter school options, especially when local schools do not meet students' academic needs.”

## **ADMINISTRATIVE IMPLICATIONS**

A moratorium will reduce PED workload associated with processing new charter school applications.

## **RELATIONSHIP**

HB434 relates to SB1 which amends the Public School Code; SB245 which relates to charter school facilities and capital funds; SB331 which addresses nepotism in charter schools; and SB 429 which addresses virtual charter schools.

## TECHNICAL ISSUES

PED observes the start date for the moratorium, June 14, 2020, is problematic because it is after charter applications are due. PED suggests changing the start date to January 1, 2020.

## OTHER SUBSTANTIVE ISSUES

A 2016 LFC evaluation of six selected charter schools found little difference in student performance between charter schools and traditional public schools in New Mexico. The report noted charter schools tended to serve a lower percentage of Hispanic, economically disadvantaged, and English learners compared with traditional public schools. Challenges existed with school grading, as some charter school missions were unique and did not align well with criteria set by PED. In FY15, selected charter schools had more experienced teachers, lower teacher turnover rates, and higher average teacher salaries than the statewide average. Oversight by state and local authorizers was inconsistent and revocations of charters were rare, despite poor charter school performance. The report recommended additional guidance for authorization and accountability of charter schools and separate funding formulas for charter schools. The report also recommended new formula funding and accountability structures to address virtual schools, due to issues of cost-effectiveness and learning outcomes.

According to PSFA:

“The Public School Outlay Act (PSCOA) is the source of funding for the standards-based capital outlay, systems-based capital outlay, the state match for the Public School Capital Improvements Act (SB-9), school security system projects, lease assistance program, master plan assistance program, and other programs under the PSCOA. Revenues to the fund are principally from supplemental severance tax bonds and allocations from the fund are authorized by Public School Capital Outlay Council (PSCOC).

While the number of awards pursuant to 22-24-4 NMSA 1978 have decreased in recent years, the discretionary lease assistance program awards, awards to school districts and charter schools for the purpose of making lease payments for classroom facilities have historically increased year-over-year, with the exception of FY2018 which realized a small decrease.

If new charter schools continue to be authorized, the amount of funding provided by the PSCOC for lease payment assistance may continue to increase.

The lease assistance program is a discretionary annual program and as more awards are made through this program it creates a competing interest for available funds for standards-based awards. The current standards-based award program was developed and established in part to address the inequities in the public school capital outlay funding system resulting from the 1998 lawsuit filed in state district court by the Zuni Public Schools and later joined by the Gallup-McKinley County Public Schools and the Grants-Cibola County Public Schools.”