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FISCAL IMPACT REPORT

SPONSOR Ruiloba/Townsend/ ORIGINAL DATE 3/03/17
Hall/Sapien LAST UPDATED _____ HB 437

SHORT TITLE School Attendance Interventions SB _____

ANALYST Liu/Eckberg

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$28,823.9	\$28,823.9	\$57,647.7	Recurring	School District Budgets

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB163, SB397

SOURCES OF INFORMATION

LFC Files
 Legislative Education Study Committee (LESC) Files

Responses Received From
 Public Education Department (PED)
 Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of Bill

House Bill 437 amends the Compulsory School Attendance Law, providing for earlier and more intensive interventions for absent or truant students; redefining terms; requiring schools to work with community partners that assist in dropping truancy rates; providing a parental notification, intervention, and referral process to CYFD; providing for suspension of a student’s drivers license; requiring data collection and use; and requiring records of absences and responses to interventions in a students’ cumulative record, amongst other proposed amendments.

Additionally, the bill repeals and replaces Sections 22-12-7 through 22-12-9 NMSA 1978 with new material. The new sections include definitions, requirements for attendance policies, and enforcement mandates for the attendance policies.

FISCAL IMPLICATIONS

The bill does not make an appropriation, but requires every public school to have a family

resources program, as outlined by the Family Youth and Resource Act of the Public School Code, and develop partnerships with public and private agencies, and community-based, civic, corporate and professional organizations. The Family Youth and Resource Act indicates a family and youth resources program will include the employment of a resource liaison. According to the Bureau of Labor Statistics, the 2015 median pay for a social and human services assistant completing similar work was \$30,830. Using the annual average pay for a school/student support and duty FTE in New Mexico at \$25,692 with an estimated 30 percent benefit cost for all 863 public schools, the estimated cost of mandating a resource liaison statewide would be approximately \$28.8 million.

PED reports approximately a 16.3 percent habitual truancy rate statewide in FY16, which is about 54 thousand students. Under current law, habitually truant means a student who has accumulated the equivalent of 10 days or more of unexcused absences within a school year. When a child is habitually truant, the school refers the student to CYFD's Probation Services. Under the current bill, if a student is absent for 10 or more days in a nine-week period, the principal must refer the student to CYFD's Families in Need of Services Program. The bill requires CYFD to meet with the family at the public school, which CYFD notes will increase caseloads that the department cannot absorb with existing resources.

SIGNIFICANT ISSUES

A growing body of research demonstrates chronic absence from school – for any reason, excused or unexcused – is a primary cause of low academic achievement and a powerful predictor of which students will eventually drop out of school. Chronic absenteeism is particularly prevalent among low-income students, students of color, students with disabilities, students who are highly mobile, and youth involved in the juvenile justice system. Several federal agencies released a joint report, *Every Student, Every Day: A Community Toolkit To Address and Eliminate Chronic Absenteeism*, which recommends prioritizing development of early warning prevention and intervention systems, developing a positive message for youth and families as well as implementing supportive engagement strategies, launching local initiatives to raise public awareness about the causes and effects of chronic absenteeism, and regularly communicating that chronic absenteeism is a problem that affects the community, not just chronically absent students and their families.

The bill allows students over the age of 16 to leave school in the case of hardship, allows excused absences for tribal obligations concerning religious instructions, medical absence considerations for pregnant and parenting students, new definitions centered on absenteeism, new attendance policy requirements for public schools, new attendance enforcement procedures for public schools, new absenteeism reporting requirements for PED, and new requirements for families in need of services program provided by CYFD that include possible suspension of a student's driver license and possible penalties for parents of truant students who knowingly allow their students' truancy.

The bill requires each public school to maintain an attendance policy that provides for early identification of students with absences and students in need of intervention and early identification of patterns of absences before truancy or habitual truancy begins. Additionally, the section also prohibits out-of-school suspension and expulsion as punishment for absences and truancy.

The bill requires public schools to help struggling student's families remove barriers to the student's regular or alternative school attendance. Schools are required to take daily attendance and document whether the absence was a medical absence, religious instruction or tribal obligation absence, or interscholastic extracurricular activities absence. Schools must also document attempts at notifying the parent of their student's absences, improving attendance informally by talking to the student or parent, meeting formally with the parent to discuss necessary interventions, and implementing intervention strategies to keep the student in an educational setting.

If a student is absent from class or the school day more than three times in a nine-week period the school principal or designee is required to talk with the student and notify the student's parent in person or by telephone to determine reasons for the absences and determine whether the family and youth resources program could assist in keeping the student in school and attending class. If a student is absent more than five times within a nine-week period the principal is required to notify the parent in writing and include a date and time of a meeting between the principal and the parent to determine additional interventions. For high school students an attendance contract may be required. The parents are notified that further absences could result in the family being reported to the families in need of services program of CYFD. Ten unexcused absences would be considered habitual truancy, and require the student be referred to CYFD for additional interventions that may include a report to PED recommending suspension of the student's driver's license upon notification to the Motor Vehicles Division. If a parent, after receiving written notice, knowingly allows a student to continue to violate the Compulsory School Attendance Law, they can be charged with a petty misdemeanor.

CYFD indicates notification to the motor vehicle division for suspension of the student driver's license should be requested by PED as the factors leading to the referral to CYFD are the student's failure to attend school. CYFD juvenile justice records and information, which include truancy referrals, are confidential under Section 32A-2-32(A) NMSA 1978, and do not include MVD on the list of entities entitled to access this information.

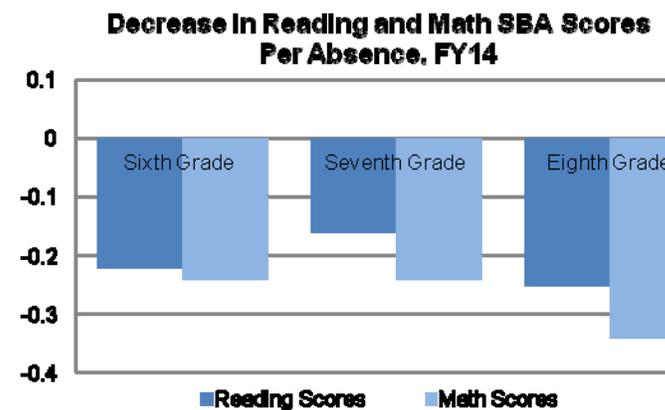
In addition to the confidentiality issue raised by CYFD providing juvenile justice information to an unauthorized entity, families who are considered in need of services under the Families In Need of Services section of the Children's Code are allowed to refuse services at any time: their compliance is entirely voluntary. This bill, however, imposes penalties for failure to comply in the form of the suspended driver's license.

A 2016 LFC program evaluation, "Assessing Time-on-Task and Efforts to Extend Learning Time" found that attendance, truancy, 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 that 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” stated, “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 SBA [standards-based assessment] 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.”



Source: LFC Files

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 that both national research and state data confirm students who drop out tend to have poor attendance, behavioral referrals, and multiple course failures. Research suggests the strongest indicators of dropping out of school are attendance, behavior, and course failures, commonly called the ABCs of dropping out, and these characteristics can be used to identify students who are not on track to graduate. Dropout rates are strongly associated

with chronic absenteeism. According to the Utah Education Policy Center, chronically absent students, defined as students who miss 10 percent or more of the school year, are 7.4 times more likely to drop out. Similarly, Johns Hopkins University reports every high school suspension decreases a student’s odds of graduating by 20 percent, after controlling for demographics and course completion.

The evaluation found that 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.

FY14 New Mexico High School Student Absences

Number of Absences	Number of Students	Percent of Students
0	16,008	17%
1 to 5	44,922	47%
6 to 10	17,022	18%
11 to 17	9,094	10%
18+	7,822	8%

Source: LFC files

Percent of Chronically Absent Students at High Schools with the Largest Numbers of Dropouts, FY14

High Schools with Greatest Number of Dropouts	Students Absent 18+ Days
Bernalillo High	57%
The Great Academy	42%
Belen High	33%
Robert F Kennedy Charter	31%
Gallup Central Alternative	29%
Ace Leadership High School	26%
Deming Cesar Chavez	26%
New America Charter- Las Cruces	23%
University High (Roswell)	19%
New America Charter- Albuquerque	16%
SIA Tech (ABQ Charter Academy)	16%
La Academia De Esperanza Charter	14%
Espanola Valley High	10%
Hobbs High	9%
Clovis High	7%
Gordon Bernell Charter School	7%
Highland High	6%
Las Montañas Charter	6%
Del Norte High	4%
Carlsbad High	3%
West Mesa High	3%
Manzano High	2%
Roswell High	2%
Las Cruces High	1%
Rio Grande High	1%

Source: LFC files

According to PED, statewide truancy rates increased from 17 percent to 20 percent during the 2015-2016 school year. During the same time period, schools with truancy and dropout prevention coaches (TDPC) decreased their truancy rate from 27 percent in 2015 to 21 percent in 2016. The FY16 PED special appropriation for TDPC was \$3 million.

PERFORMANCE IMPLICATIONS

Provisions of this bill may affect performance measures related to habitual truancy rates and academic proficiency.

ADMINISTRATIVE IMPLICATIONS

PED notes the bill will require modifications to the Student Teacher Accountability Reporting System (STARS) database to align with new and amended language.

RELATIONSHIP

This bill relates to HB163, which discounts a student's test scores for a teacher evaluation if the student has too many unexcused absences, and SB397, which provides protection to students in need of accommodation who are accused of sanctioned offenses.

TECHNICAL ISSUES

PED offers the following recommendations:

On page 7, line 1, HB437 excludes school-age persons who are detained in a state or local detention center from the right to a free public education. The Elementary and Secondary Education Act of 1965, as amended through Public Law 114-95 (December 10, 2015) provides that children and youth who are neglected, delinquent, or at-risk have the opportunity to meet the same challenging state academic standards that all children in the state are expected to meet and, as such, are afforded the same rights to a free and appropriate education (Sec. 1401 [20 U.S.C. 6421]).

Additionally, the Individuals with Disabilities Act (IDEA) regulations are required to be applied to State and local juvenile and adult correctional facilities in accordance with 34 CFR § 300.2 which includes the provision of a Free Appropriate Public Education for students with disabilities in accordance with their individualized education program.

On page 7, lines 19-20, the reference to "educational appraisal and review committee" is an antiquated term. The legislator may wish to change this to read "individualized education program team".

OTHER SUBSTANTIVE ISSUES

The bill provides an amended definition and revision to the penalties for students who are considered to be habitual truants and their parents who are in violation of the Compulsory School Attendance Law. A new section of the Motor Vehicle Code is enacted to authorize MVD to suspend license of a school-age person. The division can suspend driver's licenses or provisional license of a school-age person until they reach the age of 18 years. PED notes there is

no provision for revocation or suspension of a learner's permit or provision blocking a driver's age student from obtaining a driver's license.

PED's policy on school attendance is defined and communicated to all schools throughout the state. Section 6.10.8 NMAC provides required guidelines requiring that all school-age youth attend school regularly until the age of 18 years. Local school boards are required to have a written school attendance policy that mandates class attendance to be taken daily. With the exception of pregnant or parenting students who are provided additional excused absences, there is an allowance for up to only 10 missed school days, after which a student may be determined to be a habitual truant.

Further requirements of Section 6.10.8 NMAC include school attendance policies at the local level to provide early identification and intervention of students with unexcused absences or those who are habitually truant. Parents or guardians are informed of and must provide explanations for their child's absences. Parents must work with school authorities on a plan of action, utilizing all available school and community resources to remedy the issue. Non-compliance with these rules requires a school to report a student to the probation services office of the local judicial district. Schools may also follow through with lawful assistance if a truant is not properly reported by probation officers for further actions. Under current Section 6.10.8 NMAC requirements, "if the habitual truant is not referred to the children's court by the juvenile probation office for appropriate disposition, including consideration of initial or renewed suspension of his or her driving privileges, the school district may contact the children's court attorney directly to determine what action will be taken."

AMENDMENTS

PED offers the following recommendations:

On page 4, line 5, strike the word "moderate" and replace with the word "extensive".

On page 7, line 1 strike "in a state or local detention center or detained".

On page 7, lines 19-20, strike "educational appraisal and review committee" and replace with "individualized education program team".

Provisions should be included to allow the Motor Vehicles Division to suspend a learner's permit, and not allow students of driving age from obtaining a driver's license.

SL/sb