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FISCAL IMPACT REPORT

SPONSOR Ruiloba **ORIGINAL DATE** 1/25/19
LAST UPDATED 2/15/19 **HB** 236/aHEC

SHORT TITLE Attendance for Success Act **SB** _____

ANALYST Eckberg/Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
 Children, Youth and Families Department (CYFD)
 Human Services Department (HSD)
 Indian Affairs Department (IAD)
 Public Education Department (PED)
 Taxation & Revenue Department (TRD)

SUMMARY

Synopsis of HEC Amendment

The House Education Committee amendment to House Bill 236 alters definitions, expands definitions, clarifies, and rewrites sections of the original bill.

The amendment to the bill defines “whole school prevention” as “universal, whole-school prevention strategies for all students, including students who have missed less than five percent of classes or school days for any reason.”

It also defines “individualized prevention” as “targeted prevention strategies for individual students who are missing five percent or more but less than ten percent of classes or school days for any reason.”

The Definition of “excessively absent” or “excessive absenteeism” is changed from meaning, “a student has ten or more unexcused absences, including suspensions, from classes or school days” to meaning “a student who is identified as needing intensive support and has not responded to intervention efforts implemented by the public school.”

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A subparagraph is added to the attendance policy and attendance improvement plan requirement, “providing additional educational opportunities to students who are struggling with attendance.”

In addition to providing a copy of the public school’s attendance policy to all parents and students in the school, the amendment also adds the school must publish the policy on the school’s website.

The amendment removes language indicating attendance teams may include persons who are not school personnel.

Language is removed that required schools develop an attendance improvement plan within 30 days after the beginning of the each new school year and again no later than 30 days after the beginning of the spring semester. The improvement plans must now only be submitted to PED as part of the school’s educational plan for student success but there is not a time requirement.

Language is removed that would have allowed a school to count an excused absence for various reasons as unexcused if the students does not make up the schoolwork within a reasonable amount of time.

Section 11 is modified to make interventions based on the need for individualized prevention and not based solely on the number of absences.

Section 12 is modified to remove the administrative consequence of suspending a student’s drivers license, and requires schools provide all documentation of interventions to the juvenile probation office within 10 business days of the student being identified as excessively truant.

CYFD notes the following concerning the amendment to House bill 236:

If excessive absenteeism continues after interventions, the bill requires referral to the probation services office for investigation as to whether a child should be considered a neglected child or a child in a family in need of family services. Because the probation services office does not conduct investigations into whether a child is a neglected child, in the event that the probation services office determines that the FINS category is not applicable, a referral of suspected child abuse or neglect is more appropriately made to CYFD/Statewide Central Intake.

HSD notes the following concerning the amendment to House Bill 236:

Section 3C still incorrectly references the secretary of human services as the authority over state institutions serving school-aged persons. The Human Services Department has oversight of Institutional Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) that only serve adults. CYFD has oversight of juvenile residential treatment centers for school-age persons. DOH has oversight of the Developmentally Disabled Waiver.

The language in the amended bill is correct, as it references 43-1-3 NMSA 1978, which provides the following definition, but its reference is incorrect: "client" means any patient who is requesting or receiving mental health services or any person requesting or receiving developmental disabilities services or who is present in a mental health or developmental disabilities facility for the purpose of receiving such services or who has been placed in a mental health or developmental disabilities facility by the person's parent

or guardian or by any court order (43-1-3(B) NMSA 2009). The authority is via DOH and could possibly incorporate HSD's Behavioral Health Services Division, but to do so would require an amendment, possibly one to replace "authority" with "auspices" (Page 7, Line 5, Paragraph C).

Synopsis of Original Bill

House Bill 236 repeals the Compulsory School Attendance Act and replaces it with the Attendance for Success Act which provides for prevention of absences and more intensive intervention for absent or chronically absent students, requires strategies and improvement plans to prevent absences, progressive notifications and referrals to parents and CYFD, and data collection and reporting.

FISCAL IMPLICATIONS

The bill does not include an appropriation. PED notes additional staff may be necessary to review and approve attendance improvement plans. PED further notes that though the fiscal implications for PED will be minimal, districts and schools may have a difficult time implementing aspects of the bill without additional staff.

Provisions of this bill may result in additional operating budget impacts to CYFD depending on the number of students referred to the Families in Need of Services program. CYFD reports receiving 1,159 truancy referrals out of a total referral population of 8,409 in FY17. Each of these referrals would require a meeting at the school of the referred student as well as the appropriate monitoring as a result of any interventions. The number of additional CYFD caseworkers necessary to address each student case could be substantial. CYFD notes they are unlikely able to absorb the caseload expansion likely to occur consequent to this bill through existing resources. CYFD has concerns about references to a program which does not currently exist in CYFD and whether or not it will require CYFD to establish such a program, or whether the role and responsibility assigned by the bill to the non-existent program can be fulfilled by existing programs.

In previous similar bills, TRD noted the bill may result in additional revenue from driver license reinstatement fees, although the penalty of license suspension may reduce estimates of these fees. Section 66-5-33.1 NMSA 1978 provides a \$25 prerequisite fee to reinstate any license or registration. Assuming 5 percent of 11th and 12th graders are chronically absent and have licenses suspended, the additional revenue to the local governments road fund could be up to \$55.3 thousand.

PED notes they already run multiple programs that relate to this initiative. Currently, PED has an appropriation of \$4 million for attendance initiatives in FY19. This grant provides funding for additional full-time employees (FTE) at the school or district level and programmatic expenses for 29 districts and charter schools, resulting in approximately 47 FTEs. The \$4 million also covers implementation costs for PED (i.e. in-person trainings, contracts with vendors, and travel expenses for site visits). In a separate program, PED uses \$250 thousand to help districts and schools implement early warning systems in partnership with Johns Hopkins University and Extension for Community Healthcare Outcomes (ECHO). This money goes to training, technical assistance, and site visits. According to PED, both the attendance initiative and the early warning system have demonstrated return on investment; however, neither are funded at a level that would allow PED to scale the programs statewide.

SIGNIFICANT ISSUES

The bill provides new material and definitions. New definitions differentiating types of absences and defining school attendance are included. “Absent” means not in attendance for a class or school day for any reason, whether excused or not; provided that “absent” does not apply to participation in interscholastic extracurricular activities. “Chronically absent” or “chronic absenteeism” means a student that has been absent for 10 percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than 10 days. “Excessively absent” or “excessive absenteeism” means a student that has 10 or more unexcused absences, including suspensions, from classes or school days. “Medical absence” or “medically absent” means a student is not in attendance for a class or a school day for a parent or doctor authorized medical reason or the student is pregnant or parenting a child. “Unexcused absence” means an absence from a class or the school day for which the student does not have an allowable excuse pursuant to the Attendance for Success Act or policies of the local school board.

In the event of excused medical absences, the school will provide a chance to make up missed schoolwork. The number of excused absences for a pregnant student is 10 days during pregnancy and four days for parenting to accommodate for making up missed schoolwork. Pregnant and parenting students must have access to existing programming within the district as it is available. The principal of a school must allow one class period per school day for religious instruction that must be conducted off school grounds and establish provisions for excused absences for tribal obligations and accommodation to make up any missed schoolwork

Each public school must maintain an attendance policy that provides for an early warning system using evidence-based metrics for the identification of students at risk of chronic absenteeism or excessive absenteeism and students in need of intervention and early identification of patterns of absences before chronic absenteeism begins. Additionally, schools must maintain an attendance policy that employs an attendance improvement plan focusing on keeping students in an educational setting and prohibits out-of-school suspension and expulsion as punishment. The plan must assist a student’s family to remove barriers to the student’s regular school attendance and allows a student to withdraw only after all intervention efforts by the public school or CYFD to keep the student in an educational setting have been exhausted. Schools must take accurate class attendance every class and school day and differentiate between different types of absences and document the following for each chronically or excessively absent student: attempts by the school to notify a parent of the absence, attempts to improve attendance by talking to the student or parent to identify barriers to attendance, identify solutions to improve attendance and discuss necessary interventions, and intervention strategies implemented to support keeping the student in an educational setting. Beginning in the 2020-2021 school year, a public school with 5 percent or greater of students with a chronic absence rate during the prior school year, or with 5 percent or greater of one or more subpopulations of students with a chronic absence rate during the prior school year, shall develop an attendance improvement plan no later than 30 days after the beginning of each new school year, and again no later than 30 days after the beginning of the spring semester, to be submitted to PED and may be part of the public school's educational plan for student success.

Schools must regularly report attendance and truancy to the district and PED and progressive action as follows:

- For a student who has three unexcused absences or who has missed more than 5 percent but less than 10 percent of the school year for any reason, the attendance team shall talk

to the parent and inform the parent of the student's attendance history, the impact of student absences on student academic outcomes, the interventions or services available to the student or family and the consequences of further absences, including referral to CYFD for excessive absenteeism.

- For a student who has five unexcused absences, or whose absences fall within the guidelines for the early intervention tier of the attendance improvement plan, and who has missed more than 10 percent but less than 20 percent of school days, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop intervention strategies that focus on keeping the student in an educational setting. The attendance team shall be convened to establish a specific intervention plan for the student that includes establishing weekly progress monitoring and a contract for attendance.
- For a student who has more than seven absences, or whose absences fall within the guidelines for the specialized support tier of the attendance improvement plan, the attendance team shall give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team; establish non-punitive consequences at the school level; identify appropriate specialized supports that may be needed to help the student address the underlying causes of excessive absenteeism; and apprise the student and the parent of the consequences of further absences.
- For a student whose absences fall within the guidelines for the intensive support and intervention tier of the attendance improvement plan and who has excessive absences, the public school shall refer the student to CYFD. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to CYFD.

If CYFD determines the student is a child in a family in need of family services, a caseworker shall meet with the family at school to determine if there are other intervention services that may be provided. If the student has a driver's license, the caseworker shall notify the student and the parent at the meeting that if the child or family in need of family services does not see behavioral improvements, including class or school day attendance, the caseworker shall report the student's noncompliance to PED and the student's driver's license may be suspended if the suspension is not likely to exacerbate the student's absenteeism and will not result in hardship to the student's family. The caseworker must notify the public school and PED of the student's progress no later than thirty days after the meeting. Reinstatement of the license can occur when the child or family in need of family services issues a written certificate of compliance to the student and the student presents the certificate to the motor vehicle division and pays the required reinstatement fee. Reinstatement also occurs when the student turns 18 and leaves school, or withdraws from school due to hardship during the period of suspension.

Section 5(C) mandates local school boards to charge a tuition fee to students who do not live within the district for the right to attend public school within the local school board's district. This is in contrast to the language in Section 22-12-5(C) of the Current Act which gives local school boards discretion on this matter.

TECHNICAL ISSUES

HSD notes Section 3C of the bill incorrectly references the secretary of human services as having oversight of Institutional Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) that only serve adults. CYFD has oversight of juvenile residential treatment centers for school-age persons. DOH has oversight of the Developmentally Disabled Waiver.

PED recommends the following alternate terminology:

HB236 uses the term “attendance improvement plan” which in short would be AIP. This would be confusing for districts and schools, because AIP is a term outlined in current statute for “academic improvement plans”. Academic improvement plans are a piece of the student assistance team policies that are implemented at every district and school. PED recommends the term “attendance improvement plan” be replaced with “attendance success plan”. This change will alleviate any confusion and is consistent with the title of the act.

On page 2, Section 2. B. (3) the term “specialized support” is defined to target students who are missing 20 percent or more of school days for any reason. PED recommends reducing this to 15 percent to ensure that more intensive intervention occurs earlier.

On page 3, Section 2. D. PED recommends the definition of “chronic absence rate” be amended to read “the percentage of students in a school who were absent for 10 percent or more of the days in which the student was enrolled at the school in a given school year”. This change will align with the nationally accepted definition of chronic absence.

PED suggests using “subgroup” instead of “subpopulation” throughout the bill to be more consistent with federal reporting language.

PED recommends using “cultural observation” instead of “tribal obligation” to ensure that policies are responsive to all cultures in New Mexico.

OTHER SUBSTANTIVE ISSUES

According to PED, average statewide habitual truancy rates have fluctuated around 15 percent in the past few years. Though these are habitual truancy rates and not chronic absenteeism rates as proposed by the bill, the percentage of New Mexico students chronically absent will likely be similar, if not higher, according to some sources. In FY16, PED allocated \$3 million to support its truancy and dropout prevention coaches (TDPC) program and pay for coach salaries at 42 school sites. Between FY15 and FY16, habitual truancy rates for all TDPC school sites showed mixed results. With the exception of Albuquerque schools, all other TDPC sites improved, decreasing habitual truancy rates from 27 percent to 21 percent. In contrast, habitual truancy rates at the 12 Albuquerque TDPC program sites worsened between FY15 and FY16, increasing from 14 percent to 27 percent. Statewide, schools experienced an average increase in habitual truancy rates from 22 percent to 24 percent between FY15 and FY16.

A 2016 LFC program evaluation, *Assessing Time-on-Task and Efforts to Extend Learning Time*, found that attendance, chronic absenteeism, and discipline are critical factors impacting the availability of instructional time. The evaluation determined that encouraging students to attend school and connecting with students and families to emphasize the importance of attendance are important responsibilities for school districts and tracking attendance and absenteeism is vital for

helping student achievement. Additionally, the evaluation found the percentage of students absent 10 or more days for any reason increased from FY13 to FY15. Fourteen percent of students were absent 10 or more days in FY13, 13.5 percent in FY14, and 15.4 percent in FY15. Students absent 10 or more days were absent 17 days on average in FY13 through FY15, more than three times the number of days missed by students who were absent fewer than 10 days. Students absent fewer than 10 days were absent five days on average in those same years. An elementary student absent 10 or more days loses a minimum of 15 hours of both language arts and math instruction time depending on various schedule types and configurations. Both excused and unexcused absences decrease student learning time and time-on-task.

A 2015 LFC program evaluation on middle schools, *Public Education Department – Performance, Programming, and Cost of Middle Schools in New Mexico*, found “frequent absences in elementary schools have consequences for middle schools contributing to academic weaknesses and poor attendance habits compounding into chronic absenteeism as students’ progress into middle school. Absences have the largest impact on eighth grade reading and math standards-based assessment (SBA) scores with a reduction of 0.31 in reading and 0.40 in math for every absence. A student with zero absences is projected to be proficient in both reading and math; however, the likelihood of scoring proficient and above declines with every absence.” Additionally, the evaluation found chronic absenteeism begins to rise in middle school and continues to climb through 12th grade.

Nearly a quarter of school districts in New Mexico have habitually truant percentages higher than the statewide average. National research has found a strong relationship between sixth grade attendance and on-time graduation rates. Chronic absenteeism in middle school is one of the best indicators a student will drop out later. Students who were chronically absent in any year between eighth and twelfth grades were 7.5 times more likely to drop out of high school. A report by the National Assessment of Educational Progress (NAEP) found absences had consequences for fourth and eighth grade students: 56 percent of eighth grade students who performed at the advanced level in NAEP reading in FY11 had perfect attendance in the month before the test, compared with 39 percent of students who performed below the basic level; in contrast, nearly one in five eighth grade students at the basic level and more than one in four below basic in reading had missed three or more days in the previous month. The trends were similar for fourth grade students. A student who misses an average of three days a month is missing five weeks of school each year, based on a nine-month school calendar.

A 2014 LFC evaluation, *Cost Effective Options for Increasing High School Graduation and Improving Adult Education*, found both national research and state data confirm students who drop out tend to have poor attendance, behavioral referrals, and multiple course failures. The evaluation found in 2014, 8 percent of New Mexico high school students were absent 10 percent or more of the school year and were at-risk of dropping out. Of the 25 high schools with the greatest numbers of dropouts, 13 had chronic absenteeism rates above 10 percent, meaning more than 10 percent of students missed 18 or more days of school annually and were at-risk of dropping out.