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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 2nd Session, 2018

Bill Number	<u>HB297/HECS</u>	Sponsor	<u>HEC</u>
Tracking Number	<u>.210342.2</u>	Committee Referrals	<u>HEC/HJC</u>
Short Title	<u>School Attendance Interventions</u>		
Analyst	<u>Force</u>	Original Date	<u>2/9/18</u>
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BILL SUMMARY

Synopsis of Bill

House Education Committee Substitute for House Bill 297 (HB297/HECS) proposes to repeal the Compulsory School Attendance Law and replace it with the Attendance for Success Act. The bill provides for early, intensive interventions for absent, chronically absent, and excessively absent students. HB297/HECS includes newly defined terms, such as “absent,” “attendance officer,” “chronically absent,” “excessively absent,” “excused absence,” “medical absence,” and “school day.” The bill requires private schools to have an attendance policy that mirrors the law for public schools as closely as practicable. Attendance is to be taken for every instructional class, as well as for school days. Interventions for absent students focus on partnerships between schools and local service providers, businesses, healthcare providers, counselors, and civic groups to involve the entire community in supporting students’ attendance.

Public schools would be required to differentiate among medical absences, religious absences, chronic absenteeism, and absence due to tribal obligations; opportunities for students to make up work for those absences are required, although if the work is not made up within a reasonable time those absences are to be deemed unexcused.

The bill includes progressive interventions for excessively absent students, beginning with meetings with parents, and including suspension of the student’s driver’s license and potential referral to the Children, Youth and Families Department (CYFD). A suspended driver’s license may be reinstated as a result of an administrative hearing, when the student is certified as being in compliance with the Attendance for Success Act and pays the Motor Vehicle Department (MVD) the reinstatement fee, and when a student turns 18 or withdraws from school under a hardship waiver. When CYFD is notified of continued excessive absence, it will investigate to determine if the student is neglected or otherwise in need of family services.

FISCAL IMPACT

HB297/HECS appropriates no funds, although the House Appropriations and Finance Committee (HAFC) Substitute for House Bills 2 and 3 allocates \$4.2 million to support truancy and dropout

prevention. That bill also increases the at-risk index in the state equalization guarantee distribution from 0.106 to 0.13 for purposes of calculating at-risk program units, which will result in an estimated additional \$22.5 million to support at-risk students.

The additional administrative responsibilities in the bill, such as expanded reporting requirements, greater involvement of CYFD and MVD, and the administration of driver's license suspensions, may result in greater administrative costs to schools and state agencies. Additional duties required of schools, such as identifying community organizations, and cultivating community partnerships, and convening student assistance teams may result in increased costs to schools and school districts.

The Taxation and Revenue Department (TRD) reports possible additional revenue from driver's license reinstatement fees to the local government roads funds of approximately \$55 thousand. Further, TRD indicates moderate impact on its information technology division. Implementation of the changes required by the bill will take approximately three months, at a cost of approximately \$198 thousand.

SUBSTANTIVE ISSUES

The Legislative Finance Committee (LFC) Performance Report Card for the Public Education Department (PED) for the fourth quarter of FY17 indicates statewide rates of habitual truancy, or missing 10 or more days of school in a year, decreased, although elementary and middle school habitual truancy rates increased. Overall, 21.5 percent of students in high school are truant at least 10 days or more compared with 14.5 percent of students in middle school. The habitual truancy rate was the lowest for elementary school students, at 13.8 percent.

A recent report from the Brookings Institution reviewed trends in research and data regarding absenteeism and truancy. A study conducted in Chicago indicated that middle school absences, specifically in eighth grade, were eight times more predictive of freshman year course failure than were eighth grade test scores. Further, freshman year absences were nearly as predictive of graduation rates as grade point average and course failures. A study in Baltimore showed chronic absenteeism, usually defined as missing 10 percent or more of a school year, was the strongest sixth grade predictor of not graduating high school. Regarding younger students, research has shown chronic absenteeism in kindergarten is associated with lower achievement in reading and math in later grades, even when controlling for factors including family income, race, disability, attitudes toward school, socioemotional development, type of kindergarten program, and preschool experience.

These results are borne out by a 2015 LFC middle school program evaluation, *Public Education Department – Performance, Programming, and Cost of Middle Schools in New Mexico*. Referring to the evaluation, the fiscal impact report for HB297 notes “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] 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.” The evaluation indicates chronic absenteeism begins to rise in middle school and continues to climb through 12th grade. 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 12th grades were 7.5 times more likely to drop out of high school.

The Brookings report indicates that while overall absenteeism is high, there are differences related to student demographics. For example, English learners are 1.2 times less likely to be chronically absent than their peers, while students with disabilities were 1.5 times more likely to be absent. Economically disadvantaged students were 2.6 times more likely to be absent than their more economically secure peers. The report highlights a recent initiative in New York City that employed what many consider best practices in truancy reduction, including improved use of data, student mentors, school partnership meetings, connections to community resources, awareness campaigns, and attendance incentives. Community partnerships are featured in Section 7 of HB297/HECS, on enforcement. The report also notes that “No Pass, No Drive” laws, which, unlike the current bill, base driving privileges on academic factors, seem to reduce chronic absenteeism among high school students.

As research indicates, chronic absence from school is linked to the risk of permanently dropping out, potentially resulting in a wide range of problems that can affect students long after they have dropped out (see, e.g., *Truancy Reduction: Research, Policy and Practice*, Cumbo, Burden and Burke, The Center for Children and Youth Justice, Spring 2012). Low graduation rates affect not only students who fail to graduate, but also their communities and society as a whole. Students who do not graduate have higher death rates, worse mental health, increased likelihood of teen pregnancy and parenting, and increased risk of personal injury. Over the course of their lifetime, students who drop out of high school earn, on average, approximately \$250 thousand less than those who graduate high school and \$1 million less than those who graduate from college, and are more likely to require some form of public assistance.

Effective dropout prevention programs, according to Cumbo, et al, feature six main components:

- “community collaboration,” which encourages students’ greater community involvement and allows participants to draw on diverse viewpoints and to maximize the different strengths of program partners;
- “family involvement,” which may help to address underlying family-based barriers to attendance and graduation, in turn helping students to remain engaged with school and improve academic performance;
- “comprehensive approach to prevention, intervention and retrieval,” which holistically addresses the problem at all three levels, increasing student and family engagement, addressing root causes of truancy, and retrieving youth who have already dropped out;
- “incentives and sanctions,” both tailored to students’ individual circumstances, with positive incentives serving as motivation to stay in school, and graduated sanctions directly related to truants’ behavior that avoids out-of-school penalties such as suspension;
- “supportive context” among school, family, and community partners, all invested in keeping students in school and on track to graduate; and
- “program evaluation,” via data collection, monitoring, and analysis to make schools’ prevention programs more effective over time.

HB297/HECS requires school and community-based partnerships, with public and private agencies and community-based civic, corporate, and professional organizations. A successful example of such a community-based truancy prevention partnership can be found in Carlsbad Municipal Schools. Carlsbad’s Community Truancy Action Committee (CTAC) is funded by grants from United Way. CTAC is composed of organizations such as CYFD, the Juvenile

Probation and Parole Office, local police, anti-drug and alcohol groups, United Way, and local charities, and engages in a tiered series of responses to student truancy that attempt to address the underlying causes of students' disengagement. A student's third unexcused absence results in a meeting between a social worker and the student and their guardian to discuss consequences, and to sign an attendance "contract." A fifth absence requires the student to attend Truancy Intervention Court, where the response becomes a community wraparound affair, with partners from the community, other state and local agencies, mental health providers, juvenile probation officers, local homeless shelters, and the United Way all working in concert to help both students and their families stay on track to graduation.

Research conducted on "No Pass, No Drive" laws, which reward academic achievement with driving privileges, shows they can be an effective tool to increase attendance. According to the Education Commission of the States, 27 states have policies connecting various combinations of student attendance, performance, and behavior to driving privileges. HB297/HECS takes a complementary approach, where a license can be suspended for chronic and excessive absenteeism.

Chronic Absenteeism under the Federal Every Student Succeeds Act. According to the U.S. Department of Education Office for Civil Rights, approximately 6.5 million students, or 13 percent of all students, were chronically absent from schools in the 2013-2014 school year. While the federal Every Student Succeeds Act (ESSA) lacks a specific definition for chronic absenteeism, states are required to report their chronic absenteeism data. Further, ESSA requires states to select a fifth indicator to measure school quality or student success, and chronic absence is one of the few metrics available to all states that meets federal criteria. The ESSA plans submitted from 36 states, including New Mexico and the District of Columbia, use chronic absence as this indicator: 27 states define chronic absence as missing 10 percent or more of school days, as this bill does; DC, Georgia, Minnesota, Missouri, and West Virginia define it as attending only 90 percent of school days; Alabama and Hawaii define it as missing 15 days of school; Nevada defines it as missing 18 days of school; and Indiana and Montana include other attendance measures.

In 2015, the U.S. departments of Education, Justice, Housing and Urban Development, and Health and Human Services announced a long-term commitment to building capacity to assist states and local communities in addressing and eliminating chronic absenteeism with the goal of reducing chronic absenteeism by at least 10 percent per year. To that end, they issued *Every Student, Every Day: A Community Toolkit to Address and Eliminate Chronic Absenteeism*. In the toolkit, they ask state and local leaders of education, health, housing, and justice systems to work collaboratively, and immediately take the following action steps:

1. Generate and act on absenteeism data.
2. Create and deploy positive messages and measures.
3. Focus communities on addressing chronic absenteeism.
4. Ensure responsibility across sectors.

New Mexico Policy on Chronic Absenteeism. In partnership with Johns Hopkins University, New Mexico established a truancy and absenteeism Early Warning System, which flags data points most indicative of habitual truancy and dropping out, related to attendance, academic achievement, and behavior (poor final grades in English or math, attendance below 80 percent, or final "unsatisfactory behavior" ratings). New Mexico's system flags 'Ds' and 'Fs', as well as the New Mexico Standards Based Assessment and the Partnership for Assessment of Readiness for College

and Careers scores, which are used in conjunction with course-grades to help ensure that students with less readily apparent academic problems do not slip through any cracks in the system. Once students are flagged for absenteeism or truancy, interventions are left up to the individual school, to be tailored to the needs of their students, schools, and communities.

PED has initiated a program to support truancy and dropout prevention by establishing a cohort of coaches to be placed in elementary, middle, and high schools to work with students, families, schools, and school districts to eliminate chronic absenteeism and decrease the dropout rate through comprehensive community and school-based strategies to overcome the barriers to school attendance faced by students of all ages and in all communities. Funding for the coaches is competitive, giving districts and schools participating in the program support in addressing issues of chronic absenteeism, habitual truancy, and dropping out at the school, student, and family levels. 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 improved from 27 percent to 21 percent, with the exception of Albuquerque schools. At the Albuquerque TDPC sites, habitual truancy rates worsened between FY15 and FY16, increasing from 14 percent to 27 percent. The HAFC Substitute for House Bills 2 and 3 allocates 4.2 million for truancy and dropout prevention for FY18.

With enhanced engagement and time devoted to whole-school preventative measures, as well as targeted and intensive interventions, it is the goal that schools experience improvement in areas of daily attendance, truancy, dropout rates and graduation rates. Coaches and participating schools are expected to exemplify the four action steps from the federal toolkit, *Every Student, Every Day: A Community Toolkit to Address and Eliminate Chronic Absenteeism*.

ADMINISTRATIVE IMPLICATIONS

HB297/HECS establishes new administrative duties for schools, PED, MVD, and CYFD. According to TRD, implementation of the bill will impact its Information Technology Division, resulting in total time to test and implement changes of approximately 480 hours and \$198 thousand in both contractual and state services. Further, implementation will require coordination with CYFD, a new license-suspension code and business rules for application to driving records and clearance procedures, and a new suspension letter to send to students. TRD indicates these issues will make it difficult to meet the effective date of May 16, 2018, and suggests instead an effective date of October 1, 2018.

TECHNICAL ISSUES

The Administrative Hearing Office notes that the bill may create an unchallengeable driver's license suspension by PED 30-days before MVD (the agency responsible for licensure) even becomes aware of the matter, and before MVD issues a notice of suspension, creating due process issues. Further, MVD notes the bill is silent as to what the potential issues are at a hearing, the basis for a challenge to the suspension, and under what circumstances the hearing officer should deny the suspension, creating a potentially lengthy, inefficient, and duplicative hearing process not guided by any clear, enforceable standards.

The Attorney General's Office (AGO) notes the definition for "school principal" ("includes a head administrator of a charter school") is inconsistent with the definition found in the general provisions of the Public School Code ("the chief instructional leader and administrative head of a public school"). Further, while the bill would require a student's driver's license to be suspended for chronic absenteeism, it does not amend the Motor Vehicle Code to include chronic

absenteeism, or reported chronic absenteeism by CYFD, as a basis for suspension; nor does the bill require MVD to include notice of the student's and parents' right to an administrative hearing in its notice of suspension to families.

According to TRD, Section 10 of the bill, page 17, lines 20 through 23, should be amended to read, a suspended license shall continue until “the families in need of services program notifies the motor vehicle division of the taxation and revenue department of the student's compliance . . .” The change would permit electronic submission of compliance.

POSSIBLE QUESTIONS

Should consideration for students with jobs who help support their families be included in the sections of the bill addressing the suspension of driver's licenses?

Who will be responsible for enforcement of attendance policies at private schools?

Are schools equipped with the necessary technology to readily differentiate among different types of absences?

Is there unmet need for truancy support in the PED truancy coach program, and if so what is it?

RELATED BILLS

HB 22, Parental Notifications from School via Text, which requires schools to notify parents by text message when their child is absent from school.

SOURCES OF INFORMATION

- LESC Files
- Legislative Finance Committee
- Administrative Hearing Office
- Attorney General's Office
- Taxation and Revenue Department

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