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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>HB163/HECS</u>	Sponsor	<u>HEC</u>
Tracking Number	<u>.207277.2</u>	Committee Referrals	<u>HEC;SEC/SPAC</u>
Short Title	<u>School Grade Test Scores & Unexcused Absences</u>		
Analyst	<u>Macdonald</u>	Original Date	<u>2/9/17</u>
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BILL SUMMARY

Synopsis of Bill

The House Education Committee Substitute for House Bill 163 (HB163/HECS) creates a new section of the School Personnel Act to control for the potential effect of student attendance on a teacher's evaluation. Specifically, the bill requires the Public Education Department (PED) to establish criteria that incorporates a measure of the student's attendance rate to account for any additional variation in student achievement growth and refine the prediction of student achievement growth to ensure that student attendance has zero effect on student achievement measures of a teacher's evaluation.

FISCAL IMPACT

HB163/HECS does not contain an appropriation.

The Senate Finance Committee (SFC) amendment to the House Appropriations and Finance Committee Substitute for House Bills 2 and 3 includes \$15 million in general fund revenue to PED for interventions and support for students, struggling schools, and parents. However, additional language in the SFC amendment includes language authorizing the use of all FY18 "below-the-line" appropriations, except for the regional education cooperatives, K-3 Plus Fund, Public Prekindergarten Fund, and Early Reading Initiative, for emergency support to school districts experiencing shortfalls in FY18 after all other general fund appropriations for emergency support are fully expended.

SUBSTANTIVE ISSUES

Currently, the following states, among others, include student absences as a component of teacher evaluations: (1) New York includes the duration of time the student was enrolled in the course as a percentage multiplied by the proportion of time the student was actually in attendance, which means a student is only counted in a teacher's median growth percentile if the student was enrolled in the class for at least 60 percent of the class duration; and (2) Florida includes the percentage of the days enrolled that the student was in attendance into the student

characteristics variable in the state's value-added model calculation. Additionally, student attendance could factor into a student growth model in Colorado's teacher evaluation system. This approach to using student attendance in some educator evaluation systems ensures that students with lower attendance and enrollment rates contribute less toward the teacher's overall evaluation score.

Research from Gottfried in 2009, *Evaluating the Relationship Between Student Attendance and Achievement in Urban Elementary and Middle Schools: An Instrumental Variables Approach*, evaluated the hypothesis that the number of days a student was present in school positively affected learning outcomes. The results of the study indicate positive and statistically significant relationships between student attendance and academic achievement for both elementary and middle school students. Thus, if student attendance affects student academic achievement, then it could be an important component to include in the teacher evaluation system. Under the current teacher evaluation system, the student achievement component is up to 50 percent of a teacher's overall score.

PED indicated the overall habitual truancy rate, students who garner more than 10 days of unexcused absences, for New Mexico students in FY16 was approximately 17 percent, with rates of 13 percent for elementary school, 14 percent for middle school, and 24 percent for high school demonstrating an increase in rates as students get older. Despite the uptick in FY16, truancy among elementary students has remained relatively static near 12 percent since FY12. Middle and high school truancy rates, however, have been more dynamic and high school truancy rates are typically higher than they are in elementary and middle schools.

Habitually truant students often come from impoverished families and other at-risk populations; further, research consistently links habitual truancy to the risk of permanently dropping out of schools, which in turn leads to a wide array of problems that affect students long after leaving school, such as reduced earning potential and increased likelihood of health problems, substance abuse, and incarceration.

An October 2014 state-by-state analysis of national assessment data demonstrates that students who miss more school than their peers score lower on the National Assessment for Educational Progress. The report card highlights the significant chronic absenteeism problems in New Mexico with 26 percent of the state's fourth- and eighth-graders missing three or more days of school in a month. The literature indicates that a combination of efforts to both prevent student absences and to provide interventions that support children in attending school may be most effective in reducing chronic absenteeism.

According to research from the Education Commission of the States, each day that a student misses school – whether because of sickness, suspension, truancy, or some other reason – is a day lost to learning. For students who are chronically absent, this pattern is detrimental. Studies have shown that students missing at least 10 days of the school year are much less likely to be proficient. The collective impact of these individual absences on the system as a whole is considerable. For example, an analysis by the Georgia Department of Education found that just a 3 percent improvement in attendance across the state – five additional days for each individual student, on average – would have enabled over 10 thousand more students to pass the state reading test and over 30 thousand more to pass the state mathematics assessment. The biggest impact was for students who missed between five and 10 days of school. Another study suggested that chronic absenteeism is actually one of the main causes of the achievement gap.

ADMINISTRATIVE IMPLICATIONS

PED is required to establish criteria to control for the potential effect of student attendance on a teacher's evaluation as well as incorporate a measure of the student's attendance rate to account for any additional variation in student achievement growth.

The bill would also require PED to calculate teacher evaluations for certain teachers differently, based on if habitually truant students' test scores were included or not. This will create an evaluation system that is not uniform.

OTHER SIGNIFICANT ISSUES

According to PED, the truancy and dropout prevention coach (TDPC) program has provided staff to assist students in overcoming the barriers that keep them from school. In high truancy TDPC-supported schools, habitual truancy rates remained steady in school year 2016 at approximately 23 percent; the statewide habitual truancy rate increased from 17 percent to 20 percent.

The Compulsory School Attendance Law requires school districts to maintain an attendance policy that provides for the early identification of students with unexcused absences and truancy while providing intervention strategies that focus on keeping truants in an educational setting and prohibiting out of school suspension and expulsion as a punishment. Under the act, "habitual truant" means a student who has accumulated the equivalent of 10 days or more of unexcused absences with a school year; and "unexcused absence" is an absence from school or a classes for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Law or rules of the local school board or the governing authority of a charter school or private school.

Teacher Evaluation Lawsuits. In 2014, the American Federation of Teachers New Mexico, the Albuquerque Teachers Federation, and other plaintiffs filed a lawsuit against PED alleging the teacher evaluation system is based on a fundamentally and irreparably flawed methodology, which is further plagued by consistent and distressing data errors. As a result, the plaintiffs allege teachers are being evaluated, with employment decisions being made, based on a process that is arbitrary and capricious. In December 2015, a preliminary injunction was granted, but allowed the state to proceed with developing and improving its teacher evaluation system; the state is not allowed to make any consequential decisions about teachers using their annual evaluations. The trial is postponed until October 2017.

National Education Association New Mexico also filed a lawsuit against PED in 2014, which claimed the department overstepped its authority in implementing a statewide teacher evaluation process through code in violation of existing state law. In October 2016, the attorney for the union stated he is engaged in settlement negotiations with PED regarding the case. The attorney stated if it is not resolved by the end of the year, it will likely go to trial in spring 2017.

RELATED BILLS

Relates to HB105/HECS, Innovations in Teaching Act, which adds the Innovations in Teaching Act to the Public School Code and establishes the Innovations in Teaching Program to promote the implementation of innovative pedagogical approaches and strategies in the classroom.

Relates to HB124/aHJC, Teacher Competency for Licensure Advancement, which would codify the professional development dossier as the method for advancement within the three tier licensure system.

Relates to HB125/aHJC, Teacher & Principal Evaluation System, which requires PED to convene a council to develop a teacher and principal evaluation system.

Relates to HB158, Teacher Evaluation Pilot Project, which creates a new section of the Public School Code to create a teacher evaluation pilot project.

Relates to HB241/aHEC, Use of Attendance in Teacher Evaluations, which provides that teacher attendance may be considered as part of a teacher's evaluation and a teacher's use of personal leave and up to 10 days of sick leave shall not affect that teacher's evaluation.

Relates to HB248, School Employee Evaluation Standards, which amends the School Personnel Act to provide requirements for the uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees.

Relates to HB350, Teacher & Principal Effectiveness Act, which enacts the Teacher and Principal Effectiveness Act in the Public School Code.

Relates to SB34, Teacher & Principal Evaluation System, which requires PED to convene a council to develop a teacher and principal evaluation system.

SOURCES OF INFORMATION

- LESC Files

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