

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: **Date** 1/19/19
Original **Amendment** _____ **Bill No:** HB236
Correction _____ **Substitute** _____

Sponsor: Rep. Patricio Ruiloba **Agency Code:** 924
Short ATTENDANCE FOR **Person Writing** Daniel Manzano
Title: SUCCESS ACT **Phone:** 505-670-3820 **Email** Daniel.Manzano@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB236 is an act relating to public school attendance; enacting the Attendance for Success Act; providing for prevention of absences and earlier intervention for students who are absent or chronically absent; providing a process for prevention of absences, for early intervention, for specialized supports and for referrals to the Children, Youth and Families Department; requiring data collection and use; repealing the Compulsory School Attendance Law.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

The Public Education Department (PED) will need personnel to review and approve attendance improvement plans. Addressing the personnel requirement may mean hiring additional staff or shifting work portfolios to meet PED's needs.

Fiscal implications for the PED will be minimal; however, districts and schools may have a difficult time implementing the requirements set in HB236 without additional staff at both the school and district level.

Although HB236 does not carry any specific appropriations, the PED runs multiple programs that relate to this initiative. Currently, the PED has an appropriation of \$4,000.00 for the Attendance Success Initiative grant for 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 \$4,000.00 also covers implementation costs for the PED (i.e. in-person trainings, contracts with vendors, and travel expenses for site visits).

In a separate program, the PED uses \$250.00 to help districts and schools implement Early Warning Systems in partnership with Johns Hopkins University and ECHO. This money goes to training, technical assistance, and site visits.

Both the Attendance Success Initiative and the Early Warning System have demonstrated return on investment; however, neither are funded at a level that would allow the PED to scale the

programs statewide. The FY20 executive budget recommendation appropriates \$6,000.00 to continue and grow the Attendance Success Initiative grant and \$1,500.00 for Early Warning System. The funding from both the Attendance Success Initiative grant and the Early Warning System would help awarded districts and schools implement HB236. However, the FY20 LFC budget recommendation does not fund the Attendance Success Initiative. In either case, the majority of the cost burden of additional staff and resources would fall on the districts and charters.

SIGNIFICANT ISSUES

Nationally, states are moving away from habitual truancy to chronic absenteeism. The chronic absenteeism trend focuses on prevention and intervention, rather than punitive measures usually associated with habitual truancy. One of the most significant goals of this legislation is the introduction of chronic absenteeism into New Mexico state law. Currently, the Compulsory Attendance Law in New Mexico only outlines habitual truancy. In current law, habitually truant is defined as a student having 10 or more unexcused absences. This measure only accounts for unexcused absences. Chronic absenteeism is measured using percentages and focuses on time out of school for any reason, including unexcused, excused, and out-of-school suspensions. Chronic absenteeism is an optional indicator under the Every Student Succeeds Act and is a measure that can demonstrate improvement and progress. By repealing the Compulsory Attendance Law and replacing it with the Attendance for Success Act (HB236) districts and schools would be better equipped to reform outdated attendance policies and practices.

The philosophy of HB236 is rooted in the evidence-based practices of Attendance Works, a national initiative that has the mission of improving policy and practice regarding student attendance. According to Attendance Works, eight million students were identified as being chronically absent in school year 17-18. However, data quality should be considered because much of this data is school and district reported. Practices outlined by Attendance Works are evidence-based and do look at data trends.

HB236 outlines the mandatory use of an Early Warning System. The PED currently partners with Johns Hopkins University to support districts and schools set up and implement successful Early Warning Systems. Although this program has demonstrated some return on investment, only 47 districts and charter schools implement an Early Warning System with success.

Section 8 outlines the enforcement of attendance improvement plans, including the submission and approval of such plans. Section 8. B. states that beginning with the 2020-2021 school year, schools struggling with chronic absenteeism rates will have no more than 30 days after the beginning of the school year and again after the beginning of the spring semester to submit an attendance improvement plan. This differs from the one time submission within the first 45 days of school that is applied to other schools. It is unclear how additional reporting requirements will have a positive impact on chronic absenteeism rates in struggling schools. The PED recommends extra support be provided to struggling schools, including increased monitoring and technical assistance as opposed to a second submission requirement.

Section 8. F. states that attendance data should be reported to the attendance team. The requirement should focus on data being made available to the attendance teams through student information systems.

Section 9 outlines requirements regarding absences for medical reasons and absences for cultural observance. HB236 requires that student complete make-up work in the case of absences for

medical or cultural reasons. If students complete the make-up work, then their absences will be excused. These requirements ensure that students receive educational opportunities and that schools recognize excused absences. On the other hand, this requirement may have a negative impact on data quality because schools will be changing attendance data manually regularly.

Section 12 provides guidelines for progressive interventions for absent and excessively absent students. Requirements outline what actions should be taken and when. The PED recommends that teachers and school staff talk to students early on and in a similar manner to that outlined for middle school and high school students. Section 12 outlines the practice of suspending student driver's licenses as a last resort consequence. This consequence outlines clear roles and responsibilities and allows for the consideration of the families and the student's current circumstances.

PERFORMANCE IMPLICATIONS

Updating New Mexico statute to include terms relating to chronic absenteeism will help the PED further align data reporting and program evaluation practices to national best practices and trends.

ADMINISTRATIVE IMPLICATIONS

The Public Education Department (PED) will need personnel to review and approve attendance improvement plans. Addressing the personnel requirement may mean hiring additional staff or shifting work portfolios to meet PED's needs. There will be a need for additional contracts with various vendors to provide professional development regarding best practices and data.

Section 9 outlines requirements regarding absences for medical reasons and absences for cultural observance. HB236 requires that students complete make up work in the case of absences for medical or cultural reasons. If students complete the make-up work, then their absences will be excused. However, if the student does not complete the make-up work, then their absence will shift from excused to unexcused. This requirement may have a negative impact on data quality because schools will be changing attendance data manually regularly. Implementing this requirement may be difficult and confusing for schools and districts.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Section 11 page 21 line 18 uses the term "personal service", but is unclear what this term means.

OTHER SUBSTANTIVE ISSUES

On page 4, Section 3 line 22 should read "free appropriate public education" to be consistent with federal terminology.

Section 5 line 11 outlines that students are able to transfer outside of the student's attendance zone but within the school district when there are "sufficient school accommodations". This potentially conflicts with 22-2E-4 NMSA and the vague nature of "sufficient school accommodations" may have negative consequences.

ALTERNATIVES

Much of the prescriptive language outlined in HB236 could be achieved through PED rulemaking and guidance which would ensure appropriate stakeholder engagement and tribal

consultation. Stakeholder engagement and tribal consultation may address some of the technical and implementation issues. Promulgating PED rule would allow the PED flexibility to make changes more easily if it is determined that the policy needs to be amended to better serve districts and schools.

Terminology Alternatives

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. The PED recommends that 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% or more of school days for any reason. The PED recommends reducing this to 15% to ensure that more intensive intervention occurs earlier.

On page 3, Section 2. D. the PED recommends that the definition of “chronic absence rate” be amended to read “the percentage of students in a school who were absent for 10% 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.

The PED suggests using “subgroup” instead of “subpopulation” throughout HG236 to be more consistent with federal reporting language.

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

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted, New Mexico state law will continue to provide an outdated focus regarding school attendance policies and practices. Districts and schools will continue to be incentivized to focus on habitual truancy compliance as opposed to chronic absenteeism intervention and prevention.

Enacting this bill would provide guidance to districts and schools in reforming and updating their attendance practices and policies. Enacting HB236 will provide the PED, CYFD, districts, and schools the necessary backing to align state policies with national trends.

AMENDMENTS

The PED recommends adding language requiring districts and schools to provide additional educational opportunities to students who are struggling with attendance. Providing additional educational opportunities is another way to ensure that students are receiving the education necessary to be college and career ready. Additional educational opportunities may include, but are not limited to: Saturday school, after school tutoring, working lunches, or independent studies.

The PED recommends that a specific timeframe be outlined regarding the submission of

attendance records to the Children, Youth, and Families Department. Some schools do not submit this documentation to CYFD. Some schools wait until the end of the school year which does not provide adequate time for CYFD to take action.

FY19 Attendance Success Initiative Awardees
Santa Fe Public Schools
Zuni Public Schools
Albuquerque Charter Academy
Truth or Consequences Municipal Schools
Tularosa Intermediate School
The New America School
The New America School-Las Cruces
Native American Community Academy
Lovington Municipal Schools
Dream Dine and Six Directions Indigenous School
Las Montañas Charter High School
Las Cruces Public Schools
Carlsbad Municipal Schools
Belen Public Schools
Albuquerque Public Schools
Taos Municipal Schools
Clovis Municipal Schools
Cobre Consolidated Schools
Silver Consolidated Schools
Mission Achievement Success
South Valley Academy
Magdalena Municipal Schools
Taos Charter School
The International School at Mesa Del Sol
Media Arts Collaborative Charter School
Peñasco Independent School District
Española Public Schools
Hagerman Municipal Schools
Vista Grande High School